

**Notice of Proposed Changes to the Local Rules of the
United States Bankruptcy Court for the District of Kansas
To Become Effective March 17, 2019**

The United States Bankruptcy Court for the District of Kansas gives notice of proposed changes to the Local Bankruptcy Rules (“LBRs”) that will become effective March 17, 2019, unless comments are received that precipitate further review. Interested persons, whether or not members of the bar, are invited to submit comments addressed to:

Clerk of the U.S. Bankruptcy Court, District of Kansas
401 N. Market, Room 167
Wichita, Kansas 67202.

All comments must be in writing and must be received by the Clerk no later than **December 21, 2018**, to receive consideration by the Court.

The Court proposes to amend the following Local Rules of the United States Bankruptcy Court for the District of Kansas (LBR): LBR 1007.1(a); the Notice of Rule 2004 Examination form appended to LBR 2004.1; LBR 2090.1(b); LBR 3015(b).2(f); LBR 5005.1, Appendix 1-01, Paragraph I.D and Paragraph VIII; LBR 5075.1; LBR 9011.4; LBR 9019.2(b); LBR 9029.3; and LBR 9072.1.

The Court further proposes to abrogate Standing Order 17-2, Standing Order 18-1, Standing Order 18-2, Standing Order 18-3, and Standing Order 18-4 as moot because of the proposed amendments to LBR 9019.2(b); LBR 9029.3; LBR 1007.1; LBR 5005.1, Appendix 1-01, Paragraph I.D; and LBR 2090.1(b), respectively.

Proposed Changes

**LBR 1007.1
INITIAL FILINGS**

(a) Assembly of Petition and Accompanying Documents.

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(2) The following documents, if applicable, must **not** be attached to the petition ~~and~~. **They** must be filed separately:

	Name of Document	Official Form
(A) through (C)	[No change]	[No change]
(D)	<p><u>When Debtor(s) are represented by counsel:</u> Declaration Re: Electronic Filing (required in lieu of Official Form 121). This document must be electronically filed as a sealed document pursuant to the instructions on the form.</p> <p><u>When Debtors are self-represented:</u> Statement About Social Security Numbers.</p>	<p>See Forms page of court website.</p> <p>121</p>
(E) through (I)	[No change]	[No change]

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

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As amended 3/17/19 (formerly S.O. 18-2), 3/17/18, 3/17/16, 3/17/08, 3/17/07, 10/17/05, 3/17/05.

LBR 2004.1
EXAMINATIONS
[No change to rule text.]

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS

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

NOTICE OF RULE 2004 EXAMINATION

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

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

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

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

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

[SIGNATURE BLOCK OF EXAMINING PARTY]

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

An attorney for [Examining Party]

(rev. 3/17/196)

LBR 2016.1
MONTHLY COMPENSATION OF PROFESSIONALS

(a) Submission and Service. In a Chapter 11 or 12 case, an ~~attorney~~ **professional** employed or seeking employment under § 327 to ~~conduct~~ **provide services in** 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 with the 20 largest unsecured claims who are not insiders (Official Form 104 or Official Form 204).

(d) Order. The ~~attorney~~ **professional** 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.

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As amended 3/17/19, 3/17/16, 3/17/10.

LBR 2090.1
ATTORNEYS - ADMISSION TO PRACTICE

. . .

(b) Appearance *Pro Hac Vice*. D. Kan. Rule 83.5.4 applies to the attorneys of the court except that, at the time a motion to appear *pro hac vice* is filed, a proposed order granting the motion must be submitted to the court.

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As amended 3/17/19.

LBR 3015(b).2
CONDUIT MORTGAGE PAYMENTS IN
CHAPTER 13 CASES

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(f) Trustee's Duties:

(1) The Trustee is authorized to deduct from any payments collected, pursuant to 11 U.S.C. § 1326, the percentage Trustee fees then in effect as necessary costs and expenses, together with any fee, charge, or amount required under § 1326.

(2) The Trustee shall allow as an administrative expense an amount equal to 2 full regular monthly payments inclusive of escrow deposits and 2 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 5% unless Debtor's Plan contains a different rate.

(3) In the event Debtor is granted an abatement of Plan payments, the Trustee is authorized to pay any missed mortgage payments in a separate administrative claim record that includes late fees. This amount shall bear interest at 5% unless Debtor's Plan contains a different rate.

(4) 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 410A and Exhibit D (Addendum to Chapter 13 Proof of Claim for Residential Home Mortgage Debt Paid Through the Chapter 13 Trustee) has been attached. The Trustee is required to make a full mortgage payment for each full plan payment made. The Trustee is not required to make partial payments to Real Property Creditors.

(5) 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 is authorized to disburse the new conduit payment or fees as soon as practicable **after resolution of any motion under Fed. R. Bankr. P. 3002.1(b)(2) and** without seeking formal modification of the plan.

(6) 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.

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As amended 3/17/19; aAdopted 8/22/17 (formerly S.O. 11-3).

LBR 5005.1
FILING BY ELECTRONIC MEANS

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Appendix 1-01 to LBR 5005.1

**Administrative Procedures for Filing, Signing, and Verifying Pleadings and Documents by
Electronic Means**
(Rev. 3/17/19)

I. Scope of Electronic Filing

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D. Filing Fees. For filings that require a fee to be paid, the attorney must ~~use a credit card to~~ promptly pay the fee through Pay.gov. The court will not maintain electronic billing or debit accounts for lawyers or law firms.

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VIII. Signatures

A. ~~[Reserved] 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.

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As amended 3/17/19 (formerly S.O. 18-3), 3/17/18, 3/17/17, 3/17/16, 3/17/14, 3/17/08.

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.

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As amended 3/17/19, 3/17/07, 10/17/05.

LBR 9011.4
SIGNATURES

~~(a) [Reserved] 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.* Each party or attorney ~~Parties or attorneys~~ signing papers submitted for filing must include the signer's:

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

(2) *Additional Requirements for Attorneys.* Each ~~Attorneys~~ signing a document must also include the ~~if~~ attorney's 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.

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As amended 3/17/19, 3/17/10, 3/17/09, 3/17/05.

**LBR 9019.2
ALTERNATIVE DISPUTE RESOLUTION**

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(b) Payment Procedures for Court-Approved Mediation in Bankruptcy Cases—~~One-Year Pilot Program.~~

(1) *Allowable Expenses.* Allowable expenses include the cost of the mediation session at the rate negotiated by counsel and the mediator, plus mileage expenses if the mediator is required to travel, that the party is unable to pay, and that are not otherwise recovered in the action. The mediator's negotiated fee (including mileage) shall be divided equally between the parties unless otherwise agreed to and approved by the court.

(2) *Payment Procedure.* To qualify for payment, the mediation, as well as all expenditures, must be approved in advance by the court. Before incurring any reimbursable expense, the party must:

- (A) complete a form, which is available from the clerk; and
- (B) secure the requisite prior approval, in writing, by the bankruptcy judge to whom the case is assigned and, when required, by the chief bankruptcy judge.

(3) *Who Must Approve Expenditures.* The presiding judge may approve expenditures that total less than \$750, for the entire mediation. The chief judge of the court must approve expenditures that reach or exceed \$750.

(4) *Amount of Payment.* The District Court Clerk will pay the mediator such amount as the court approves.

(5) *Repayment.* Any payment from the Bar Fund must be repaid if money is recovered in the settlement, unless waived by the court.

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As amended 3/17/19 (formerly S.O. 17-2), 10/17/05, 3/17/05.

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. *The bankruptcy judges may also appoint a Chapter 12 Trustee as needed.*

(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 to begin on July 1 of each year. *Any appointed Chapter 12 trustee will serve a three year term or other lesser term as the court may decide.* If a committee member is unable to complete the term of appointment, a replacement member may be appointed to complete the term.

(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.

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As amended 3/17/19 (formerly S.O. 18-1), 3/17/17, 10/17/05, 3/17/05. ~~See also S.O. 18-1.~~

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) The original exhibits (with exhibit stickers) will be used by the witness and must be delivered to the clerk. Two Copies of all exhibits must be delivered to chambers. One copy of all exhibits must be delivered to each party participating in the trial or evidentiary hearing. ~~prepared for the judge and each party; the witness will use the original.~~ Unless otherwise directed by the court, all exhibits must be delivered as set forth above at least three (3) full business days prior to the scheduled trial or evidentiary hearing date.

(3) An exhibit cover sheet in substantial compliance with the form "Exhibit Sheet" prescribed by the clerk and available on the court's website must be prepared ~~for~~ and included with each set of exhibits submitted to the clerk, chambers, and other parties. ~~The original must be placed with the clerk and copies provided to the parties and the judge.~~

(4) Unless otherwise directed by the court, the exhibit cover sheet and exhibits shall be submitted in three-ring notebooks with each exhibit separated by dividers or tabs corresponding to the exhibit number or letter. All exhibits must be clearly legible and multiple-page exhibits must be paginated or bates numbered.

(5) The court may exclude any exhibit offered in a hearing or trial that is not clearly legible or does not comply with this Rule.

(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.

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As amended 3/17/19.