

Local Bankruptcy Rules United States Bankruptcy Court District of Massachusetts



DATE

United States Bankruptcy Court
Eastern Division
John W. McCormack Post
Office and Court House
5 Post Office Square
Boston, MA 02109-3945
(617) 748-5300

United States Bankruptcy Court
Central Division
Harold Donohue Federal Building
and Courthouse
595 Main Street
Worcester, MA 01608-2076
(508) 770-8900

United States Bankruptcy Court
Western Division
United States Courthouse
300 State Street
Springfield, MA 01105-2925
(413) 785-6900

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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS**

LOCAL RULES AND FORMS

PART I. COMMENCEMENT OF CASE: PROCEEDINGS RELATING TO PETITION AND ORDER FOR RELIEF

RULE 1001-1. SHORT TITLE; SCOPE AND EFFECT OF RULES

These 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 (“Local Rules”), and shall be referred to as MLBR when citing to a rule, appendix, or official local form. These Local Rules shall be effective as of [] with respect to all open cases and those filed or reopened thereafter and shall govern all pleadings and proceedings in bankruptcy cases unless otherwise ordered by the Court.

Definitions and rules of construction are set out in MLBR 9001-1. The Local Rules are subject to amendment and supplementation, which may be by Standing Order. It is recommended to review the latest version of these Local Rules, any Standing Orders, and any official local forms on the Court’s website (www.mab.uscourts.gov).

Failure to comply with any of the directions or obligations set forth in these Local Rules may result in dismissal, default, or the imposition of other sanctions as deemed appropriate by the Court.

RULE 1002-1. STATUS CONFERENCES

- (a) In a case under subchapter V of chapter 11, the Court, or such other party as the Court may designate, shall give notice of the initial status conference to be held under 11 U.S.C. § 1188 to the debtor, the trustee, and such other entities as the Court may direct.
- (b) In all other circumstances, if the Court schedules a status conference, the Court may designate a party to provide notice of the status conference. Unless otherwise directed by the Court, such party shall give notice of the status conference to the following parties or their attorney: the debtor, any committee elected under 11 U.S.C. § 705 or appointed under 11 U.S.C. § 1102 (or, if none has been appointed, the creditors included on the list of creditors filed under Fed. R. Bankr. P. 1007(d)), any equity security holders' committee, any secured creditor, all taxing authorities, the United States trustee, any party who requested the conference, and any party who filed an appearance in the case, and such other entities as the Court may direct.
- (c) For cause shown, the Court may schedule a status conference on an expedited or emergency basis.

RULE 1006-1. FILING FEES

Applicable filing fees are set forth in MLBR Appendix 3.

RULE 1006-2. FEES-INSTALLMENT PAYMENTS; WAIVER OF FILING FEES

- (a) A debtor seeking to pay the filing fee in installments shall file a signed application using Official Form 103A. Failure to make any installment payment timely may result in dismissal of the case. No discharge shall enter until all required filing fees are paid in full.
- (b) An individual chapter 7 debtor seeking a waiver of the filing fee, or any balance thereof, shall file a signed application using Official Form 103B.
 - (1) If the Court schedules a hearing on the application, the Court will notify the debtor as to the date and time of the hearing on the application for the waiver. The debtor must appear at the hearing.
 - (2) If, with or without a hearing, the Court denies the application for the waiver of the filing fee, then the debtor shall pay the filing fee in full or in installments as directed by the Court. Unless otherwise ordered by the Court, the payment in full or first installment payment shall be due within seven (7) days of the entry of the Court's order denying the waiver application.

RULE 1007-1. LISTS, SCHEDULES AND STATEMENTS, AND OTHER DOCUMENTS REQUIRED

- (a) List of Creditors and Codebtors/Matrix

With a voluntary petition, the debtor shall file a list of all creditors and codebtors to be included in Schedules D, E/F, G, and H, containing the names of all creditors and entities to be included in the aforementioned schedules and their last known, complete mailing addresses. This mailing list shall be known as the matrix and its format shall substantially conform to the specifications of MLBR Official Local Form 1 unless the Clerk permits filing the matrix in another format. Electronic filers must file the matrix in both .txt and imaged document format.

If the debtor fails to file the matrix with the petition, the Court may dismiss a case without notice and a hearing, unless the debtor has filed with the petition an emergency motion for an extension of time to file the matrix pursuant to Fed. R. Bankr. P. 1007. The emergency motion must state the cause for the requested extension and the reason why the debtor was unable to file the matrix with the petition.

Any amendments to the matrix must be made in accordance with MLBR 1009-1.

(b) Official Forms

The debtor shall complete each item in the petition, schedules, and statement of affairs in full or shall identify the item as “not applicable” or “none,” as provided on the Official Form.

(c) Schedules and Statements, and Other Documents Required

In satisfaction of the requirements of 11 U.S.C. § 521 and Fed. R. Bankr. P. 1007, an individual debtor shall:

- (1) At least seven (7) days before the 11 U.S.C. § 341 meeting of creditors, provide to the trustee copies of all payment advices or other evidence of payment from all employers, with all but the last four (4) digits of the debtor’s social security number redacted. The payment advices shall not be filed with the Court unless otherwise ordered. Payment advices shall include all evidence of payment of any income from all employers the debtor received during the sixty (60) days prior to the filing of the petition; and
- (2) File with the Court the certificate of credit counseling pursuant to 11 U.S.C. § 109 or a request for an extension as prescribed by MLBR Official Local Form 9.

(d) Statement About Your Social Security Numbers

Official Form 121 entitled, “Statement About Your Social Security Numbers,” when not filed with the original petition, shall be filed no later than three (3) Court business days from the date of the filing of the petition.

(e) Voluntary Petition for Non-Individual (Official Form 201)

- (1) A petition by a non-individual debtor shall be accompanied by evidence of the signing party’s authority to file the petition including where appropriate a resolution by the board of directors or other governing board.
- (2) A petition filed on behalf of a non-individual must be signed by an attorney and provide the attorney’s name, address, email, and telephone number.
- (3) 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.

(f) Homestead Exemption

An individual debtor who claims a state law homestead exemption other than an automatic homestead exemption under Mass. Gen. Laws ch. 188, § 4, shall provide to the trustee such documentary evidence as is necessary to establish the extent of the homestead no later than the date scheduled for the 11 U.S.C. § 341 meeting of creditors.

(g) Time Limits

Upon the filing of a motion prior to the expiration of the filing deadlines, and upon a showing of good cause, a debtor may seek to be excused from filing some or all of the documents required in subsection (c) or to obtain one or more extensions of the filing deadlines provided the debtor sets forth the date the petition was filed and the amount of time requested and files proof of

service on the United States trustee and any appointed trustee, any committee elected under 11 U.S.C. § 705 or appointed under 11 U.S.C. § 1102 (or, if none has been appointed, the creditors included on the list of creditors filed under Fed. R. Bankr. P. 1007(d)), and any other party as the Court may direct. Failure to comply with the filing deadlines set forth in MLBR 1007-1 may result in the dismissal of the case without further notice.

RULE 1009-1. AMENDMENTS

- (a) A party seeking to amend a voluntary petition, list, schedule, statement of financial affairs, statement of intention, or statement of current monthly income shall file the amended voluntary petition, list, schedule, statement of financial affairs, statement of intention, or statement of current monthly income, which shall clearly identify in the caption that the document is “amended,” and comply with the notice provisions set forth in Fed. R. Bankr. P. 1009, except with respect to the following in an individual debtor's case: an amendment to add a creditor; or an amendment to the schedule of exemptions after the deadline for objecting to the exemptions has expired.
- (b) If either exception set forth in subsection (a) applies, the debtor shall accompany the amendment with a motion seeking leave to amend. The motion to amend shall include a statement of the reason for the amendment and a summary of any change.
- (c) The following documents, to the extent applicable, shall be filed along with the documents required in subsections (a) and (b):
 - (1) Official Form B 106Dec - Declaration About an Individual Debtor’s Schedules or Official Form B 202Dec - Declaration Under Penalty of Perjury for Non-Individual Debtors;
 - (2) an amended summary of schedules, (Official Form B 106Sum - A Summary of Your Assets and Liabilities and Certain Statistical Information or Official Form 206Sum - A Summary of Your Assets and Liabilities (non-individuals)); and
 - (3) a certificate of service of notice to all parties in interest, including persons affected by the amendment.
- (d) If the debtor is adding a creditor or is changing an existing creditor’s address on the mailing matrix, the motion to amend or notice shall include a separate list of the names and addresses of only the added creditors as prescribed by MLBR Official Local Form 1.

RULE 1015-1. JOINT ADMINISTRATION OF CASES PENDING IN THE SAME COURT

- (a) Motion for Joint Administration
A request for an order allowing joint administration of two or more related cases pursuant to Fed. R. Bankr. P. 1015 shall be made by motion. In the motion for joint administration, the moving party shall:

- (1) designate the name and number of the proposed lead case for conducting proceedings in the jointly administered cases;
- (2) state the cause warranting joint administration, including the reasons supporting the proposed lead case designation;
- (3) state the likely impact on the administrative burden of the parties and the Court; and
- (4) state any known facts which may give rise to actual or potential conflicts of interest warranting protection of the interests of creditors of the various estates.

(b) Filing Requirements

A motion for joint administration shall be filed in each case for which joint administration is proposed. A motion for joint administration shall be served by the moving party on all creditors and equity security holders who have requested notice in accordance with Fed. R. Bankr. P. 2002(i), any committee elected under 11 U.S.C § 705 or appointed under 11 U.S.C. § 1102 (or, if none has been appointed, the creditors included on the list of creditors filed under Fed. R. Bankr. P. 1007(d)), all secured creditors and taxing authorities, all attorneys of record, any appointed trustee, and the United States trustee.

(c) Notice and Effect of Order

Upon entry of an order authorizing joint administration in the proposed lead case, the moving party shall serve the order upon those parties identified in subsection (b) of this rule for all related cases. An order approving joint administration shall not constitute substantive consolidation of the respective debtors' estates.

(d) Joint Administration of Chapter 11 Cases

If a motion for joint administration of chapter 11 cases, other than individual cases, is filed at the same time as the filing of the voluntary petitions, parties in interest may file pleadings in the proposed lead case as if the motion had been allowed subject to entry of further order of the Court.

RULE 1016-1. DEATH OF DEBTOR (CHAPTERS 7, 11, AND 12)

- (a) The debtor's attorney or the debtor's Personal Representative, upon learning of the death of the debtor, shall file a Notice of Death and serve a copy on all creditors, parties in interest, including any trustee appointed in the case, all parties who have filed a request for service of pleadings and notices, and the United States trustee. The Notice of Death shall identify the date of the debtor's death, the last known address of the debtor, and, if known and if applicable, the name and address of any Personal Representative of the deceased debtor. If no Personal Representative has been identified, the Notice of Death shall identify any spouse, parent, or adult child or other adult heir at law ("Identified Relative") of the deceased debtor known to the debtor's attorney after reasonable inquiry, which inquiry shall be detailed in the Notice of Death.

- (b) For purposes of this rule, “Personal Representative” shall mean (1) a personal representative appointed by order of a Massachusetts court of competent jurisdiction under either Mass. Gen L. ch. 190B, §§ 3-301 or 3-402 et seq., (2) in cases where assets of the debtor do not include real property and the personal property of the debtor has a value of less than \$25,000, a voluntary personal representative possessing a statement contemplated by Mass. Gen L. ch. 190B, § 3-1201 attested by a Register of Probate, or (3) any person having the authority to act on behalf of the deceased debtor having been duly appointed to so act under the laws of any jurisdiction other than Massachusetts.
- (c) Without written authority granted by a Personal Representative, the attorney for the deceased debtor may not represent the deceased debtor or sign the deceased debtor’s name to any pleadings or documents. Within thirty (30) days after the filing of the Notice of Death, the attorney for the deceased debtor shall file either (1) a certification that the attorney has been authorized by the Personal Representative to represent the estate of the deceased debtor, in which event the attorney for the deceased debtor may continue to represent the estate of the deceased debtor in the case, or (2) a statement that the attorney has not been authorized to act on behalf of the estate of the deceased debtor and, if known, whether a probate filing has been filed, and if so, the date of such filing and location of such court and docket number.
- (d) Within forty-five (45) days of the filing of the Notice of Death, the Personal Representative of the deceased debtor, if any, shall file either a motion to continue administration of the case, a motion to suspend administration of the estate, or a motion to dismiss the case. Such motion (“Proceeding Motion”) shall be served at the debtor’s last known address and upon the United States trustee, any trustee appointed in the deceased debtor’s case, all creditors, and parties requesting notice. If it is believed that no Proceeding Motion will be filed by a Personal Representative, a relative of the deceased debtor who asserts standing may file a Proceeding Motion within the period required for a Personal Representative. If no Proceeding Motion is filed by a Personal Representative or a relative of the deceased debtor, then a trustee appointed in the debtor’s case or the United States trustee shall file a Proceeding Motion within sixty (60) days of the filing of the Notice of Death. The motion shall be served at the debtor’s last known address and upon all Identified Relatives, creditors, and parties requesting notice. Any Proceeding Motion shall include the following averments, as applicable and to the extent known:
- (1) a statement as to whether the debtor attended and testified at the 11 U.S.C. § 341 meeting of creditors and whether the meeting was concluded;
 - (2) a statement of circumstances, if any, that would impede the further administration of the estate, with or without the appointment of a Personal Representative;
 - (3) a statement of reasons, if any, why further administration of the bankruptcy estate should be suspended, pending the appointment of a Personal Representative; and
 - (4) a statement of reasons, if any, why dismissal is warranted.

**RULE 1017-1. MOTIONS FOR CONVERSION OR DISMISSAL IN CHAPTER 11;
SUBMISSION OF MOTIONS AND OPPOSITIONS TO MOTIONS; HEARING**

- (a) Prior to filing any motion to dismiss or convert a chapter 11 case (other than a motion filed by the United States trustee, chapter 11 trustee, or the debtor-in-possession), the attorney for the prospective movant (or the prospective movant if pro se), shall have a conference, by telephone or in person, with the debtor-in-possession's attorney or the attorney for the chapter 11 trustee, if any, in a good faith effort to resolve the movant's asserted grounds for dismissal or conversion, and to eliminate as many areas of dispute as possible without the necessity of filing a motion. Unless relieved by order of the Court, such conference shall take place within fourteen (14) days of the prospective movant's service of a written communication requesting the conference. Any motion filed under this Rule shall contain, or be accompanied by, a statement that the movant has complied with the provisions of this section, specifying the time, date, and manner of any conference held prior to filing the motion, and certifying the issues left unresolved.
- (b) A party in interest who seeks dismissal or conversion of a case under chapter 11 pursuant to 11 U.S.C. § 1112(b) shall file, in accordance with Fed. R. Bankr. P. 9014, a motion and a proposed order, which motion shall include a concise statement of material undisputed facts. Such facts shall be supported by references to documents, deposition transcripts (if available), and affidavits, which documentary support shall be filed as exhibits to the motion.
- (c) Unless otherwise ordered by the Court, a party opposing a motion for dismissal or conversion of a case under chapter 11 must file an opposition to the motion within fourteen (14) days, after service of the motion. The opponent shall include a concise statement of the material facts as to which it is contended that there exists a genuine issue to be tried, supported by references to documents, deposition transcripts (if available), and affidavits, which documentary support shall be filed as exhibits to the statement of disputed material facts. In the opposition, the opponent shall also: (1) set forth facts, supported by references to documents, deposition transcripts (if available), and affidavits, which documentary support shall be filed as exhibits to the opposition, that support the opponent's contentions required under 11 U.S.C. §§ 1112; (2) state why the relief requested in the motion is not in the best interests of creditors and the estate; (3) state the basis of any assertion that there is a reasonable likelihood that a plan will be confirmed within the time frames provided by the Bankruptcy Code, where applicable, or within a reasonable time; (4) state the justification for the act or omission that constitutes the grounds for the relief requested in the motion, and the proposal to cure any such act or omission that serves as grounds for the motion; and (5) state whether the opposing party does or does not consent to the appointment of a chapter 11 trustee or an examiner in lieu of the relief requested in the motion.
- (d) All documents filed pursuant to this Rule shall be served, in accordance with Fed. R. Bankr. P. 2002 and applicable Local Rules, upon the debtor-in-possession, any committee appointed pursuant to 11 U.S.C. § 1102 or its authorized agent (or, if no committee has been appointed, the creditors included on the list of creditors filed under Fed. R. Bankr. P. 1007), the United States trustee, all attorneys and parties who have filed an appearance and requested service of all notices and pleadings, and on any other party that the Court may designate. The movant shall

serve any notice of hearing on the motion on the forgoing parties and on all creditors.

**PART II. OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS;
EXAMINATIONS; ELECTIONS; ATTORNEYS AND ACCOUNTANTS**

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, the Local Rules, or an order of the Court, of the following events:
- (1) the proposed use, sale, or lease of property of the estate other than in the ordinary course of business;¹
 - (2) the hearing on a proposed compromise or settlement;²
 - (3) the hearing on a motion for conversion or dismissal where notice is required under Fed. R. Bankr. P. 2002;
 - (4) the deadline for filing 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, 12, or 13 case;
 - (7) the hearing on any applications for compensation in a chapter 9, 11, or 12 case or a chapter 13 case, except as provided in MLBR Appendix 1, Rule 13-7 if the request exceeds \$1,000;
 - (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, 12, or 13 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 attorneys and parties who have filed an appearance and requested service of all notices and pleadings, any trustee and trustee's attorney, the debtor and the debtor's attorney, if any, the United States trustee, any committee elected under 11 U.S.C § 705 or appointed under 11 U.S.C. § 1102 (or, if no-committee has been appointed, the creditors included on the list of creditors filed under Fed. R. Bankr. P. 1007(d)), and its attorney.

¹ See MLBR 6004-1.

² See MLBR 9019-1(d)(2) for service of notice provisions.

(c) Notice to Equity Security Holders

The notice required by Fed. R. Bankr. P. 2002(d)(1) and Fed. R. Bankr. P. 2002-1(d)(2) shall be given by the debtor-in-possession or the trustee. The notices required by Fed. R. Bankr. P. 2002(d)(3), (4), (5), (6), and (7) shall be given by the moving party or plan proponent as applicable.

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's attorney (or the debtor, if pro se) must notify in writing, the Clerk, all creditors, parties in interest, and all attorneys and parties who have appeared in the case or requested notice of a mailing address change for the debtor or the debtor's attorney within fourteen (14) days of such change.
- (b) The Clerk shall direct all returned notices of the 11 U.S.C. § 341 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.

RULE 2002-5. LIMITATION ON NOTICES TO CREDITORS

Notwithstanding MLBR 2002-1(a), in a case under Chapter 7, Chapter 12, or Chapter 13, the moving party is permitted to give notice to fewer than all creditors to the extent set forth in Fed. R. Bankr. P. 2002(h). Notice must be given to any creditor that has filed a proof of claim or for whom a timely proof of claim may still be filed pursuant to Fed. R. Bankr. P. 3002(c), Fed. R. Bankr. P. 3004, or Fed. R. Bankr. P. 3005(c).

RULE 2003-1. CREDITORS' COMMITTEE

- (a) In satisfaction of the requirements of 11 U.S.C. § 1102(b)(3)(A) and subject to subparagraphs (b) and (c) below, a committee of creditors appointed under § 1102(a) shall respond to written, telephonic or electronically transmitted inquiries received from any creditor holding a claim of a kind represented by that committee and provide to such creditor access to documents, pleadings and other materials by any means that such committee believes, in its reasonable business judgment, will provide a relevant, informative, and complete response. Subject to such

enlargement of time as the Court may order, no later than twenty-one (21) days after appointment of its attorney, such committee may advise all creditors of the kind represented by that committee the preferred means to make any inquiries (e.g., by letter, by telephone, by email, or through any website).

- (b) A creditors' committee is not authorized or required, pursuant to 11 U.S.C. § 1102 to provide access to any confidential information, as described in paragraphs (1) and (2) below, of the debtor or such committee to any creditor.
 - (1) Confidential information shall mean any nonpublic information which is the subject of a written confidentiality agreement between such committee and the debtor or another entity or any other nonpublic information, the confidentiality of which in the reasonable business judgment of such committee is necessary in order to successfully perform its duties under 11 U.S.C. § 1103(c) and was: (A) otherwise furnished, disclosed, or made known to such committee by the debtor, whether intentionally, unintentionally and in any manner, including in written form, orally, or through any electronic facsimile (fax) or computer related communication; or (B) developed by professionals employed by such committee and the disclosure of which such committee reasonably believes would impair the performance of its duties.
 - (2) Confidential information shall not include any information or portion of information that: (A) is or becomes generally available to the public or is or becomes available to a creditors' committee on a non-confidential basis, in each case to the extent that such information became so available other than by a violation of a contractual legal or fiduciary obligation to the debtor; or (B) was in possession of such committee prior to its disclosure by the debtor or such committee's professionals and is not subject to any other duty or obligation to maintain confidentiality.
- (c) A creditors' committee is not authorized or required, pursuant to § 1102 of the Bankruptcy Code, to provide access to any Privileged Information of such committee to any creditor. For the purposes hereof, the term "Privileged Information" shall mean any information subject to the attorney client privilege or any other state, federal, or other privilege, whether such privilege is solely controlled by such committee or is a joint privilege with the debtor or some other party. Notwithstanding the foregoing, such committee shall be permitted, but not required, to provide access to Privileged Information to any party so long as: (1) such Privileged Information is not confidential information; and (2) the relevant privilege is held and controlled solely by such committee.
- (d) If a creditor is dissatisfied with the failure or refusal of a creditors' committee to provide requested access or information, the creditor may file a motion seeking to compel such committee to produce documents or other information. The dispute shall be deemed to be a discovery dispute and the parties shall comply with the provisions of MLBR 7037-1, insofar as applicable.

RULE 2007.2-1. APPOINTMENT OF PATIENT CARE OMBUDSMAN IN A HEALTH CARE BUSINESS CASE

- (a) If the Court has not ordered the appointment of an ombudsman or has ordered the termination of the appointment of an ombudsman, the Court may subsequently order such appointment at any time during the case if the Court finds that the appointment of a patient care ombudsman has become necessary to protect patients.
- (b) A verified statement of a patient care ombudsman filed pursuant to Fed. R. Bankr. P. 2007.2 shall comply with MLBR 2014-1(a).
- (c) The United States trustee shall serve notice of appointment of a patient care ombudsman and the verified statement required by Fed. R. Bankr. P. 2007.2 upon the debtor, the trustee, any committee elected under 11 U.S.C. § 705 or appointed under 11 U.S.C. § 1102 (or, if none has been appointed, the creditors included on the list of creditors filed under Fed. R. Bankr. P. 1007(d)), all attorneys and parties who have filed an appearance, and such other entities as the Court may direct.
- (d) A party opposing the appointment of a patient care ombudsman shall file an opposition to the appointment within seven (7) days after service of the notice of the appointment of the patient care ombudsman and shall serve such opposition on the United States trustee, the debtor, the trustee, any committee elected under 11 U.S.C. § 705 or appointed under 11 U.S.C. § 1102 (or, if none has been appointed, the creditors included on the list of creditors filed under Fed. R. Bankr. P. 1007), all attorneys and parties who have filed an appearance, and such other entities as the Court may direct.

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 elected under 11 U.S.C. § 705 or appointed under 11 U.S.C. § 1102 to employ any professional person, including an attorney, accountant, appraiser, broker, auctioneer, consultant, or agent, shall include all the information required to be provided by Fed. R. Bankr. P. 2014. In addition, in the verified statement accompanying the application (the "Statement"), the person to be employed (hereinafter the "Professional") shall make the following representations and disclosures:

- (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:

(3) Include the applicable statement:

- I am and each member of my firm is a "disinterested person" as that term is defined in 11 U.S.C. § 101(14).
- This case is a case under subchapter V of chapter 11 and I am a professional proposed to be employed by the debtor. The only reason that I or any member of my firm is not a disinterested person is because one of us holds a claim against the debtor. Notwithstanding, I am not disqualified for employment because the claim does not exceed the amount in 11 U.S.C. § 1195.

(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 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 shall take the form of an affidavit and the Professional shall date and sign the affidavit under penalty of perjury, and above such signature the Professional 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 the Court approves an application for the employment of a Professional, 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 an order of the Court.

RULE 2016-1. APPLICATION FOR COMPENSATION

- (a) Except as otherwise provided in MLBR Appendix 1, Rule 13-7, any Professional seeking interim or final compensation for services and reimbursement of expenses under 11 U.S.C. §§ 330, 331, 503, or 506, excluding any broker (other than an investment banker) whose compensation is

determined by a commission on the sale price of an asset, 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 or reference the date and docket number of the order;
 - (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:
 - (i) a certification that no compensation has been or will be sought for services as an attorney which are properly trustee services; and
 - (ii) 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;
 - (D) the total amount of fees for each person and a column showing a grand total figure; and
 - (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:
 - (i) copies;
 - (ii) incoming telecopier/facsimile (fax) transmissions; and
 - (iii) auto mileage.
- (b) Any application for compensation by co-counsel shall specify the separate services rendered by each co-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 \$10,000, 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; and
 - (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)
 - (1) All applications which seek more than \$35,000.00 in compensation must be divided into narrative sections and must utilize the project categories set forth in subsection (2) below. Each narrative section within each project category 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 each narrative section a specific description of services performed under such project category 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.
 - (2) The following project categories (as described below) are to be utilized in all applications filed pursuant to this Rule. Applications may contain additional categories as may be required in a particular case:
 - (A) Asset Analysis and Recovery: identification and review of potential assets including causes of action and non-litigation recoveries, and appraisals of assets;

- (B) Asset Disposition: sales, leases, matters under 11 U.S.C. § 365, abandonment, and related services;
- (C) Business Operations: issues related to the debtor-in-possession operating in chapter 11 cases, such as employee issues, vendor issues, lease and contract issues, and other similar matters, as well as analysis of tax issues and preparation of tax returns;
- (D) Case Administration: coordination and compliance activities (including preparation of statements of financial affairs, schedules, related exhibits, and United States trustee interim statements and operating reports), contacts with the United States trustee, and general creditor inquiries;
- (E) Claims Administration and Objections: specific claim inquiries, bar date motions, analyses, objections, and allowance of claims;
- (F) Employee Benefits and Pensions: issues such as severance, retention, 401(k) coverage, and continuance of pension plans;
- (G) Employment Applications and Objections: preparation of employment applications, motions to establish interim compensation procedures, and review of and objections to employment applications of others;
- (H) Fee Applications and Objections: preparation of fee applications and review of and objections to fee applications of others;
- (I) Financing: matters under 11 U.S.C. §§ 361, 363, and 364, including cash collateral and secured claims, and analysis of loan documents;
- (J) Litigation: a separate category should be utilized for each litigation matter;
- (K) Meetings of Creditors and Equity Security Holders: preparing for and attending conference of creditors, meetings held pursuant to 11 U.S.C. § 341, and other committee meetings;
- (L) Plan and Disclosure Statement: formulation, presentation and confirmation, compliance with confirmation order, related orders and rules, disbursement and case closing activities (except those relating to allowance of any objections to claims); and
- (M) Relief from Stay Proceedings: matters relating to termination or continuation of automatic stay under 11 U.S.C. § 362.

PART III. CLAIMS AND DISTRIBUTION TO CREDITORS AND EQUITY INTEREST HOLDERS; PLANS

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, 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 3002-1. DEADLINE FOR FILING REQUESTS FOR ALLOWANCE OF ADMINISTRATIVE EXPENSES PURSUANT TO 11 U.S.C. § 503(b)(9)

- (a) Unless the Court orders otherwise, any request for allowance of an administrative expense for the value of goods delivered to a debtor in the ordinary course of the debtor's business within twenty (20) days prior to the commencement of a case pursuant to 11 U.S.C. § 503(b)(9) shall be filed as a motion for allowance of an administrative expense as follows:
 - (1) In a chapter 11 case, within seventy (70) days after the first date set for the meeting of creditors pursuant to 11 U.S.C. § 341.
 - (2) In a chapter 7, 12, or 13 case, within the deadline established for filing proofs of claim under Fed. R. Bankr. P. 3002.
- (b) Failure to file such a request for allowance within the time period specified in this Rule may result in denial of administrative expense treatment for such claim.
- (c) If the motion for allowance of an administrative expense is denied, the request will be deemed to have been an informal proof of claim, and the claimant will have thirty (30) days after the entry of the order denying the motion to file a proof of claim.

RULE 3007-1. OBJECTIONS TO CLAIMS

- (a) A party objecting to a proof of claim, including an omnibus objection where permitted by Fed. R. Bankr. P. 3007, shall attach a notice to the objection filed with the Court which conforms substantially to Official Form 420B. In the objection, such party shall state 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.
- (b) Upon the filing of an objection, in a case other than chapter 13, the Court may issue a notice setting the deadline for filing responses and a hearing date. The objection need not be served initially. The objecting party shall then complete Official Form 420B by inserting the deadline for responses and hearing date and cause the objection and completed Official Form 420B to be served upon the claimant in accordance with Fed. R. Bankr. P. 3007. The objecting party shall also

cause the objection and completed Official Form 420B to be served upon the debtor and the debtor's attorney, if any, the United States trustee, and all attorneys and parties who have filed an appearance in the case. The objecting party shall file with the Court a certificate of service and a copy of the completed Official Form 420B as served.

- (c) If a claimant contests an objection to claim, the claimant shall file a written response to the objection, which shall state with particularity why the objection to the claim should be overruled. The response shall be served on the party objecting to the claim and any other party entitled to notice of the response. In addition, at the time of the service of the response, the claimant should also serve on the party objecting to the claim documentation in support of the allowance of the claim not already appended to the claim. A claimant who does not file a timely response to a properly served objection to claim may be deemed to have agreed that the objection to claim may be sustained. The Court 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) If one or more timely responses to objections to claims are filed, then no later than two (2) days prior to the hearing on objections to claims, the party filing the objection 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.
- (e) 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.

RULE 3011-1. PROCEDURE FOLLOWING FINAL DISTRIBUTION IN CHAPTER 7 OR CHAPTER 13 CASES

- (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 relating to the case and file with the Clerk a copy of the final bank statement indicating that the bank account has 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 the estate's cancelled checks and bank statements for no fewer 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 3015-2. CHAPTER 12 PLANS

Upon the filing of a chapter 12 plan, the Clerk shall schedule the confirmation hearing and establish a plan objection deadline and notify the debtor of these dates. The chapter 12 plan need not be served initially. The debtor shall give notice of the hearing and the deadline for filing objections and shall serve a copy of the plan upon all creditors, equity security holders, the chapter 12 trustee, and the United States trustee in accordance with Fed. R. Bankr. P. 3015. In addition, if the plan provides for the determination of the amount of a secured claim under Fed. R. Bankr. P. 3012 or provides for the avoidance of a judicial lien under Fed. R. Bankr. P. 4003, then the debtor or the debtor's attorney, if any, shall cause a copy of the plan to be served on the holders of any affected claims in accordance with Fed. R. Bankr. P. 7004. The debtor shall file a certificate of service with the Court indicating that service has been made.

**RULE 3017-1. APPROVAL OF DISCLOSURE STATEMENTS IN
CHAPTER 11 CASES OTHER THAN SMALL BUSINESS CASES
AND CASES UNDER SUBCHAPTER V**

- (a) Objections and Hearing on Approval

Except as provided in MLBR 3017.1-1, after a disclosure statement is filed in accordance with Fed. R. Bankr. P. 3016, the Court may schedule an objection deadline and hearing date. 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, the attorney for the party who intends to object (or the objector, if pro se) to the adequacy of the disclosure statement shall contact the attorney for the plan proponent (or the proponent, if pro se) 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 attorney, 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 objection that are not accompanied by the conference certificate.

**RULE 3017.1-1 FILING OF PLAN AND DISCLOSURE STATEMENT IN SMALL BUSINESS CASES
AND IN CERTAIN CASES UNDER SUBCHAPTER V OF CHAPTER 11**

Any plan proponent may request conditional approval of a disclosure statement in a small business case, and any case under subchapter V of chapter 11 in which the Court has ordered that 11 U.S.C. § 1125 applies, by filing a motion and requesting a consolidated hearing on the disclosure statement and plan. MLBR Official Local Forms 15-1 and 15-2, respectively, are recommended forms of such a motion and a proposed order in a small business case.

**RULE 3020-1. CONFIRMATION ORDER REGARDING CHAPTER 11 PLAN OF
REORGANIZATION OF INDIVIDUAL DEBTOR**

MLBR Official Local Form 19 sets forth a sample Order Confirming Chapter 11 Plan of Reorganization of Individual Debtor, for a case that is not a small business debtor reorganization under subchapter V of chapter 11 which may be used and altered to fit the circumstances of the case.

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 deemed “fully administered” unless, sixty (60) days following the entry of a final order confirming a plan

of reorganization, (a) a matter is pending or (b) a trustee appointed under 11 U.S.C. § 1104 or 11 U.S.C. § 1183, continues to serve.

(b) Motion for Final Decree

Unless otherwise provided for by the plan or the court, the attorney for the plan proponent (or the proponent, if pro se) 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 the attorney for the plan proponent (or the proponent, if pro se).

(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 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 the attorney for the plan proponent (or the proponent, if pro se) cannot file a motion for final decree on or before seventy-five (75) days after the entry of an order confirming the plan, the attorney or proponent 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 subsection (c)(2), (3), and (4), of all amounts paid under the plan, if any, since the entry of the confirmation order. The Court may direct the filing of additional reports or issue an order setting forth a schedule of future reporting.

(e) Service of Motion for Final Decree or Interim Report on Administrative Progress

The attorney for the plan proponent (or plan proponent, if pro se) shall serve the motion for final decree or interim report on administrative progress, together with all supporting documentation, on any committee appointed by the United States trustee, the attorney to any committee, and all attorneys and parties who have 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) Entry of Final Decree

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

RULE 3022-2. ADMINISTRATIVE CLOSING OF INDIVIDUAL CHAPTER 11 CASE

- (a) In a chapter 11 case in which the debtor is an individual, other than a case that is a small business debtor reorganization under Subchapter V of the Small Business Reorganization Act of 2019, the debtor may request, by motion, entry of a final decree and an administrative closing of the case without entry of a discharge.
- (b) If the plan provides for an injunction against collection of claims prior to entry of a discharge, the order confirming the plan (see MLBR 3020-1) shall contain such an injunction.
- (c) Any party in interest, including the debtor, may move to reopen a case that has been administratively closed under this rule without the necessity of paying a filing fee to request entry of the discharge, to seek relief from an injunction, or for any other appropriate purpose.
- (d) In a case which has been administratively closed, upon completion of plan payments required to be made to holders of allowed priority claims and allowed unsecured claims, the debtor shall promptly file a motion to administratively reopen and for entry of discharge. Such motion shall be accompanied by an affidavit which shall substantially conform to MLBR Official Local Form 22.

PART IV. THE DEBTOR: DUTIES AND BENEFITS

RULE 4001-1. MOTIONS for RELIEF FROM STAY; MOTIONS TO CONTINUE or IMPOSE STAY; MOTIONS CONFIRMING NO STAY IN EFFECT; SERVICE; HEARING

- (a) Motion for Relief from Automatic Stay and Opposition
 - (1) A party in interest 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, in which the movant specifies the statutory basis for the relief sought, and a proposed order.
 - (2) If the movant seeks relief pursuant to 11 U.S.C. § 362(d)(1), the movant shall specify with particularity the cause warranting relief.
 - (3) 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 set forth:
 - (A) the amounts 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 attached;
 - (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;
 - (F) the original holder of the obligations secured by the security interest or mortgage and every subsequent transferee, if known to the movant, and whether the movant is the holder of that obligation or an agent of the holder; and
 - (G) if known to the movant, whether and where any declaration of homestead has been recorded against the property.
- (4) If the movant seeks relief from stay pursuant to 11 U.S.C. § 362(d)(3), the motion shall:
- (A) state whether a plan of reorganization has been filed in the case;
 - (B) state whether the debtor has commenced monthly payments to creditors with interests in the real estate pursuant to 11 U.S.C. § 362(d)(3)(B); and
 - (C) identify the original holder of the obligations secured by the security interest or mortgage and every subsequent transferee, if known to the movant, and whether the movant is the holder of that obligation or an agent of the holder.
- (5) If the movant seeks relief from stay pursuant to 11 U.S.C. § 362(d)(4), the motion shall include:
- (A) the information set forth in MLBR 4001-1(b)(2); and
 - (B) the circumstances of the alleged scheme to delay, hinder, and defraud creditors with particularity, including:
 - (i) the history of bankruptcy filings affecting the real property at issue (including the filing date, docket number and disposition of the prior bankruptcy filing); or
 - (ii) the details of any transfers of the real property at issue without Court approval or the consent of the movant (including the date of the transfer, the stated consideration and the actual consideration, the name of the grantee and the recording information for the deed at issue).
- (6) A party opposing a motion for relief from the automatic stay must file an opposition to the motion within fourteen (14) 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 fourteen (14) day period, then the opposition shall be filed before the expedited hearing. Unless the Court orders otherwise, if the estate representative fails to file a response within the time prescribed herein, then the estate representative shall be deemed to have assented to the motion.

(b) Motions to Continue or to Impose the Automatic Stay

- (1) Any party in interest seeking the continuation of the automatic stay pursuant to 11 U.S.C. § 362 (c)(3)(B) or seeking the imposition of the automatic stay pursuant to 11 U.S.C. § 362 (c)(4)(B) shall file a motion, an affidavit in support of the motion, and a proposed order.
- (2) The motion shall:
 - (A) set forth any bankruptcy case for the debtor, individually or jointly, pending within the preceding year (including the filing date, docket number, and disposition of such case);
 - (B) state whether any motion for relief was pending in the prior case at the time of dismissal;
 - (C) if any motion for relief had been filed in the prior case, state whether such motion was resolved by terminating, conditioning, or limiting the stay;
 - (D) explain the extent to which the party in interest wishes the automatic stay to be continued or imposed, including the length of the proposed continuation or imposition and the parties affected (i.e. all creditors or only particular creditors); and
 - (E) set forth facts demonstrating that the filing of the later case is in good faith as to the creditors to be stayed.
- (3) The motion shall be filed within fourteen (14) days from the filing of the most recently filed petition. If the motion is not timely filed, the Court may deny the motion.

(c) Motion Confirming No Stay Is In Effect

- (1) Any party in interest seeking an order confirming that no stay is in effect pursuant to 11 U.S.C. § 362 (j) or 11 U.S.C. § 362 (c)(4)(A)(ii), shall file a motion and a proposed order.
- (2) The motion shall:
 - (A) set forth the debtor's history of bankruptcy cases within the preceding year (including the filing date, docket number, and disposition of such case); and
 - (B) state whether the motion is filed pursuant to 11 U.S.C. § 362 (j) or 11 U.S.C. § 362 (c)(4)(A)(ii).

- (d) All documents filed pursuant to this Rule shall be served in accordance with Fed. R. Bankr. P. 4001 and upon all attorneys and parties who have filed an appearance and requested service of all notices and pleadings, and on any other party that the Court may designate. If the movant requests relief with respect to an act against property, the movant shall serve the motion on all entities that claim an interest in the property, including all co-owners, lienholders, and taxing authorities.
- (e) 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.

RULE 4001-2. USE OF CASH COLLATERAL, OBTAINING CREDIT, AND RELATED STIPULATIONS

- (a) A motion for use of cash collateral, for authority to obtain credit, or approval of a related stipulation shall be in the forms required by Fed. R. Bankr. P. 4001(b), (c), and (d), respectively. In addition, the movant shall set forth the following information in any such motion: the total dollar amount of the request for use of funds; the specific proposed uses of the funds; the debtor's proposed budget for the use of the funds; pricing and economic terms including interest rates and fees, maturity, termination, and default provisions; disclosure by the debtor as to whether the debtor has reason to believe that the budget will be adequate to pay all administrative expenses due and payable during the period covered by the budget; 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; any proposal for providing adequate protection, including any priority or superpriority provisions and the effect thereof on existing liens and any carve outs from liens or superpriorities; and any choice of law provision.
- (b) A motion for use of cash collateral, for authority to obtain credit, or approval of a related stipulation, as well as any proposed orders for which entry is sought, 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 members of any committee appointed in the case or, if represented, the attorney for the committee, or, if the case is a chapter 9 case or a chapter 11 case and no committee has been appointed under § 1102, on the creditors included on the list filed under Fed. R. Bankr. P. 1007(d), 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) Cross-collateralization clauses: Provisions that elevate prepetition debt to administrative expense or higher status or secure the repayment of prepetition debt with postpetition assets, other than (A) a claim arising from postpetition advances which constitute an additional non-replacement extension of credit; or (B) a claim representing the diminution in value of the secured claim after the commencement of the case;
- (2) Concessions as to the status of prepetition lien or debt: Provisions or findings of fact that bind the debtor, the estate representative or other parties in interest with respect to the validity, perfection, priority, enforceability, or amount of the secured creditor's prepetition lien or debt;
- (3) Provisions creating liens on bankruptcy causes of action: Provisions that grant liens on the estate's claims arising under 11 U.S.C. §§ 506(d), 544, 545, 547, 548, or 549;
- (4) Waivers: Provisions that seek a waiver of or restrict in any way rights that the debtor or estate representative may have under sections 11 U.S.C. §§ 506, 544, 545, 547, 548, or 549; or that purport to release, waive, or restrict alleged prepetition claims by the debtor or the estate against the secured creditor; or that in any way restrict the ability of the debtor or the estate representative to file a plan or that prohibit or restrict any proposed treatment of a creditor in that plan;
- (5) Right to relief from stay: Provisions that grant automatic relief from stay upon the occurrence of any event; or that purport to bind the Court to an expedited or emergency hearing on a request for such relief; or that limit in any way the Court's consideration of issues that may arise under 11 U.S.C. § 362(d) or the debtor's or estate representative's rights to bring those issues before the Court;
- (6) Rollups: Provisions that deem prepetition secured debt to be postpetition debt or that use postpetition loans from a prepetition secured creditor to pay part or all of a secured creditor's prepetition debt;
- (7) Nonconsensual priming: Provisions that create a lien senior or equal to any existing lien without the consent of that lienholder;
- (8) Disparate carveouts: Provisions that provide fee or expense carveouts for any Professional disparate from those provided to any and all Professionals whose employment is approved by the Court;
- (9) Waiver of right to seek use of cash collateral: Provisions that limit the right of the debtor or the estate representative to move for an order authorizing the use of cash collateral or that seek to prime the secured position of any other secured party under 11 U.S.C. § 364(d) in the absence of the secured creditor's consent;
- (10) Waiver of procedural requirements for foreclosure: Provisions that waive the procedural requirements for foreclosure required under applicable nonbankruptcy law;

- (11) Venue in foreign jurisdiction: Provisions that place venue in a jurisdiction other than this Court in the event of a dispute under any agreement;
 - (12) Payment of secured creditor's expenses: Provisions that require the debtor to pay a secured creditor's expenses and attorney's fees in connection with a proposed financing or use of cash collateral without any notice or review by the United States trustee or the Court;
 - (13) Termination; Default; Remedies: Provisions that provide that the use of cash collateral will cease or the financing agreement will default on (A) the filing of a challenge to lender's prepetition lien or lender's prepetition conduct; (B) entry of an order granting relief from automatic stay (except as to material assets); (C) grant of a change of venue with respect to the case or any adversary proceeding; (D) the making of a motion by a party in interest seeking any relief (as distinct from an order granting such relief); or (E) management changes or the departure, from the debtor, of any identified employees; and
 - (14) Release of Liability: Provisions that purport to release the prepetition lender's liability for alleged pre-petition torts, breaches of contract, or lender liability, releases of pre-petition defenses or counterclaims, and provisions that shorten the period of limitations within which any party in interest (including a successor trustee) may bring causes of action against the lender.
- (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 (1) the proposed order or agreement specifically states that the proposed terms and conditions vary from the requirements of section (c), and (2) any such proposed terms and conditions are conspicuously and specifically set forth in the proposed order or agreement.
- (e) Preliminary Orders
- (1) A single motion may be filed seeking entry of an interim and final order authorizing use of cash collateral or obtaining credit, or approving a related stipulation. The motion shall be accompanied by any proposed order for which entry is sought. Notice of the motion and any notice of any hearing shall be served on the United States trustee, as well as those parties required by Fed. R. Bankr. P. 4001.
 - (2) The Court may enter an interim preliminary order authorizing use of cash collateral or obtaining credit, or approving a related stipulation only to the extent necessary to avoid immediate and irreparable harm to the estate pending a final hearing. Any provision of an interim preliminary order may be reconsidered at the final hearing. Provisions in an interim preliminary order shall not be binding on the Court with respect to the provisions of the final order, except that a lender: (A) will be afforded the benefits and protections of the interim preliminary order for funds advanced during the term of the interim

preliminary order, and (B) will not be required to advance funds under a final order which contains provisions contrary to or inconsistent with the interim preliminary order.

RULE 4001-3. PERMITTED BILLING AND SETTLEMENT COMMUNICATIONS

To the extent that the automatic stay under 11 U.S.C. § 362(a) may be applicable to a debtor or property of the estate and has not terminated or been lifted, relief from the automatic stay shall be deemed granted, without hearing or further order, in any case under any chapter of the Bankruptcy Code, for the limited purpose of permitting a secured creditor or its agent, representative or nominee (excluding its attorney) to:

- (a) Send WRITTEN correspondence to the debtor, with a copy to the debtor's attorney, if any, consisting of statements, payment coupons, notices, analyses or accountings of any payment defaults, the status of insurance coverage, tax payments or municipal charges on property used as collateral and other such correspondence that the creditor typically sends to its non-debtor customers; EXCEPT that such correspondence shall not make demand for payment or threaten foreclosure or dismissal of the case; and
- (b) Discuss or negotiate with a debtor a proposed modification of the terms of any secured indebtedness, including, without limitation, a home mortgage; EXCEPT that all such negotiations or discussions shall be conducted through the debtor's attorney, if any, unless such attorney has, in writing, granted permission for such direct communication by creditor representatives with the debtor.

The secured creditor shall terminate the foregoing communications immediately upon receipt of written notice from the debtor or the debtor's attorney, if any, requesting that such contacts cease. Further, nothing herein shall authorize a debtor or creditor to enter into any loan modification without Court authority, so long as the property which is collateral for the loan is property of the estate under 11 U.S.C. § 541(a).

RULE 4002-1. DUTIES OF THE DEBTOR

- (a) A debtor is required to bring the personal identification and financial information required by Fed. R. Bankr P. 4002 to the 11 U.S.C. § 341 meeting of creditors.
- (b) If a creditor requests a copy of the debtor's federal tax return or transcript under 11 U.S.C. § 521, the creditor shall make such request in writing no fewer than fourteen (14) days before the 11 U.S.C. § 341 meeting of creditors and serve a copy of the request upon the debtor and the debtor's attorney, if any. If the debtor disputes that the requesting party is a creditor, the debtor shall file an objection with the Court within seven (7) days prior to the 11 U.S.C. § 341 meeting of creditors and the Court may set a hearing on the objection. If the debtor does not file an objection and fails to comply with the request, the creditor shall file a notice of noncompliance

with the Court and serve a copy on the debtor. Any tax returns or transcripts provided under this section are subject to the provisions set forth in subsection (c) below.

- (c) If the United States trustee or a party in interest deems it appropriate that an individual chapter 7, 11, or 13 debtor file with the Court federal tax returns or transcripts as described in 11 U.S.C. § 521, a request shall be made by motion on notice to the debtor, the debtor's attorney, if any, the trustee, and the United States trustee (if not the movant). Any party in interest, trustee, or United States trustee then seeking access to the returns filed with the Court or trustee pursuant to 11 U.S.C. § 521 shall file a motion with the Court on notice to the debtor, the debtor's attorney, if any, the trustee, and the United States trustee. Parties seeking review of the returns filed with the Court or trustee shall include in their motion a description of the movant's status in the case, a description of the specific tax information sought and a statement (1) that the information is unavailable from any other source, (2) explaining the need for the tax information, and (3) that the parties attempted, but failed, to resolve the dispute over access to the tax information prior to the filing of the motion. Any motions filed pursuant to 11 U.S.C. § 521 shall comply with MLBR Official Local Form 10 or 11, respectively. If a debtor objects to a motion filed under this subsection, the debtor shall file the objection within seven (7) days after service of the motion.
- (d) The debtor shall redact on any state or federal tax return all but the last four (4) digits of all taxpayer identification numbers (including social security numbers), the names of any minor children referred to within the tax return, all but the year of birth in any dates of birth and all but the last four (4) digits of any account numbers. Any non-debtor tax identification numbers may be redacted in their entirety. The responsibility for redaction rests solely with the filer. The Clerk will not review each document for compliance with this Rule. Any tax returns filed with the Court will only be available for inspection by parties in interest by motion. No tax information filed with the Court will be available to the public via the Internet, PACER, or CM/ECF.

RULE 4003-1. AVOIDANCE OF JUDICIAL LIEN

- (a) A motion to avoid a judicial lien pursuant to 11 U.S.C. § 522(f) 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) 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;
 - (9) provide such documentary evidence as is necessary to establish the extent of the homestead declared; and
 - (10) attach a completed applicable local form for avoidance of a judicial 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). 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 or is not accompanied by the cover sheet prescribed by Official Form B 427 (included in MLBR Official Local Form 6) shall be unenforceable. The Court may also require that any reaffirmation agreement conform to MLBR Official Local Form 6. Fed. R. Bankr. P. 9011 shall apply to an attorney's declaration under 11 U.S.C. § 524.
- (b) If a debtor is pro se during the course of negotiating a reaffirmation agreement, or if a presumption that a reaffirmation agreement is an undue hardship has arisen under 11 U.S.C. § 524, the Court may hold a hearing on the approval of the reaffirmation agreement pursuant to 11 U.S.C. § 524. The Court may also schedule a hearing sua sponte on the validity or approval of any other reaffirmation agreement.

PART V. COURTS AND CLERKS

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

- (a) The District of Massachusetts contains the divisions comprised of the counties, cities, and towns set forth in MLBR Appendix 5.
- (b) Documents are required to be filed in electronic form unless otherwise provided in the Court's Electronic Case Filing Administrative Procedures. Filers who are permitted to file documents in paper form, may do so in any division of the Office of the Clerk or pursuant to applicable local rule.
- (c) Unless otherwise determined by the Court, documents shall be deemed filed upon receipt by the Clerk.

- (d) 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.
- (e) 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.
- (f) In the absence of a judge before whom a case or proceeding is pending, emergency matters filed with the Court may be acted upon by any available judge as determined by the Court.
- (g) Any party filing a document in the Office of the Clerk which relates to a matter scheduled for hearing must file and serve the document not later than 10:00 AM. on the Court business day preceding the scheduled hearing date, unless otherwise ordered by the Court. If a party files a document after such deadline, unless otherwise permitted by order of the Court, the party shall immediately bring the document to the attention of the applicable Courtroom Deputy, *see* MLBR Appendix 5, via email and telephone. Notwithstanding such notice, failure to comply with this rule may result in the document not being considered by the Court. Nothing in this rule is intended to change or alter any deadlines established by the Court, the Federal Rules of Bankruptcy Procedure, or the Local Rules.

RULE 5001-2. OFFICE OF THE CLERK

- (a) The offices of the Clerk at Boston, Worcester, and Springfield shall be open Monday through Friday with the Clerk in attendance in accordance with Fed. R. Bankr. P. 5001.
- (b) Where documents, including petitions, motions, and complaints, are permitted to be filed by paper or facsimile (fax) (see MLBR Appendix 8, Rule 1), such documents 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 business days or on weekends or holidays can be made, for cause, by prior arrangements or in emergency circumstances, as determined by the Clerk, by contacting the Clerk at the telephone numbers set forth in MLBR Appendix 5.

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

In addition to specific grants of authority found elsewhere in the Local Rules, the Clerk is authorized to sign and enter without further direction by the Court the following orders, deemed to be of a ministerial nature:

- (a) Orders permitting the payment of the petition filing fee in installments and fixing the number, amounts and dates of payment;
- (b) Orders deferring the payment of an adversary proceeding filing fee;

- (c) Orders to correct defects in the documents accompanying the original petition or orders to file or update such documents;
- (d) Orders discharging a chapter 7, 11, 12, or 13 trustee and closing a case after the case has been fully administered;
- (e) Orders granting a discharge;
- (f) Orders reopening a case that has been closed due to administrative error; and
- (g) Orders to show cause regarding inactivity in bankruptcy cases and adversary proceedings.

This Rule is not intended to limit a bankruptcy judge's discretion regarding the governance of a case.

RULE 5007-1. RECORD OF PROCEEDINGS AND TRANSCRIPTS

A request by a party or witness to correct the transcript of an evidentiary or nonevidentiary hearing on account of an alleged transcription error must be made by motion.

Prior to filing such a motion, the movant shall have ordered a recording of the hearing from the Office of the Clerk and identified the location of the subject argument or testimony on the recording. The motion shall identify the line and page of the transcript sought to be corrected, the language, as it should have been transcribed, and the hour and minute on the recording where the subject argument or testimony is located. The Court may act on the motion with or without a hearing. If the motion is granted, issuance of the transcript thereafter to any person shall include a copy of the motion and the order granting the motion.

RULE 5009-1. CLOSING CHAPTER 7 CASES

Unless the Court orders otherwise, 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 there are no pending adversary proceedings affecting the administration of the estate.

RULE 5011-1. WITHDRAWAL OF THE REFERENCE

A motion for withdrawal of the reference shall be filed with the Clerk, 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. MOTIONS TO CONTINUE OR CANCEL HEARING OR TRIAL

- (a) No continuance shall be effective unless the Court approves it in writing or in open Court. An attorney shall not be excused from appearing before the Court absent such approval or an unexpected emergency.
- (b) A motion to continue or cancel any hearing or trial must be filed and served as soon as practicable and no later than 10:00 AM on the Court business day preceding the scheduled hearing date.
- (c) A motion to continue or cancel a hearing or trial or withdraw a motion or an 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.

PART VI. COLLECTION AND LIQUIDATION OF THE ESTATE

RULE 6004-1. SALE OF ESTATE PROPERTY

(a) Motion Required

Whenever the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure require an estate representative to seek leave of the Court to sell property of the estate, by private or public sale, the request shall be made by motion. The motion shall include as exhibits a proposed form of order and, in the case of a private sale, the applicable sale agreement.

(b) Service Required

The motion seeking authority to sell shall be served on:

- (1) the debtor and the debtor's attorney, if any;
- (2) the United States trustee;
- (3) any entity with an interest in the property of record, including a lien or security interest;
- (4) any other known entity asserting an interest in the property;
- (5) any known attorney for an entity in subsections (3) or (4);
- (6) all attorneys and parties who have appeared in the case or requested notice;
- (7) the attorney for any elected or appointed committee; and
- (8) in a chapter 9 or chapter 11, if no committee has been elected or appointed, the creditors included on the list of creditors filed under Fed. R. Bankr. P. 1007(d)."

(c) Private Sale Procedure

- (1) The motion for authority to sell by way of private sale must state:

- (A) whether the sale is to be free and clear of liens or interests;
 - (B) the identity of the holder of any lien or interest in the property to be sold;
 - (C) the efforts made by the estate representative to market the property;
 - (D) whether approval is sought for any proposed distribution of proceeds;
 - (E) why a private sale, rather than a public sale, is in the estate's best interest; and
 - (F) if all or substantially all of a chapter 11 debtor's assets are to be sold, why the sale is proposed under 11 U.S.C. § 363 rather than through a chapter 11 plan and a practical and abbreviated equivalent of the adequate information required in a disclosure statement to a chapter 11 plan.
- (2) Prior Approval
- (A) The movant may seek prior approval of any term of the proposed sale;
 - (B) The movant must obtain prior approval from the Court of any terms for the proposed sale protecting the initial proposed purchaser, including the amount of a break-up fee or the minimum increase required for a higher offer, unless
 - (i) the proposed break-up fee does not exceed the lesser of 5% of the proposed original purchase price or \$50,000 and is subject to final Court approval upon application by the bidder; and
 - (ii) the minimum increase required for a higher offer does not exceed 5% of the proposed original purchase price.
- (3) Notice of Sale
- (A) The motion for authority to sell by private sale must include a proposed notice of sale (attached as an exhibit).
 - (B) Subject to the requirements of Fed. R. Bankr. P. 2002 and 6004 and any other applicable Federal Rules of Bankruptcy Procedure or the Local Rules, a notice of proposed private sale of property shall conform substantially to MLBR Official Local Form 2A.
 - (C) The notice of proposed private sale of property must include:
 - (i) the name and address of the initial offeror;
 - (ii) the consideration to be paid for the purchase;
 - (iii) the time and place of the proposed sale;
 - (iv) the terms and conditions of the proposed sale;
 - (v) a blank space for the deadline for filing objections and submitting higher offers to the proposed sale to be set by the Court;

- (vi) blank spaces for the date and time of the hearing to be set by the Court;
- (vii) a general description of the property to be sold;
- (viii) an itemized list of the asset or assets to be sold;
- (ix) disclosure of any relationship of the initial offeror with the seller;
- (x) a statement as to whether the sale shall be free and clear of liens or interests pursuant to 11 U.S.C. § 363(f);
- (xi) a statement noting that the Court may modify the method of sale set forth in the notice at or prior to the hearing on the proposed sale;
- (xii) a statement 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;
- (xiii) the following language: "The Court may take evidence at any hearing on approval of the motion to resolve issues of fact;"
- (xiv) if a proposed sale or lease includes personally identifiable information under 11 U.S.C. § 363(b)(1)(A) or (B), the information required in MLBR 6004-1(f); and
- (xv) a statement that a copy of the motion and any sales agreement will be provided by the moving party to any interested party upon request and cost.

(4) Procedure upon Receipt by the Clerk of the Motion to Sell

Upon receipt of the motion for authority to sell by way of private sale and the notice of proposed private sale of property, the Clerk shall assign a deadline date for filing objections and submitting higher offers and set a hearing date and time. The estate representative shall then serve the motion for authority to sell by way of private sale as required by subsection (b) of this Rule and the completed notice of proposed private sale of property as required by subsection (c)(5) of this Rule.

(5) Service of the Completed Notice

(A) Unless the Court orders otherwise, the completed notice of proposed private sale of property shall be served upon all creditors in accordance with Fed. R. Bankr. P. 2002 and 6004 and MLBR 2002-1 and 2002-5. A copy of the completed notice should also be served on parties regarded by the estate representative as potential purchasers, including, if appropriate, dealers in property similar to that proposed to be sold and the debtor's competitors. Unless the Court orders otherwise, the completed notice shall be served no fewer than twenty-one (21)

days (plus such additional time as may be provided in Fed. R. Bankr. P. 9006(f)) prior to the deadline for filing objections or submitting higher offers.

- (B) The estate representative shall file a certificate of service no later than seven (7) days following service of the completed notice of sale unless a different deadline is set by the Court.

(6) Court Approval of Sale

- (A) If there are no objections timely filed or higher offers timely submitted, the Court may approve the sale without holding the scheduled hearing.
- (B) A party may request of the Clerk a certificate of no objections concerning the sale of property of the estate.

(d) Public Auction Procedure

(1) The motion for authority to sell by way of public sale must state:

- (A) whether the sale is to be free and clear of liens or interests;
- (B) the identity of the holder of any lien or interest in the property to be sold;
- (C) the efforts made by the estate representative to market the property;
- (D) whether approval is sought for any proposed distribution of proceeds;
- (E) why a public sale, rather than a private sale' is in the estate's best interest; and
- (F) if all or substantially all of a chapter 11 debtor's assets are to be sold, why the sale is proposed under 11 U.S.C. § 363 rather than through a chapter 11 plan and a practical and abbreviated equivalent of the adequate information required in a disclosure statement to a chapter 11 plan.

(2) Notice of Sale

- (A) The motion for authority to sell by public sale must include a proposed notice of sale (attached as an exhibit).
- (B) Subject to the requirements of Fed. R. Bankr. P. 2002 and 6004 and any other applicable Federal Rules of Bankruptcy Procedure, the Local Rules or any Standing Order of this Court, a notice of proposed public sale of property shall conform substantially to MLBR Official Local Form 2B.
- (C) The notice of proposed public sale of property must include:
 - (i) the time and place of the proposed sale, if known;
 - (ii) the terms and conditions of the proposed sale;
 - (iii) a blank space for the deadline for filing objections to the proposed sale to be set by the Court;

- (iv) blank spaces for the date and time of the hearing to be set by the Court;
- (v) a general description of the property to be sold;
- (vi) an itemized list of the asset or assets to be sold;
- (vii) a statement as to whether the sale shall be free and clear of liens or interests pursuant to 11 U.S.C. § 363(f);
- (viii) a statement noting that the Court may modify the method of sale set forth in the notice at or prior to the hearing on the proposed sale;
- (ix) a statement that any objection, 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;
- (x) the following language: "The Court may take evidence at any hearing on approval of the motion to resolve issues of fact;" and
- (xi) if a proposed sale or lease includes personally identifiable information under 11 U.S.C. § 363(b)(1)(A) or (B), the information required in MLBR 6004-1(f).

(3) Procedure upon Receipt by the Clerk of the Motion to Sell

Upon receipt of the motion for authority to sell by way of public sale and the notice of proposed public sale of property, the Clerk shall assign a deadline date for filing objections and set a hearing date and time. The estate representative shall then serve the motion for authority to sell by way of public sale and the completed notice of proposed public sale of property as required by this Rule.

(4) Service of the Completed Notice

- (A) Unless the Court orders otherwise, the completed notice of proposed public sale of property shall be served upon all creditors in accordance with Fed. R. Bankr. P. 2002 and 6004. A copy of the completed notice should also be served on parties regarded by the estate representative as potential purchasers, including, if appropriate, dealers in property similar to that proposed to be sold and the debtor's competitors. Unless the Court orders otherwise, the completed notice shall be served no fewer than twenty-one (21) days (plus such additional time as may be provided in Fed. R. Bankr. P. 9006(f)) prior to the deadline for filing objections or submitting higher offers.
- (B) The estate representative shall file a certificate of service no later than seven (7) days following service of the completed notice of sale unless a different deadline is set by the Court.

(5) Court Approval of Sale

- (A) If there are no objections timely filed with the Court, the Court may approve the sale without holding the scheduled hearing.
 - (B) A party may request of the Clerk a certificate of no objections concerning the sale of property of the estate.
- (6) Restrictions
- (A) Any auction advertisement placed by an auctioneer or estate representative shall conspicuously state the bankruptcy case name and number.
 - (B) An auctioneer shall not introduce non-bankruptcy estate items at an auction without the Court's prior approval. However, subject to the Court's prior approval and the appropriate identification of each item of bankruptcy estate property to be sold, property from a bankruptcy estate may be consolidated with and sold at a regularly scheduled auction sale of other non-estate goods.
 - (C) Neither an auctioneer employed by an estate representative nor any agent of the auctioneer shall bid on property of the estate.
 - (D) Failure to comply with this subsection may result in denial of all compensation or the issuance of sanctions.
- (7) Qualification and Duties 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.
 - (B) The auctioneer must file with the Court a bond in an amount fixed by the United States trustee and furnish 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.
 - (C) 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.
 - (D) 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.

- (E) As a condition of the employment of an auctioneer in any bankruptcy estate, the auctioneer shall file an affidavit under the penalty of perjury that states:
- (i) all goods of bankruptcy estates in the auctioneer's custody are fully covered at all times by separate bonds or blanket bonds or both;
 - (ii) the auctioneer's qualifications;
 - (iii) where the auctioneer is licensed;
 - (iv) whether the auctioneer is in good standing in all jurisdictions in which the auctioneer is licensed; and
 - (v) whether the auctioneer is subject to any disciplinary proceedings or has been subject to any disciplinary proceedings within the preceding five (5) years.

(8) Attendance at Auction Sale

With the exception of those auctions that occur via an Internet Auction Mechanism, the estate representative or a representative of the estate representative must be present at any live auction sale.

(9) Auctioneer's Compensation and Expenses

(A) The auctioneer, or the estate representative on behalf of 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 application shall disclose the amount of any buyer's premium charged in connection with specific items of property sold (the "Buyer's Premium"). The auctioneer may be paid from the proceeds of the auction immediately upon approval of its application and prior to closing of the case.

(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:

- (i) 10% of the first \$250,000 or part thereof;
- (ii) 7% of the next \$250,000 or part thereof; and
- (iv) 5% of the balance.
- (v) "Gross proceeds" shall include any Buyer's Premium.

(C) Real Estate Auctions

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

- (i) 10% of the first \$50,000 realized in excess of the amount of encumbrances, plus 2.5% of the balance of the equity; or
- (ii) \$500.

(D) Auction Expenses

With prior Court approval, the auctioneer shall be reimbursed for actual and necessary expenses incurred in connection with an auction, including labor, advertising, credit card processing fees, and any fee associated with an Internet Auction Mechanism. The auctioneer may charge or otherwise recoup from the winning bidder any credit card processing fees incurred by the auctioneer in connection with the winning bidder's purchase of assets. With respect to any auction that generates less than \$20,000 in sale proceeds, reimbursement for labor costs shall be limited to \$2,000 unless otherwise ordered by the Court. Following the auction, an auctioneer may seek reimbursement of unanticipated expenses incurred in connection with conducting the auction provided that such costs were reasonable and necessary to the sale and are supported by receipts or other documentation. Except as set forth in this Rule or as ordered by the Court, the auctioneer shall not be reimbursed for any overhead expense associated with the auction.

(e) Internet Auction Mechanisms

(1) With prior Court approval, after appropriate notice as required by Fed. R. Bankr. P. 2002(a), the estate representative may sell any asset or assets of the estate by public auction through the use of an internet auction, listing, or brokerage mechanism (each, an Internet Auction Mechanism).

(2) The Motion

(A) In any motion requesting such approval, including in a motion for approval of the sale or retention of an auctioneer, the estate representative must:

- (i) Identify the name and uniform resource locators (URL) of the proposed Internet Auction Mechanism;
- (ii) Summarize the services that the Internet Auction Mechanism will provide in connection with the public auction, provide the URL to the Internet Auction Mechanism's terms and conditions of use, or attach copies of such terms and conditions, and

(1) Summarize what obligations the estate representative will incur by using the Internet Auction Mechanism; and

(2) State whether and to what extent such terms and conditions limit the Internet Auction Mechanism's provider from liability in connection with the auction;

- (iii) Disclose whether the estate representative has or any party in interest is known to have any connections with the proposed Internet Auction Mechanism or any expected bidder;
 - (iv) Disclose all fees associated with use of the Internet Auction Mechanism, and identify if the bidders or estate shall be responsible for paying such fees;
 - (v) Identify the mechanism for payment to the estate; and
 - (vii) Request authority to:
 - (1) comply with any rules, policies, procedures, terms, or conditions of the Internet Auction Mechanism disclosed in the motion and enter into any required agreements in support thereof;
 - (2) consummate such sale; and
 - (3) pay any and all fees associated with use of the Internet Auction Mechanism, each without further order of the Court.
 - (3) Unless the Court orders otherwise, a listing placed on an Internet Auction Mechanism shall state the bankruptcy case name and number and that the sale procedure has been approved by the United States Bankruptcy Court for the District of Massachusetts.
- (f) Sales of Personally Identifiable Information
- (1) If an estate representative files a motion to sell personally identifiable information as defined in 11 U.S.C. § 101(41A), the motion and any notice of sale thereon shall, in addition to the other requirements set forth in this Rule, conspicuously describe the type of personal identifiable information which are proposed to be sold (without disclosing the content of such information), why the sale of such information is advantageous or necessary and what policies of the debtor, private agreements, federal laws or state laws purport to restrict the sale or use of such information.
 - (2) Upon the filing of a motion under subparagraph (1) above, the movant shall file a separate motion seeking expedited determination and requesting an order directing the United States trustee to appoint a consumer privacy ombudsman under 11 U.S.C. § 332.
 - (3) The estate representative shall then serve the motion to sell personally identifiable information as defined in 11 U.S.C. § 101, the motion and any notice of sale thereon in the manner provided in this Rule or other order of the Court and shall file a certificate of service within seven (7) days of service, unless a different deadline is set by the Court.
 - (4) If appointed, the ombudsman shall file a report with recommendations and the basis therefore within seven (7) days of appointment, except as otherwise ordered by the Court.

- (g) For the purposes of this Rule, the term estate representative includes, without limitation, a debtor in possession or trustee authorized to sell by the Bankruptcy Code.

RULE 6005-1. APPRAISERS, BROKERS, AND INVESTMENT BANKERS

- (a) Any application to employ an appraiser pursuant to MLBR 2014-1 shall set forth the proposed amount or rate of compensation including but not limited to an hourly rate or flat fee.
- (b) Any application to approve a broker or investment banker, pursuant to MLBR 2014-1, shall also include a recitation of all of the terms and conditions of the broker's or investment banker's engagement, including:
 - (1) the rate of any commission on the sale of estate assets;
 - (2) any agreement respecting compensation made by the broker or investment banker with any other party or parties;
 - (3) whether, if the compensation of the broker or investment banker is based on a commission and such broker or investment banker locates a proposed buyer who is the successful bidder after subsequent competitive bidding with another proposed buyer, the broker's or investment banker's commission from the sale proceeds would be based on the original bid or the final bid; and
 - (4) whether, if the compensation of the broker or investment banker is based on a commission and such broker or investment banker locates a proposed buyer who is not the successful bidder after subsequent competitive bidding with another proposed buyer, the broker or investment banker may receive a commission limited to the amount of the original bid.
- (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.
- (d) Any agreement establishing the terms of a broker's or investment banker's engagement shall be filed as an exhibit to any application and shall provide the information required in subsection (b) of this rule.
- (e) Notwithstanding an agreement to the contrary, no commission is earned unless the proposed sale of estate assets is completed.

RULE 6006-1. MOTIONS FOR ASSUMPTION OR REJECTION OF EXECUTORY CONTRACT OR UNEXPIRED LEASE; MOTIONS TO EXTEND DEADLINE

- (a) A motion seeking an extension of the deadline for assumption or rejection of an executory contract or an unexpired lease of residential real property or personal property in a chapter 7 case shall be filed prior to the expiration of the period found in 11 U.S.C. § 365(d)(1). If the Court

cannot hear or determine the motion prior to the expiration of the deadline, the extension requested in the motion shall be automatically approved on an interim basis, subject to final determination by the Court after notice and a hearing scheduled as soon as the Court's calendar may permit. Nothing in this Rule limits the Court's ability to grant additional extensions for cause shown.

- (b) A motion seeking extension of the deadline for assumption or rejection of an unexpired lease of nonresidential real property shall be filed prior to the expiration of the period found in 11 U.S.C. § 365(d)(4)(A). If the Court cannot hear or determine the motion prior to the expiration of the deadline, the extension requested in the motion shall be automatically approved on an interim basis, subject to final determination by the Court after notice and a hearing scheduled as soon as the Court's calendar may permit.

RULE 6007-1. ABANDONMENT OF ESTATE PROPERTY

- (a) Requesting Notice

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) may file with the Court and serve upon the estate representative and the United States trustee a written request for such notice within fourteen (14) days from the date first scheduled for the meeting of creditors.

- (b) Limit of Notice of Estate Representative's Abandonment of De Minimis Property

Notwithstanding Fed. R. Bankr. P. 6007 and in the absence of an order of the Court, after the expiration of the fourteen (14) day period referenced in section (a), the estate representative is authorized to limit notice of an abandonment of property to the debtor, the debtor's attorney, if any, 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 net value to the estate of the property concerned is estimated by the trustee to be less than \$5,000.

- (c) Effective Date of Abandonment

Unless the Court orders otherwise, if no objections are timely filed with respect to a notice of abandonment, then the property that is subject to such notice is deemed abandoned fifteen (15) days after the mailing of the notice.

- (d) A party may request of the Clerk a certificate of no objections concerning the abandonment of property of the estate.

RULE 6012-1. ADEQUATE ASSURANCE OF PAYMENT FOR UTILITY SERVICE

A tender of adequate assurance of payment for utility service shall be deemed to be satisfactory within the meaning of 11 U.S.C. § 366(c)(2) unless a utility provides written notice to the debtor-in-possession or, in a case in which a chapter 11 trustee has been appointed, both the debtor and the chapter 11 trustee, within fourteen (14) days after such utility's receipt of the tender of adequate assurance that such tender is unsatisfactory and that service will be terminated in accordance with 11 U.S.C. § 366. Upon receipt of such notice, the estate representative may seek appropriate relief from the Court to prevent a termination of utility service or to reinstate utility service in accordance with 11 U.S.C. § 366.

PART VII. ADVERSARY PROCEEDINGS

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, (Director's Form B1040).

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 consistent with the provisions of MLBR Appendix 7 governing mediation. 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 may 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 may 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 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 may 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. Bankr. 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 may 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.
- (d) Uniform Definitions in Discovery Requests. See MLBR 9029-2 incorporating L.R.,D. Mass. 26.5.

RULE 7027-1. DEPOSITIONS

For purposes of Fed. R. Civ. P. 45(c), 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; and
- (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) 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.
- (b) 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 fourteen (14) days after entry of an order determining that they should be answered, unless the Court directs otherwise.
- (c) 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) Number of Requests for Admission

A party may proffer no more than twenty-five (25) requests for admission, which number will include all discrete subparts, to another party without leave of Court.

(b) 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.

(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 fourteen (14) 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) Prior to the filing of any motion relating to a discovery dispute or a request for discovery conference, the attorneys for the parties (or the parties, if pro se) shall confer in good faith by telephone or in person 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 otherwise provided by an order of the Court, the conference shall take place within fourteen (14) days of a written request for 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 be monetary or non-monetary including denial of relief.

(b) If the parties are unable to resolve a discovery dispute and a discovery motion is filed, the motion and any response shall include the following: (1) the certification required by Fed. R. Civ. P. 37(a)(1);(2) the date of the discovery conference and, if it was not held, the reason why; (3) each interrogatory, deposition question, request for production, request for admission or other discovery matter raising an issue to be decided by the Court, and the response thereto; and (4) a statement of the moving party's position as to each contested issue, with supporting legal

authority, which statement shall be set forth separately immediately following each contested item. Notwithstanding the foregoing, if the only discovery dispute constitutes a failure of a party to serve any response, the discovery motion shall so state, and it does not need to include specific requests. 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 7041-1. DISMISSAL OF COMPLAINTS AND CLOSING OF ADVERSARY PROCEEDINGS INACTIVE FOR SIX MONTHS

- (a) If no action has been taken by any party for six (6) months in an adversary proceeding, the Clerk may issue a “Notice of Inactivity and Proposed Dismissal.” The complaint may be dismissed and the adversary proceeding may be closed in thirty (30) days after the date of the notice, unless one of the conditions set forth in subsection (b) below occurs. The dismissal will be with prejudice and without imposition of costs unless otherwise ordered by the Court.
- (b) A complaint will not be dismissed for lack of prosecution if, within thirty (30) days after issuance of the Notice of Inactivity and Proposed Dismissal:
- (1) there are further proceedings in the adversary proceeding.
 - (2) an opposition is filed to the proposed dismissal; or
 - (3) the Court enters an order directing further proceedings.

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 may 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 Servicemembers Civil Relief Act, 50 U.S.C.A. § 3931. 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). Any request for entry of default judgment that includes damages, shall be accompanied by an affidavit attesting to damages.

RULE 7056-1 SUMMARY JUDGMENT

- (a) Any party that files a motion for summary judgment shall either (i) file a separate numbered concise statement of the material facts of record as to which the moving party contends there is no genuine issue to be tried (“Statement of Facts”), with page references to affidavits, depositions, and other supporting documentation, or (ii) include a separate section entitled Statement of Facts in the motion or memorandum in support of the motion that satisfies those requirements. Failure to file or include a Statement of Facts may constitute grounds for denial of the motion.
- (b) Motions for summary judgment or memoranda in support thereof shall include citations with page references to affidavits, depositions, and other supporting documentation set forth in the Statement of Facts.
- (c) Unless the Court orders otherwise, oppositions to motions for summary judgment must be filed within twenty-one (21) days after the motion is served. A party opposing the motion shall file separately or include in a separate section in the response a statement admitting or denying each numbered paragraph of the Statement of Facts filed by the moving party. For material facts of record as to which the opposing party contends there exists a genuine issue to be tried, the opposing party shall include page references to affidavits, depositions, and other supporting documentation.
- (d) Within twenty-one (21) days after the motion is served, the opposing party may also request entry of summary judgment in that party’s favor on the issues raised in the motion. The party may separately file a Statement of Facts stating additional material facts of record as to which the opposing party contends there is no genuine issue to be tried, with page references to affidavits, depositions, and other documentation, or include that Statement of Facts in a separate section of the cross-motion for summary judgment. This rule does not extend any deadline set for the filing of motions for summary judgment on any other claims asserted in a contested matter or adversary proceeding not raised in the original motion.

- (e) The original moving party shall file any response to such additional Statement of Facts within fourteen (14) days with page references to affidavits, depositions, and other documentation.
- (f) Unless the Court orders otherwise, the party seeking summary judgment may file a reply within fourteen (14) days after the response is served by the opposing party.
- (g) For purposes of considering whether summary judgment should enter, the Court may deem material facts of record set forth in the Statement of Facts required by this rule to be admitted unless controverted by the statement required to be served by opposing parties.
- (h) Copies of all referenced documentation shall be filed as exhibits to any Statement of Facts and any response. The Court may assume the authenticity of an exhibit unless a party objects to the authenticity in a responsive pleading or within 14 days of the filing of an exhibit.

RULE 7067-1. DEPOSIT AND INVESTMENT OF REGISTRY FUNDS

The provisions of the United States District Court Local Rules 67.2, 67.3 and 67.4 shall be applicable to proceedings in the Court. 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. References in the D. Mass. LR 67.3 to "district judge" are replaced with "bankruptcy judge."

PART VIII. BANKRUPTCY APPEALS (RESERVED)

PART IX. GENERAL PROVISIONS

RULE 9001-1. DEFINITIONS AND RULES OF CONSTRUCTION

In addition to the Definitions in 11 U.S.C. § 101 and Fed. R. Bankr. P. 9001, and the Rules of construction in 11 U.S.C. § 102, the following will apply:

- (a) "allow," "approve," and "grant" are used interchangeably;
- (b) "attorney" and "counsel" are used interchangeably;
- (c) "Court business day" means any day except Saturday, Sunday, and any legal holiday as defined in Fed. R. Bankr. P. 9006;
- (d) "debtor" includes a joint debtor;
- (e) "estate representative" includes a chapter 7 trustee, chapter 11 trustee, chapter 11 debtor-in-possession, chapter 12 trustee, chapter 13 trustee, and chapter 13 debtor;
- (f) "Internet Auction Mechanism" means internet auction, listing, or brokerage mechanism;

- (g) "L.R., D. Mass." is a reference to the United States District Court for the District of Massachusetts Local Rules;
- (h) "Official Forms" are Bankruptcy Forms that may be found at www.uscourts.gov/forms/bankruptcy-forms;
- (i) "parties in interest" includes the debtor, the trustee, all creditors, and indenture trustees;
- (j) "pro se" means unrepresented;
- (k) "Registered User" means an individual who has registered to use this Court's electronic filing system;
- (l) "service" or "serve" means cause to be served;
- (m) "shall" means must; and
- (n) "Standing Orders" amend or supplement the Local Rules and may be found at www.mab.uscourts.gov.

RULE 9004-1. FONT SIZE

Documents filed with the court shall conform to the requirements of MLBR Appendix 8.

NOTE: The proposed new MLBR Appendix 8 is set forth in the footnote below.³

³

- (a) Paper Size, Line Spacing, and Margins

All documents filed in the Court shall be in 8.5 x 11-inch document format. All documents, other than discovery requests and responses, certificates of service, exhibits, pre-printed forms or forms generated by software providers, block quotations, and local and national forms, shall be double-spaced except those sections of any document which contain the identification of counsel, title of the case, title of the pleading, and footnotes may be single-spaced. Margins must be at least one inch on all four sides. Page numbers may be placed in the margins, but no text may appear there. Except for complaints and notices of appeal, documents that do not conform to the requirements of this rule may be stricken by the Court.

- (b) Page Numbering

All pages of each pleading or other papers filed with the Court (except exhibits) must be numbered consecutively. The first page of a pleading need not reflect the number.

- (c) Font, Type Style; Handwriting

RULE 9005.1-1. NOTIFICATION OF CLAIM OF UNCONSTITUTIONALITY

A notice filed in compliance with Fed. R. Bankr. P. 9005.1 shall be served upon the United States trustee and shall include the basis upon which the party claims the statute to be unconstitutional.

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

If the Court does not determine any motion to extend any deadline for filing complaints relating to the debtor's discharge, to the dischargeability of a debt, or for filing objections to the debtor's claims of exemption, which motion was filed before the expiration of the deadline, the deadline shall be automatically extended to the date seven (7) days after the entry of the order determining the motion, unless the Court orders otherwise.

RULE 9006-2. EXTENSION OF DEADLINES IF A DIVISIONAL OFFICE IS CLOSED DUE TO AN EMERGENCY

If the Office of the Clerk in the division in which a case is pending is closed for the entire day due to an emergency published on the Court's website or in a telephone recording, then the Office of the Clerk for that division shall be deemed "inaccessible", as that term is used in Fed. R. Bankr. P. Rule 9006. Nothing herein shall be deemed to extend or alter the date on which a case is commenced under 11 U.S.C. §§ 301, 302 or 303. This rule is not intended to limit the scope of Fed. R. Bankr. P. 9006.

RULE 9009-1. OFFICIAL LOCAL FORMS

- (a) The forms adopted by this Court as MLBR Official Local Forms shall be used in cases and adversary proceedings filed in this Court without alteration except as otherwise provided in the Local Rules or in that MLBR Official Local Form.

The font size of all original documents, other than the Petition, Schedules, and Statement of Financial Affairs, shall be not less than 12-point type for the body of the document and 10-point for any footnote. The font size of the Petition, Schedules, and Statement of Financial Affairs shall not be less than 10-point type unless restricted by third-party software used to prepare these forms, or unless the Court provides forms in a similar font.

A document created electronically must be set in a plain, Roman Type, although italics or boldface may be used for emphasis. All handwritten documents must be on paper and be legible and double-spaced.

- (b) The Official Forms promulgated by the Judicial Conference of the United States shall be used in cases and adversary proceedings filed in this Court without alteration except as otherwise provided in Fed. R. Bankr. P. 9009.

RULE 9009-2. CASE MANAGEMENT

Upon motion of the estate representative or sua sponte, the Court may order that one or more case management procedures be employed in order to ease the administrative burden on the parties or the Court. Such procedures may relate to, inter alia, omnibus hearing dates, notices of agenda, and payment of interim compensation and reimbursement of expenses and other matters typical to chapter 11 cases or cases under other chapters with sufficient complexity. Sample case management procedures are contained in MLBR Appendix 6. A motion requesting case management orders shall highlight, in bold-faced type, those provisions which would vary from those set forth in MLBR Appendix 6.

RULE 9010-1. REPRESENTATION AND APPEARANCES

- (a) Represented Parties
- (1) Appearance by an Attorney. The filing of any pleading or other document by an attorney shall constitute an appearance in the case or adversary proceeding in which the pleading or document is filed by the attorney who signs it, unless the pleading or document states otherwise.
 - (2) Notice of Appearance. If an attorney wishes to receive service of all notices and pleadings in a case, the attorney must appear by filing a pleading as a Registered User or by filing a notice of appearance with a request for service of pleadings and notice. 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, email address, 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. Any attorney who is not a Registered User who appears by filing a pleading or notice of appearance with a request for service of pleadings and notice, shall be deemed to consent to service by electronic means as contemplated by Fed. R. Bankr. P. 9036(b) and (c) at the designated electronic address stated on the document that is filed.
 - (3) Appearances by Attorneys Who Are Not Members of the Bar of the United States District Court for the District of Massachusetts. Except as provided in subsection (4) 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 signed certification attesting to the following:

- (i) the attorney is a member of the bar in good standing in every jurisdiction where the attorney has been admitted to practice;
- (ii) there are no disciplinary proceedings pending against such attorney as a member of the bar in any jurisdiction;
- (iii) the attorney is familiar with the Local Rules of this Court; and
- (iv) the attorney has paid the applicable pro hac vice fee to the United States District Court for the District of Massachusetts.

An attorney seeking admission under this subsection need not apply for admission by motion of a member of the bar of this Court or the United States District 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. Unless the Court orders otherwise or local counsel has appeared, an attorney seeking admission under this subsection more frequently than five times in any 12-month period for a party other than a debtor shall additionally certify either (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. Unless the Court orders otherwise or local counsel has appeared, an attorney seeking admission under this subsection more frequently than twice in any 12-month period to represent a debtor shall additionally certify either (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.

- (4) Requests for Service/Proofs of Claim. An attorney need not obtain leave to appear and practice in a particular case merely to file a request for service of pleadings and notices or a proof of claim.

(b) Unrepresented Parties

- (1) Appearance by an Unrepresented Individual. An individual who is not represented by counsel and who is a party in interest in a case or adversary proceeding may appear and represent themselves. An individual who is unrepresented shall include the words "unrepresented" or "pro se" following a hand-written signature on all papers filed by that individual in the case. Any such document shall also state the party's mailing address, telephone number, and e-mail address (if any). Any unrepresented individual who files a document with an email address in the signature block or who files a document by email (when permitted) or by other electronic means (where permitted) shall be deemed to consent to service by electronic means as contemplated by Fed. R. Bankr. P. 9036 (b) and

- (c) at the designated electronic address stated on a document that is filed or, if ordered by the Court, the electronic address from which a document was filed by electronic mail.
- (2) **No Representation of Other Parties.** An individual who is unrepresented may not represent any other party and may not authorize any other individual who is not a member of the bar of this district to appear on their behalf.
- (3) **Corporations and Other Entities Not Represented by an Attorney.** A corporation, partnership, limited liability company, trust, estate, or other entity that is not an individual may not appear other than through an attorney who is otherwise permitted to practice in this Court. An individual officer, director, partner, member, trustee, administrator, agent, or executor may not appear on behalf of an entity; provided, however, that if such an individual is also an attorney who is otherwise permitted to practice in this Court, the attorney may represent the entity if the representation is otherwise appropriate under the circumstances. The Court may strike any pleading filed on behalf of any entity by any person that is not an attorney. Notwithstanding the foregoing, such an entity may appear by and through an agent or a person authorized by a power of attorney, to 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.
- (4) **Requirement to Update Addresses.** Every party appearing pro se shall inform the clerk and all parties in writing of any change of name, address, telephone number, or e-mail address within 14 days of the change. It is the responsibility of the pro se party to notify the clerk and the parties of any change. Any notice sent by the clerk or any party to a pro se party shall be deemed delivered and properly served if sent to the most recent address or e-mail address provided by the pro se party.

RULE 9010-2. APPEARANCES AS ATTORNEY FOR THE DEBTOR

- (a) Absent an appearance pursuant to MLBR 9010-2(b)(1) or withdrawal pursuant to MLBR 9010-3, an attorney representing a debtor in a bankruptcy case must represent the debtor in all aspects of the main case, including motions and contested matters, and in any adversary proceeding relating to the debtor's discharge or the dischargeability of any debt. The attorney shall also represent the debtor in any other adversary proceeding in which the debtor is a named defendant unless the debtor expressly agrees otherwise in writing at the commencement of the representation and 'such agreement is noted on the attorney's initial disclosure under Fed. R. Bankr. P. 2016(b). Any 2016(b) disclosure or agreement between the attorney and the debtor at variance with this Rule shall be deemed void and of no force and effect.
- (b) (1) An attorney representing, without compensation, an otherwise pro se debtor may file a notice of limited appearance setting forth the specific contested matter or adversary proceeding in which the attorney appears and may decline representation of that debtor

in other matters or proceedings, except as set forth in (b)(2) of this Rule, but may not withdraw without leave of the Court from the matter or proceeding in which the attorney has chosen to appear until the final disposition thereof.

- (2) An attorney who chooses to file a general appearance for an otherwise pro se debtor, without compensation, shall not thereby be required to represent the debtor in any adversary proceeding other than with respect to discharge or the dischargeability of debt.
- (c) To facilitate any efforts at mediation in a contested matter or adversary proceeding involving an otherwise pro se debtor, an attorney may appear without compensation to advocate for the debtor in the mediation, and solely for purposes of the mediation. If the mediation is unsuccessful in concluding the matter at issue, the attorney shall promptly make an election within fourteen (14) days of the conclusion of the mediation to (i) withdraw the appearance for mediation purposes, by filing a notice of withdrawal, or (ii) file a further notice of appearance in accordance with subsection (b)(1) of this Rule.

RULE 9010-3. WITHDRAWAL OF APPEARANCE

- (a) A debtor's attorney may only withdraw without leave of the Court if another attorney has filed a notice of appearance for the client.
- (b) An attorney other than a debtor's attorney may withdraw from a case or proceeding without leave of the Court by filing a notice of withdrawal, provided that either (1) another attorney has filed a notice of appearance for the client or (2) the client is not a plaintiff or defendant in a pending adversary proceeding, the client has not filed a motion or an opposition to a motion or other document that is pending, and there is not another matter pending that requires the client's response or materially affects the client's interests. The notice shall be served on the client, the debtor's attorney (or the debtor, if pro se), any trustee and the trustee's attorney, the United States Trustee, the attorney for any committee elected under 11 U.S.C § 705 or appointed under 11 U.S.C. § 1102, and all attorneys and parties who have appeared in the case or requested notice.
- (c) If subsection (a) or (b) does not apply, then an attorney (including one whose services have been terminated by the client) may withdraw from a case or proceeding only with leave of the Court. The attorney must file a motion to withdraw and serve it on the client, the debtor's attorney (or the debtor, if pro se), any trustee and the trustee's attorney, the United States Trustee, the attorney for any committee elected under 11 U.S.C § 705 or appointed under 11 U.S.C. § 1102, and all attorneys and parties who have appeared in the case or requested notice.
- (d) If the Court allows leave to withdraw, the attorney shall immediately serve the order permitting withdrawal on the client, the debtor's attorney (or the debtor, if pro se), any trustee and the trustee's attorney, the United States Trustee, the attorney for any committee elected under 11 U.S.C § 705 or appointed under 11 U.S.C. § 1102, and any parties who have filed appearances

and requested service of all notices and pleadings. If the client is not an individual, a new attorney must file a notice of appearance within twenty-one (21) days from the date of the order or such shorter period as the Court may direct. If a new attorney does not appear for the client within the period prescribed, such failure shall be grounds for entry of a default judgment, dismissal, or other appropriate action by the Court.

- (e) Withdrawal by an attorney when permitted by this rule shall not affect any pending deadlines in the case.

RULE 9011-1. SIGNING OF PAPERS

Any pleading filed with the Court shall set forth the name, address, telephone number, email address, and BBO number, of the attorney signing the pleading or the name, current address, email address, and telephone number of the pro se party.

RULE 9011-2. 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 D. Mass. LR 83.6.1.
- (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 D. Mass. LR 205 or for temporary immediate suspension pursuant to D. Mass. LR 83.6.6(f) and to any state disciplinary authority.
- (c) A bankruptcy judge may impose any other sanction the judge deems necessary under the circumstances in accordance with relevant statutes and rules of the District Court.

RULE 9013-1. MOTIONS

- (a) A request for an order shall be made by a motion that complies with Fed. R. Bankr. P. 9013. In addition, 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 Office of the Clerk. The motion shall state with particularity the grounds therefore, and shall set forth the relief or order sought, including arguments and citations to authorities unless stated in a separate supporting memorandum filed concurrently with the motion. Any request that is made by letter, email, facsimile, or any means other than a written motion that complies with this rule need not be considered by the Court.

- (b) 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.
- (c) The Court 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 fourteen (14) days of service of the motion, inclusive of the three (3) day mailing period set forth in Fed. R. Bankr. P. 9006(f). Unless otherwise specified in the Court's notice of hearing or otherwise provided in the Local Rules, the initial hearing on any motion shall be a preliminary, nonevidentiary hearing.
- (d) 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 after any specific objection deadline established by the Court, the Fed. R. Bankr P., or Local Rules. or, if no objection deadline is set, then within fourteen (14) days of the date of service of the motion, 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.
- (e) The Court 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 enter an appropriate order which may be in the form of the proposed order filed by the movant.
- (f) Emergency or Expedited Determination
 - (1) Single Motion for Both Relief and Determination
 - (A) If a movant requests the Court to consider a motion earlier than three (3) days after the motion for relief is filed, the title of the motion for relief shall also include the language "Request for Emergency Determination."
 - (B) If a movant requests the Court to consider a motion earlier than seven (7) days after the motion for relief is filed, the title of the motion for relief shall also include the language "Request for Expedited Determination."
 - (C) The motion for emergency or expedited determination shall include separately numbered paragraphs that set forth in detail all facts and circumstances that

justify an emergency or expedited determination and may include or be accompanied by documents, affidavits, or a memorandum that includes citations to pertinent authority. The movant shall make a reasonable, good faith effort to advise all affected parties of the substance of the motion for relief, and the request for an emergency or expedited determination, prior to filing the motion for emergency or expedited hearing. Upon filing the motion, movant shall file a certification attesting to the efforts so made, together with a certificate of service of the motion setting forth the manner of service. Promptly after obtaining the date and time of the hearing from the Court, movant shall provide notice of the date and time of the hearing and any objection deadline to all entities entitled to notice under the applicable Fed. R. Bankr. P. and Local Rules and shall file a certificate of service setting forth the manner of service. Prompt notice shall be by telephone, electronic mail, or other method designed to provide immediate notice. At a minimum, notice shall be provided to the debtor, the debtor's attorney, any trustee, the trustee's attorney, any elected or official committee, the United States trustee, any directly affected creditor or lienholder and all attorneys and parties who have appeared in the case or requested notice.

(2) Limitation of Notice

If the facts and circumstances leading to the request for an emergency or expedited determination or the nature of the relief requested justify limitation of notice, (A) the title of the motion for relief shall include also the language "Request for Limitation of Notice;" and (B) the motion shall include separately numbered paragraphs that set forth in detail all facts and circumstances that justify limitation of notice, that designate the recipients to whom the notice should be limited, and that recommend a practical manner of notice reasonably calculated to inform affected parties of the pending motion.

(3) Responses

(A) Notwithstanding any other provisions of the Local Rules, where the Court has scheduled an emergency hearing on a motion, written responses to the motion are not required. However, written responses are encouraged and may be filed up to the time that the hearing is convened.

(B) Where the Court has scheduled an expedited hearing on a motion, written responses to the motion shall be filed within the time established by the Court. The content of responses to the motion, 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 the motion scheduled for expedited hearing shall be filed no later than by noon the business day prior to the day of the hearing.

- (C) If the Court has scheduled an emergency or expedited hearing on a motion and a response or opposition is filed, a reply may be filed up to the time that the hearing is convened.

(h) 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. The movant is responsible to ensure that any ex parte motion filed electronically is filed with appropriate procedures to ensure the document is not visible on the public docket. 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 fourteen (14) days of service of the order for ex parte relief. The Court may schedule a hearing on such a post-order motion, if appropriate, as soon as is practicable.

(i) 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.

(j) Replies and Additional Papers

Unless otherwise ordered by the Court, any reply to an opposition shall be no longer than five (5) pages and filed no later than three (3) days prior to the hearing. Any other pleading may only be filed with leave of Court.

RULE 9013-3. SERVICE OF MOTIONS, PLEADINGS, OR DOCUMENTS, AND NOTICES OF HEARING

(a) Service of Motions, Other Pleadings, or Documents

Unless otherwise provided in the Fed. R. Bankr. P. or the Local Rules, or the Court orders otherwise, the attorney (or the movant, if pro se) shall promptly cause to be served the motion, other pleading, or document upon all parties entitled to notice under the Fed. R. Bankr. P. and Local Rules and upon all other attorneys and parties who have filed an appearance 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, the attorney (or the movant, if pro se) shall promptly cause to be served the notice of hearing upon all parties entitled to notice under the Fed. R. Bankr. P. and Local Rules and upon all attorneys and parties who have appeared in the case or requested notice. A certificate of service shall be filed with the Clerk at the same time as service of the notice of hearing.

(c) Certificate of Service

A certificate of service shall include the date of service, the manner of service, and a list of 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 also specifically state whether all creditors have been served. If service is made on a Registered User, the certificate of service is only required to list the name of the registered user and the name of the party or parties that the attorney represents.

(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 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. The United States District Court for the District of Massachusetts has specially designated this Court to conduct jury trials pursuant to 28 U.S.C. § 157(e).

(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) Absent an order of the Court or withdrawal of the reference, the Court will conduct all pre-trial hearings.
- (d) Unless otherwise ordered by the Court, the parties shall, jointly or separately, file a statement consenting to the Court conducting a jury trial on issues so triable on or before fourteen (14) days after the date established for completion of discovery in any case management order or, if no date is established for completion of discovery, thirty (30) days prior to any date set for trial. If the parties do not consent to the Court conducting a jury trial pursuant to 28 U.S.C. § 157(e), the Court will transfer the case to the United States District Court for the District of Massachusetts for trial.

RULE 9018-1. IMPOUNDMENT

- (a) Impoundment. For purposes of this Rule, the Court shall not distinguish between “impoundment” and “under seal” and those terms shall be considered interchangeable. The term “Materials” shall include documents and any other materials that are the subject of a motion to impound. For cause, the Court may order that some or all of the Materials in a case or in any adversary proceeding be impounded by the Clerk. Materials impounded shall be maintained by the Clerk separate and apart from files to which the public has access.
- (b) Request to Impound Materials. The request to impound Materials is a two-step process:
 - (1) Motion to Impound. A party seeking to impound Materials must file a motion to impound with the Court with notice to parties in interest unless the Court orders otherwise pursuant to paragraph e of this Rule. The motion to impound shall include: (A) a statement under oath setting forth the grounds for impoundment under 11 U.S.C. § 107, (B) a statement regarding the duration of the impoundment, and (C) a proposed order which identifies any parties other than the moving party who will have access to the Materials. The Materials sought to be impounded must not be attached to the motion to impound and the information sought to be impounded must not be disclosed in the motion to impound.
 - (2) Materials Sought to be Impounded. Immediately after filing the motion to impound described in paragraph (b)(1) of this Rule, the party seeking impoundment must hand deliver the Materials sought to be impounded to the Office of the Clerk. The Materials sought to be impounded must be delivered in a sealed envelope or container conspicuously marked “FILED SUBJECT TO PENDING IMPOUNDMENT MOTION.” The Materials shall be considered provisionally impounded and shall remain provisionally impounded until the Court rules on the motion to impound described in paragraph (b)(1) of this Rule.
- (c) Notice of the Motion to Impound. A party filing a motion to impound must serve the motion, but not the Materials sought to be impounded, on all parties entitled to notice, unless the party

seeking impoundment also requests in the motion to impound approval of limited notice or ex parte relief.

- (1) Limiting Notice. A party may seek to limit notice of a motion to impound. The party seeking to limit notice shall: (A) request that limitation in the motion to impound; and (B) set forth good cause for limiting notice. A party seeking to limit notice of the motion to impound shall serve the motion to impound and notice of any hearing as directed by the Court.
 - (2) Ex Parte Relief. If ex parte relief is requested in the motion to impound, the moving party must comply with MLBR 9013-1(h).
- (d) Order to Impound Materials. Materials will not be impounded, other than provisionally, without a Court order. Any order granting a motion to impound may identify any parties other than the moving party and any person identified in 11 U.S.C. § 107(c)(3), who may have access to the Materials that are impounded.
- (e) Handling and Disposition of Materials Sought to be Impounded. Upon receipt by the Clerk of the Materials sought to be impounded pursuant to paragraph (b) of this Rule, the Materials shall be delivered to the Court, to be reviewed in camera.
- (1) Disposition of Materials when Relief is Denied. To the extent that the motion to impound is denied, the Materials sought to be impounded shall be returned to the party that filed the motion to impound. If those Materials are subsequently refiled, they shall be filed with other pleadings in the case to which public access is allowed.
 - (2) Access to Materials. Access to the impounded Materials shall be limited to the judge and such other Court personnel as the judge directs, all persons identified in 11 U.S.C. § 107(c)(3), the party for whose benefit the order was granted, any other party authorized under the impoundment order, and any party who receives relief from the impoundment order in whole or in part.
 - (3) Disposition of Materials Upon Expiration of Impoundment Order. If the impoundment order expires by its terms but provides no arrangements for post-impoundment custody of the Materials, or if the impoundment order provides for post-impoundment custody of the Materials, but the Materials are not timely retrieved, the Clerk shall provide notice of no fewer than forty-five (45) days to the party for whose benefit the impoundment order was granted, or the party's attorney, in the absence of a timely objection or retrieval of the Materials prior to the expiration of the notice period, that the Materials shall be destroyed and no copies retained.
 - (4) Disposition of Materials Impounded If no Expiration. If the impoundment order does not provide for an expiration by its terms, then within sixty (60) days after the closing of the case or adversary proceeding, the Clerk shall provide notice of no fewer than forty-five (45) days to the party for whose benefit the impoundment order was granted, or the

party's attorney, in the absence of a timely objection or retrieval of the Materials prior to the expiration of the notice period, that the Materials shall be destroyed and no copies retained.

- (f) Motion to Impound a Previously Filed Materials. A party wishing to impound Materials previously filed with the Court shall file a motion to impound in compliance with paragraphs (b) and (c) of this Rule. The motion shall include a request for emergency determination in accordance with MLBR 9013-1.
- (g) Relief from Impoundment Order. Any party that seeks relief from an impoundment order shall do so by motion with notice to include the party for whose benefit the order was granted. Any order granting relief from the impoundment order shall identify the additional parties granted relief.
- (h) Impoundment by Court Sua Sponte. The Court may, sua sponte, for good and sufficient cause, impound any Materials pursuant to this Rule, or order that the document be maintained as a "private event" under the Court's electronic filing system.
- (i) Attachments or Exhibits to Proofs of Claim or Other Materials. The Clerk may on the Clerk's own initiative pending further order of the Court and without the necessity of any separate order, cause the attachment or exhibit to a proof of claim or to any other Materials filed with this Court to be maintained as a "private event" under the Court's electronic filing system if the attachment or exhibit contains medical information or other information with respect to any person as to which unrestricted disclosure may not be appropriate. Nothing herein shall constitute an affirmative obligation by the Clerk to locate or identify such information in any attachment or exhibit or preclude any party in interest from requesting that the Court terminate the "private event" status of the attachment or exhibit and make the information public.

RULE 9019-1. STIPULATIONS; SETTLEMENTS

- (a) All stipulations affecting a case or proceeding before the Court, except stipulations which are reported 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) Any provision of a stipulation or agreement filed with the Court, by which it is stipulated or agreed in a chapter 7 or 13 case that the case shall be dismissed, or relief from the automatic stay under 11 U.S.C. § 362(a) shall be granted, upon the failure of the debtor to make payments beyond those necessary to cure a prior postpetition default, shall be conspicuously set forth in capital letters and bold type.
- (c) 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.

- (d) (1) A stipulation providing for the 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. Upon request of the moving party, the Court may waive the requirement for the filing of a separate executed written agreement between the parties if:
- (A) the request for the waiver is contained in the motion; and
 - (B) the motion sets forth the terms of the agreement and includes a certification by the moving party that all settling parties have agreed to its terms and have been served with a copy of such motion.
- (2) Service. Unless otherwise ordered by the Court, a stipulation of settlement and motion to approve the stipulation need not be served by the moving party initially, but shall be served with the notice as provided below. Upon the filing of such motion, the Court will issue a notice setting a deadline for responses or objections. The notice may also include a hearing date. The Clerk will transmit the notice to the moving party for service in accordance with Fed. R. Bankr. P. 2002 and MLBR 2002-1 and 2002-5, unless the Court has issued an order limiting notice. Within seven (7) days of the issuance of the notice or within such other time as the Court may direct, the moving party shall file a certificate of service with the Court.
- (e) 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, consistent with the requirements of Fed. R. Bankr. P. 7041.
- (f) 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.
- (g) Loan Modification and Forbearance Agreements
- Unless conspicuously identified in a motion seeking approval and specifically approved by order of the Court, any provision in a loan modification agreement, forbearance agreement, stipulation relating to a motion for relief from the automatic stay under 11 U.S.C. § 362(a), or similar agreement, which provides that, upon default by the debtor, the benefits of the automatic stay will be waived is unenforceable and void.

RULE 9027-1. REMOVAL

Upon motion, the Court, may permit the filing of a certified docket and photocopies of all records and proceedings in a state or federal court, upon the affidavit of the attorney for the party removing the action (or the party if pro se) that the pleadings are true and accurate copies of the pleadings on file with the state or federal court.

RULE 9029-1. APPLICATION

- (a) The Local Rules shall be applicable as provided in MLBR 1001-1.
- (b) To the extent that a conflict appears or arises between the Local Rules and the Federal Rules of Bankruptcy Procedure, 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 the Local 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.

RULE 9029-2. APPLICABILITY OF UNITED STATES DISTRICT COURT'S LOCAL RULES

In addition to the United States District Court for the District of Massachusetts Local Rules adopted elsewhere in the Local Rules, the following L.R., D. Mass. shall be applicable in the United States Bankruptcy Court for the District of Massachusetts:

- 26.5 Uniform Definitions in Discovery Requests
- 83.5.1 Admission to the District Bar
- 83.5.4 Practice by Law Students
- 83.5.6 Ongoing Obligations
- 83.6.1 Rules of Professional Conduct
- 83.6.2 Jurisdiction for Disciplinary Matters
- 83.6.3 Forms of Misconduct
- 83.6.4 Forms of Discipline
- 83.6.5 Disciplinary Proceedings
- 83.6.6 Temporary Suspension
- 83.6.7 Disbarment by Consent
- 83.6.8 Discipline After Criminal Conviction
- 83.6.9 Reciprocal Discipline
- 83.6.10 Reinstatement
- 83.6.11 Public Access and Confidentiality
- 201 Reference to Bankruptcy Court
- 202 Bankruptcy Court Jury Trials
- 203 Bankruptcy Appeals

204	Bankruptcy Court Local Rules
205	Disciplinary Referrals by Bankruptcy Judges
206	Core Proceedings Requiring Final Adjudication by the District Court

In any of the foregoing rules, the term “judicial officer” shall include bankruptcy judges. Unless otherwise ordered by the Court in a specific case or adversary proceeding, no other local rule of the United States District Court for the District of Massachusetts shall govern cases or proceedings before the Court.

RULE 9036-1. NOTICE AND SERVICE GENERALLY

For purposes of Fed. R. Bankr. P. 9036 (b) and (c), attorneys and unrepresented individuals shall be deemed to consent to service by electronic means where provided by MLBR 9010-1.

RULE 9037-1. PRIVACY REQUIREMENTS, RECORDING AND BROADCAST PROHIBITIONS

(a) Redacted Filings

All electronic or paper filings with the Court shall comply with Fed. R. Bankr. P. 9037. The attorney (or the party, if pro se) shall be solely responsible for compliance with this Rule. The Clerk is not responsible for reviewing any motion, pleading or other documents for compliance with this rule.

(b) Photographing, Recording and Broadcasting Generally Prohibited

No person shall employ any device, including without limitation, any recording device, video or still camera, cellular or smart phone, or laptop or other computer, in order to record (by audio or video), photograph, or broadcast any Court proceeding. Photography, streaming, and video and audio recording are strictly prohibited on any floor of any building in which this Court regularly conducts business (including lobbies, the Office of the Clerk, chambers, corridors, and other areas outside the courtrooms) as well as in the courtrooms even when the Court is not in session. Photographing or recording any Court proceeding or Court personnel performing their duties from a location outside the courthouse is also prohibited, including without limitation in conjunction with an appearance made by telephone or videoconference. Absent a more restrictive order (such as a specific judge’s standing order or an order entered in a specific case), attorneys may use the text functions of electronic devices while proceedings are in session (such as typing documents, emailing, text messaging, and tweeting) if conducted in a non-disruptive manner. Electronic devices must be silenced and only keyboards that can be operated quietly will be allowed. No person shall post for public display, by internet or otherwise, any photograph or video and audio recording made on any floor of any building in which this Court regularly

conducts business. A person may seek leave of Court or written authorization of the Clerk to engage in specific activities that are prohibited by this Order, such as for public ceremonial or educational functions.

(c) Official Court Business

This Court's employees and contractors, as well as the United States Marshal, his or her deputies and Court security officers, are not prohibited by paragraph (b) above from taking photographs or making video and audio recordings or transmitting them for the sole purpose of discharging their official duties.

(d) Sanctions

Use of any electronic device in violation of any of the above provisions may subject the violator to monetary and non-monetary sanctions.

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.

RULE 9074-1. APPEARANCES BY TELEPHONE OR VIDEO

If the Court has not permitted appearances by telephone or video for a hearing, a party may request to appear by telephone or video at the hearing. The party shall file a motion to request to appear by telephone or video and include the reason for such request.