

**LOCAL RULES
OF THE
UNITED STATES
BANKRUPTCY COURT
FOR THE
DISTRICT OF KANSAS**

**Robert E. Nugent
Chief Judge**

**Janice Miller Karlin
Judge**

**Dale L. Somers
Judge**

**Robert D. Berger
Judge**

EFFECTIVE MARCH 17, 2015

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

ORDER OF ADOPTION

Pursuant to the authority vested in this court by Rule and Statute;

IT IS ORDERED that the attached rules designated "Local Rules of the United States Bankruptcy Court for the District of Kansas" are adopted and become effective March 17, 2015, and will supersede the court's existing rules and standing orders, which are repealed effective March 17, 2015.

DATED this 9th day of February, 2015.

**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**

ATTEST:

**s/ David D. Zimmerman
DAVID D. ZIMMERMAN, Clerk**

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS
IN THE MATTER OF RULES OF PRACTICE
AND PROCEDURE IN THIS COURT
MEMORANDUM AND ORDER**

By means of this Memorandum and Order, the Judges of this court express their appreciation to the members of the Bench Bar Committee appointed to make recommendations on possible revisions of the Local Rules of Practice and Procedure.

The individuals composing the committee devoted much time studying the existing local rules, the applicable federal statutes and rules, and the rules of other United States Bankruptcy Courts. The Bench Bar Committee performed its task competently, unselfishly, and in the best tradition of the legal profession.

IT IS, THEREFORE, ORDERED that the Clerk file this Memorandum and Order as a permanent record of the court and that he deliver an attested copy to each member of the committee, namely:

Emily B. Metzger, Chair	
Joyce G. Owen	Laurie B. Williams
Steven R. Rebein	David G. Arst
Wendee Elliott-Clement	Jill A. Michaux
David J. Lund	Justin W. Whitney
Andrew J. Nazar	

DATED this 9th day of February, 2015.

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

ATTEST:
s/ David D. Zimmerman
DAVID D. ZIMMERMAN, Clerk

**THE HONORABLE ROBERT E. NUGENT
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**THE HONORABLE JANICE MILLER KARLIN
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**Please see www.ksb.uscourts.gov for
the most current telephone contact information.**

PREFACE

Attorneys unfamiliar with Kansas bankruptcy practice may find some helpful information in this preface to the *Local Rules of the United States Bankruptcy Court for the District of Kansas*.

1. Background

The Bankruptcy Code consists of amendments to the Bankruptcy Reform Act of 1978, Pub. L. No. 95-598, Title I, § 101, 92 Stat. 2549, enacted into law November 6, 1978, effective October 1, 1979. Since its enactment, Congress has amended this law many times, most significantly with the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109-8, § 106, 119 Stat. 23.

In 1982, the Supreme Court declared the jurisdictional support for the 1978 Act unconstitutional in *Northern Pipeline Const. Co. v. Marathon Pipe Line Co.*, 458 U.S. 50 (1982). It did so because 28 U.S.C. § 1471(c) of the 1978 Act invested non-Article III bankruptcy courts with powers exercisable only by Article III courts.

After *Marathon*, the bankruptcy system operated under an Emergency Rule promulgated by the Judicial Conference of the United States until 1984, when Congress enacted corrective legislation in the form of 28 U.S.C. § 1334, which currently states:

- (a) Except as provided in subsection (b) of this section, the district courts shall have original and exclusive jurisdiction of all cases under title 11.
- (b) Except as provided in subsection(e)(2) [dealing with claims that involve construction of the statute governing employment of professionals in a bankruptcy case], and notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.

Hoping to cure the constitutional infirmity, Congress also declared that bankruptcy judges would "constitute a unit of the district court to be known as the bankruptcy court for that district." 28 U.S.C. § 151.

To transfer the bankruptcy power to the bankruptcy courts, the 1984 amendments provided, through 28 U.S.C. § 157(a) that, "[e]ach district court may provide that any or all cases under title 11 and any or all proceedings arising under title 11 or arising in or related to a case under title 11 shall be referred to the bankruptcy judges for the district."

In Kansas, 28 U.S.C. § 157(a) was implemented by a Standing Order dated August 1, 1984 (effective July 10, 1984), stating:

STANDING ORDER

Pursuant to Sec. 104 of the Bankruptcy Amendments and Federal Judgeship Act of 1984, 28 U.S.C. Sec. 157, this court refers all cases under Title 11, and any and all proceedings arising under Title 11, or arising in or related to a case under Title 11, to the bankruptcy judges for the District of Kansas, for consideration and resolution consistent with the law. The court recognizes the exception contained in Sec. 157(b)(5).

IT IS HEREBY ORDERED that the Bankruptcy judges for the District of Kansas be and they hereby are directed to exercise the authority and responsibilities conferred upon them by the Bankruptcy Amendments and Federal Judgeship Act of 1984.

IT IS FURTHER ORDERED, effective as of July 10, 1984, that any and all cases under Title 11, and any and all proceedings arising under Title 11, be and hereby are referred to the bankruptcy judges of the District of Kansas for consideration and resolution consistent with the law.

Dated this 1st day of August, 1984.

In 2011, the landscape of bankruptcy court jurisdiction was again considered by the Supreme Court in *Stern v. Marshall*, 131 S. Ct. 2594 (2011). In *Stern*, the Supreme Court reasoned that, although 28 U.S.C. § 157(a) authorizes bankruptcy judges to adjudicate cases that arise under, arise in, or are related to a case under Title 11, Article III of the U.S. Constitution requires final judgments in some types of matters to be issued by an Article III district court judge who has life tenure and salary protection. Specifically, the Court concluded that a counterclaim for tortious interference with a gift asserted by a debtor against a creditor must be resolved by a judge appointed under Article III, and that the "public rights" exception that allows some types of claims to be

adjudicated in non-Article III forums did not bring the counterclaim within the bankruptcy court's permissible jurisdiction because the counterclaim did not stem from the bankruptcy itself and would not necessarily be resolved in the course of the claims allowance process of bankruptcy.

On June 24, 2013, to address the Supreme Court's holding in *Stern*, the United States District Court for the District of Kansas issued an amended standing order of reference, which states:

Standing Order No. 13-1

Pursuant to 28 U.S.C. § 157(a), any or all cases under title 11 and any or all proceedings arising under title 11 or arising in or related to a case under title 11 are referred to the bankruptcy judges for this district.

If a bankruptcy judge or district judge determines that entry of a final order or judgment by a bankruptcy judge would not be consistent with Article III of the United States Constitution in a particular proceeding referred under this Rule, the bankruptcy judge shall, unless otherwise ordered by the district court, hear the proceeding and submit proposed findings of fact and conclusions of law to the district court. The district court may treat any order of the bankruptcy court as proposed findings of fact and conclusions of law in the event the district court concludes that the bankruptcy judge could not have entered a final order or judgment consistent with Article III of the Constitution.

IT IS SO ORDERED.

Dated this 24th day of June, 2013.

As a result, in a bankruptcy case where final judgment in a particular matter must be entered by a district court judge, Standing Order 13-1 provides that a bankruptcy judge may hear the matter and issue proposed findings of fact and conclusions of law for the district court to review and enter a final order or judgment. In a case where the bankruptcy court issues a decision in the form of an order but the U.S. Constitution requires final judgment to be entered by the district court, Standing Order 13-1 resolves the issue by stating that the bankruptcy court order will be construed as proposed findings of fact and conclusions of law for the district court to review and enter a final order or judgment.

2. **Hierarchy of Rules.**

The following hierarchy of rules underlie and aid the application of the Bankruptcy Code:

The Federal Rules of Civil Procedure

The Federal Rules of Evidence

The Federal Rules of Bankruptcy Procedure

The Rules of Practice and Procedure of the United States

District Court for the District of Kansas

Local Rules of the United States Bankruptcy Court for the
District of Kansas

Bankruptcy Court Standing Orders

Procedural Guidelines of Individual Bankruptcy Judges

The Federal Rules of Civil Procedure apply in bankruptcy adversary proceedings through Part VII of the Federal Rules of Bankruptcy Procedure, and in contested matters through Part IX of the Federal Rules of Bankruptcy Procedure.

Rule 101 of the Federal Rules of Evidence applies those rules to “proceedings in United States courts,” and Rule 1101 of the Federal Rules of Evidence specifically applies the rules to proceedings before United States bankruptcy judges and all “civil cases and proceedings, including bankruptcy.”

Next in the hierarchy are The Federal Rules of Bankruptcy Procedure. They find their source in 28 U.S.C. § 2075, which provides, in pertinent part:

The Supreme Court shall have the power to prescribe by general rules, the forms of process, writs, pleadings, and motions, and the practice and procedure in cases under title 11.

Such rules shall not abridge, enlarge, or modify any substantive right.

The Supreme Court shall transmit to Congress not later than May 1 of the year in which a rule prescribed under this section is to become effective a copy of the proposed rule. The rule shall take effect no earlier than December 1 of the year in which it is transmitted to Congress unless otherwise provided by law. . . .

Next then are the local rules of the courts of this district. Rule 83(a)(1) of the Federal Rules of Civil Procedure permits district courts to enact local rules:

After giving public notice and an opportunity for comment, a district court, acting by a majority of its district judges, may adopt and amend rules governing its practice. A local rule shall be consistent with--but not duplicate--federal statutes and rules adopted under 28 U.S.C. §§ 2072 and 2075, and must conform to any uniform numbering system prescribed by the Judicial Conference of the United States. A local rule takes effect on the date specified by the district court and remains in effect unless amended by the court or abrogated by the judicial council of the circuit. Copies of rules and amendments must, on their adoption, be furnished to the judicial council and the Administrative Office of the United States Courts and be made available to the public.

(Emphasis added).

Accordingly, in Kansas the district court has enacted The Rules of Practice and Procedure of the United States District Court for the District of Kansas to assist litigants.

Rule 9029(a)(1) of The Federal Rules of Bankruptcy Procedure authorizes the District Court to adopt local rules relating to bankruptcy:

Each district court acting by a majority of its district judges may make and amend rules governing practice and procedure in all cases and proceedings within the district court's bankruptcy jurisdiction which are consistent with--but not duplicative of--Acts of Congress and these rules and which do not prohibit or limit the use of Official Forms.¹ Rule 83 F. R. Civ. P. governs the procedure for making local rules. A

¹Rule 9009 of The Federal Rules of Bankruptcy Procedure fixes the responsibility for Official Bankruptcy Forms:

Except as otherwise provided in Rule 3016(d) [concerning small business disclosure statements], the Official Forms prescribed by the Judicial Conference of the United States shall be observed and used with alterations as may be appropriate. Forms may be combined and their contents rearranged to permit economies in their use. The Director of the Administrative office of the United States Courts may issue additional forms for use under the Code. The forms shall be construed to be consistent with these rules and the Code.

district court may authorize the bankruptcy judges of the district, subject to any limitation or condition it may prescribe and the requirements of 83 F. R. Civ. P., to make and amend rules of practice and procedure which are consistent with--but not duplicative of--Acts of Congress and these rules and which do not prohibit or limit the use of the Official Forms. Local Rules shall conform to any uniform numbering system prescribed by the Judicial Conference of the United States.

To effectuate Federal Rule of Bankruptcy Procedure 9029, Rule 83.8.12 of the Rules of Practice and Procedure of the United States District Court provides: "The Bankruptcy Court may adopt supplemental Local Rules not inconsistent with these District Court Rules, the Bankruptcy Rules, or Title 11 or Title 28 of the United States Code."

The Local Rules of the United States Bankruptcy Court for the District of Kansas flow from the outlined authorities and the efforts of the Bankruptcy Bench Bar Committee, which periodically reviews and recommends revisions to the bankruptcy rules. Bankruptcy Court Standing Orders primarily supplement the rules on administrative issues.

Procedural Guidelines of Individual Bankruptcy Judges are also published to aid attorneys on procedural matters when practicing before a particular judge. Attorneys may obtain the guidelines of a particular judge from the Deputy Clerk where the judge presides.

The Rules, Standing Orders, and Procedural Guidelines can also be electronically accessed through the court's website, www.ksb.uscourts.gov, and through PACER.

3. Applicability of District Court Local Rules

The bankruptcy court is a unit of the district court and these rules merely supplement the district court rules. This means attorneys in bankruptcy proceedings must follow the district court rules relating to bankruptcy (D. Kan. Rules 83.8.1 through 83.8.13) and, where applicable, the other district court rules. District of Kansas Rules 83.8.1 through 83.8.13 are devoted to bankruptcy topics on withdrawal of reference, removal, abstention, jury trial,

and appeal of bankruptcy cases from the Bankruptcy Court to the 10th Circuit Bankruptcy Appellate Panel or the United States District Court.

Finally, attorneys who are not admitted to practice before the federal courts in Kansas must carefully note and follow District of Kansas Rules 83.5.1 through 83.6.12 on the responsibility, registration, appearance, and withdrawal of counsel.

LOCAL BANKRUPTCY RULES TABLE OF CONTENTS

SCOPE OF RULES

1001.1	Scope and Modification of Rules; Citation.	1
--------	--	---

COMMENCEMENT OF CASE

1004.1	Partnership and Corporate Petitions.	1
1005.2	Captions; Case Numbering System.	1
1006.1	Filing Fees.	2
1007.1	Initial Filings.	2
1007.2	Preparation and Filing of Matrix.	6
1009.1	Amendments to Lists and Schedules of Creditors and Applicable Deadlines.	7
1072.1	Court Locations.	10
1073.1	Assignment of Cases.	10

ADMINISTRATION, NOTICING, AND PROFESSIONALS

2002.1	Notice to Creditors and Other Interested Parties.	10
2002.2	Scheduling, Listing and Noticing The United States and Agencies of the State of Kansas as a Creditor.	12
2014.1	Application for Employment of Professionals.	17
2016.1	Monthly Compensation of Professionals.	19
2090.1	Attorneys - Admission to Practice.	20
2090.2	Professional Conduct.	21

CLAIMS, DISTRIBUTION, AND PLANS

3001.1	Claims.	21
3010	Small Dividends in Chapter 13 Cases.	22
3015(b).1	Chapter 13 Plan and Pre-Confirmation Adequate Protection Payments.	22
3015(g).1	Chapter 13 Trustee's Modification of Plan After Confirmation.	24

3022.1	Final Decree in Non-Individual Chapter 11 Reorganization Cases.	25
--------	--	----

DEBTOR DUTIES AND BENEFITS

4001(a).1	Stay Relief.	26
4001(a).2	Effect of Automatic Stay in Chapter 12 and 13 Cases on Income Withholding Orders for Child Support in Cases Filed Before October 17, 2005.. . . .	28
4001(a).3	Automatic Stay - Extension or Imposition.	29
4002.1	Trustee Requests for Evidence of Income, Including Tax Returns.. . . .	32
4002.2	Trustee Requests for Information from Debtors..	33
4002.3	Tax Returns..	33
4070.1	Insurance on Motor Vehicles.	34

COURTS AND CLERKS

5003.1	Access to Court Records..	35
5003.2	Withdrawal and Disposition of Court Records..	36
5005.1	Filing by Electronic Means..	37
5072.1	Courtroom Practices..	44
5075.1	Orders by Bankruptcy Clerk; Review..	44

COLLECTION AND LIQUIDATION

6004.1	Persons Prohibited from Purchasing at Sales. . .	46
6007.1	Abandonment of Property of the Chapter 7 Estate	46

ADVERSARY PROCEEDINGS

7003.1	Commencement of Adversary Proceeding.	47
7004.1	Service of Summons and Complaint on the United States or the State of Kansas.	47
7012.1	Motions to Dismiss..	48

7026.1	Discovery.	48
7041.1	Dismissal of Bankruptcy Code § 727 Complaints Objecting to Discharge.	52
7054.1	Taxation and Payment of Costs.	52
7056.1	Motions for Summary Judgment.	53
7065.1	Restraining Orders and Temporary Injunctions in Adversary Actions.	54

APPEALS

8006.1	Record and Issues on Appeal (<i>Abrogated</i>)	
8010.1	Transmitting the Record for a Preliminary Motion	54
8021.1	Taxation and Payment of Costs after Appeal . . .	55

GENERAL PROVISIONS

9004.1	Form of Pleadings and Documents.	56
9010.1	Appearance by Corporations, Partnerships and Entities Other Than Individuals.	58
9011.3	Sanctions.	58
9011.4	Signatures.	59
9013.1	Briefs and Memoranda.	60
9013.2	Non-Dispositive Motions Practice.	61
9013.3	Proof of Service.	62
9019.2	Alternative Dispute Resolution.	64
9027.1	Removal/Remands.	65
9029.1	Amendment of Rules.	66
9029.2	Standing Orders.	66
9029.3	Bankruptcy Bench Bar Committee.	67
9037.1	Redaction.	67
9072.1	Exhibits.	69
9074.1	Journal Entries and Orders.	70

STANDING ORDERS

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.	73
11-1	Order Authorizing Chapter 7 Trustees to Pay Bank Service Charges and Fees Incurred by Chapter 7 Estate Accounts. . . .	78
11-3	Conduit Mortgage Payments in Chapter 13. . . .	80
12-1	Order Adopting Form Chapter 13 Plan.	97
12-2	Order Adopting Revised Interim Federal Rule of Bankruptcy Procedure 1007-I and Abrogating D. Kan. Bk. S.O. 10-1.	110
13-1	Order Adopting Interim D. Kan. LBR 2004.1. .	112
14-1	Order Rendering D. Kan. Rule 83.5.8 Limited Scope Representation Inapplicable to Bankruptcy Court.	115
14-2	Order Adopting Local Rule Relating to Extension or Imposition of the Automatic Stay <i>(Abrogated by S.O. 14-5)</i>	
14-3	Order Modifying Form Chapter 13 Plan <i>(Abrogated by S.O. 14-4)</i>	
14-4	Order Modifying Form Chapter 13 Plan and Conduit Mortgage Rule and Abrogating Standing Order 14-3	117
14-5	Order Amending Standing Order 14-2 Relating to Extension or Imposition of the Automatic Stay <i>(Mooted by adoption of amended LBR 4001(a).3, formerly Interim LBR 4001(a).3)</i>	
14-6	Order Adopting Local Rule Governing Redaction <i>(Mooted by adoption of new LBR 9037.1)</i>	

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 1004.1

PARTNERSHIP AND CORPORATE PETITIONS

No party may combine the petition of a partnership or corporation with the petition of any individual or other entity.

* * *

As amended 3/17/10.

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 or 16B, 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.

* * *

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

LBR 1006.1 FILING FEES

The court may permit payment of filing fees in installments as provided by Fed. R. Bankr. P. 1006. The court may also waive filing fees in Chapter 7 cases, as provided in Fed. R. Bankr. P. 1006. The clerk will not accept checks issued by a debtor for filing fees.

* * *

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

LBR 1007.1 INITIAL FILINGS

(a) Assembly of Petition and Accompanying Documents. Petitions, schedules and statements of affairs, and lists of creditors 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) 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 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 (Official Form 22A, in Chapter 7);
 - (K) statement of current monthly income (Official Form 22B, in Chapter 11);
 - (L) statement of current monthly income and 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 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).
- (2) The following documents, if applicable, must **not** be attached to the petition:
- (A) Application to pay filing fees in installments (Official Form 3A);
 - (B) Application for waiver of Chapter 7 filing fee (Official Form 3B);
 - (C) matrix and matrix verification;
 - (D) the plan (if submitted when petition is filed in Chapters 11, 12 and 13);

(E) Statement of Social Security Number (Official Form 21);

(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);

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

(H) 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).

(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 in lieu of Official Form 21.

(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 3/17/08, 3/17/07, 10/17/05, 3/17/05.

LBR 1007.2

PREPARATION AND FILING OF MATRIX

(a) General Requirements. A matrix not electronically filed must be prepared as follows:

(b) Matrix Required. An optically scannable creditor(s) matrix, signed and verified as provided in Fed. R. Bankr. P. 1008, is required when:

- (1) a new case (all chapters) is filed,
- (2) an amendment to a case (all chapters) is filed containing additional creditors. This matrix must list only those creditors added.

(c) Original. A matrix must be an original printed document on standard bond paper that is free of headers, footers, titles, lines, marks, or smudges.

(d) Fonts/Typefaces. Parties must prepare matrices in a standard typeface or print style. Courier 10 pitch, Prestige Elite 12 pitch, or Letter Gothic 12 pitch are recommended. Do not use script, ornamental, calligraphic, or symbol fonts. Dot matrix printer fonts are not scannable and will not be accepted.

(e) Format. Parties must type matrices in a single column with left line justification. A matrix must list addresses in a single column in order for the optical character reader to automatically scan the material from left to right, line by line.

(f) Lines. Each name/address must consist of no more than five lines with the city, state, and zip codes located on the last line. Do not type "attention" lines or account numbers on the last line. If needed, this information should be placed on the second line of the name/address. At least one blank line must be placed between each name/address block.

(g) Postal Codes. All state names must be represented by the two-letter abbreviations (both letters capitalized) authorized by the U.S. Postal Service.

(h) Margins. Lists must not contain letters closer than one inch from any edge of the document.

(i) Line Length. The name line must not exceed 50 characters. Subsequent lines must not exceed 40 characters.

(j) Punctuation. In conformity with U.S. Postal Service guidelines, addresses must exclude punctuation, including periods, commas, or special characters, including #, %, /, and (), except the hyphen in the ZIP+4 code.

(k) Excluded Names. Do not include the debtor, joint debtor, attorney for debtor, trustee, or United States trustee on the matrix. The computer will automatically retrieve them for noticing. The name of the debtor must be listed on the reverse side of each page for identification purposes.

(l) Alphabetical Order. All creditors must be listed in alphabetical order.

(m) Duplication. Do not duplicate names and addresses.

* * *

As amended 3/17/2013, 3/17/2008.

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.

(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.

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 1072.1
COURT LOCATIONS

The United States Bankruptcy Court for the District of Kansas is in continuous session for transacting judicial business on all business days throughout the year at the Kansas City, Topeka, and Wichita divisions. The court may conduct special sessions of court at other locations within the district.

* * *

LBR 1073.1
ASSIGNMENT OF CASES

(a) Initial Assignment of Cases. The clerk assigns cases to the Kansas City, Topeka, and Wichita divisions based on where the case is filed.

(b) Reassignment of Cases. A bankruptcy judge, in the interest of justice or to further the efficient disposition of court business, may return a case in whole or in part to the clerk for reassignment to another bankruptcy judge as directed by the Chief Bankruptcy Judge.

(c) Judicial Business. The Chief Bankruptcy Judge is responsible for the administration of the judicial business of the court.

* * *

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 is 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>.

* * *

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

* * *

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 Form 203, 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.

(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 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 List of Creditors Holding 20 Largest Unsecured Claims-- Official Form 4.

(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 3/17/10.

LBR 2090.1

ATTORNEYS - ADMISSION TO PRACTICE

(a) Admission of Attorneys. The bar of this court consists of those attorneys admitted to practice and in good standing now and in the future as members of the bar of the United States District Court for the District of Kansas, in accordance with D. Kan. Rules 83.5.1 through 83.5.4.

(b) Appearance *Pro Hac Vice*. D. Kan. Rule 83.5.4 applies to the attorneys of the court.

* * *

LBR 2090.2 PROFESSIONAL CONDUCT

D. Kan. Rules 83.5.4 through 83.6.12 apply to the attorneys of the court.

* * *

LBR 3001.1 CLAIMS

(a) Service. Claimants in Chapters 11, 12, and 13 must send a copy of the proof of claim directly to the debtor at the time of filing, if the debtor is not represented by an attorney.

(b) Withdrawal of Written Instruments Filed with Claims. Claimant may request, in writing, withdrawal of written instruments or other documents not filed electronically with a proof of claim, if the claimant provides exact copies of the documents to be withdrawn. Documents that are original negotiable instruments must be stamped with a statement indicating they were filed in support of a claim, and must show the name, case number, and date the claim was filed.

(c) Secured and Unsecured Claims. A proof of claim must indicate whether the claim is secured, unsecured, or if both, must specify the respective amounts claimed. The claim may include proposed amounts for secured and unsecured claims and must clearly indicate that it includes a proposed amount.

(d) Amendment to Claim in Chapter 7. A proof of claim, other than a priority claim, may be amended at any time prior to the trustee's notice of final distribution. A priority claim may be filed or amended on or before 14 days after the trustee mails the summary of the trustee's final report to creditors or the date on which the trustee commences final distribution under § 726, whichever is earlier. If the trustee has not objected to secured claims, the trustee must give 21 days' notice to all parties who have filed secured claims of his or her intent to file and serve a notice of final distribution.

(e) Filing of Requests for Administrative Expenses in a Chapter 7 Case. A request for payment of administrative expenses must be filed prior to the trustee's notice of final distribution.

* * *

As amended 3/17/10, 3/17/07, 10/17/05.

LBR 3010

SMALL DIVIDENDS IN CHAPTER 13 CASES

Chapter 13 Trustees may distribute payments of less than \$15, without a court order, when the Trustee determines it is unlikely that the distribution to a particular creditor(s) will ever reach the \$15.00 limit provided by Fed. R. Bankr. P. 3010(b), or that the Trustee would need to hold funds longer than reasonable if an earlier distribution is not made.

* * *

As adopted 3/17/08.

LBR 3015(b).1

CHAPTER 13 PLAN AND PRE-CONFIRMATION ADEQUATE PROTECTION PAYMENTS

(a) Filed with Petition. A Chapter 13 plan filed with the petition will be served, together with notice of the time for filing objections and the hearing to consider confirmation, by the Bankruptcy Noticing Center ("BNC").

(b) Filed after Petition. A plan filed after the petition must be served, together with notice of the time for objections and the hearing to consider confirmation, by the debtor's attorney, or the debtor if not represented.

(c) Failure to File. Unless an extension was obtained, failure to file a plan, together with a certificate of service, prior to the first scheduled meeting of creditors held pursuant to § 341 will result in dismissal of the case for unnecessary delay without further notice to the debtor or debtor's attorney.

(d) Treatment of Real Estate Mortgage Arrearage Claims and Continuing Payments. A timely claim for mortgage payments or mortgage arrearages will be paid by the Chapter 13 trustee, as filed and allowed, and the amount stated in the proof of claim will control over any plan, unless an order, stipulation, or specific language in the Order of Confirmation directs otherwise.

(e) Treatment of Priority Claims. A timely priority claim will be paid in full by the Chapter 13 trustee, as filed and allowed, and the amount stated in the proof of claim will control over any plan, unless an order, stipulation or specific language in the Order of Confirmation directs otherwise.

(f) Objection to claim. Nothing in this Rule alters the right of the debtor, trustee or other party in interest to object to any claim.

(g) Plan Payments; Adequate Protection Payments under § 1326(a)(1)(C):

(1) Pre-confirmation § 1326(a)(1) Payments to Trustee. Unless the court orders otherwise, debtors must pay directly to the trustee all pre-confirmation adequate protection payments payable to creditors whose claims are secured by purchase money security interests in personal property. The trustee must promptly distribute those payments to the secured creditors whose interests are being protected, except the trustee may retain the portion of the payment representing the statutory percentage trustee fee.

(2) Plan Payments. The Chapter 13 plan must specify the amounts to be paid to each allowed secured claim treated under the plan. The total amount of the plan payment the debtor must make pursuant to § 1326(a)(1) must include:

(i) an amount equal to the proposed adequate protection payment of each secured creditor whose claim is secured by a purchase money security interest;

(ii) the variable percentage fee under 28 U.S.C. § 586(e); and

(iii) any other amounts to be paid to the trustee under the plan.

(3) Amount of Adequate Protection Payments under § 1326(a)(1)(C). Unless the court orders a different payment amount, the debtor must pay adequate protection payments equaling the payment provided in the debtor's Chapter 13 plan pursuant to subsection (g)(2) plus statutory percentage trustee fees required when that payment is made to the trustee.

(4) Direct Payment Opt-Out. Secured creditors eligible for direct payment of adequate protection under

§ 1326(a)(1) may opt for direct payments by filing a motion and noticing it for objection in accordance with these rules and the procedures of the division where the case is pending. If no timely objection is filed, the court may enter an order requiring direct payments without further hearing. In the event such an order is entered, the debtor must make the payments directly to the secured creditor, and file a certification of the payments in accordance with § 1326(a)(1)(C).

(5) Pre-confirmation Disbursements of Adequate Protection Payments to Secured Creditors by Trustee. Pre-confirmation disbursements of adequate protection payments under § 1326(a)(1) are authorized without further order, but no disbursement may be made unless the secured creditor has filed a proof of claim. Pre-confirmation disbursements under § 1326(a)(1) may be made to creditors within 35 days of the filing of the proof of claim, unless, within 7 days prior to the end of the 35-day period, the trustee has not received sufficient, cleared funds to make the payment. The trustee is authorized to deduct from an allowed claim all § 1326(a)(1) pre-confirmation disbursements.

* * *

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

LBR 3015(g).1
CHAPTER 13 TRUSTEE'S MODIFICATION
OF PLAN AFTER CONFIRMATION

Notice to all creditors of post-confirmation motions to modify plan, required by Fed. R. Bankr. P. 3015(g), is waived when the motion is filed by a Chapter 13 Trustee, and the sole purpose of the motion is to recover an asset that the court ordered debtor to repay to the estate, but has not repaid. Notice to the Debtor and Debtor's Attorney, only, is required.

* * *

As adopted 3/17/09 (formerly D. Kan. S.O. 08-2).

LBR 3022.1

FINAL DECREE IN NON-INDIVIDUAL CHAPTER 11 REORGANIZATION CASES

(a) Timing. Within 3 months after the court orders confirmation, the plan proponent must file an application for a final decree, or show cause why the final decree cannot be entered. If an application is not filed within 3 months, the plan proponent must file a status report every 6 months until entry of the final decree.

(b) Content. The application for final decree must show that the estate is fully administered and must include information concerning:

- (1) the date the order confirming the plan became final;
- (2) whether deposits required by the plan were distributed;
- (3) whether the property proposed by the plan to be transferred was transferred;
- (4) whether the debtor or successor of the debtor under the plan has assumed the business or the management of the property dealt with by the plan;
- (5) whether payments under the plan have commenced;
- (6) whether all motions, contested matters and adversary proceedings are finally resolved;
- (7) whether all fees due under 28 U.S.C. § 1930 are paid;
- (8) a summary of professional fees awarded in the case;
- (9) the percentage paid to unsecured creditors; and
- (10) other facts enabling the court to decide the provisions of the final decree.

(c) Notice. The applicant must give 28 days' notice to the following in accordance with the noticing guidelines provided by the clerk:

- (1) all parties requesting notice;
- (2) the United States trustee; and
- (3) any operating creditors' committee, or if none, creditors holding the largest 20 unsecured claims.

* * *

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

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 Statement of Intention (Official Form 8) 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 3/17/10, 10/17/05.

LBR 4001(a).2
EFFECT OF AUTOMATIC STAY IN
CHAPTER 12 AND 13 CASES ON INCOME
WITHHOLDING ORDERS FOR CHILD SUPPORT
IN CASES FILED BEFORE OCTOBER 17, 2005

(a) Income Withholding Orders for Current Child Support. Unless the debtor files a motion pursuant to paragraph (c) when the petition is filed, the automatic stay imposed by § 362(a) does not affect current child support orders enforced by income withholding orders in place on the petition date, whether imposed or voluntary.

(b) Income Withholding Orders for Past Due Child Support. The automatic stay remains in force for past-due child support enforced through an income withholding order, whether imposed or voluntary, if the debtor's plan specifically addresses and treats the debtor's obligation to pay past-due child support.

(c) Termination of Income Withholding Orders. Requests to terminate an income withholding order that enforces a current child support obligation must be made by motion that provides specific grounds justifying the termination of the income withholding order and the continued application of the automatic

stay. If the motion is denied, the prevailing party may be awarded reasonable costs, fees, and expenses incurred in opposing the motion, as authorized by applicable rule or statute.

(d) No Income Withholding Order. Nothing in this rule affects the debtor's obligation to pay child support not being collected by an income withholding order.

(e) Applicability. This rule is abrogated for all cases filed after October 16, 2005.

* * *

As amended 10/17/05.

LBR 4001(a).3

AUTOMATIC STAY - EXTENSION OR IMPOSITION

(a) Scope of Rule. This rule applies to motions to extend the automatic stay pursuant to 11 U.S.C. § 362(c)(3) or to impose the automatic stay pursuant to § 362(c)(4).

(b) Deadline to File. Except for good cause shown in the motion, a motion filed pursuant to 11 U.S.C. § 362(c)(3) shall be filed within 7 days of the date the petition was filed.

(c) Contents of Motion; Affidavit Required if Presumption Arises Under § 362(c)(3)(C) or § 362(c)(4)(D).

(1) Contents of Motion. A motion to extend or impose the automatic stay filed pursuant to this rule shall include the following information:

- (i) the number of previous cases under the Bankruptcy Code involving the debtor and pending within the one-year period preceding the filing of the current case;
- (ii) the jurisdiction and case number of each such case;
- (iii) the date and reason for dismissal of each such previous case;
- (iv) an express statement whether any presumption of lack of good faith arises pursuant to § 362(c)(3)(C) or § 362(c)(4)(D); and
- (v) the facts upon which the movant relies to (i) rebut any presumption of bad faith and (ii) demonstrate that

the filing of the later case is in good faith as to any creditors to be stayed.

(2) Affidavit or Declaration Required if Presumption Arises Under § 362(c)(3)(C) or § 362(c)(4)(D). The movant shall attach a notarized Affidavit signed under penalty of perjury containing the facts upon which the movant relies to rebut any presumption under § 362(c)(3)(C) or § 362(c)(4)(D). In lieu of an Affidavit, the movant may file an Unsworn Declaration Under Penalty of Perjury pursuant to 28 U.S.C. § 1746.

(d) Notice of Hearing. Upon the filing of a motion subject to this rule, the movant shall prepare and serve a notice of hearing that sets a hearing on the motion to any available docket. Although the Court prefers that hearings on motions filed subject to this rule be set to a docket scheduled to address cases of the same chapter, for purposes of this rule an “available docket” includes any docket that:

- (1) is listed on the Court’s published docket calendar for the divisional office where the case is assigned;
- (2) is scheduled to occur no earlier than the second business day after the date that an objection to the motion is due; and
- (3) in the case of a motion filed pursuant to § 362(c)(3), is scheduled to take place no more than 30 days from the date the petition was filed.

(e) Special Settings. If there is no available docket as defined by this rule, or if the movant requires an earlier hearing date, the movant shall file with the motion a request for expedited hearing, which the Court may grant or deny in its discretion.

(f) Service of the Motion and Notice of Hearing.

- (1) The movant shall promptly serve the motion (and any Affidavit or Declaration) in the manner required by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and these rules, upon each party against whom the movant seeks to extend or impose the stay. The movant shall include a certificate of service with the motion. The movant shall not delay service of the motion pending

resolution of a motion for expedited hearing or a motion to shorten time to respond to the motion.

(2) The movant shall serve the notice of hearing in the same manner as required for service of the motion.

(g) Objection to Motion. Unless otherwise ordered, any objection to a motion subject to this rule shall be filed within 14 days after service of the motion.

(h) Order Entered Without Hearing. The Court may grant the motion in accordance with Fed. R. Civ. P. 43(c) and Fed. R. Bankr. P. 9017, without hearing, only if:

(1) the movant files and serves, along with the motion, the Affidavit or Declaration signed by the movant containing the facts upon which the movant relies to rebut any presumption under § 362(c)(3)(C) or § 362(c)(4)(D);

(2) no objection to such motion is filed within 14 days subsequent to the service of the motion (or such shorter time as is ordered); and

(3) the Court determines that the motion complies with this rule and that the information contained in the Affidavit or Declaration is sufficient to rebut any presumption under § 362(c)(3)(C) or § 362(c)(4)(D).

(i) No Chapter 13 Trustee Approval. If the Chapter 13 Trustee has not objected to the motion, the Trustee need not have approved the order granting the motion prior to it being uploaded.

(j) Hearing if No Order Entered. If no order has been entered prior to the scheduled hearing, parties should assume the hearing will be held as scheduled, and movant's failure to appear will result in the motion being denied. An objecting party's failure to appear will result in the motion being treated as if that party's objection had been withdrawn.

* * *

Adopted 3/17/15.

LBR 4002.1

TRUSTEE REQUESTS FOR EVIDENCE OF INCOME, INCLUDING TAX RETURNS

(a) Debtor's Duty to Provide Trustee most recently filed Federal and State Income Tax Returns. In addition to the other duties required under § 521, the debtor must provide to the trustee at least 7 days prior to the meeting of creditors held under § 341, a complete copy of the most recent one year of Federal and State income tax returns filed pre-petition with the respective taxing authority, where applicable.

(b) Debtor's Duty regarding Unfiled Returns.

(1) *Most recent unfiled return.* If the debtor has not filed a tax return for the most recent tax year ending before the bankruptcy is filed and that return is not yet due, the debtor must timely file the return with the appropriate taxing authorities, and provide a signed copy of the return to the trustee, within 7 days of its filing.

(2) *Other unfiled tax returns.* If the debtor has not filed any other tax return that is due for a tax year ending before the date the bankruptcy was filed, the debtor must comply with the trustee's request for a copy of the signed return(s), the original of which must be filed with the appropriate taxing authority, within 28 days after the trustee requests a copy of the return.

(c) Debtor's Duty to Provide Trustee Previously Filed Tax Returns and Income and Expenditure Statements. The trustee may request that the debtor provide a copy of Federal and State income tax returns for pre-petition tax periods and for post-petition tax periods for any year in which the case is pending. The trustee may also request that the debtor provide a statement of income and expenditures described in § 521(f)(4). This rule or any trustee request for a return does not constitute a request to the debtor under § 521(f) to file copies of the tax returns or statement of income and expenditures directly with the court.

* * *

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

LBR 4002.2
TRUSTEE REQUESTS FOR INFORMATION
FROM DEBTORS

(a) Compliance with Trustee's Request. Unless the court orders otherwise, a debtor must comply with any written request for information made by a trustee or the United States trustee within 14 days.

(b) Filing of Requests and Responses. The trustee may not file copies of the requests with the court unless the debtor fails to comply with this rule and the trustee requests the court to compel compliance. The debtor must not file copies of responses with the court unless in response to a trustee's motion to compel.

* * *

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

LBR 4002.3
TAX RETURNS

(a) Place of filing.

(1) The original of all Federal tax returns for pre-petition tax periods filed after the filing of the bankruptcy petition must be filed with:

Internal Revenue Service
ATTN Insolvency/Advisory
2850 NE Independence Ave
Stop 5334 LSM
Lees Summit MO 64064-2327

A signed copy of each return must be sent to the United States Attorney's Office located in the city where the bankruptcy case is filed.

(2) Except as required by paragraph (a)(3), the original of all State of Kansas tax returns for pre-petition tax periods filed after the filing of the bankruptcy petition must be filed with:

Kansas Department of Revenue
Civil Tax Enforcement
P O Box 12005
Topeka KS 66612-2005

(3) The original of all State of Kansas unemployment tax returns for pre-petition tax periods filed by a Kansas employer after the filing of the bankruptcy petition must be filed with:

Kansas Department of Labor
Attn Delinquent Account Unit
401 Topeka Blvd
Topeka KS 66603-3182
* * *

As amended 3/17/14, 10/17/05.

LBR 4070.1
INSURANCE ON MOTOR VEHICLES

(a) Definitions.

(1) “Motor vehicle” includes, but is not limited to, any automobile, motorized mobile home, or house trailer designed to travel and/or capable of travel, on the public highways.

(2) “Proof of insurance” means a certificate of insurance, or other written evidence of sufficient reliability from the insurance carrier, stating the property that is insured, that insurance is in force, the amounts and types of coverage, a notation of the secured party as a loss payee, and the time period for which the coverage exists.

(b) Proof of Insurance. Except as provided in § 1326(a)(4), proof of insurance against physical damage and loss for any motor vehicle belonging to or leased by the debtor or the estate that is subject to the lien of a creditor holding an allowed secured claim must be furnished to the trustee and the creditor at or before the meeting held under § 341, or on written demand of the creditor. Written demand by the creditor for proof of insurance must be served on the debtor by first-class mail and on debtor’s attorney by first-class mail or ECF notification. Failure to furnish proof of insurance at or before the meeting held under § 341 or on written demand as provided by these rules is presumed to mean there is no insurance in effect. Any written "binder" must be followed by proof of permanent insurance.

(c) Termination of Insurance. If during the pendency of a case, insurance is canceled, not renewed, expires, or lapses for any reason, on any motor vehicle, the following sequence of events may occur:

(1) *Injunction.* The debtor is enjoined from using the motor vehicle as long as the motor vehicle remains uninsured.

(2) *Surrender of Possession.* If the debtor fails to provide proof of re-insurance to the creditor within 3 business days following delivery of the notice provided in subsection (b), or fails to provide proof of re-issuance by the day before termination of any grace period granted by the insurer, if later, the debtor must surrender the motor vehicle to the creditor.

(d) Motion for Relief From Stay. If debtor fails to furnish proof of insurance under (b), above, the creditor may file a motion for expedited relief from the automatic stay under § 362. Failure to furnish proof of insurance under this rule constitutes *prima facie* evidence of irreparable injury, loss or damage pursuant to § 362(f) and Fed. R. Bankr. P. 4001(a)(2)(A).

(e) Subsequent Termination. In the event insurance on a motor vehicle lapses twice during the pendency of a case, the court may, on the filing of a motion in accordance with (d), accompanied by an affidavit evidencing compliance by the creditor with this rule and evidencing the previous lapse of insurance coverage, grant the creditor relief, including relief from the automatic stay, without further hearing.

* * *

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

LBR 5003.1

ACCESS TO COURT RECORDS

(a) Access. The public records of the court are available for examination in the clerk's office during normal business hours. Access to electronically-filed documents is available as set forth in Appendix 1-01 of D. Kan. LBR 5005.1.

(b) Copies. The clerk will make and furnish copies, as time permits, of official public court records after request and payment of prescribed fees.

(c) Sealed or Impounded Records. Records or exhibits ordered sealed or impounded by the court are not public records within the meaning of this rule.

(d) Restricted Access Records. Records or exhibits filed with the court, which are nonpublic as specified in the Code or Federal Rules of Bankruptcy Procedure, are not public records within the meaning of this rule.

(e) Search for Cases by the Clerk. The clerk may search the most recent 10 years of the master index maintained in the office and issue a certificate of the search. The clerk charges a fee for each name for which a search is conducted, payable in advance, as prescribed by the Administrative Office of the United States Courts.

(f) Judgment/Order Registry. The court's CM/ECF computer system fulfills the requirements of Fed. R. Bankr. P. 5003, which requires the clerk to maintain copies of every final judgment or order affecting title to or lien on real property or for the recovery of money or property, and will serve as the court's judgment/order registry.

* * *

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

LBR 5003.2

WITHDRAWAL AND DISPOSITION OF COURT RECORDS

(a) Case Files. A bankruptcy case file may not be withdrawn.

(b) Exhibits, Sealed Documents, and Filed Depositions. Any exhibit, sealed document, or filed deposition in the clerk's custody more than 30 days after the time for appeal, if any, has expired or an appeal has been decided and mandate received, may be returned to the parties or destroyed by the clerk if unclaimed after reasonable notice.

* * *

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*.

**Administrative Procedures for Filing, Signing, and Verifying
Pleadings and Documents by Electronic Means**
(Rev. 3-17-14)

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. 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 3/17/14, 3/17/08

LBR 5072.1

COURTROOM PRACTICES

(a) Addressing the Court. Attorneys and unrepresented parties must rise when addressing the court, must speak to the court from counsel table or the lectern facing the court and may not approach the bench, except with court permission.

(b) Questioning Witnesses. While questioning witnesses, attorneys and unrepresented parties must stand at counsel table or at the lectern and may not approach the witness, except with court permission. Only one attorney for each party may participate in the examination or cross examination of a witness.

* * *

LBR 5075.1

ORDERS BY BANKRUPTCY CLERK; REVIEW

(a) Orders.

(1) The clerk is authorized to sign and enter the following orders without further direction by the court:

(A) in adversary proceedings,

(i) an order extending once for 14 days, the time to answer, reply or otherwise plead to a complaint,

crossclaim or counterclaim if the time originally prescribed to plead has not expired;

(ii) a consent order dismissing an action, except in cases governed by Fed. R. Bankr. P. 7023 and/or D. Kan. LBR 7041.1; and

(iii) entry of default and judgment by default as provided for in Fed. R. Bankr. P. 7055;

(B) an order for the payment of money on consent of all interested parties;

(C) an order permitting payment of filing fees in installments;

(D) an order for compliance requiring timely filing of schedules and statements or for compliance with filing requirements and a notice of intent to dismiss for failure to comply;

(E) an order granting waiver of Chapter 7 filing fees; and

(F) any other order that is specified by Standing Order as not requiring special direction by the court.

(2) A party or attorney submitting an order under this rule must sign it, and that signature is subject to Fed. R. Bankr. P. 9011 and D. Kan. LBR 9011.3.

(3) A party or attorney submitting an order for an extension of time under paragraph (a) must state:

(A) the date when the time for the act sought to be extended is due;

(B) the date to which the time for the act is to be extended; and

(C) that the time originally prescribed has not expired.

(b) Clerk's Action Reviewable. For good cause, the court may suspend, alter, or rescind any order entered by the clerk under this rule.

* * *

As amended 3/17/07, 10/17/05.

LBR 6004.1
PERSONS PROHIBITED FROM
PURCHASING AT SALES

(a) Judges or Clerks. No currently serving bankruptcy judge or clerk, or their employees and spouses, may directly or indirectly purchase property from any bankruptcy estate. No former bankruptcy judge or clerk, nor any former member of their staffs, may purchase property directly or indirectly from any bankruptcy estate pending at the time the person left office.

(b) Other Officers.

(1) *Current Service.* No currently serving trustee, examiner, appraiser, auctioneer, accountant, realtor or attorney for a bankruptcy estate, their spouses, their employees and the spouses of their employees, may directly or indirectly purchase property from any bankruptcy estate pending while the person is serving.

(2) *Former Service.* No person who has served as a trustee, examiner, auctioneer, accountant, realtor or attorney for a bankruptcy estate, and no spouse or employee of those persons, may purchase, directly or indirectly, property from a bankruptcy estate pending at the time the person ceased service.

* * *

As amended 10/17/05.

LBR 6007.1
ABANDONMENT OF PROPERTY
OF THE CHAPTER 7 ESTATE

(a) Deadline for Objecting to Abandonment. When the clerk of the court provides the Notice of Bankruptcy Case, Meeting of Creditors and Deadlines, the Notice must contain a provision that within 60 days from the conclusion of the meeting of creditors held under 11 U.S.C. § 341, the Chapter 7 trustee may file notice of intended abandonment of any or all of the debtor's property in the estate as authorized by 11 U.S.C. § 554 without further service on creditors or interested parties. Unless a creditor or interested party objects to abandonment within 75 days after the conclusion of the meeting of creditors, the property subject to the intended abandonment will be deemed abandoned without further notice or order of the court.

(b) Procedure if timely objection. If a creditor or party in interest timely objects, the court will schedule a hearing. The property that is the subject of the objection to the intended abandonment will not be deemed abandoned until the objection is resolved by court order. All other property subject to the intended abandonment, however, will be deemed abandoned without further notice or court order.

* * *

As amended 3/17/14, 10/17/05.

LBR 7003.1

COMMENCEMENT OF ADVERSARY PROCEEDING

(a) Cover Sheet. An Adversary Proceeding Cover Sheet, in a form supplied by the clerk, 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 10/17/05.

LBR 7004.1

SERVICE OF SUMMONS AND COMPLAINT ON THE UNITED STATES OR THE STATE OF KANSAS

(a) Service on the United States. When the United States and/or a department, agency or instrumentality of the United States is named as a party defendant, service of any summons or complaint must be made:

- (1) in the manner prescribed by rule or statute;
- (2) on the United States Attorney's Office located in the division city where the petition for relief is filed; and

(3) on the department, agency or instrumentality of the United States as prescribed by D. Kan. LBR 2002.2.

(b) Service on the State of Kansas. When the State of Kansas and/or a department, agency or instrumentality of the State of Kansas is named as a party defendant, service of any summons or complaint must be made:

- (1) in the manner prescribed by rule or statute; and
- (2) on the department, agency or instrumentality of the State of Kansas as prescribed by D. Kan. LBR 2002.2.

* * *

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

LBR 7012.1 MOTIONS TO DISMISS

(a) Memorandum in Support. A party or attorney filing a Motion to Dismiss pursuant to Fed. R. Bankr. P. 7012 must also file a supporting brief or memorandum.

(b) Time for Filing of Responses and Replies. Any party or attorney filing a brief or memorandum in response to a Motion to Dismiss must file and serve it within 21 days of service of the motion. The moving party may file and serve a supporting brief or memorandum in reply within 14 days of service of the response.

(c) Limit on Responses and Replies. Parties and attorneys may file only one response and one reply without prior court order.

(d) Oral Argument. Parties may request oral argument in the motion or any memorandum.

* * *

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

LBR 7026.1 DISCOVERY

(a) Application. This rule applies to adversary proceedings, and contested matters as prescribed by Fed. R. Bankr. P. 9014 and when the court orders. Fed. R. Civ. P. 26(a) and (f), and the corresponding sections of this rule, do not apply to contested matters unless the presiding judge specifically orders otherwise.

(b) Completion Time. The parties should complete discovery within four months from the later of the date the case becomes at issue or the date a scheduling order is issued pursuant to Fed. R. Bankr. P. 7016. Ordinarily, the parties should have completed discovery before the pretrial conference. For good cause, the court may establish longer or shorter periods for the completion of discovery.

(c) Notice of Depositions Permitted by Fed. R. Bankr. P. 7030. The reasonable notice for taking a deposition is 7 days. For good cause, the court may enlarge or shorten the time.

(d) Motions for Protective Order.

(1) *Stay of Discovery.* Except as provided in paragraph (2), a motion for protective order filed pursuant to Fed. R. Bankr. P. 7026(c) or 7030(d), or a motion to quash or modify a deposition subpoena filed pursuant to Fed. R. Bankr. P. 9016, stays the particular discovery or deposition pending court order.

(2) *Stay of Properly Noticed Deposition.* A motion filed under this rule will not stay a properly noticed deposition unless filed and served on the attorneys or parties within 14 days after service of the deposition notice and at least 48 hours in advance of the deposition.

(3) *No Appearance at Deposition Required.* No party, witness, or attorney is required to appear at a deposition stayed by a motion under this rule until the court decides the motion or it is otherwise resolved.

(e) Additional Interrogatories to Those Permitted by Fed. R. Bankr. P. 7033(a). A party must file a motion to seek leave to serve interrogatories in excess of the number permitted by Fed. R. Bankr. P. 7033(a). The motion must (1) submit the proposed additional interrogatories; and (2) state good cause for those interrogatories. Additional interrogatories served under this rule are subject to subsection (1) of this rule.

(f) Format for Interrogatories. Sufficient space for the insertion of an answer must be provided after each interrogatory. Each answer must directly follow the interrogatory being answered.

(g) Motions Relating to Discovery. Motions under Fed. R. Bankr. P. 7026(c) or 7037(a) directed at depositions, interrogatories, requests for production of documents, or requests for admissions under Fed. R. Bankr. P. 7030, 7033, 7034 or 7036, or at the responses, must be accompanied by copies of the portions of the interrogatories, requests or responses in dispute. Motions under Fed. R. Bankr. P. 9016 directed at subpoenas must be accompanied by a copy of the disputed subpoena.

(h) Depositions. Deposition transcripts may not be filed unless the court orders otherwise. The originals of all stenographically-reported depositions must be delivered to the party noticing the deposition:

- (1) after signature by the deponent if he or she has requested to review the transcript and to make changes;
- (2) on completion, if the deponent has not requested to review the transcript; or
- (3) on certification by the stenographer that following reasonable notice to the deponent and deponent's attorney of the availability of the transcript for signature, the deponent has failed or refused to sign it.

(i) Retention of Originals. The party to whom it is delivered must retain the original of the deposition to be available for appropriate use by any party in a hearing or trial of the case.

(j) Disclosures and Discovery Not to be Filed.

- (1) The following must be served on other attorneys and unrepresented parties, but not filed:
 - (A) disclosures required under Fed. R. Bankr. P. 7026(a)(1) and (2);
 - (B) interrogatories under Fed. R. Bankr. P. 7033;
 - (C) requests for production or inspection under Fed. R. Bankr. P. 7034;
 - (D) requests for admission under Fed. R. Bankr. P. 7036; and
 - (E) the responses.
- (2) At the same time disclosures, discovery, or responses are served, the serving party must file a certificate of

service stating the type of disclosure, discovery or response served, the date and type of service, and the party served.

(k) Use of Discovery at Trial. A party must file with the clerk at the beginning of trial, or earlier if required by court order, the portions of any deposition transcript, interrogatories, requests for production or inspection, admissions, or any responses the party reasonably anticipates using.

(l) Duty to Confer Concerning Discovery Disputes. In addition to the duties required by Fed. R. Bankr. P. 7026 through 7037, unless the court orders otherwise, the court will not entertain any motion to quash or modify a subpoena pursuant to Fed. R. Bankr. P. 9016, or any motion under Fed. R. Civ. P. 26(c) or 37(a), unless the attorney for the moving party confers or has made reasonable effort to confer with opposing attorneys concerning the matter in dispute prior to the filing of the motion. Every certification required by Fed. R. Bankr. P. 7026(c) and 7037 and this rule related to attempts to resolve discovery or disclosure disputes must describe the steps taken by all attorneys to resolve the disputed issues.

(1) *Definition of “reasonable effort to confer.”* “Reasonable effort to confer” means more than mailing or faxing a letter to the opposing party. It requires that the parties in good faith converse, confer, compare views, consult, and deliberate, or in good faith attempt to do so.

(m) Trial Preparation After Close of Discovery.

(1) Parties should ordinarily take the deposition of a material witness not subject to subpoena during the discovery period. Parties may depose a material witness who agrees to appear at trial, but later becomes unable or refuses to attend, at any time prior to trial.

(2) The court may order the physical or mental examination of a party pursuant to Fed. R. Bankr. P. 7035 at any time prior to trial.

* * *

As amended 3/17/11, 3/17/10, 10/17/05.

LBR 7041.1

DISMISSAL OF BANKRUPTCY CODE § 727 COMPLAINTS OBJECTING TO DISCHARGE

(a) Affidavits of No Consideration. Plaintiff and debtor shall execute and file affidavits with any motion to dismiss a complaint objecting to discharge under § 727 stating that no consideration has been promised or given to effect the withdrawal of the complaint, or stating the nature and amount of any consideration promised or given.

(b) Trustee's Motion to Intervene. If the trustee or the United States trustee objects to dismissal of the complaint, the trustee or the United States trustee must, within 14 days after notice under Fed. R. Bankr. P. 7041, file a motion to intervene and be substituted as plaintiff, and serve it on the parties to the complaint.

* * *

As amended 3/17/10.

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 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 3/17/13, 3/17/10.

LBR 7056.1

MOTIONS FOR SUMMARY JUDGMENT

(a) Supporting Memorandum. The memorandum or brief in support of a motion for summary judgment must begin with a section containing a concise statement of material facts to which the movant contends no genuine issue exists. The facts must be numbered and must refer with particularity to those portions of the record on which the movant relies. The court will deem admitted for the purpose of summary judgment, all material facts contained in the statement of the movant unless the statement of the opposing party specifically controverts those facts.

(b) Opposing Memorandum.

(1) A memorandum in opposition to a motion for summary judgment must begin with a section containing a concise statement of material facts as to which the party contends a genuine issue exists. Each fact in dispute must be numbered by paragraph, refer with particularity to those portions of the record on which the opposing party relies, and, if applicable, state the number of movant's fact that is disputed.

(2) If the party opposing summary judgment relies on any facts not contained in movant's memorandum, that party must include each additional fact in a separately numbered paragraph, supported by references to the record, in the manner required by subsection (a). The court will deem admitted, for the purpose of summary judgment, all material facts included in this statement of the non-moving party unless the reply specifically controverts those facts.

(c) Reply Memorandum. In a reply brief, the moving party must respond to the non-moving party's statement of undisputed material facts in the manner prescribed in subsection (b)(1).

(d) Presentation of Factual Material. All facts on which a motion or opposition is based must be presented by affidavit, declaration under penalty of perjury, and/or through the use of relevant portions of pleadings, depositions, answers to interrogatories and responses to requests for admissions. Affidavits or declarations must be made on personal knowledge and by a

person competent to testify to the facts stated that are admissible in evidence. Where facts referred to in an affidavit or declaration are contained in another document, such as a deposition, interrogatory answer, or admission, a copy of the relevant excerpt from the document must be attached.

(e) Duty to Fairly Meet the Substance of the Matter Asserted. If the responding party cannot truthfully admit or deny the factual matter asserted, the response must specifically explain in detail the reasons why. All responses must fairly meet the substance of the matter asserted.

(f) Time for Filing of Responses and Replies. A party has 21 days to file and serve a response to a motion for summary judgment. After service of the response, the moving party has 14 days to file and serve a reply memorandum in support of the motion.

(g) Limit on Responses and Replies. Parties may file no more than one response and one reply without prior court order.

(h) Oral Argument. Parties may request oral argument in the motion or any memorandum.

* * *

As amended 3/17/10, 3/17/07, 10/17/05.

LBR 7065.1

RESTRAINING ORDERS AND TEMPORARY INJUNCTIONS IN ADVERSARY ACTIONS

A prayer for a temporary injunction or restraining order included in an adversary complaint pursuant to Fed. R. Bankr. P. 7001 is not sufficient to bring the issue before the court prior to trial. If a ruling before trial is desired, it must be sought by separate motion filed in the adversary proceeding.

* * *

LBR 8010.1

TRANSMITTING THE RECORD FOR A PRELIMINARY MOTION

(a) Duties of Party Filing a Preliminary Motion. If, before the record on appeal is transmitted, a party to an appeal files a

preliminary motion in the district court, BAP, or court of appeals for a type of relief listed in Fed. R. Bankr. P. 8010(c), the moving party must:

(1) Contemporaneously with filing the preliminary motion, file in the Bankruptcy Court a notice designating the items to be included in the preliminary record on appeal necessary to determine the preliminary motion.

(2) Within three business days of disposition of the preliminary motion, file in the Bankruptcy Court a notice identifying the disposition of the preliminary motion.

(b) Duties of Party Responding to a Motion for Preliminary Relief. If, before the record on appeal is transmitted, a party responds to a preliminary motion for a type of relief listed in Fed. R. Bankr. P. 8010(c) and relies upon items not designated by the moving party pursuant to subsection (a)(1) of this Rule, then the responding party must, contemporaneously with filing the response to the preliminary motion, file in the Bankruptcy Court a notice cross-designating the items to be included in the preliminary record on appeal necessary to determine the preliminary motion.

(c) Copies for the Bankruptcy Clerk. If paper copies of designated or cross-designated items are needed, a party filing a designation of items must provide a copy of any of those items that the Clerk of the Bankruptcy Court requests. If the party fails to do so, the Clerk must prepare the copy at the party's expense.

* * *

Adopted 3/17/15.

LBR 8021.1

TAXATION AND PAYMENT OF COSTS AFTER APPEAL

(a) Procedure for Taxation. Any party allowed costs under Fed. R. Bankr. P. 8021 must file, within 14 days after entry of judgment on appeal, a bill of costs with the bankruptcy clerk that includes proof of service and an itemized and verified bill of costs. Objections must be filed within 14 days after service of the bill of costs, unless the bankruptcy court extends the time.

(b) Reasonable Efforts to Confer Required. The bill of costs must state that the party seeking costs has made a reasonable effort, in a conference with opposing counsel and/or any self-represented party, to resolve any disputes regarding costs.

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

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

* * *

Adopted 3/17/15.

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) *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.

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

(b) 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.

(c) 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.

(d) 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 3/17/12, 3/17/10, 10/17/05, 3/17/05.

LBR 9010.1

APPEARANCE BY CORPORATIONS, PARTNERSHIPS AND ENTITIES OTHER THAN INDIVIDUALS

A corporation, partnership, or entity other than an individual may appear and participate only through an attorney in an adversary proceeding, contested matter or other court hearing involving the questioning of a witness or a presentation to the court. This rule does not prohibit a corporation, partnership, or other entity from acting without an attorney in filing a claim, voting to elect a trustee, serving on an approved committee, or filing an acceptance/rejection of a plan under Chapters 11, 12, or 13.

* * *

LBR 9011.3

SANCTIONS

(a) Sanctions Under Applicable Rules and Statutes.

(1) *On Court's Own Initiative.* The court, on its own initiative, may issue an order to show cause why sanctions should not be imposed against a party and/or an attorney for violation of these rules, Fed. R. Bankr. P. 9011, or other applicable statutes. The court will state the reasons for issuing the show cause order. Unless the court orders otherwise, all parties must respond within 14 days after the filing of the order to show cause. The responses may include affidavits and documentary evidence as well as legal arguments.

(2) *On a Party's Motion.* A party may raise the issue of sanctions by a timely-filed motion. The responding party may respond in the same manner specified above.

(3) *Procedure.* After the response time expires and without further proceedings, the court may rule on the violation and the nature and extent of any sanction imposed. Discovery and evidentiary hearings on sanctions will be permitted only by court order. The court will articulate the factual and legal bases for its ruling on sanctions.

(b) Imposition of Sanctions. If the court finds a violation of these rules, Fed. R. Bankr. P. 9011, other applicable statutes or a court order, the court may impose sanctions pursuant to Fed. R. Civ. P. 11, Fed. R. Bankr. P. 9011, or other federal rules or statutes. In addition, the court may issue other orders as are just under the circumstances, including the following:

- (1) an order designating certain matters or facts as established for purposes of the action;
- (2) an order refusing to allow a party to support or oppose designated claims or defenses, or prohibiting the party from offering specified witnesses or introducing designated matters in evidence;
- (3) an order striking pleadings, in whole or in part, staying proceedings until compliance with the rule, dismissing the action, in whole or in part, or entering a judgment by default against a party; or
- (4) an order imposing costs, including attorney's fees against a party, or a party's attorney, who has failed to comply with a local rule, court order or statute.

(c) Sanctions Within the Discretion of the Court. The court has discretion to impose sanctions for violation of these rules or a court order. In considering sanctions, the court may consider whether a party's failure was substantially justified or whether other circumstances make sanctions inappropriate.

* * *

LBR 9011.4 SIGNATURES

(a) Signing of Pleadings by Attorneys. The original of every pleading, motion or other paper filed by an attorney must bear the genuine signature of at least one attorney of record. 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 the Federal Rules of Bankruptcy Procedure, including Fed. R. Bankr. P. 9011, the local rules of this court, and any other purpose for which a signature is required. In addition, the name of

the Filing User under whose log-in and password the paper is submitted must be preceded by an "s/" and typed in the space where the signature would otherwise appear.

(b) Signing of Pleadings by Unrepresented Parties. The original of every pleading, motion or other paper filed by a party not represented by an attorney must bear the genuine signature of the unrepresented party. Stamped or facsimile signatures on conventionally filed original pleadings, motions, orders, or other documents are not permitted.

(c) Contact Information and Bar Registration Numbers.

(1) *Requirements for Unrepresented Parties and Attorneys.* Parties or attorneys signing papers submitted for filing must include:

- (A) their names;
- (B) addresses;
- (C) telephone numbers;
- (D) facsimile numbers; and
- (E) e-mail addresses.

(2) *Additional Requirements for Attorneys.* Attorneys must also include their state supreme court registration numbers, or, in cases where the attorney is not admitted to practice in Kansas, its equivalent. Attorneys admitted from the Western District of Missouri, by reciprocal admission, must include their Kansas District Court registration number.

(3) *Duty to Update Contact Information.* Each attorney or unrepresented party must notify the clerk in writing of any change of address or telephone number. Any notice mailed to the last address of record of an attorney or an unrepresented party is sufficient notice.

* * *

As amended 3/17/10, 3/17/09, 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 3/17/07, 10/17/05, 3/17/05.

LBR 9013.2

NON-DISPOSITIVE MOTIONS PRACTICE

(a) Hearing Docket. A bankruptcy judge may establish a regularly scheduled docket for non-evidentiary hearing on motions. A motion may be set on a docket by filing with the motion a separate notice of hearing clearly stating the hour, date, and location of the hearing. A certificate of service must be filed for the motion and notice indicating service on required parties. It is movant's responsibility to determine (1) whether a bankruptcy judge has

established a docket, and (2) the correct hour, date, and location of the hearing.

(b) Time. Except for good cause, a motion filed less than 14 days before hearing may not be considered by the court. Motions that require more than 14 days' notice under the Code, the Federal Rules of Bankruptcy Procedure or these rules, must comply with this requirement.

(c) Notice with Objection Deadline. Where otherwise allowed by the Code, the Federal Rules of Bankruptcy Procedure, or these rules, a motion may be filed with a separate notice of objection deadline. The notice may provide for hearing on any objection in accordance with this rule.

(d) Waiver of Briefs in Support of Motions. Briefs and memoranda relating to non-dispositive motions are prohibited unless required by the court notwithstanding D. Kan. Rule 7.1(a). See D. Kan. LBR 7056.1 and D. Kan. LBR 7012.1.

(e) Preparation of Motions and Orders. Motions and orders must be prepared and submitted in accordance with D. Kan. LBR 9004.1.

* * *

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

LBR 9013.3 PROOF OF SERVICE

(a) Certificates of Service. Except as the court or rules provide otherwise, an attorney of record or an unrepresented party must make proof of service of any pleading, motion, or other document required to be served, by filing a certificate. The certificate must either be included in the pleading or document served, or filed separately as soon as possible, and in any event before any action based on the service is requested or taken by the court. The certificate of service must indicate that service was accomplished through the Notice of Electronic Filing for parties and attorneys who are Filing Users and indicate how service was accomplished on any party or attorney who is not a Filing User.

(1) *Contents.* In addition to showing the date, the manner of service, the name and address of the attorney or party

served, and the capacity in which such person was serviced (i.e., as attorney for plaintiff, a particular defendant, trustee, debtor or creditor), the certificate must identify the title of *each* pleading or document served. For example:

I hereby certify that on this [Date], a true and correct copy of the [Title of Document(s)] was electronically filed with the court using the CM/ECF system, which sent notification to all parties of interest participating in the CM/ECF system.

Further, I certify that copies of the [Title of Document(s)] were forwarded via U.S. Mail, first class, postage prepaid and properly addressed to the following:

[Names and addresses]

(2) *Identify and Attach Matrix or List.* If the pleading or other document being served is directed to persons on a matrix or other list, the certificate must identify the matrix or list and attorneys or parties must attach the matrix or list to the certificate. For example:

I hereby certify that on this [Date], a true and correct copy of the [Title of Document(s)] was electronically filed with the court using the CM/ECF system, which sent notification to all parties of interest participating in the CM/ECF system, and was forwarded via U.S. Mail, first class, postage prepaid and properly addressed to the parties' and/or attorneys' addresses on the attached matrix who do not receive notice electronically via CM/ECF.

* * *

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

LBR 9019.2

ALTERNATIVE DISPUTE RESOLUTION

The court's primary ADR procedure is mediation facilitated by a private mediator chosen by the parties. The mediation process is intended to improve communication among the parties and provide the opportunity for greater litigant involvement in the early dispute resolution, with the ultimate goal of securing the just, speedy and inexpensive disposition of civil cases.

(a) General Guidelines for Alternative Dispute Resolution Processes.

- (1) Any procedure used to resolve a dispute pending before the United States Bankruptcy Court for the District of Kansas is governed by D. Kan. Rule 16.3, any other rules or guidelines adopted by the United States District Court for the District of Kansas, and this rule.
- (2) The judge to whom a case has been assigned may, at the earliest appropriate opportunity, encourage or require the parties and their attorneys to attempt to resolve or settle the dispute using an extrajudicial proceeding, such as mediation, a case settlement or evaluation conference, or another alternative dispute resolution process unless, in the judge's discretion, it is determined that:
 - (A) it would be futile;
 - (B) the mediator indicates the case is inappropriate for the process;
 - (C) the parties agree that a request for procedural action by the court will facilitate settlement; or
 - (D) in the opinion of the mediator or court official, there is a danger of physical harm to any party connected with the process.
- (3) The judge may refer a case for an extrajudicial proceeding to be supervised by any other judge of the district or bankruptcy court, any retired district or bankruptcy judge, or any neutral attorney. If the parties mutually agree on a neutral non-attorney, the judge may refer the case to that person. The person to whom the case

is referred will generally be called "mediator" in the balance of this rule.

(4) The mediator will set and convene the first meeting between the participants, and will file with the court a report on the status of the alternative dispute resolution process within 45 days of the initial appointment. As part of the mediation, case settlement, or evaluation conference process, the parties, their attorneys, and the mediator discuss every aspect of the case that bears on its settlement. The mediator will meet privately with each party and the party's attorney to discuss the mediator's evaluation of the case. Except for good cause, it is mandatory that each party have a representative with settlement authority (as defined in D. Kan. Rule 16.3) attend the mediation, case settlement, or evaluation conference process. The court may make this paragraph applicable to any other alternative dispute resolution process.

(5) No written statements or memoranda parties submit to the mediator under this rule will be placed in the court file. The mediator must not communicate to the judge any matter concerning the proceeding except whether the case has settled or that a party or attorney has failed to appear. Fed. R. Evid. 408 governs the admissibility of statements, memoranda, and other communications made during or in connection with the extrajudicial process.

(6) Upon conclusion of the alternative dispute resolution process, either by settlement or by impasse, the mediator will communicate to the court the results of the mediation.

* * *

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

LBR 9027.1 REMOVAL/REMANDS

(a) Procedure and Fees. Fed. R. Bankr. P. 9027 controls the procedure for removal of claims or causes of action in civil actions under 28 U.S.C. § 1452. The filing of a Notice of Removal with the

Clerk of Bankruptcy Court requires payment of a filing fee that will not be satisfied by the redundant filing of the motion with the Clerk of the District Court.

(b) Motions to Remand. A motion to remand under Fed. R. Bankr. P. 9027(d) must be served within the 21 days allowed for an answer required by Fed. R. Bankr. P. 9027(g).

* * *

As amended 3/17/10.

LBR 9029.1

AMENDMENT OF RULES

These rules may be amended as prescribed by Fed. R. Bankr. P. 9029 and Fed. R. Civ. P. 83 by publication with invitation for written comment.

* * *

LBR 9029.2

STANDING ORDERS

By vote of a majority of the judges of the United States Bankruptcy Court for the District of Kansas, the court may issue standing orders addressing administrative and procedural concerns or matters of temporary or local significance.

(a) Procedure. Each standing order, unless expressly made effective until further order, will include the effective date and the expiration date. Standing orders have the same force and effect as other rules of the court. They are numbered consecutively by calendar year (e.g., 14-1) and are cited as D. Kan. Bk. S.O. 14-2.

(b) Notice of Issuance. Public notice of the issuance of a standing order will be given in the manner and for the time determined by the majority of the bankruptcy judges for the District of Kansas. The notice will be given prior to the effective date of the Standing Order, except in emergencies.

* * *

LBR 9029.3

BANKRUPTCY BENCH BAR COMMITTEE

There is a Bankruptcy Bench Bar Committee appointed by the court.

(a) Membership. The committee consists of the chief judge, any other judges who may from time to time be appointed by the court, the United States Attorney or a designated assistant, the U.S. Trustee for Region 20 or a designated assistant, six actively practicing members of the bar of the bankruptcy court, a Chapter 13 Trustee, and a Chapter 7 Trustee, selected by the bankruptcy judges.

(b) Terms of Office. The court will appoint the six actively practicing members of the bar, the Chapter 13 trustee, and the Chapter 7 trustee to serve three year terms or other lesser terms as the court may decide, to begin on July 1 of each year.

(c) Meetings. The Bench Bar Committee will meet as it determines and as determined by the chief judge.

(d) Duties. The Bench Bar Committee will have general advisory and liaison roles regarding the operation of the court and will, among other things:

- (1) provide a forum for the continuous study of the operating procedures of the court;
- (2) serve as liaison among the court, its bar and the public;
- (3) study, consider, and recommend the adoption, amendment, or rescission of the Rules of Practice of the court; and
- (4) make any studies and render any reports and recommendations as the court directs.

* * *

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

LBR 9037.1

REDACTION

(a) Motion. Any person seeking to redact publicly filed data that is subject to privacy protection under Fed. R. Bankr. P. 9037 or section XII.C of Appendix 1-01 to D. Kan. LBR 5005.1 should file a motion to redact such data on the grounds that public access is likely to prejudice privacy interests. Motions to redact need not be

filed with a notice of objection deadline, but the Court may in its discretion determine that a hearing is appropriate to consider the motion and any related responses.

(b) Contents of Motion. The motion to redact must identify the type of data that is subject to privacy protections (without repeating within the motion the substance of the protected information), identify the document(s) in the record where that data is contained, and explain the reasons why public access is likely to prejudice privacy concerns. Except with respect to omnibus motions to redact filed under subsection (g) of this Rule, each motion to redact must include an appendix containing a properly redacted replacement copy of each document (each in a separate .pdf file) that the motion identifies as containing data subject to privacy protections.

(c) Service. All motions to redact must be served on the debtor, debtor's attorney (if the debtor is represented), the person who disclosed the information to be redacted (unless the disclosing person is the movant), any individual whose personal identifiers have been exposed, the case trustee, and the United States Trustee.

(d) Sealing Publicly Accessible Documents.

(1) Temporary Seal. Pending entry of an order on any motion to redact, the Clerk, upon the filing of a motion using a "Redact per LBR 9037.1" event in CM/ECF, will typically temporarily seal both the motion to redact and any documents identified in the motion to redact as containing data that is subject to privacy protection. If such a temporary seal is not entered within one business day after the filing of the motion to redact, movant may file a Motion to Seal. An order resolving the motion to redact will be entered by the Clerk or the Court, and will address any seal that has been imposed.

(2) Authority for Clerk to issue sealed notice. To minimize dissemination of data that may be subject to privacy protection, the Clerk of the Court is authorized, but not required, to issue a sealed notice of noncompliance to any person who files a publicly accessible document that appears to contain data subject to privacy protection.

(e) Redaction Fee. The movant must pay the fee required by the Bankruptcy Court Miscellaneous Fee Schedule for each case affected by the motion to redact, although the Court may waive the redaction fee in appropriate circumstances, upon motion stating good cause filed contemporaneously with the motion to redact.

(f) Closed Cases. Because a case need not be reopened (and a reopening fee need not be paid) if redaction is the only basis for the motion to redact, the movant should not file a motion to reopen the case prior to filing the redaction motion.

(g) Large-Scale Requests. If a movant seeks to redact information in a large number of similarly affected cases, the movant may file an omnibus motion. An omnibus motion must identify each affected case and the type of information to be redacted (without repeating the substance of the protected information), and must be filed in one lead case, with service on all parties identified in subsection (c) of this Rule. If the Court exercises its discretion to hold a hearing on the omnibus motion, the hearing will be noted in advance via a docket entry in each affected case.

* * *

Adopted 3/17/15.

LBR 9072.1 EXHIBITS

(a) Exhibits to Pleadings or Documents. Bulky or voluminous materials must not be filed in their entirety or incorporated by reference unless the court finds the materials are essential and grants leave to file them. The court may strike any pleading or document filed in violation of this rule.

(b) Preparation of Trial Exhibits. When practical, all documentary exhibits must be prepared for trial as follows:

(1) Attorneys or unrepresented parties must pre-mark original exhibits with exhibit stickers. Plaintiffs or movants must use numerical symbols, e.g., 1, 2, etc. Defendants must use alphabetical symbols, e.g., A through Z, AA, BB, etc. If there is more than one plaintiff and/or defendant in the case, the surname or corporate name of the

offering party must be placed on the exhibit sticker for further identification.

(2) Copies of exhibits must be prepared for the judge and each party; the witness will use the original.

(3) An exhibit cover sheet in form prescribed by the clerk must be prepared for each set of exhibits. The original must be placed with the clerk and copies provided to the parties and the judge.

(4) The court may exclude any exhibit offered in a hearing or trial that is not clearly legible.

(c) Withdrawal of Exhibits. Exhibits introduced into evidence may be withdrawn from the custody of the clerk with permission of the clerk or upon order of the court. The clerk may destroy or dispose of any exhibit not withdrawn after final disposition of the proceeding.

(d) Electronic Filing. Trial exhibits must not be filed electronically unless the court orders otherwise.

* * *

LBR 9074.1

JOURNAL ENTRIES AND ORDERS

(a) Preparation of Journal Entry or Order. An attorney must upload within 14 days a journal entry or order:

(1) when directed by the court to prepare the journal entry or order reflecting a judgment, decision, or ruling; or

(2) when the parties announce in court that a pending matter has been settled by agreement.

(b) Journal Entry or Order Submitted Without Approval of All Attorneys; Proof of Service. If approval of the Journal Entry referenced in subsection (a) cannot be obtained after reasonable effort, the attorney may upload the journal entry or order without the approval of all other attorneys involved in the matter. The phrase “order submitted pursuant to D. Kan. LBR 9074.1” must appear above the signature line of any attorney whose signature on the journal entry or order has not been approved.

(1) *Service required.* The attorney uploading a journal entry or order not approved by all attorneys must, on the

same date, serve copies of the order on all other attorneys involved and on any unrepresented parties. Attorneys must establish proof of service by filing a certificate of service in the manner prescribed by D. Kan. LBR 9013.3. The attorney must attach the uploaded journal entry or order as an exhibit to the certificate of service.

(2) *Objections to entry of journal entry or order.* Attorneys and unrepresented parties must file any objections to entry of the journal entry or order within 14 days after service of the journal entry or order. The court may enter the journal entry or order if no timely objection is filed and served. The court will settle any objections to the journal entry or order.

(c) Inapplicability to Chapter 13 Trustee. The procedure in subsection (b) may not be used in lieu of obtaining the approval of a Chapter 13 Trustee to any journal entry or order in any Chapter 13 case. If a Chapter 13 Trustee declines to approve any order, the party seeking approval of the order may file a motion requesting the court approve the order without the Chapter 13 Trustee's approval.

(d) Journal Entry or Order Submitted With Approval of All Attorneys or Parties. An attorney may upload a journal entry or order without serving copies when every attorney or unrepresented party involved in the matter has previously authorized their signatures to the specific pleading. The court may enter the journal entry or order on receipt.

* * *

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

STANDING ORDERS

AT THE TIME OF PUBLICATION OF THESE RULES, THE FOLLOWING STANDING ORDERS WERE IN EFFECT. FOR ADDITIONS, MODIFICATIONS OR DELETIONS TO THESE ORDERS, CONSULT THE CLERK OF THE COURT'S WEB PAGE, www.ksb.uscourts.gov.

**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*, 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 Statement of Intent 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;
- (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 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 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

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS
STANDING ORDER NO. 11-1
ORDER AUTHORIZING CHAPTER 7 TRUSTEES TO
PAY BANK SERVICE CHARGES AND FEES INCURRED
BY CHAPTER 7 ESTATE ACCOUNTS**

The Bench Bar Committee, as well as the United States Trustee for Region 20, has recommended the adoption of this Order, because banks are no longer willing to waive fees for maintaining a Chapter 7 estate account. Accordingly, in consideration of the foregoing, and pursuant to D. Kan. L.B.R. 9029.2, the Court orders that

- (1) Panel trustees administering cases under Chapter 7 of the Bankruptcy Code in the District of Kansas are authorized to incur and pay any actual, necessary expense as contemplated by 11 U.S.C. § 330, for bank fees and charges directly related to the administration of estate accounts;
- (2) The Court shall retain authority to review and approve such expenses during the administration of the case.

This Standing Order is effective for all Chapter 7 cases pending on or after July 1, 2011, and it shall remain in effect until further order of the Court.

IT IS SO ORDERED.

Dated this 30th day of June, 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

**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), 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).1.
 - 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 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.¹
- 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, 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

¹See 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.

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.
- B. The Trustee shall allow as an administrative expense an 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) and Exhibit D (Addendum to Chapter 13 Proof of Claim) 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

- A. The Real Property Creditor shall file a Proof of Claim, to which it shall attach the Official Form B10 (Attachment A) and Addendum 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, Model Mortgage Payment History.
- 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 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

Exhibits:

- Exhibit A: Intentionally omitted
- Exhibit B: The same as former Exhibit A - Mortgage Creditor Checklist
- Exhibit C: The same as former Exhibit B - Authorization to Release Information to the Trustee Regarding Secured Claims Being Paid by the Trustee
- Exhibit D: Addendum to Chapter 13 Proof of Claim for Residential Home Mortgage Debt Paid Through Chapter 13 Trustee
- Exhibit E: Notice of Transfer of Servicing and Claim
- Exhibit F: Notice of Transfer of Claim (Other than for Security)
- Exhibit G: The same as former Exhibit H - Model Mortgage Payment History

-Exhibit B-

MORTGAGE CREDITOR CHECKLIST¹

(FILE WITH TRUSTEE ONLY—DO NOT FILE WITH THE COURT)

Debtor Name(s): _____ Bk Case #: _____

Property Address: _____

Daytime Phone: () _____ Evening Phone: () _____

Attorney name: (if any) _____

THE FOLLOWING INFORMATION MUST BE COMPLETED FOR ALL MORTGAGES. PLEASE BE SURE TO COMPLETE THIS FORM TO THE BEST OF YOUR ABILITY AND ATTACH THE **MOST RECENT PAYMENT COUPON OR STATEMENT THAT WAS SUPPLIED BY YOUR MORTGAGE CREDITOR(S).**

Creditor Name: _____		
Account #: _____		
Payment Address: _____		
Street Address		
_____	_____	_____
City	State	Zip
Creditor Phone Number: (if known) _____		
Regular Monthly Payment Amount: \$ _____ Current Interest Rate: _____		
Monthly Payment Due Date: _____		
Date Payment Late: _____ Monthly Late Charge Amount \$ _____		
Is this a variable interest rate loan? <input type="checkbox"/> Yes <input type="checkbox"/> No		
If yes, when is the next anticipated adjustment date? _____		
Are property taxes included in the monthly payment? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is insurance included in the monthly payment? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is the loan due in full and payable in less than 5 years? <input type="checkbox"/> Yes <input type="checkbox"/> No		
If yes, date due: _____		

¹File one of these forms with the Trustee for each creditor to whom you granted a mortgage on your home.

**AUTHORIZATION TO RELEASE INFORMATION TO
THE TRUSTEE REGARDING SECURED CLAIMS
BEING PAID BY THE TRUSTEE**

(FILE WITH TRUSTEE ONLY—DO NOT FILE WITH THE COURT)

Debtor Name(s): _____ Case #: _____

The debtor(s) in the above captioned bankruptcy case do/does hereby authorize any and all lien holder(s) on real property of the bankruptcy estate to release information to the Standing Chapter 13 Trustee in this bankruptcy filing.

The information to be released includes, but is not limited to, the amount of the post-petition monthly installment, the annual interest rate and its type, the loan balance, escrow accounts, amount of the contractual late charge and the mailing address for payments. This information will only be used by the Trustee and his/her staff in the administration of the bankruptcy estate and may be included in motions before the Court.

DATE:

Debtor's Signature

DATE:

Joint Debtor's Signature

-EXHIBIT D-

**ADDENDUM TO CHAPTER 13 PROOF OF CLAIM
FOR RESIDENTIAL HOME MORTGAGE DEBT
PAID THROUGH CHAPTER 13 TRUSTEE**

I. Creditor Information

Loan No: _____
Creditor Name: _____

Servicer Name: _____
Address: _____
Contact Person: _____
 Tel No: _____
 Fax No: _____
 Email: _____

Payments should be made payable to: _____

Address to which payments are to be sent: _____

Creditor Attorney Name: _____
Address: _____
Contact: _____
 Tel No: _____
 Fax No: _____
 Email: _____

II. Loan Information

Type of Loan and rate as of petition date: _____
Fixed Rate: _____ % (State interest rate as of date of petition)
Adjustable Rate: _____ % (State interest rate as of date of petition)
 Last Adjustment Date: _____
 Next Adjustment Date: _____
Date of month payment due: _____
Date of month payment considered late under note: _____
Amount of late fee: _____

Post-petition payments	\$	_____
Principal & Interest:	\$	_____
Taxes:	\$	_____
Insurance:	\$	_____
Other: _____	\$	_____
Other: _____	\$	_____
Total post-petition payment:	\$	_____

III. Interest on Pre-petition Arrearage

- Creditor demands interest on the full pre-petition arrearage of \$ _____
 - This loan was executed prior to October 22, 1994.
 - The loan documents provided for interest on all arrearages.
 - The loan jurisdiction allows for interest on arrearages.
 - Interest is demanded at the contract rate of _____ %.
 - Interest is demanded at _____ %.

- Creditor demands interest on the advances of \$ _____
 - The loan documents provide for interest on advances.
 - The loan jurisdiction allows for interest on advances.
 - Interest is demanded at the contract rate of _____ %.
 - Interest is demanded at _____ %.

-EXHIBIT E-

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

IN RE:)	Case No.
John Q. Debtor,)	Chapter 13
)	
Debtor.)	
)	
)	
)	
_____)	

NOTICE OF TRANSFER OF SERVICING AND CLAIM

PLEASE TAKE NOTICE that the servicing of the mortgage loan represented by the Proof of Claim #4 filed on 2/24/07 in the amount of \$100,000, by Many Mortgages Incorporated, Transferor, with the address of 1234 Main St., Anywhere, IN 46601 has been transferred to Universal Servicing Company, Transferee (Loan No. 222222).

Chapter 13 Trustee payments and regular monthly payments should be sent to Universal Servicing Company, Bankruptcy Department, 123 Walnut, Anytown, PA 65432.

Dated:

By: John Smith
Agency for Universal Servicing Company as
Servicer for Many Mortgages Incorporated

CERTIFICATE OF SERVICE

Creditor (Transferee), Universal Servicing Company, certifies that it has served a copy of this Notice by ordinary U.S. mail or served electronically through the Court's ECF System on this _____ day of _____, 2007:

Debtor(s)

John Q. Debtor
1234 Main Street
Anywhere, IN 46601

Debtor's Attorney

Mary Counselor, Esquire
Jones & Associates
123 Pine St.
Anywhere, IN 46601

Trustee

Jan Hamilton
PO Box 3527
Topeka, KS 66601

Transferor

Many Mortgages Incorporated
123 Walnut
Anytown, PA 65432

U.S. Trustee

Office of the United States Trustee
301 N. Main, Ste 1150
Wichita, KS 67202

-EXHIBIT F-

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

IN RE:) Case No.
John Q. Debtor,)
) Chapter 13
Debtor.)
)
)
)
_____)

NOTICE OF TRANSFER OF CLAIM (Other than for Security)

A Proof of Claim has been filed in this case. The transferee hereby evidences, by way of documentation attached hereto, that the referenced claim has been transferred, other than the security, as is referenced in this Notice. This Notice must be used when any of the original payment information in a Proof of Claim changes. However, it should not be used for an amendment to the amount of the claim. For changes in the amount of the claim or the arrears only, an Amended Proof of Claim must be filed.

Original Claim Information:

Name of Claimant: _____
Name of Payee [if different from claimant]: _____
Payment Address: _____
Last 4 digits of Account #: _____
Claim # on Court's Registry: _____ [Or date of entry of Order allowing claim]
Amount of Claim: _____ [Total debt] _____ [Arrears]

Transferee Information:

Name of Claimant: _____
Name of Payee [if different from claimant]: _____
Payment Address: _____
Name/Address for Notices [if different from payment address]:

Phone #: _____
Last 4 digits of Account #: _____

I, _____, do hereby declare under penalty of perjury that the information provided in this Notice is true and accurate to the best of my knowledge. I hereby declare that a copy of this Notice has been mailed to the Transferor and that proof of the transfer is annexed thereto.

By: _____ Date: _____
Transferee/Agent of Transferee

CERTIFICATE OF SERVICE

Creditor (Transferee), Universal Servicing Company, certifies that it has served a copy of this Notice by ordinary U.S. mail or served electronically through the Court's ECF System on this _____ day of _____, 2007:

Debtor(s)

John Q. Debtor
1234 Main St.
Anywhere, IN 46601

Debtor's Attorney

Mary Counselor, Esquire
Jones & Associates
123 Pine St.
Anywhere, IN 46601

Trustee

Jan Hamilton
PO Box 3527
Topeka, KS 66601

Transferor

Many Mortgages Incorporated
123 Walnut
Anytown, PA 65432

U.S. Trustee

Office of the United States Trustee
301 N. Main, Ste 1150
Wichita, KS 67202

-EXHIBIT G-

MODEL MORTGAGE PAYMENT HISTORY

***(FILE WITH TRUSTEE, DEBTOR and DEBTOR'S ATTORNEY ONLY
DO NOT FILE WITH THE COURT)***

Debtor: John Q. Debtor
 Case Number: 07-112345

Plan = POC = \$10,300

TRANSACTION DATE	AMOUNT RECEIVED	ARREARS or MONTHLY	POST DUE DATE	POST MONTHLY PAYMENT	PRE-PETITION BALANCE	SPECIAL ASSESSMENT	SUSPENSE
1/1/2007	\$ 800.00	Monthly	1/1/2007	\$ 800.00	\$ 10,300.00		
2/10/2007	\$ 800.00	Monthly	2/1/2007	\$ 800.00	\$ 10,300.00		
2/15/2007	\$ 120.00	Arrears	-	-	\$ 10,180.00		
3/3/2007	\$ 800.00	Monthly	3/1/2007	\$ 800.00	\$ 10,180.00		
3/15/2007	\$ 100.00	Arrears	-	-	\$ 10,080.00		
4/3/2007	\$ 850.00	Monthly	4/1/2007	\$ 800.00			\$ 50.00
6/10/2007	\$ 1,200.00	Monthly	5/1/2007	\$ 800.00			\$ 400.00
7/1/2007	\$ 1,200.00	Monthly	6/1/2007	\$ 800.00			\$ 400.00
7/2/2007	\$ 800.00*	Monthly	7/1/2007	\$ 800.00			
7/16/2007						\$32.00 LC	
7/24/2007						\$15.00 PI	
7/31/2007						\$500.00 Attorney Fee	

FILED

* Payment Made from Suspense

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS
STANDING ORDER NO. 12-1
ORDER ADOPTING FORM CHAPTER 13 PLAN**

The Bench Bar Committee has recommended the adoption of a revised form Chapter 13 Plan.¹ Based on that recommendation, the judges of this Court have approved the attached form Chapter 13 Plan, and mandate its use in all cases filed on or after December 1, 2012.

In consideration of the foregoing, and pursuant to D. Kan. L.B.R. 9029.2,

IT IS HEREBY ORDERED that the attached form, as revised December 1, 2012, is adopted by the judges of this Court for use by all Chapter 13 debtors effective December 1, 2012.

IT IS FURTHER ORDERED that this Standing Order abrogates D. Kan. Bk. S.O. 11-2, shall become effective December 1, 2012, and shall remain in effect until further order of the Court.

IT IS SO ORDERED.

Dated this 22nd day of October, 2012.

¹ The only changes to the form Chapter 13 Plan in effect prior to December 1, 2012 may be found in paragraphs 3 and 8.

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

2. **EFFECT OF CONFIRMATION:**

ANY CREDITOR FAILING TO OBJECT TO CONFIRMATION OF THE PLAN MAY BE DEEMED TO HAVE ACCEPTED THE PLAN. ONCE CONFIRMED BY THE COURT, THIS PLAN BINDS THE DEBTOR AND EACH CREDITOR, WHETHER OR NOT THE CLAIM OF SUCH CREDITOR IS PROVIDED FOR BY THE PLAN, AND WHETHER OR NOT SUCH CREDITOR HAS ACCEPTED, REJECTED OR OBJECTED TO THE PLAN.

CONFIRMATION OF THE PLAN WILL BE DEEMED A FINDING BY THE BANKRUPTCY COURT THAT THE DEBTOR HAS COMPLIED WITH ALL OF THE APPLICABLE SECTIONS OF 11 U.S.C. §§ 1322 AND 1325 AND THAT DEBTOR HAS FULFILLED ALL PRE-CONFIRMATION OBLIGATIONS UNDER 11 U.S.C. § 521.

3. **ADMINISTRATIVE FEES:**

a. The Chapter 13 Trustee will be paid up to 10% on all funds disbursed.

b. Debtor's attorney fees will be paid through the Plan as stated below, subject to modification by the Trustee of the time period over which fees will be paid, as necessary to make the Plan feasible. Counsel for Debtor reserves the right to submit additional fee applications, but payment is subject to Court approval. Debtor consents to such increases in Plan payments as may be necessary to pay any approved additional fees.

Fees for the case:	\$
Case closing fees:	\$
Total fees paid to date:	\$
Balance of fees to be paid through the Plan:	\$
Number of months over which fees shall be paid:	

NON-STANDARD PROVISIONS FOR ¶ 3:

N/A

4. **FILING FEE:**

The filing fee has been paid.

OR

\$ has been paid and the balance of \$ will be paid by the Trustee.

5. **TAX RETURNS:** Federal and state tax returns for the preceding four years:

have been filed; or,

have not been filed. Debtor has not filed returns for the following years:

NON-STANDARD PROVISIONS FOR ¶ 5:

N/A

6. **DOMESTIC SUPPORT OBLIGATIONS:** Domestic Support Obligations (hereafter, "DSO") are defined by 11 U.S.C. § 101(14A), but usually encompass most child support and alimony obligations.

Status:

- 1) The Debtor does NOT owe a DSO.
- 2) The Debtor DOES owe a DSO. (Complete entire section if DSO owed.)

a. **Type of DSO owed:** The obligation consists of payments that are: (select any that are applicable)

- 1) Ongoing (post-petition DSO payments)
- 2) Arrearage

b. **Ongoing post-petition payments:** If Debtor has an existing order under state law to pay a DSO obligation, that will continue and the payment will be made outside the Plan in accordance with that order. If Debtor does not have an existing DSO order, and intends to pay any DSO through the Plan, Debtor must specify treatment of the ongoing DSO in the "Non-Standard Provisions" section for paragraph 6.

c. **Arrearages for Pre-Petition DSO:** Any pre-petition amount due on a DSO will be:

- paid in full through the Plan; or,
- paid in full, directly outside the Plan, through an existing order; or,
- not paid (and not discharged) because Debtor is paying all projected disposable income for a 5-year period through the Plan and the arrearage has been assigned to a governmental unit as defined by 11 U.S.C. § 507(a)(1)(B).

d. **Summary:** Below is a summary of all Domestic Support Obligations.

<u>NAME OF RECIPIENT</u>	<u>PRE-PETITION ARREARS (if any)</u>
	\$
	\$
	\$

e. **Domestic Support Obligations and Discharge:** If Debtor pays all DSO arrearages and all ongoing DSO payments, if any, in accordance with this Plan, Debtor will be deemed "current" for the purpose of being eligible for discharge, upon completion of the Plan.

NON-STANDARD PROVISIONS FOR ¶ 6:
N/A

7. **PRIORITY CLAIMS:**

a. **General Provision:** Debtor will pay all allowed priority claims under 11 U.S.C. § 507 without post-petition interest. The Chapter 13 Trustee will pay the amount contained in the creditor's proof of claim, unless the Court sustains an objection filed by Debtor to the claim. If a priority claim creditor also claims a secured debt, the secured portion will be treated as a secured claim together with Trustee's discount rate of interest as of the petition date, except tax claims, which will be paid interest at the applicable non-bankruptcy rate pursuant to 11 U.S.C. § 511.

b. **Amounts Owed:** Debtor estimates that these priority creditors are owed the amounts indicated.

<u>PRIORITY CREDITOR</u>	<u>EST. AMOUNT OWED</u>
1. N/A	\$
2.	\$
3.	\$
4.	\$

c. **Discharge:** Payments through the Trustee of the principal and pre-petition interest, if applicable, due on allowed pre-petition priority claims will result in a full and total discharge of all Debtor's obligations for those claims to the extent such debts are not otherwise excepted from discharge pursuant to the Bankruptcy Code.

**NON-STANDARD PROVISIONS FOR ¶ 7:
N/A**

8. **RELIEF FROM STAY REGARDING PROPERTY TO BE SURRENDERED:** On Plan confirmation, any creditor may repossess, foreclose upon, sell or obtain possession of the property the Plan proposes to surrender without obtaining stay relief. This provision does not prevent the earlier termination of the stay under operation of law or court order. Nothing contained in this section operates to permit *in personam* relief, modify any applicable co-Debtor stay or to abrogate Debtor's rights and remedies under non-bankruptcy law. The trustee shall not make distributions on account of any secured claim in this class.

<u>PROPERTY TO BE SURRENDERED</u>	<u>CREDITOR WITH SECURED CLAIM</u>
N/A	

**NON-STANDARD PROVISIONS FOR ¶ 8:
N/A**

9. **DEBTS SECURED BY REAL ESTATE.**

a. **Any creditor claiming a lien on any real property Debtor intends to retain will retain its lien pursuant to 11 U.S.C. § 1325(a)(5).**

b. **Debts secured by Debtor's Principal Residence:** The Debtor proposes to treat these debts pursuant to 11 U.S.C. § 1322(b)(5). These debts must be paid pursuant to U.S. Bankr. Ct. D. Kan. Standing Order 11-3 (hereafter S.O. 11-3) which, as currently enacted or subsequently amended, is incorporated herein as though set forth in full. To the extent any Provision of this Plan conflicts with S.O. 11-3, the provisions of S.O. 11-3 control.

i. **Debtor declares as follows (check one):**

Debtor has no principal residential real estate mortgage debt or is surrendering the principal residential real estate pursuant to ¶ 8; or,

Debtor is current on all pre-petition mortgage payments secured by a mortgage on the principal residence and will pay all post-petition mortgage payments directly to the real property creditor as defined by S.O. 11-3; or,

Debtor is not current on all pre-petition mortgage payments and will pay all post-petition mortgage payments through the Plan. The number of post-petition payments will be equivalent to the number of months from the first post-petition payment due under the Plan to the month after the last monthly payment under the Plan is made. The first post-petition mortgage payment through the Plan will begin with the **(month) (year)** payment, which is the third mortgage payment due after the filing of the petition. **The Chapter 13 Trustee will not make any disbursement of ongoing post-petition mortgage payments until the real property creditor files a proof of claim.** At the completion of the term of the Plan, Debtor will resume monthly mortgage payments directly to the real property creditor pursuant to the terms of the mortgage contract.

ii. **Treatment of first two payments when paying post-petition mortgage payments through Plan:** The sum of (a) the two monthly post-petition mortgage payments coming due before the Trustee commences distribution of the regular ongoing mortgage payment under the Plan, (b) the two late fees, and (c) any contract interest (said sum referred to in this Plan as "Conduit Administrative Expenses") will be paid pursuant to S.O. 11-3(V)(B).

iii. **Payments on pre-petition mortgage arrearage:** These will be paid pro-rata with other similarly classed creditors over the life of the Plan. The Trustee will pay the arrearage contained in the creditor's proof of claim unless an objection is filed and sustained.

iv. **Interest on pre-petition arrearage:** Unless otherwise ordered by the Court, interest on the arrearage will be paid as follows:

- Interest will not be paid on the pre-petition arrearage.
- Contract rate interest will be paid on the pre-petition arrearage.

v. **List of debts secured by Debtor's principal residence.**

REAL PROPERTY CREDITOR	LIEN PRIORITY (1ST, 2ND,3RD)	AMOUNT OWED	EST. PRE- PETITION ARREARAGE AMOUNT	ONGOING MONTHLY PAYMENT
N/A		\$	\$	\$
		\$	\$	\$
		\$	\$	\$
		\$	\$	\$

vi. **Effect of payment on pre-petition arrearage:** If Debtor pays the pre-petition arrearage determined by the Plan, together with interest required by the Plan, the pre-petition default will be cured and the note and other loan documents will be deemed current as of the date of filing. Any right of the mortgagee to recover any

amount alleged to have arisen prior to the filing of the petition or to declare a default of the note, mortgage, or other loan documents based upon pre-petition events will be deemed extinguished.

vii. **Effect of payment of post-petition payments through the Plan:** If Debtor pays the Conduit Administrative Expense and all post-petition mortgage payments through the Plan, any post-petition default on Debtor's residential home mortgage debt will be deemed cured, and all payments made on the debt through the date of Plan completion are current, with no arrearage, no escrow balance, late charges, cost or attorney fees owing.

NON-STANDARD PROVISIONS FOR ¶ 9(b):

N/A

c. Other Debts Secured by Non-residential Real Estate Liens

i. **Treatment of Claims of Real Estate Creditor when Payments Are Current.** As of the petition date, Debtor is current on all obligations to the Real Estate Creditors listed below and will pay the obligation(s) to any Real Estate Creditor listed below directly, and not through the Trustee.

<u>CREDITOR</u>	<u>COLLATERAL</u>	<u>DEBT</u>
N/A		\$
		\$
		\$

NON-STANDARD PROVISIONS FOR ¶ 9(c)(i):

N/A

ii. **Treatment of Claims When Debtor is Not Current and Debtor Proposes to Cure Pursuant to 11 U.S.C. § 1322(b)(5) (but does not otherwise propose to modify claim).**

A) Debtor will pay all post-petition mortgage payments directly to the Real Estate Creditor listed below. Any arrearages will be paid pro-rata over the life of the Plan with other secured claims also being paid on a pro-rata basis. The Trustee will pay the arrearage contained in the creditor's proof of claim unless an objection is filed and sustained.

B) Unless otherwise ordered by the Court, interest on the arrearage will be paid as follows:

- Interest will not be paid on the pre-petition arrearage.
- Contract rate interest will be paid on the pre-petition arrearage.

C) If Debtor pays the pre-petition arrearage amount as determined by the Plan, together with applicable interest required by the Plan, any pre-petition default will be deemed cured and the note and other loan documents will be deemed current as of the date of filing. Any right of the mortgagee to recover any amount alleged to have arisen prior to the filing of the petition or to declare a default of the note, mortgage, or other loan documents based upon pre-petition events will be deemed extinguished.

<u>REAL ESTATE CREDITOR</u>	<u>COLLATERAL</u>	<u>AMOUNT OWED</u>	<u>EST. PRE-PETITION ARREARAGE AMOUNT</u>
N/A		\$	\$
		\$	\$
		\$	\$
		\$	\$

NON-STANDARD PROVISIONS FOR ¶ 9(c)(ii):

N/A

iii. Treatment of Secured Claims Being Modified Through Plan.

A) Real Estate Creditors listed below will be paid through the plan the value of the collateral or the amount of the claim, whichever is less, unless otherwise specified.

B) If Debtor proposes to pay the Real Estate Creditor on a pro rata basis with other secured claims also being paid on a pro-rata basis, rather than a fixed monthly amount as listed below, such provision must be included in the “Non-Standard Provisions” section for ¶ 9(c)(iii).

C) Interest will be paid on secured claims at the Trustee’s current discount rate in effect on the date the Petition was filed unless otherwise provided in the “Non-Standard Provisions” section for ¶ 9(c)(iii).

<u>CREDITOR</u>	<u>COLLATERAL</u>	<u>DEBT</u>	<u>VALUE</u>	<u>MO. PAYMENT</u>
N/A		\$	\$	\$
		\$	\$	\$
		\$	\$	\$

NON-STANDARD PROVISIONS FOR ¶ 9(c)(iii):

N/A

iv. **Monthly payments:** Any creditor treated in ¶ 9(c)(ii) and (iii) will receive monthly payments as listed above from the funds available to pay those claims after the deduction of Trustee fees. If the Trustee does not have sufficient funds to pay the specific amount noted, the Trustee may adjust the payment so long as the claim will be paid before Plan completion.

NON-STANDARD PROVISIONS FOR ¶ 9(c)(iv):

N/A

10. DEBTS SECURED BY PERSONAL PROPERTY

a. **Lien retention and release:** Any secured creditor whose note is secured by personal property, including “910 car” loan creditors and “one year loan” creditors, as those are defined by the paragraph following 11 U.S.C. § 1325(a)(9), will retain its lien pursuant to 11 U.S.C. § 1325(a)(5) and shall be required to release the lien at the time designated by 11 U.S.C. § 1325(a)(5).

NON-STANDARD PROVISIONS FOR ¶ 10(a):

N/A

b. Monthly payments: Debtor proposes to pay personal property secured creditors equal monthly amounts listed below from the funds available to pay those claims after the deduction of Trustee fees. If the Trustee does not have sufficient funds to pay the specific amount noted, the Trustee may adjust the payment so long as the claim will be paid before Plan completion. Interest will be paid on these claims at the Trustee's discount rate in effect on the date the Petition was filed, unless otherwise provided in the "Non-Standard Provisions" section for each associated paragraph.

NON-STANDARD PROVISIONS FOR ¶ 10(b):
N/A

c. Pre-Confirmation Payments: If Debtor proposes to make pre-confirmation payments, the amount stated below will be paid by the Trustee each month as if the Plan were confirmed and will continue to be paid upon confirmation. If Debtor proposes to pay these claims on a pro rata basis, such provision must be listed in the "Non-Standard Provisions" following each section. Any pre-confirmation payments paid by the Trustee will be credited against the allowed secured claim as though the Plan had been confirmed. **TO RECEIVE ANY PAYMENT (PRE- OR POST-CONFIRMATION), A CREDITOR MUST FILE A CLAIM THAT IS ALLOWED.**

NON-STANDARD PROVISIONS FOR ¶ 10(c):
N/A

d. GENERAL SECURED CLAIMS: Any creditor listed below whose claim is secured by personal property (other than 910 car loan or one year loan creditors) will be paid the value of its collateral or the amount of the claim, **whichever is less**, unless otherwise specified in the "Non-Standard Provisions" section for ¶ 10(d).

<u>CREDITOR</u>	<u>COLLATERAL</u>	<u>DEBT</u>	<u>VALUE</u>	<u>MO. PAYMENT</u>
N/A		\$	\$	\$
		\$	\$	\$
		\$	\$	\$

NON-STANDARD PROVISIONS FOR ¶ 10(d):
N/A

e. 910 CAR LOAN CREDITORS: Each "910 car loan" creditor listed below will be paid the amount of the debt owed, unless the creditor agrees to receipt of less than the full amount under the Plan. **[Debtor must specifically include in the "Non-Standard Provisions" section for ¶ 10(e) if there is any attempt to pay less than the full amount of the claim.]** The Monthly Payment specified is an estimate, and the actual amount may vary, depending upon the amount of the allowed claim.

<u>CREDITOR</u>	<u>COLLATERAL</u>	<u>DEBT</u>	<u>VALUE</u>	<u>MO. PAYMENT</u>
N/A		\$	\$	\$
		\$	\$	\$
		\$	\$	\$

NON-STANDARD PROVISIONS FOR ¶ 10(e):
N/A

f. ONE YEAR LOAN CREDITORS The following creditors are one year loan creditors. Debtor proposes to pay these creditors the balance of the debt owed unless the creditor agrees to receipt of less than the full amount under the Plan. **[Debtor must specifically include in the “Non-Standard Provisions” section for ¶ 10(f) if there is any attempt to pay less than the full amount of the claim.]** The Monthly Payment specified is an estimate, and the actual amount may vary, depending upon the amount of the allowed claim.

<u>CREDITOR</u>	<u>COLLATERAL</u>	<u>DEBT</u>	<u>VALUE</u>	<u>MO. PAYMENT</u>
N/A		\$	\$	\$
		\$	\$	\$
		\$	\$	\$

NON-STANDARD PROVISIONS FOR ¶ 10(f):
N/A

11. SPECIAL CLASS CREDITORS:

There are no Special Class Creditors. (If neither box is selected, it will be deemed that no Special Class Creditors exist.)

OR

The following listed creditors are Special Class Creditors. They will NOT share pro rata in the amount to be paid to general unsecured creditors as determined by Official Form 22C or the liquidated value of the estate pursuant to the “Best Interest of Creditors” test. Special Class Creditors will be paid pro rata with other specially classed creditors, if any, following payment of administrative claims, secured claims and priority claims in the manner provided by this Plan.

<u>CREDITOR</u>	<u>TOTAL DEBT</u>	<u>INTEREST RATE, IF ANY</u>
N/A	\$	0.00%
	\$	0.00%
	\$	0.00%

NON-STANDARD PROVISIONS FOR ¶ 11, including identity and specific treatment of any Special Class Creditor:

N/A

12. STUDENT LOAN OBLIGATIONS: Any student loan will be paid, pro rata, with other general unsecured creditors. Interest will continue to accrue post-petition on non-dischargeable student loans and post-petition interest will only be paid to non-dischargeable student loans if allowed by 11 U.S.C. § 1322(b)(10). Any amount not paid on the student loan debt during this bankruptcy will survive the bankruptcy and is excepted from discharge unless Debtor files an adversary proceeding to determine the dischargeability of that debt and prevails on the merits.

NON-STANDARD PROVISIONS FOR ¶ 12:

N/A

13. **EXECUTORY CONTRACTS AND UNEXPIRED LEASES:** Debtor assumes the executory contracts and unexpired leases listed herein and will pay directly to the respective creditor any pre-petition arrearages and post-petition payments.

<u>CREDITOR</u>	<u>DESCRIPTION OF CONTRACT OR LEASE</u>
N/A	

NON-STANDARD PROVISIONS FOR ¶ 13:
N/A

14. **GENERAL UNSECURED CREDITORS:** General unsecured claims will be paid after all other unsecured claims, including administrative and priority claims, from Debtor's projected disposable income in an amount not less than the amount those creditors would receive if the estate of Debtor were liquidated under chapter 7 on the date of confirmation pursuant to 11 U.S.C. § 1325(a)(4), the "best interest of creditors" test.

NON-STANDARD PROVISIONS FOR ¶ 14:
N/A

15. **"BEST INTERESTS OF CREDITORS TEST."** Debtor represents that the property listed below would have the designated liquidation value if it were liquidated in a Chapter 7 case. (List property, explain how the computation of the liquidation value was made, or attach a separate document explaining computation.)

a. **Total liquidation value: \$0.00**

b. **Explanation of Calculation:**

NON-STANDARD PROVISIONS FOR ¶ 15:
N/A

16. **PROPERTY OF THE ESTATE:**

a. In addition to the property specified in 11 U.S.C. § 541, property of this bankruptcy estate includes all property acquired after the filing of the bankruptcy petition, including earnings. Except as otherwise provided, Debtor will remain in possession of all property of the estate.

b. All property of the estate will vest in Debtor at discharge or dismissal of the case.

NON-STANDARD PROVISIONS FOR ¶ 16:
N/A

17. OTHER GENERAL PLAN PROVISIONS:

(List any other Plan provision here that is not already noted, does not relate to a provision above, where space is not available, or that deviates from the model plan.)

N/A

18. This Plan contains no provisions deviating from the model plan adopted by the Court and in effect at the time of the filing of this case unless they are specifically set out in ¶ 17 or in the specific “NON-STANDARD PROVISIONS” sections contained in the model plan.

Dated:

Debtor:

s/

Debtor:

s/

(Note: Obtaining the Debtor's signature is optional.)

s/

Attorney for Debtor

**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

**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
STANDING ORDER NO. 14-1
ORDER RENDERING D. KAN. RULE 83.5.8
LIMITED SCOPE REPRESENTATION
INAPPLICABLE TO BANKRUPTCY COURT**

Having consulted with the Bench and Bar Committee, the Judges of the United States Bankruptcy Court recognize that the roles and duties of attorneys representing debtors, creditors, and other parties in interest in bankruptcy cases and proceedings frequently differ from those in civil and criminal proceedings in the United States District Court. Attorneys practicing in this Court routinely and permissibly limit the scope of their representation in certain situations, such as adversary proceedings and appearances for specific purposes. Therefore,

IT IS HEREBY ORDERED that D. Kan. Rule 83.5.8, except to the extent ordered below, shall not apply in the United States Bankruptcy Court for the District of Kansas without further order of the Court. The purpose of this Standing Order is to preserve the status quo of bankruptcy practice, without adding the additional pleadings required by D. Kan. Rule 83.5.8.

IT IS FURTHER ORDERED that any attorney preparing a pleading, motion or other paper for a specific case or matter in the United States Bankruptcy Court for the District of Kansas must enter an appearance and sign the document.

IT IS FURTHER ORDERED that no provision of this Standing Order in any way negates or avoids a lawyer's duty to abide by the Rules of Professional Conduct and any standards of practice established by this Court.

IT IS FURTHER ORDERED that this Standing Order shall become effective March 17, 2014, and shall remain in effect until further order of the Court.

IT IS SO ORDERED.

Dated this 17th day of March, 2014.

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

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS
STANDING ORDER NO. 14-4
ORDER MODIFYING FORM CHAPTER 13 PLAN AND
CONDUIT MORTGAGE RULE
AND ABROGATING STANDING ORDER 14-3**

The Bankruptcy Bench-Bar Committee for the District of Kansas recommends changes in two of this Court's Standing Orders due to a new interpretation of 28 U.S.C. § 586(e) by the United States Trustee, with which interpretation the Judges of this Court agree. One change is in the form Chapter 13 plan adopted by Standing Order No. 12-1 and the second is in this Court's Standing Order 11-3 (Conduit Mortgage Payment in Chapter 13). The Court addressed the first matter in its Standing Order 14-3 issued August 19, 2014, but elects to abrogate that Standing Order so all changes to our rules dealing with this changed interpretation of 28 U.S.C. § 586(e) are contained in one Standing Order.

Chapter 13 Plan

Rather than re-issue the form Chapter 13 plan, the Court incorporates the change listed herein into all Chapter 13 form plans filed in all cases pending on or after October 1, 2014, and the language changed herein is deemed substituted. The remainder of the form Chapter 13 plan adopted by Standing Order 12-1 remains unchanged. Paragraph 3.a. shall now read "The Chapter 13 Trustee will be paid a variable percentage fee pursuant to 28 U.S.C. § 586(e)."

Conduit Mortgage Rule

Rather than re-issue Standing Order 11-3, the Court incorporates the change listed herein into its Conduit Mortgage Payments Standing Order for all cases pending on or after October

1, 2014. Paragraph V.A. of Standing Order 11-3 shall now read “The Trustee is authorized to deduct from any payments collected, pursuant to 11 U.S.C. § 1326, the statutory percentage Trustee fees as necessary costs and expenses, together with any fee, charge or amount required under § 1326.”

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 the form Chapter 13 plan adopted by Standing Order 12-1 is hereby modified so that Paragraph 3.a. provides “The Chapter 13 Trustee will be paid a variable percentage fee pursuant to 28 U.S.C. § 586(e).” No other changes to the form Chapter 13 plan are made. The changed language will be deemed substituted in all Chapter 13 form plans filed in cases pending on or after October 1, 2014.

IT IS FURTHER ORDERED that Paragraph V.A. of Standing Order 11-3 is hereby modified to provide: “The Trustee is authorized to deduct from any payments collected, pursuant to 11 U.S.C. § 1326, the statutory percentage Trustee fees as necessary costs and expenses, together with any fee, charge or amount required under § 1326.”

IT IS FURTHER ORDERED that Standing Order 14-3 is abrogated, and this Standing Order shall be effective immediately and shall remain in effect until further order of the court.

IT IS SO ORDERED.

Dated this 9th day of December, 2014.

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