

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS
STANDING ORDER NO. 15-4
ORDER AMENDING LOCAL BANKRUPTCY RULES**

The Bankruptcy Bench-Bar Committee for the District of Kansas has reviewed and recommended that the Local Bankruptcy Rules be amended as noted on the attachment hereto to address the comprehensive changes to the Bankruptcy Forms that become effective on December 1, 2015.

In consideration of the foregoing, and pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure, and Rules 1001 and 9029 of the Federal Rules of Bankruptcy Procedure,

IT IS HEREBY ORDERED that the Local Bankruptcy Rules are amended on an interim basis as reflected on the attachment hereto.

IT IS FURTHER ORDERED that Standing Order 08-4(b)(5) is amended as reflected on the attachment hereto.

IT IS FURTHER ORDERED that Standing Order 11-3 is amended as reflected on the attachment hereto.

IT IS FURTHER ORDERED that Standing Order 12-2 is ABROGATED as moot by the adoption of Federal Rule of Bankruptcy Procedure 1007-I.

IT IS FURTHER ORDERED that the sample notice attached to Interim LBR 2004.1, adopted by Standing Order 13-1, is amended to cite to the new bankruptcy form number as reflected on the attachment hereto.

IT IS FURTHER ORDERED that Standing Order 15-2 is ABROGATED as moot by the changes to LBR 1007.1(a)(2) reflected on the attachment hereto.

IT IS FURTHER ORDERED that this Standing Order shall become effective on December 1, 2015, and shall remain in effect until further order of the court.

IT IS SO ORDERED.

Dated this ___ day of _____, 2015.

s/
ROBERT E. NUGENT
Chief Judge

s/
JANICE MILLER KARLIN

Judge

s/
DALE L. SOMERS
Judge

s/
ROBERT D. BERGER
Judge

DRAFT

LBR 1001.1

SCOPE AND MODIFICATION OF RULES; CITATION

(a) **Authority.** These supplemental rules are promulgated under the authority of Fed. R. Bankr. P. 9029 and D. Kan. Rule 83.8.12. Practice before this court is governed by applicable D. Kan. Rules, unless there is a more specific Fed. R. Bankr. P. or D. Kan. LBR. *See* D. Kan. Rule 83.8.2.

(b) **Citation.** These rules should be cited as D. Kan. LBR 1001.1, *et seq.* All statutory references are to the Bankruptcy Code, 11 U.S.C. § 101, *et seq.*, unless otherwise specified.

(c) **Modification.** In special cases, the court may modify these rules as necessary or appropriate.

(d) **Revision information.** Effective with the rule revisions in March, 2005, any rule that is substantively revised will indicate its last revision date.

(e) **Effective Date.** All rules are effective for all cases, whenever filed, unless otherwise stated.

* * *

As amended 3/17/10, 3/17/09, 10/17/05, 3/17/05.

LBR 1005.2

CAPTIONS; CASE NUMBERING SYSTEM

(a) **Captions.** In addition to meeting the requirements of Fed. R. Bankr. P. 1005 and Official Form ~~16A~~416A or ~~16B~~416B, as applicable, the caption of each petition must state the full and correct name of the debtor.

(b) **Case Numbering System.** The clerk assigns each case a number, which begins with a two-digit indicator of the year in which the case was filed, followed by a hyphen and the five-digit individualized case number. The five-digit individualized case numbers are as follows:

- Kansas City cases begin with "2", e.g., 15-20001;
- Topeka cases begin with "4", e.g., 15-40001; and
- Wichita cases begin with "1", e.g., 15-10001.

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As amended 12/1/15, 3/17/09, 3/17/05.

LBR 1007.1 INITIAL FILINGS

(a) Assembly of Petition and Accompanying Documents.

~~Petitions, schedules and statements of affairs, and lists of creditors accompanying documents~~ not filed electronically (e.g., by unrepresented debtors) must conform to the Official Bankruptcy Forms and must be printed on only one side of the paper. Original documents and pleadings filed with the court may not be stapled.

(1) Parties must assemble ~~voluntary~~ petitions and accompanying documents, if applicable, in the following order:

~~(A) petition (Official Form 1 and any accompanying exhibits);~~

~~(B) 101 or Official Form 201);~~

~~(B) list of creditors with the 20 largest unsecured claims who are not insiders (Official Form 104 or Official Form 204) (only in Chapter 11);~~

~~(C) schedules~~

~~(i) Schedule A/B: property (Official Form 106A/B or Official Form 206A/B)~~

~~(ii) Schedule C: exempt property (Official Form 106C)~~

~~(iii) Schedule D: secured claims (Official Form 106D or Official Form 206D)~~

~~(iv) Schedule E/F: unsecured claims (Official Form 106E/F or Official Form 206E/F)~~

~~(v) Schedule G: executory contracts and unexpired leases (Official Form 106G or Official Form 206G)~~

~~(vi) Schedule H: codebtors (Official Form 106H or Official Form 206H)~~

~~(vii) Schedule I: income (Official Form 106I) and~~

~~(viii) Schedules J and J-2: expenses (Official Form 106J and Official Form 106J-2);~~

~~(D) summary of assets and liabilities and certain statistical information (Official Form 106Sum) or summary of assets and liabilities for non-~~

- individuals (Official Form 206Sum);
- (E) declaration about an individual debtor's schedules (Official Form 106Dec) or declaration under penalty of perjury for non-individual debtors (Official Form 202);
- (F) statement of financial affairs (Official Form 7);
- ~~(C) list of creditors holding 20 largest unsecured claims (Official Form 4, only in Chapter 11);~~
- ~~(D) schedules A through J (Official Forms 6A thru 6J, inclusive);~~
- ~~(E) summary of schedules (Official Form 6-Summary, Cover Sheet);~~
- ~~(F) statistical summary of certain liabilities (Official Form 6-Summary, Cover Sheet);~~
- ~~(G) declaration concerning debtor's schedules (Official Form 6-Declaration);~~
- ~~(H) Chapter 7 individual debtor's statement 107 or Official Form 207);~~
- ~~(G) Statement of intention (Official Form 8);~~
- ~~(I) Rule 2016(b) statement of attorney compensation (Procedural Form 203);~~
- ~~(J) statement of current monthly income and means test calculation for individuals filing under Chapter 7 (Official Form 22A, in Chapter 7);~~
- ~~(K) 108);~~
- (H) bankruptcy petition preparer's notice, declaration, and signature (Official Form 119);
- (I) Chapter 7 statement of current monthly income (Official Form 22B, in Chapter 11);
- ~~(L) 122A-1), statement of exemption from presumption of abuse (Official Form 122A-1Supp), and Chapter 7 means test calculation (Official Form 122A-2);~~
- (J) Chapter 11 statement of current monthly income and (Official Form 122B);
- (K) Chapter 13 statement of currently monthly income and calculation of commitment period

(Official Form 122C-1) and Chapter 13 calculation of disposable income—calculation (Official Form 22C, in Chapter 13);

~~(M) declaration and signature of non-attorney bankruptcy petition preparer (Official Form 19);~~

~~(N) notice to debtor by non-attorney bankruptcy petition preparer (Official Form 19);~~

~~(O) for 122C-2);~~

(L) Rule 2016(b) disclosure of compensation of attorney for debtor (Form B2030);

(M) for a small business case filed under Chapter 11, the most recent balance sheet, statement of operations, cash-flow statement, and Federal income tax return; or a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed; and

~~(P) certificate required under § 521(a)(1)(B)(iii)(I) or (II) (Procedural Form 201)N) matrix and matrix verification.~~

(2) The following documents, if applicable, must **not** be attached to the petition:

(A) ~~A~~ application for individuals to pay the filing fees in installments (Official Form ~~3A~~103A);

(B) ~~A~~ application for waiver of to have the Chapter 7 filing fee waived (Official Form ~~3B~~103B);

~~(C) matrix and matrix verification,~~

~~(D)~~— the plan (if submitted when petition is filed in Chapters 11, 12 and 13);

~~(E)~~ Sstatement of about Social Security Numbers (Official Form ~~21~~121);

~~(F)~~ Declaration Regarding Payment Advices or Evidence of Payment under 11 U.S.C.

§ 521(a)(1)(B)(iv), in compliance with Appendix 1-01 to D. Kan. LBR 1007.1, that the debtor has not been employed by any employer within the 60 days before filing of the petition, or that the debtor was

employed within the 60 days, but has not received payment advices or other evidence of payment, or that copies of payment advices or other evidence of payment are attached (with all but the last four numbers of the debtor's Social Security Number redacted);

~~(GF)~~ a record of any interest that the debtor has in an account or program of the type specified in § 521(c); ~~and~~

~~(HG)~~ a certificate for credit counseling and debt repayment plan, if any, a certification under § 109(h)(3), or a request for determination by the court under § 109(h)(4);

~~(H)~~ a Debtor's Electronic Noticing Request (DeBN Request) Form; and

~~(I)~~ a statement about payment of an eviction judgment (Official Form 101B).

(3) Electronically filed petitions must follow the same order as listed in paragraph (a)(1) above, except that counsel must conventionally submit the Declaration Re: Electronic Filing (form available from the Clerk of the Bankruptcy Court) in lieu of Official Form 2+121.

(b) Creditors' Schedules. Debtors must list creditors alphabetically with the full address of each, including post office box or street number, city or town, state and zip code. If the debtor knows that an account or debt, including any applicable domestic support obligation, as that term is defined in § 101(14A), has been assigned or is in the hands of an attorney or other agency for collection, the full name and address of the assignee or agent must be listed, but without twice extending the dollar amount of the debt. Each entry required by this subsection must be separated by two spaces from the next entry. If an agency of the United States or the State of Kansas is listed as a creditor, the agency must be listed as D. Kan. LBR 2002.2 provides.

* * *

As amended 12/1/15, 3/17/08, 3/17/07, 10/17/05, 3/17/05.

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LBR 1009.1

AMENDMENTS TO LISTS AND SCHEDULES OF CREDITORS AND APPLICABLE DEADLINES

(a) Notice. Debtor must serve amendments to Schedules D, E, F, G, or H and matrices on any entity affected by the amendment, the case trustee and the United States trustee, with a notice in compliance with Appendix 1-01 **to this Rule**.

(b) Verification. Debtor must sign and verify an amendment in the same manner required for originals.

(c) Filing Fees. Debtor must accompany an amendment to schedules or lists of creditors with the applicable filing fee prescribed by the Administrative Office of the United States Courts in effect on the date the amendment is filed.

* * *

As amended 10/17/05.

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_____ This is a Chapter 13 case. You have until the bar date to file your proof of claim.

_____ A plan in this case was confirmed on [Date].

_____ No plan has been confirmed in this case, but a confirmation hearing is currently set for [Date] at [Location]. Since the amendment was filed too late to give notice, you may file an objection to either confirmation of the plan or the amendment to the schedules by [Date]. If an objection is timely filed, a non-evidentiary preliminary hearing will be scheduled and notice provided by the clerk after expiration of the deadline date.

Attorney for Debtor(s) (type name and address)

Certificate of Service: I, _____, certify the above notice and a separate notice of the full Social Security Number of the debtor(s) was served on the above-named creditor by first class, postage prepaid mail, on _____.

(Signature above)

* * *

As amended 10/17/05, 3/17/05.

LBR 2002.1
NOTICE TO CREDITORS AND
OTHER INTERESTED PARTIES

(a) General. The Bankruptcy Noticing Center (“BNC”) will generally mail all notices served by the clerk.

(b) Undelivered notices. The clerk will deliver all undelivered notices to the debtor’s attorney except where the debtor is not represented by counsel. Debtor’s counsel must retain the notices in paper or as a scanned electronic image, for the same period required by *Administrative Procedures for Filing, Signing, and Verifying Pleadings and Documents by Electronic Means* (see D. Kan. LBR 5005.1 and related appendix). The clerk will retain notices where the debtor is not represented. The BNC will return undelivered notices in Adversary Proceedings to the clerk.

(c) Corrections. A matrix that does not comply with D. Kan. LBR 1007.1 or D. Kan. LBR 1007.2 may cause certain notices to be undeliverable by the BNC. The clerk, or some other person the court directs, will notify the debtor's attorney, or the debtor if not represented, of any undelivered notices, together with the underlying matrix deficiency (e.g., incomplete address, missing zip code). Within 7 days after notification, the debtor's attorney, or the debtor if not represented, must:

- (1) file the corrected BNC Bypass Notice; and
- (2) serve any undelivered notices to all parties not served by the BNC.

(d) Preferred Addresses and National Creditor Register Service in Chapter 7 or 13 cases filed after October 16, 2005 under 11 U.S.C. § 342(e) and (f).

(1) Pursuant to 11 U.S.C. § 342(e) and (f), an entity and the BNC may agree that when the court directs the BNC to give a notice to that entity, the BNC will give the notice in the manner agreed to and at the address or addresses the entity supplies to the BNC. That supplied address is conclusively presumed to be a proper address for notice. The BNC’s failure to use the supplied address does not invalidate any notice that is otherwise

effective under applicable law.

(2) A creditor's filing of a notice directly with the BNC of its preferred address pursuant to 11 U.S.C. § 342(f) will constitute a filing of the notice with the court.

(3) Registration with the National Creditor Registration Service must be accomplished through the BNC. Forms and registration information **isare** available at <http://ncrs.uscourts.gov>.

(4) A local form to use when filing notice of preferred address under 11 U.S.C. § 342(e) is available on the court's website at <http://www.ksb.uscourts.gov>.

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As amended 3/17/10, 3/17/09, 3/17/08, 10/17/05, 3/17/05.

LBR 2002.2
SCHEDULING, LISTING AND NOTICING THE UNITED STATES AND AGENCIES OF THE STATE OF KANSAS AS A CREDITOR

(a) Departments, Agencies and Instrumentalities of the United States. When a department, agency, or instrumentality of the United States is a creditor, the schedules and matrix must list that agency at the address provided in this rule. Any notice or service given to an address listed in this rule will be in addition to any notice required by statute, rule or regulation. *See also* D. Kan. LBR 7004.1 and Fed. R. Bankr. P. 7004(b)(4) and (5) regarding service in adversary proceedings and contested matters.

(b) United States Attorney's Office. When any department, agency or instrumentality of the United States is a creditor, the schedule of creditors and matrix must also list the United States Attorney's Office located in the division headquarters where the petition for relief is filed. The addresses are:

1. Office of United States Attorney
Robert J. Dole U.S. Courthouse, Ste 360
500 State Avenue
Kansas City, Kansas 66101

2. Office of United States Attorney
U.S. Courthouse, Suite 290
444 Southeast Quincy Street
Topeka, Kansas 66683

3. Office of United States Attorney
1200 Epic Center
301 N. Main
Wichita, Kansas 67202

(c) Addresses for certain Departments, Agencies and Instrumentalities of the United States. When one of the following departments, agencies or instrumentalities of the United States is a creditor, the schedule and matrix must list the agency at the address indicated:

1. DEPARTMENT OF AGRICULTURE
(excepting Farm Services Agency, Ag Credit Division and Commodity Credit Divisions; and Rural Economic Community Development, which are individually listed)

Office of the General Counsel
United States Department of Agriculture
PO Box 419205 Mail Stop 1401
Kansas City MO 64141-6205

Farm Services Agency
Farm Loan Programs Division
3600 Anderson Avenue
Manhattan KS 66503-2511

Farm Services Agency
Commodity Credit Division
3600 Anderson Avenue
Manhattan KS 66503-2511

USDA Rural Development
PO Box 66879
St Louis MO 63166

2. DEPARTMENT OF EDUCATION (DOE)
Education Department
Office of General Counsel
400 Maryland Ave SW Room 6E353
Washington DC 20202-2110

ECMC
Attn Bankruptcy Department
PO Box 16408
St. Paul MN 55116-0408

U. S. Department of Education
Litigation Support
50 Beale Street Suite 8629
San Francisco CA 94105
3. DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
U. S. Dept. of Health and Human Services
Office of the General Counsel
601 East 12th Street Room N1800
Kansas City MO 64106
4. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Regional Counsel
Dept. of Housing and Urban Development
Professional Building
400 State Avenue
Kansas City KS 66101-2406
5. INTERNAL REVENUE SERVICE (IRS)
Internal Revenue Service
PO Box 7346
Philadelphia PA 19101-7346
6. SMALL BUSINESS ADMINISTRATION (SBA)
District Counsel
US Small Business Administration
Kansas City District Office

1000 Walnut Street Suite 500
Kansas City MO 64106; or

District Counsel
US Small Business Administration
220 West Douglas Ave
Suite 450
Wichita KS 67202

7. SOCIAL SECURITY ADMINISTRATION
Office of General Counsel, Region VII
Social Security Administration
Richard Bolling Federal Building
601 East 12th St Room 965
Kansas City MO 64106
8. UNITED STATES POSTAL SERVICE
Law Department
US Postal Service
9350 South 150 East
Suite 800
Sandy UT 84070-2716
9. VETERANS ADMINISTRATION (VA)
Department of Veterans Affairs
Office of Regional Counsel
1201 Walnut Street
Suite 800
Kansas City MO 64106-2175

(d) Departments, Agencies and Instrumentalities of the State of Kansas. When any department, agency, or instrumentality of the State of Kansas is a creditor, the schedules and matrix must list that agency at the address provided in this rule. Any notice or service given to an address listed in this rule will be in addition to any notice required by statute, rule or regulation. *See also* D. Kan. LBR 7004.1 and Fed. R. Bankr. P. 7004(b)(6) regarding service in adversary proceedings and contested matters.

(e) Addresses for certain Departments, Agencies and Instrumentalities of the State of Kansas. When one of the following departments, agencies or instrumentalities of the State of Kansas is a creditor, the schedule and matrix must list the agency at the address indicated:

1. Kansas Department of Administration
OSM Payroll Garnishments
ESOB Suite 300
700 SW Harrison St
Topeka KS 66603
2. Kansas Department for Aging and Disability Services
c/o R. Greg Wright
New England Building
503 S Kansas Ave
Topeka KS 66603-3404
3. Kansas Department of Agriculture
Office of Chief Counsel
1320 Research Park Dr
Manhattan KS 66502
4. Kansas Department of Commerce
1000 SW Jackson
Suite 100
Topeka KS 66612-1354
5. Kansas Department of Education
Landon State Office Building
900 SW Jackson Street Suite 102
Topeka KS 66612
6. Kansas Dept of Health and Environment
Office of Legal Services
1000 SW Jackson Suite 560
Topeka KS 66612-1368
7. Kansas Department of Labor
Attn Legal Services

401 SW Topeka Blvd
Topeka KS 66603-3182

8. Kansas Department of Revenue
Civil Tax Enforcement
PO Box 12005
915 SW Harrison
Topeka KS 66612-2005
9. Kansas Dept of Soc and Rehab Svcs
Office of the Secretary
Docking State Office Building 6th Floor
915 SW Harrison
Topeka KS 66612-1570

10. Kansas Department of Transportation
Eisenhower State Office Bldg
3rd Floor West
700 SW Harrison
Topeka KS 66603-3754

11. Kansas Department of Wildlife and Parks
1020 South Kansas Ave
Room 200
Topeka KS 66612-1233

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As amended 3/17/15, 3/17/14, 3/17/13, 3/17/12, 3/17/11, 3/17/08.

LBR 2014.1
APPLICATION FOR EMPLOYMENT
OF PROFESSIONALS

(a) Trustee/Debtor-in-Possession's Application to Employ Attorney to Conduct Chapter 11 Case. To employ attorneys under § 327 to conduct a Chapter 11 case (as distinguished from attorneys employed other than to conduct the case) the trustee/debtor-in-possession must file *with the petition* an application to employ attorneys to conduct the case in accordance with the limitations on compensation contained in §

328.

(1) The application must include the following information for *the firm and for each individual attorney* who will appear before the court:

- (A) the attorney's name and address;
- (B) specific facts showing the necessity for the employment;
- (C) the reasons for the selection;
- (D) the professional services to be rendered; and
- (E) any proposed arrangement for compensation.

(2) The application must include the statement of compensation paid or agreed to be paid, required by § ~~329--Procedural 329--~~Form 203B2030, Disclosure of Compensation of Attorney- for Debtor.

(b) Accompanying Affidavit. The application must include a separate affidavit signed by *each* individual attorney who will appear before the court, stating:

- (1) that the attorney is disinterested;
- (2) that the attorney does not hold or represent an interest adverse to the estate;
- (3) a description of the inquiry made to determine that the attorneys and all the members of the firm are disinterested persons and do not hold or represent an interest adverse to the estate;
- (4) the firm's and the attorney's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee;
- (5) that the attorney understands the continuing duty to disclose any adverse interest and change in disinterestedness; and
- (6) that the attorney understands that the court's approval of the application is not approval of any proposed terms of compensation and that, under § 328(a), the court may allow compensation on terms different from those proposed.

(c) Notice and Certificate of Service. The application

must be accompanied by a Notice with Opportunity for Non-Evidentiary Hearing or Notice with Objection Deadline in accordance with the noticing guidelines applicable to the division and judge to whom the case is assigned and must contain a certificate evidencing service of the application, the affidavits, and the notice on the required parties.

(d) Service. The application, attorney affidavits, and notice must be served on the following:

- (1) the United States trustee;
- (2) all creditors holding secured claims;
- (3) all parties requesting notice; and
- (4) any operating creditors' committee, or if none, on the ~~List of Creditors Holding 20 Largest Unsecured Claims--Official Form 4~~ with the 20 largest unsecured claims who are not insiders (Official Form 104 or Official Form 204).

(e) Objections. Interested parties must object to the application within 21 days. If no party timely objects to the application, the court may approve the attorney's employment to represent the trustee/debtor-in-possession.

(f) Proposed Order Approving Employment. The trustee/debtor-in-possession must submit with the application a proposed Order Approving Employment in accordance with the noticing guidelines for submission of orders applicable to the division and judge to whom the case is assigned. The proposed order must acknowledge that:

- (1) the court's approval of an application in which a professional states an intention to be compensated at a specific hourly rate does not constitute approval of the hourly rate or other terms of compensation; and
- (2) approval of the terms of compensation will be considered by the court when the attorney makes a final application for allowance of compensation.

(g) Trustee's or Committee's Application to Employ Professionals Other Than Attorneys to Represent the Trustee/Debtor-in-Possession in Conducting a Chapter 11 Case. Trustees or committees applying to employ firms of professionals or individual professionals (whether special

counsel, accountants, appraisers, or otherwise) must also follow the above procedures. Each individual professional seeking employment (whether or not an attorney) must file an affidavit containing the information required by subsection (a)(1).

(h) Noticing by Chapter 7 Trustee. When a Chapter 7 trustee applies for appointment as attorney for the estate, the notice required by paragraph (b) may be restricted to the United States trustee, only.

* * *

As amended 12/1/15, 3/17/10, 10/17/05.

LBR 2016.1

MONTHLY COMPENSATION OF PROFESSIONALS

(a) Submission and Service. In a Chapter 11 or 12 case, an attorney employed or seeking employment under § 327 to conduct the case may file a separate motion for monthly payment of fees and expenses. The motion must state the filing date of the application to employ and, if applicable, the date an order granting the application to employ was entered of record.

(b) Provisions for Payment of Fees and Expenses. The motion must state the percentage amount of fees and expenses the professional seeks to collect on a monthly basis. The motion may request that up to 100% of the fees and 100% of the expenses be paid monthly. The motion and the proposed order granting the motion must provide that in the event 100% of the fees are paid, the professional will hold no less than 10% of the fees in trust pending the court's approval of an interim or final fee application, unless the court orders otherwise.

(c) Service. The motion must be served with notice required by the noticing guidelines applicable to the division and judge to whom the case is assigned. Unless the court directs otherwise, the motion must be served on:

- (1) the debtor;
- (2) debtor's attorney;
- (3) the United States trustee;
- (4) all creditors holding secured claims;
- (5) all parties requesting notice; and
- (6) any operating creditors' committee, or if none, on

the ~~E~~list of ~~C~~reditors ~~Holding 20 Largest Unsecured Claims—Official Form 4~~with the 20 largest unsecured claims who are not insiders (Official Form 104 or Official Form 204).

(d) **Order.** The attorney must submit a proposed order with the motion in accordance with the court’s guidelines for submission of orders. It must state that the allowance of monthly payments of fees and expenses does not constitute an interim or final approval of the fees and expenses.

* * *

As amended 12/1/15, 3/17/10.

LBR 4001(a).1

STAY RELIEF

(a) **Adequate Protection.** A creditor may combine a motion for stay relief with a request for adequate protection.

(b) **Waiver.** The following constitutes a voluntary waiver of the 30-day requirement for a hearing contained in § 362(e):

- (1) the motion for stay relief includes a request for any other relief;
- (2) movant sets a motion for stay relief, pursuant to D. Kan. LBR 9013.2 for a docket more than 30 days from the filing of the motion, which is considered a preliminary hearing under that section; and
- (3) movant fails to request that the final hearing conclude within 30 days of the preliminary hearing.

(c) **Effect of Debtor’s Stated Intent to Surrender Property.** If an individual Chapter 7 debtor’s ~~S~~statement of ~~I~~ntention (Official Form ~~8108~~) to surrender property securing a debt owed to a creditor was not amended or withdrawn, the debtor is deemed to agree to the creditor’s stay relief motion concerning that property. When a stay relief motion clearly informs the clerk that it is filed pursuant to this provision, the filing fee is the same as for a motion for approval of an agreement or stipulation for stay relief. A creditor filing a stay relief motion pursuant to this provision must give notice of the motion (and the deadline for filing objections) to the debtor, as well as to any other parties required by the Bankruptcy Code or applicable rules of procedure.

(d) Information and Documentation Required With Motions For Relief From Automatic Stay. Motions for Relief From Stay must include the following:

- (1) copies of documents on which the claim is based, including loan documents and documents evidencing both the grant of the lien, security interest, mortgage or other encumbrance, and its proper perfection or proper recordation;
- (2) the balance owing on the petition date, and the date and amount of any payments received since the filing;
- (3) the number of payments the debtor is in arrears, and the amount of each payment, including the total arrearage on the petition date;
- (4) the movant's best estimate of the collateral's value; and
- (5) the identity of any person or entity claiming an interest in the property that is the subject of the motion and of whom movant is aware.

(e) Post-Petition Stay Relief in Chapter 13 Cases. If the movant seeks stay relief for default in post-petition payments on the debtor's principal residence or a long term debt provided by the Chapter 13 Plan pursuant to § 1322(b)(5), the motion and/or exhibit(s) must contain the following:

- (1) a legible post-petition payment history listing the date each post-petition payment was received, the amount of each post-petition payment, and how each post-petition payment was applied;
- (2) an itemization of any other expenses or fees due post-petition, including attorney fees, filing fees, late payment fees, and escrow advances;
- (3) the total dollar amount necessary to cure the post-petition debt on a date certain; and
- (4) the address where the current monthly payment is to be mailed if the mailing address is not listed in the movant's filed proof of claim or if the mailing address has changed.

(f) Conditional Orders Granting Stay Relief in Chapter 13 Cases. An agreed order resolving the motion for stay relief

that does not grant immediate stay relief will be known as a “Conditional Order Granting Stay Relief.” The following will apply upon alleged default:

- (1) the movant must file and serve a notice of the default on debtor and debtor’s attorney that lists each payment allegedly missed and any other term(s) allegedly breached;
- (2) if debtor disputes the default, debtor may file a response within the time listed in the Conditional Order Granting Stay Relief or within 14 days, whichever is later, and the court will set the matter for hearing. If debtor does not timely file a response to the notice of default, movant should submit to the court a final order granting stay relief; and
- (3) the trustee will continue to disburse on movant’s claim until the final order granting relief from stay is entered. After that order is entered, the trustee will adjust movant’s claim to zero (\$0.00), effective the date of the order, and make no further disbursements on the claim. It is the responsibility of the parties to notify the trustee of the terms of any agreement or decision reinstating the automatic stay, so that the claim may be restored.

(g) Stay Relief. A creditor filing a stay relief motion pursuant to this rule must give notice of the motion (and the deadline for filing objections) to the debtor, as well as to any other parties required by the Bankruptcy Code or applicable rules of procedure. Notice with an objection deadline is not required when the creditor simultaneously submits, with the motion for stay relief, an agreed order signed by the creditor's attorney, debtor's attorney, and trustee.

* * *

As amended 12/1/15, 3/17/10, 10/17/05.

LBR 5005.1 FILING BY ELECTRONIC MEANS

(a) Background and Authority. Federal Rule of Civil Procedure 83, Federal Rules of Bankruptcy Procedure 5005(a)(2), and District of Kansas Rule 83.8.12, authorize this

court to establish practices and procedures for the filing, signing, and verification of pleadings and documents by electronic means.

(b) Adoption of Procedures. The court adopts the *Administrative Procedures for Filing, Signing, and Verifying Pleadings and Documents by Electronic Means* (a copy of which is attached as Appendix 1-01 to this Rule) as a means of attorney registration and distribution of passwords to permit electronic filing and notice of pleadings and other documents.

(c) Designation of Electronic Filing. All cases are assigned to the Electronic Filing System unless the court orders otherwise. All petitions, motions, memoranda of law, or other pleadings and documents filed with the court in a case assigned to the Electronic Filing System must be filed electronically unless otherwise permitted in these rules, the administrative procedures guide, or court authorization. Electronic filing must be consistent with this Rule and *Appendix 1-01, Administrative Procedures for Filing, Signing, and Verifying Pleadings and Documents by Electronic Means*.

DRAFT

Administrative Procedures for Filing, Signing, and Verifying Pleadings and Documents by Electronic Means

(Rev. ~~3-17-14~~ 12/1/15)

I. Scope of Electronic Filing

A. Electronic Filing Required. Effective September 1, 2004, all petitions, motions, memoranda of law, or other pleadings and documents required to be filed with the court by an attorney in any case assigned to the Electronic Filing System pursuant to subsection B below shall be electronically filed, except as expressly provided and in exceptional circumstances preventing a Filing User from filing electronically.

B. Assignment of Cases. All cases pending or filed on September 1, 2004, will be assigned to the Electronic Filing System.

C. Exception. Notwithstanding the foregoing, persons (other than attorneys) who are not Filing Users in the electronic filing system are not required to electronically file pleadings and other documents in a case assigned to the System. The court may, from time to time, and only in exceptional circumstances, relieve attorneys from the electronic filing requirement. The Debtor's Declaration re: Electronic Filing and trial exhibits are not to be filed electronically unless otherwise directed by the court.

D. Filing Fees. For filings that require a fee to be paid, the ~~office of the clerk will automatically draw payment from the credit card account that was provided by the attorney~~ attorney must use a credit card to promptly pay the fee through Pay.gov. The court will not maintain electronic billing or debit accounts for lawyers or law firms.

II. Eligibility, Registration, Passwords

A. Attorney Eligibility. Attorneys admitted to the bar of this court (including those admitted pro hac vice and attorneys authorized to represent the United States), United States trustees and their assistants, bankruptcy administrators and their assistants, private trustees, and others as the court deems appropriate, may register as Filing Users of the court's Electronic

Filing System. Registration is in a form prescribed by the clerk and requires the Filing User's name, address, telephone number, Internet e-mail address and, in the case of an attorney, a declaration that the attorney is admitted to the bar of this court.

B. Eligibility of Other Parties. If the court permits, a party to a pending action who is not represented by an attorney may register as a Filing User in the Electronic Filing System solely for purposes of the action. Registration is in a form prescribed by the clerk and requires identification of the action as well as the name, address, telephone number and Internet e-mail address of the party. If, during the course of the action, the party retains an attorney who appears on the party's behalf, the attorney must advise the clerk to terminate the party's registration as a Filing User upon the attorney's appearance.

C. Limited Use Eligibility. Limited Users without counsel may register as Filing Users of the court's electronic filing system for the sole purpose of filing claims, notice of transferred claims, reaffirmation agreements, requests to receive notices, withdrawal of claims, and notices of completion of an instructional course concerning personal financial management pursuant to Fed. R. Bankr. P. 1007(b)(7).

D. Registration. Provided that a Filing User has an Internet e-mail address, registration as a Filing User constitutes: (1) waiver of the right to receive notice by first class mail and consent to receive notice electronically; and (2) waiver of the right to service by personal service or first class mail and consent to electronic service, except with regard to service of a summons and complaint under Fed. R. Bankr. P. 7004. Waiver of service and notice by first class mail applies to notice of the entry of an order or judgment under Fed. R. Bankr. P. 9022.

E. Passwords. Once registration and training, as prescribed by the court, are completed, the Filing User will receive notification of the user log-in and password. Filing Users agree to protect the security of their passwords and immediately notify the clerk if they learn that their password has been compromised.

F. Revocation of Registration. The court reserves the right to revoke an Electronic Filer's password and, therefore, his or her authority and ability to electronically file documents for failure to

comply with the provisions of these *Administrative Procedures for Filing, Signing, and Verifying Pleadings and Documents by Electronic Means*, failure to pay fees required for documents electronically filed, or other misuse of the electronic case filing system.

III. Consequences of Electronic Filing

A. Filing. Electronic transmission of a document to the Electronic Filing System consistent with these rules, together with the transmission of a Notice of Electronic Filing from the court, constitutes filing of the document for all purposes of the Federal Rules of Bankruptcy Procedure and the local rules of this court, and constitutes entry of the document on the docket kept by the clerk under Fed. R. Bankr. P. 5003.

B. Legibility. The Filing User is responsible for assuring the legibility of all documents, scanned or otherwise, filed with the court.

C. Official Record. When a document has been filed electronically, the official record is the electronic recording of the document as stored by the court, and the filing party is bound by the document as filed. Except in the case of documents first filed in paper form and subsequently converted to electronic form, a document filed electronically is deemed filed at the date and time stated on the Notice of Electronic Filing from the court.

D. Deadlines. Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight local time where the court is located in order to be considered timely filed that day.

IV. Entry of Court-Issued Documents

A. Entry of Orders. All orders, decrees, judgments, and proceedings of the court will be filed in accordance with these rules, which will constitute entry on the docket kept by the clerk under Fed. R. Bankr. P. 5003 and 9021. All signed orders will be filed electronically by the court or court personnel. Any order filed electronically without the original signature of a judge has the same force and effect as if the judge had affixed the judge's signature to a paper copy of the order and it had been entered on the docket in a conventional manner.

B. Orders may also be issued as “text-only” entries on the docket, without an attached document. Such orders are official

and binding.

C. The court may sign, seal, and issue a summons electronically, although a summons may not be served electronically.

D. Submission of Orders. A Filing User submitting a document electronically that requires a judge's signature must promptly deliver the document in such form as the court requires.

V. Attachments and Exhibits

Filing Users must submit in electronic form all documents referenced as exhibits or attachments, unless otherwise directed by the court. A Filing User must submit as exhibits or attachments only those excerpts of the referenced documents that are directly germane to the matter under consideration by the court. Excerpted material must be clearly and prominently identified as such (*also see* D. Kan. Rule 5.1(f) and D. Kan. LBR 9072.1(a) dealing with bulky/voluminous exhibits). Filing Users who file excerpts of documents as exhibits or attachments under this rule do so without prejudice to their right to timely file additional excerpts or the complete document. Responding parties may timely file additional excerpts or the complete document that they believe are directly germane. The court may require parties to file additional excerpts or the complete document.

VI. Sealed Documents

Documents ordered to be placed under seal must be filed conventionally, and not electronically, unless specifically authorized by the court. A motion to file documents under seal may be filed electronically unless prohibited by law. The order of the court authorizing the filing of documents under seal may be filed electronically unless prohibited by law. A paper copy of the order must be attached to the documents under seal and be delivered to the clerk.

VII. Retention Requirements

Documents that are electronically filed and require original signatures other than that of the Filing User must be maintained in paper form by the Filing User until 6 years after all time periods for appeals expire. On request of the court, the Filing User must provide original documents for review.

VIII. Signatures

A. User Log-In and Password. The user log-in and password required to submit documents to the Electronic Filing System serve as the Filing User's signature on all electronic documents filed with the court. They also serve as a signature for purposes of Fed. R. Bankr. P. 9011, the Federal Rules of Bankruptcy Procedure, the local rules of this court, and any other purpose for which a signature is required in connection with proceedings before the court. Electronically filed documents must include a signature block in compliance with D. Kan. LBR 9011.4, and must set forth the name, address, telephone number and the attorney's Kansas bar registration number, or equivalent. In addition, the name of the Filing User under whose log-in and password the document is submitted must be preceded by an "s/" and typed in the space where the signature would otherwise appear.

B. Password Security. No Filing User or other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an authorized agent of the Filing User.

C. Documents containing the signature of non-Filing Users are to be filed electronically with the signature represented by a "s/" and the name typed in the space where a signature would otherwise appear, or as a scanned image.

D. Documents requiring signatures of more than one party must be electronically filed either by: (1) submitting a scanned document containing all necessary signatures; (2) submitting an electronic document upon which the consent of the other parties is represented; or (3) in any other manner approved by the court.

IX. Service of Documents by Electronic Means

A. Notice of Electronic Filing. The "Notice of Electronic Filing" that is automatically generated by the court's Electronic Filing System constitutes service or notice of the filed document on Filing Users. Parties who are not Filing Users must be provided notice or service of any pleading or other document electronically filed in accordance with the Federal Rules of Bankruptcy Procedure and the local rules.

B. Certificate of Service. A certificate of service must be included with all documents filed electronically, indicating that service was accomplished through the Notice of Electronic Filing for parties and counsel who are Filing Users and indicating how service was accomplished on any party or counsel who is not a Filing User. Certificates of Service shall be in substantial compliance with D. Kan. LBR 9013.3.

C. Nothing contained in this procedure relieves counsel of the burden of obtaining personal service under Fed. R. Bankr. P. 7004 or Fed. R. Civ. P. 4, where appropriate.

X. Notice of Court Orders and Judgments

Immediately upon the entry of an order or judgment in an action assigned to the Electronic Filing System, the clerk will transmit to Filing Users in the case, in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed. R. Bankr. P. 9022. The clerk, or other party as the court may direct, must give notice to a person who has not consented to electronic service in paper form in accordance with the Federal Rules of Bankruptcy Procedure.

XI. Technical Failures

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

XII. Public Access

A. PACER Access. Any person or organization, other than one registered as a Filing User under these rules, may access the Electronic Filing System at <https://ecf.ksb.uscourts.gov> by obtaining a PACER log-in and password. Those who have PACER access but who are not Filing Users may retrieve docket sheets and documents, but they may not file documents.

B. Clerk's Office Access. Access to all documents is available, without obtaining a password, in the clerk's office during regular business hours, Monday through Friday. Conventional and certified copies of electronically filed documents may be purchased at the clerk's office during regular business hours Monday through Friday. The fee for copying and certifying shall be in accordance with the Schedule of

Miscellaneous Fees promulgated by the Judicial Conference of the United States pursuant to 28 U.S.C. § 1930(b).

C. Redaction. In connection with the filing of any material in an action assigned to the Electronic Filing System, any person may apply by motion for an order limiting electronic access to or prohibiting the electronic filing of certain specifically-identified materials on the grounds that such material is subject to privacy interests and that electronic access or electronic filing in the action is likely to prejudice those privacy interests.

D. Misuse. Information posted on the System must not be downloaded for uses inconsistent with the privacy concerns of any person.

* * *

As amended 12/1/15, 3/17/14, 3/17/08

LBR 7003.1

COMMENCEMENT OF ADVERSARY PROCEEDING

(a) **Cover Sheet.** An Adversary Proceeding Cover Sheet, ~~in a form supplied by the clerk (Form B1040)~~, must be completed and submitted with any complaint commencing an action or any notice or removal from state court.

(b) **Case Number System.** The clerk will assign each adversary proceeding a number that begins with a two-digit indicator of the year in which the proceeding is filed, followed by a hyphen and the individualized case number of four digits. The four-digit individualized case numbers are as follows:

- Kansas City proceedings begin with a "6" (e.g., 15-6001);
- Topeka proceedings begin with a "7" (e.g., 15-7001);
- Wichita proceedings begin with a "5" (e.g., 15-5001).

* * *

As amended 12/1/15, 10/17/05.

LBR 7054.1

TAXATION AND PAYMENT OF COSTS

(a) Procedure for Taxation. Any party allowed costs under Fed. R. Bankr. P. 7054(b) must file a bill of costs on the form provided by the clerk (**Form B2630**) within 28 days after:

- (1) the expiration of time allowed for appeal of a final order; or
- (2) the clerk receives an order terminating the action on appeal.

(b) Waiver. Failure of a prevailing party to timely file a bill of costs constitutes a waiver of any claim for costs.

(c) To Whom Payable. All costs taxed are payable directly to the prevailing party, not to the clerk, unless the court orders otherwise.

* * *

As amended **12/1/15**, 3/17/13, 3/17/10.

LBR 9004.1

FORM OF PLEADINGS AND DOCUMENTS

(a) Pleadings, Motions, Briefs and Other Documents.

(1) *Generally.* Pleadings, motions, briefs, and other documents submitted for filing, including all exhibits and/or attachments, must be:

- submitted on 8-1/2 x 11 inch paper;
- typewritten, printed, or computer-generated with type no smaller than 12 points set no more than an average of 12 characters per inch; and-
- double-spaced where practicable.

(2) *Pagination.* Pleadings, motions, briefs, and other documents submitted for filing (other than exhibits and/or attachments) must be paginated beginning with the first page of the filing and sequentially numbering all pages that follow. Numbered pages include the cover page, table of contents, table of authorities, indices, and all other parts of the document.

(23) *Subsequent Filings.* All pleadings and documents filed subsequent to those commencing a case must be endorsed on the upper right-hand corner of the first page with the case number. The title of the subsequent pleading or document must describe its contents, and

state on whose behalf the document is filed.

(34) *Adversary Proceedings*. Fed. R. Bankr. P. 7010 and Official Bankruptcy Forms apply to all pleadings and documents filed in adversary proceedings.

(b) Citation Formats.

(1) *Unpublished Decisions*. An unpublished decision cited in a pleading, motion, brief or other document shall be attached as an exhibit only if it is unavailable via electronic means (e.g., Westlaw or LEXIS). Parties citing unpublished decisions that are available via electronic means must not furnish a copy to the court or to opposing parties unless requested. Unpublished decisions should be cited as follows: *In re Smith*, No. 02-12345 (Bankr. D. Kan. Jan. 7, 2005).

(c) Orders.

(1) *Generally*.

(A) The following information must appear at the top of the signatory page of all orders:

(i) the name of the court;

(ii) the case caption, the case number and chapter; and

(iii) the caption of the order and page number.

(B) The top margin on the first page of an order must be four inches; all subsequent pages of the order must have a top margin of one inch.

(C) The last line of the order preceding attorney signatures must consist of 3 pound symbols (###), centered, to indicate the end of the order. Omit a signature line for the judge because all orders will be signed electronically in the top margin of the first page.

(2) *Resulting from Hearing*. Unless the court directs otherwise, orders resulting from an actual hearing are due 14 days from the date of the hearing. The first paragraph of the order must begin with the actual date of the hearing, e.g., “Now on this 23rd day of March, 2013, this matter came before the court...”

(3) *No Hearing Held*. Orders resulting from the failure

to object or respond to a notice with objection deadline are due 14 days after the deadline expires. The first paragraph of the order must begin by stating that the matter was noticed with opportunity for hearing but no objections were filed and no hearing was held.

(cd) Requests for Relief in Pleadings. The pleading's caption must contain a short statement of the relief requested. Pleadings may not contain an unrelated request for relief, e.g., a motion for relief from the automatic stay may request adequate protection, but may not request unrelated relief, such as a request to dismiss the case. A responsive pleading may not request relief except as permitted by the Federal Rules of Bankruptcy Procedure.

(de) Orders Addressing Requests for Relief. Orders resolving pleadings must address all the requests for relief made in the pleading and, to assist the clerk with docketing and quality control, must identify in the caption of the order the relief granted and/or denied.

* * *

As amended 12/1/15, 3/17/12, 3/17/10, 10/17/05, 3/17/05.

LBR 9013.1

BRIEFS AND MEMORANDA

(a) Contents. All briefs and memoranda filed with the court must contain:

- (1) a statement of the nature of the matter before the court;
- (2) a concise statement of the facts with each fact supported by reference to the record in the case;
- (3) a statement of the question or questions presented; and
- (4) the argument, which must refer to all statutes, rules and authorities relied on.

(b) Page Limitations. The arguments and authorities section of briefs or memoranda must not exceed 30 pages absent court order.

(c) Exhibits. The filing party must separately label any

exhibits attached to briefs or memoranda.

~~(d) **Citation of Unpublished Decisions.** An unpublished decision cited in a brief or memorandum shall be attached as an exhibit to the memorandum or brief only if it is unavailable via electronic means (e.g., Westlaw or LEXIS). Parties citing unpublished decisions that are available via electronic means must not furnish a copy to the court or to opposing parties unless requested. Unpublished decisions should be cited as follows: *In re Smith*, No. 02-12345 (Bankr. D. Kan. Jan. 7, 2005).~~

~~(e) **Additional Copies of Briefs for Court.** If a pleading, paper or document is filed electronically, additional copies should not be provided to the court in conventional paper format. The court may request that any brief be provided by electronic means, usually in WordPerfect.~~

* * *

As amended 12/1/15, 3/17/07, 10/17/05, 3/17/05.

DRAFT

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS
STANDING ORDER 08-4
STATEMENTS CREDITORS SHALL PROVIDE TO
CONSUMER DEBTORS WHO ARE DIRECTLY
REPAYING DEBT SECURED BY A MORTGAGE ON
REAL PROPERTY OR A LIEN ON PERSONAL
PROPERTY THE DEBTOR OCCUPIES AS THE
DEBTOR'S PERSONAL RESIDENCE**

(a) Purpose

(1) The purpose of this Standing Order is to maintain, to the greatest degree possible, the routine flow of information from secured creditors to debtors with respect to secured loans constituting consumer debt (as that term is defined by 11 U.S.C. § 101(8)) where the debtor is retaining possession of the collateral and continuing to make the regular installment payments directly to the secured creditor during a bankruptcy case. It is the intent of the order to support the normal issuance of regular monthly statements typically issued by secured creditors to consumer borrowers who are not in bankruptcy and to provide consumer debtors with a creditor contact point so that a debtor can obtain specific information on the status of such loans, as needed.

(2) This order also makes clear that a creditor's good faith attempt to comply with this order in furnishing information to the consumer debtor shall not expose the secured creditor to claims of violating the automatic stay.

(3) This Standing Order applies in Chapters 7, 12 and 13; applies only to consumer loan relationships; and applies only as long as the debtor is in bankruptcy and protected by the automatic stay.

(b) Scope: Consumer Debts Secured by a Mortgage on Real Property, or Secured by Personal Property that the Debtor Occupies as the Debtor's Personal Residence.

(1) For purposes of this subsection, the term "Mortgage

Creditor” shall include all creditors whose claims represent consumer debts secured in whole or in part by a mortgage on real property, including a personal property interest in manufactured housing, the debtor occupies as the debtor’s personal residence.

(2) Except as provided in paragraph (3) below, and except as provided in Standing Order 08-3*¹, if the Mortgage Creditor provided monthly statements to the consumer debtor pre-petition, the Mortgage Creditor shall provide monthly statements to all Chapter 12 and Chapter 13 consumer debtors who have indicated an intent to retain the Mortgage Creditor’s collateral in their Chapter 12 or 13 plan, and to all Chapter 7 consumer debtors whose ~~S~~statement of ~~Intention~~ (Official Form 108)² indicates an intent to reaffirm the debt secured by the Mortgage Creditor’s collateral. Such statements shall be provided unless and until the Mortgage Creditor has been granted relief from the automatic stay under 11 U.S.C. § 362(d). The monthly statements shall contain at least the following information concerning post-petition mortgage payments to be made outside the plan:

- (A) The date of the statement and the date the next payment is due;
- (B) The amount of the current monthly payment;
- (C) The portion of the payment attributable to escrow, if any;
- (D) The post-petition amount past due, if any, and from what date;

¹D. Kan. Bk S.O. 08-3 has been revised and the relevant provisions have been adopted in D. Kan. Bk S.O. 11-3.

²Effective December 1, 2015, D. Kan. Bk S.O. 15-4 amended D. Kan. Bk S.O. 08-4 to update form names and numbers.

- (E) Any outstanding post-petition late charges;
- (F) The amount and date of receipt of all payments received since the date of the last statement;
- (G) A telephone number and contact information that the debtor or the debtor's attorney may use to obtain reasonably prompt information regarding the loan and recent transactions; and
- (H) The proper payment address.

~~* D. Kan. Bk S.O. 08-3 has been revised and the relevant provisions have been adopted in D. Kan. Bk S.O. 11-3.~~

- (3) If pre-petition the Mortgage Creditor provided the debtor with "coupon books" or some other pre-printed, bundled evidence of payments due, the Mortgage Creditor shall not be required to provide monthly statements under subsection (2) of this Section. The Mortgage Creditor shall, however, be required to supply the debtor with additional coupon books as needed or requested in writing by the debtor.
- (4) The Mortgage Creditor shall provide the following information to the debtor upon the reasonable written request of the debtor:
 - (A) The principal balance of the loan;
 - (B) The original maturity date;
 - (C) The current interest rate;
 - (D) The current escrow balance, if any;
 - (E) The interest paid year to date; and
 - (F) The property taxes paid year to date, if any.
- (5) If the case is a Chapter 12 or 13 case where the secured consumer debt is not modified by or paid through the Plan, and the Mortgage Creditor believes the debtor to be in default, the Mortgage Creditor shall send a letter alleging such default to the debtor and debtor's attorney upon any perceived or actual default by the

debtor not less than ~~10~~14³ days before taking any steps to modify the automatic stay. Such written notice of default shall not be required in instances where the debtor has caused to be filed with the Court a plan or plan modification in which the debtor makes known their intent to abandon or surrender the property securing the Mortgage Creditor's claim.

(c) Form of Communication; Issuance of Monthly Statements is not a Stay Violation; and Motions to Show Cause

- (1) For the purposes of this Order, creditors shall be considered to have sent the requisite documents or monthly- statements to the debtor when the creditor has placed the required document in any form of communication, which in the usual course would result in the debtor receiving the document, to the address that the debtor last provided to the Court. The form of communication may include, but is not limited to, electronic communication; United States Postal Service; or use of a similar commercial communications carrier.
- (2) Creditors who provide account information or monthly statements under subsections (b)(1-5) above shall not be found to have violated the automatic stay by doing so, and secured creditors may contact the debtor about the status of insurance coverage on property that is collateral for the creditor's claim, may respond to inquiries and requests for information about the account from the debtor and may send the debtor statements, payment coupons, or other correspondence that the creditor sends to its non-debtor customers, without

³Effective December 1, 2015, D. Kan. Bk S.O. 15-4 amended D. Kan. Bk S.O. 08-4(b)(5) to require a Mortgage Creditor to send the letter alleging default not less than 14 days (previously 10 days) before taking any steps to modify the automatic stay.

violating the automatic stay. In order for communication to be protected under this provision, the communication must indicate it is provided for information purposes and does not constitute a demand for payment.

(3) As a result of creditor's alleged non-compliance with this Standing Order, a debtor may file a Motion for the Creditor to Show Cause no earlier than sixty days after the creditor's failure to comply with sections (b), (c), or (d). Before filing the motion, the debtor must make good faith attempts in writing to contact the creditor and to determine the cause of any omission, and must indicate in the Motion for the Creditor to Show Cause the good faith steps taken, together with a summary description of any response provided by the creditor.

(4) If a creditor's regular billing system can provide a statement to a debtor that substantially complies with this standing order, but does not fully conform to all of its requirements, the creditor may request that the debtor accept such statement. If a debtor declines to accept the non-conforming statement, a creditor may file a motion, on notice to the debtor and the debtor's attorney, seeking a declaration of the Court that cause exists to allow such non-conforming statements to satisfy the creditor's obligations under this standing order. For good cause shown, the Court may grant a waiver for purposes of a single case or multiple cases, and for either a limited or unlimited period of time. No waiver will be granted, however, unless the proffered statement substantially complies with the Standing Order.

IT IS HEREBY ORDERED that this Standing Order rescinds D. Kan. Bk. S.O. 07-4 and shall become effective immediately, and shall remain in effect until further order of the Court.

Dated this 1st day of November, 2008.

s/ Robert E. Nugent
ROBERT E. NUGENT
Chief Judge

s/ Janice Miller Karlin
JANICE MILLER KARLIN
Judge

s/ Dale L. Somers
DALE L. SOMERS
Judge

s/ Robert D. Berger
ROBERT D. BERGER
Judge

DRAFT

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS
STANDING ORDER NO. 11-3
CONDUIT MORTGAGE PAYMENTS IN CHAPTER 13**

This Standing Order is effective for all Chapter 13 cases filed on or after December 1, 2011.

- I. REQUIRED CONDUIT PAYMENTS: Regular payments owed by a Debtor to a Creditor holding a claim secured by the Debtor's principal residence shall be made by the Debtor to the Trustee for payment through the Chapter 13 plan if the Debtor is (i) delinquent as of the petition date, or, (ii) becomes delinquent after the petition date. Such payments are referred to herein as "conduit payments."
- II. DEFINITIONS: As used in this Standing Order, the following capitalized terms shall mean:
- A. The "Arrearage" is the total amount past due as of the petition date, as calculated on Official Form **B10 (Attachment A)410A¹**, and shall be equal to the amount contained in the creditor's filed and allowed Proof of Claim, unless specifically controverted in the plan or by an objection to the claim as required by D. Kan. LBR 3015(b).~~†~~
 - B. "Debtor" or "Debtors" are hereafter referred to as "Debtor."
 - C. "Real Property Creditor" is the entity claiming a mortgage or a servicer of the mortgage on the real property that is the principal residence of the Debtor. This Standing Order is intended to cover a loan secured

¹Effective December 1, 2015, D. Kan. Bk S.O. 15-4 amended D. Kan. Bk S.O. 11-3 to update form numbers.

by a security agreement in Debtor's principal residence (i.e., promissory note on a manufactured or mobile home), and such lender will be referred to as a "Real Property Creditor" herein for the sake of simplicity, even if some specific references, e.g., to "mortgage" or "escrow analysis," are not strictly applicable.

D. The Standing Chapter 13 Trustee is referred to as "Trustee."

III. OTHER RULES APPLICABLE: Nothing in this Standing Order shall relieve any party from complying with any obligation under the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Rules of the District and Bankruptcy Courts of Kansas, or any applicable Standing Orders. These procedures shall not be modified by any plan language without express order from the Court.

IV. DEBTOR'S DUTIES

- A. Debtor may be excused from complying with this Standing Order only upon the entry of a Court order upon a showing of circumstances justifying the same.²
- B. Debtor must complete Exhibit B–Mortgage Creditor Checklist and Exhibit C–Authorization to Release Information to the Trustee Regarding Secured Claims Being Paid by the Trustee and forward those documents to Trustee (not to the Court) within 14 days of the filing of the bankruptcy petition.
- C. Debtor or Debtor's attorney shall mail a copy to the Trustee of all correspondence, notices, statements,

²—~~18~~ See e.g., *In re Perez*, 339 B.R. 385 (Bankr. S.D. Tex. 2006) (Court lists 21 non-exclusive factors to be examined in determining whether to excuse debtors from conduit payment scheme or employer withholding orders). The additional cost associated with the trustee fee on the conduit payment will not, by itself, constitute good cause.

payment coupons, escrow notices and default notices concerning any adjustment to the monthly payments or interest rate immediately upon receipt of the same.

- D. Debtor shall include the regular payment amount owing to the Real Property Creditor, inclusive of Trustee's fees, in the plan payment to be paid by Debtor to the Trustee.
- E. Pursuant to provisions of Paragraph V(D) below, in the event the monthly conduit payment changes due to either changed escrow requirements or a change in an adjustable interest rate, Debtor's plan payment to the Trustee shall change by the same amount, plus the Trustee's fee.
- F. For any Debtor who is employed and required to make mortgage payments through the Trustee, an employer pay order shall be promptly entered by the Clerk of the Bankruptcy Court as provided in Debtor's plan and served upon the employer of Debtor. Until the employer begins to withhold bankruptcy plan payments from Debtor's pay, Debtor is required to make plan payments directly to the Trustee. A Debtor may be excused from complying with employer pay orders only upon the entry of a Court order upon a showing of circumstances justifying the same.

V. TRUSTEE'S DUTIES

A. The Trustee is authorized to deduct from any payments collected, pursuant to 11 U.S.C. § 1326, the authorized percentage fee on the funds distributed as necessary costs and expenses, together with any fee, charge or amount required under § 1326.

3

B. The Trustee shall allow as an administrative expense an

³Effective December 9, 2014, D. Kan. Bk S.O. 14-4 amended D. Kan. Bk S.O. 11-3 to conform the language to the new interpretation of 28 U.S.C. § 586(e), which allows a variable percentage fee.

amount equal to two full regular monthly payments inclusive of escrow deposits and two associated late fees. This allowance shall reimburse Real Property Creditor for post-petition delinquencies that may accrue until the Trustee begins payments to that creditor. This added amount shall bear interest at the contract rate in effect on the date of the petition.

- C. The Trustee will not make payments to the Real Property Creditor on the pre-petition arrearage until such time as a Proof of Claim is filed with the Court and the Plan is confirmed. The Court is deemed to have granted authority to the Trustee to disburse conduit payments, as if the plan had been confirmed, once the Real Property Creditor has filed a Proof of Claim to which a fully executed Official Form ~~B10 (Attachment A)~~410A⁴ and Exhibit D (Addendum to Chapter 13 Proof of Claim for Residential Home Mortgage Debt Paid Through the Chapter 13 Trustee) has been attached.- The Trustee is required to make a full mortgage payment for each full plan payment made. The Trustee is not required to make partial payments to Real Property Creditors.
- D. Any notice filed pursuant to Fed. R. Bankr. P. 3002.1(b) or (c) shall be treated as an amendment to the creditor's claim and Debtor's plan. The Trustee shall be authorized to disburse the new conduit payment or fees as soon as practicable and without seeking formal modification of the plan.
- E. Should the new conduit payment or fees jeopardize the feasibility of the plan, the Trustee may file a motion to amend the plan or seek conversion or dismissal of the case, whichever the Trustee deems appropriate.

VI. REAL PROPERTY CREDITOR'S DUTIES

⁴Effective December 1, 2015, D. Kan. Bk S.O. 15-4 amended D. Kan. Bk S.O. 11-3 to update form names and numbers.

- A. The Real Property Creditor shall file a Proof of Claim, to which it shall attach the Official Form ~~B10 (Attachment A)~~410A⁵ and Addendum to Chapter 13 Proof of Claim for Residential Home Mortgage Debt Paid Through the Chapter 13 Trustee (Exhibit D).
- B. At least 45 days prior to a change of the name of the Real Property Creditor payee, or the address to which payments should be made, Real Property Creditor shall notify the Trustee, Debtor and the attorney for the Debtor, of any such change in a document that conforms to Exhibit E, Notice of Transfer of Servicing and Claim, or Exhibit F, Notice of Transfer of Claim (Other than for Security).
- C. During the pendency of the Chapter 13 case, Real Property Creditor shall submit to the Trustee, Debtor, and Debtor's attorney on or before the 10th of January of each year, a 12 month summary of the activity on the loan with a form substantially in conformity with ~~Exhibit G Official Form 410A, Model Mortgage Payment History~~Proof of Claim Attachment.⁶
- D. Any amount paid or tendered to the Real Property Creditor prior to confirmation shall be applied to the next post-petition payment under the terms of the note due, without penalty. Alternatively, the mortgage holder may apply the payment as it deems appropriate, but said application shall be deemed to be the Real Property Creditor's waiver of all fees and expenses to which it is

⁵Effective December 1, 2015, D. Kan. Bk S.O. 15-4 amended D. Kan. Bk S.O. 11-3 to update form names and numbers.

⁶Effective December 1, 2015, D. Kan. Bk S.O. 15-4 amended D. Kan. Bk S.O. 11-3 to replace the reference to Exhibit G (Model Mortgage Payment History) with a reference to Official Form 410A.

entitled under the loan documents.

- E. Confirmation of the plan shall impose an affirmative duty and legal obligation on the Real Property Creditor to do all of the following:
1. Apply the payments received from the Trustee for payment on the Arrearage, if any, only to such Arrearage pursuant to the plan. The Arrearage shall be deemed paid in full upon the entry of the Discharge Order in this case, unless otherwise ordered by the Court.
 2. Deem the pre-petition Arrearage (and post-petition Arrearage, if any) contractually current upon confirmation of the plan so as to preclude the imposition of late payment charges or other default-related fees and services based solely on any pre-petition default or the payments referred to in paragraph V(B), above. This obligation will have no force and effect if the case is dismissed or converted.
 3. Apply the post-petition monthly mortgage payments paid by the Trustee or by Debtor to the month in which they were designated to be made under the plan. Even if such payments are placed into a suspense, forbearance or similar account, they will be deemed to have been applied to the note pursuant to this subsection.
- VII. These procedures may be varied in a particular case only by order of the Court.

IT IS HEREBY ORDERED that this Standing Order rescinds D. Kan. Bk. S.O. 09-2 and shall become effective December 1, 2011, and shall remain in effect until further order of the Court.

Dated this 10th day of November, 2011.

s/ Robert E. Nugent
ROBERT E. NUGENT
Chief Judge

s/ Janice Miller Karlin
JANICE MILLER KARLIN
Judge

s/ Dale L. Somers
DALE L. SOMERS
Judge

s/ Robert D. Berger
ROBERT D. BERGER
Judge

DRAFT

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS
STANDING ORDER NO. 12-2
ORDER ADOPTING REVISED INTERIM
FEDERAL RULE OF BANKRUPTCY PROCEDURE 1007-I
AND ABROGATING D. KAN. BK. S.O. 10-1**

~~On October 20, 2008, the President signed the National Guard and Reservists Debt Relief Act of 2008, Pub. L. No. 110-438, which amended 11 U.S.C. § 707(b)(2). The Act provides a temporary exclusion from the application of the bankruptcy means test for reservists and certain members of the National Guard. Although the Act became effective December 19, 2008, the effective date of the Act did not provide sufficient time to promulgate rules after appropriate public notice and an opportunity for comment.~~

~~Acting on behalf of the Judicial Conference, the Executive Committee approved the transmission of revised Interim Rule 1007-I to the district courts with a recommendation that it be adopted through a local rule or standing order.~~

~~On December 1, 2012 amendments to Fed. R. Bankr. P. 1007 modify the substance of Interim Federal Rule of Bankruptcy Procedure by changing the deadline for submission of a list of creditors in an involuntary case.~~

~~In consideration of the foregoing, and pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure and Rule 9029 of the Federal Rules of Bankruptcy Procedure;~~

~~**IT IS HEREBY ORDERED** that revised Interim Federal Rule of Bankruptcy Procedure 1007-I is adopted in its entirety and without change by the judges of this court.~~

~~**IT IS FURTHER ORDERED** that this Standing Order abrogates D. Kan. Bk. S.O. 10-1, shall become effective~~

~~December 1, 2012, and shall remain in effect until further order
of the court.~~

~~IT IS SO ORDERED.~~

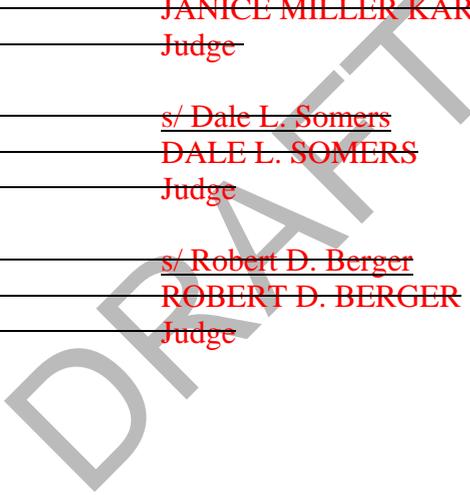
~~Dated this 2nd day of November, 2012.~~

~~s/ Robert E. Nugent
ROBERT E. NUGENT
Chief Judge~~

~~s/ Janice Miller Karlin
JANICE MILLER KARLIN
Judge~~

~~s/ Dale L. Somers
DALE L. SOMERS
Judge~~

~~s/ Robert D. Berger
ROBERT D. BERGER
Judge~~



(ABROGATED)

DRAFT

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS
STANDING ORDER NO. 13-1
ORDER ADOPTING INTERIM D. KAN. LBR 2004.1**

The Bankruptcy Bench-Bar Committee for the District of Kansas has reviewed and recommended the adoption of Interim D. Kan. LBR 2004.1, attached hereto, to govern local procedures relative to Fed. R. Bankr. P. 2004 Examinations.

In consideration of the foregoing, and pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure and Rule 9029 of the Federal Rules of Bankruptcy Procedure,

IT IS HEREBY ORDERED that Interim D. Kan. LBR 2004.1 is adopted in its entirety and without change by the judges of this court.

IT IS FURTHER ORDERED that this Standing Order shall become effective February 1, 2013, and shall remain in effect until further order of the court.

IT IS SO ORDERED.

Dated this 31st day of January, 2013.

s/ Robert E. Nugent
ROBERT E. NUGENT
Chief Judge

s/ Janice Miller Karlin
JANICE MILLER KARLIN
Judge

s/ Dale L. Somers
DALE L. SOMERS
Judge

s/ Robert D. Berger
ROBERT D. BERGER
Judge

Interim LBR 2004.1.
EXAMINATIONS

- (a) **Scheduling by Notice.** No order is necessary to authorize a Fed. R. Bankr. P. 2004 examination, or to require production of documents at the examination. Examinations may be scheduled upon notice filed with the Court and served on the trustee, the debtor, the debtor's attorney and the party to be examined. To the extent that a request for production of documents under this rule may be construed as a request under Bankruptcy Rule 7034, the time to respond is shortened to 14 days. A sample notice is attached.
- (b) **Reasonable Notice.** Attendance at an examination and production of documents may not be required less than 14 days after actual delivery of the notice, except by agreement or court order. The examining party must attempt to arrange a mutually agreeable time and place for any examination. Counsel for the examining party shall certify in the Notice what attempts counsel made to contact the examinee or, if represented, counsel for the examinee prior to filing the Notice.
- (c) **Protective Order.** Upon any interested party filing, at least 4 business days prior to the date of the proposed examination, a motion for protective order stating the reasons for prohibiting, limiting or rescheduling the examination, the examination shall be stayed until the court decides the motion. The court may summarily deny a motion for protective order where the movant has failed to make reasonable efforts to confer with opposing counsel or parties.
- (d) **Subpoena.** No subpoena is necessary to compel attendance of, or production of documents from, the debtor at an examination of the debtor, but a subpoena is necessary to compel the attendance of, or production of documents by, any other witness.
- (e) **Videotaped Examinations.** Examinations may be videotaped. The notice or subpoena must indicate that the examination is to be videotaped and whether it will also be recorded stenographically.

* * *

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS**

IN RE:)
)
John Q. Debtor,) **Case No. _____**
)
)
_____ **Debtor.**)

NOTICE OF RULE 2004 EXAMINATION

_____, by the undersigned counsel, will examine _____ under oath on _____ at _____ m. at _____. The examination may continue from day to day until completed.

The examination is pursuant to Bankruptcy Rule 2004 and Interim D. Kan. LBR 2004.1, and will be taken before an officer authorized to record the testimony. The scope of the examination shall be as described in Bankruptcy Rule 2004 [as further described in the attached areas of inquiry]. Pursuant to Interim D. Kan. Local Rule 2004.1, no order shall be necessary. [If the examination is of a witness other than the debtor, ~~the Official Form B2540~~ "Subpoena for Rule 2004 Examination" is included with this notice.]

[The examinee is further requested to bring to the examination all of the documents described on the attached schedule.]

[Pursuant to Interim D. Kan. LBR 2004.1(i), in addition to stenographic means, the examination will also be recorded by videographic means for use as evidence in the captioned cases.]

Undersigned counsel hereby certifies that he or she [describe efforts taken] attempted to contact the examinee, or if represented, counsel for the examinee prior to filing this Notice in order to obtain a mutually agreeable date and time for the examination.

[SIGNATURE BLOCK OF EXAMINING PARTY]

I CERTIFY that a true copy of this notice was served on the examinee, attorney for examinee, the debtor, the attorney for the debtor, the trustee and [indicate name of party served, manner of service and date of service].

An attorney for [Examining Party] (rev. 12/1/15)

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS
STANDING ORDER NO. 15-2
ORDER AMENDING LBR 1007.1(a)(2)**

(ABROGATED)

DRAFT

DRAFT