

**Notice of Proposed Changes to the Local Rules of the
United States Bankruptcy Court for the District of Kansas
To Become Effective March 17, 2022**

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, 2022, 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

or David_Zimmerman@ksb.uscourts.gov.

All comments must be in writing and must be received by the Clerk no later than **January 10, 2022**, to be considered by the Court.

At the recommendation of the Bankruptcy Bench Bar Committee, the Court proposes to amend the Local Rules of the United States Bankruptcy Court for the District of Kansas by adding LBR 3002.2, adding LBR 3003.1, and amending LBR 9011.4 as follows. The Court also proposes to consolidate the local forms into a single appendix and make corresponding technical amendments to LBR 1007.1, LBR 1009.1, LBR 2004.1, and LBR 3015(b).2. Noticing addresses for State and Federal agencies may also be updated in LBR 2002.2 if requested by the agency. Changes are noted in red.

Attention: Please take particular note that LBR 3003.1 proposes to establish a new automatic claims bar date in Chapter 11 cases that proceed under Subchapter V.

Proposed Substantive Changes to Local Rules

LBR 3002.2

EXTENSION FOR GOVERNMENTAL UNIT TO FILE PROOF OF CLAIM

(a) Chapter 7 Asset Case. If notice of assets pursuant to FRBP 3002(c)(5) is given that payment of a dividend appears possible, the proof of claim deadline for governmental units shall be the longer of 180 days after the petition was filed or 90 days after the notice of assets or as otherwise provided in the Federal Rules.

(b) After Conversion to Chapter 12 or Chapter 13 Case. If a case is converted from chapter 7 to chapter 12 or chapter 13, the proof of claim deadline for governmental units shall be the longer of 180 days after the petition was filed or 70 days after the order of conversion or as otherwise provided in the Federal Rules.

* * *

Adopted 3/17/22.

LBR 3003.1
AUTOMATIC CLAIMS BAR DATE IN CHAPTER 11, SUBCHAPTER V, CASES
WHEN FILED

(a) Subchapter V Cases. In a Chapter 11, Subchapter V, case, unless otherwise ordered, the claims bar date will be 70 days after, and for claims by governmental units 180 days after, the latest of:

- (1) the date of entry of the order for relief,
- (2) the date of conversion of the case to Chapter 11, Subchapter V, or
- (3) the date of the amendment of the petition to designate the case as a Subchapter V case. In the case of conversion or re-designation of a case to Subchapter V, any previously set bar date will govern, unless otherwise ordered.

(b) Non-Subchapter V Cases. This rule does not apply to Chapter 11 cases not designated as Subchapter V.

* * *

Adopted 3/17/22.

LBR 9011.4
SIGNATURES

(a) [Reserved]

(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.~~

- (1) Petitions, lists, schedules, statements, amendments, pleadings, affidavits, and other documents which must contain original wet ink signatures or which require verification under Fed. R. Bankr. P. 1008, or an unsworn declaration as provided in 28 U.S.C. § 1746, may contain, in lieu of the original wet ink signature, a copy, or digitally scanned image, of the original document containing a wet ink signature of the unrepresented party.
- (2) Stamped signatures or signatures created by use of special software programs for electronic signatures, such as DocuSign and Sign Easy, are not acceptable as signatures of an unrepresented party.
- (3) If an unrepresented party submits a document that does not bear a genuine signature, the unrepresented party may promptly cure the defect by completing and signing the Declaration Regarding Filing form in conformity with the instructions on the form. The form is available on the Forms page of the court website. Failure to cure the defect may result in the court treating the document as unfiled.

(c) Signing of Pleadings by Attorney for Parties. 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 and comply with D. Kan. Rule 5.1(c) as to form. The following are exceptions to D. Kan Rule 5.1(b) and they apply only to documents filed by attorneys in bankruptcy cases in this District:

- (1) Petitions, lists, schedules, statements, amendments, pleadings, affidavits, and

other documents which must contain original wet ink signatures or which require verification under Fed. R. Bankr. P. 1008, or an unsworn declaration as provided in 28 U.S.C. § 1746, may contain, in lieu of the original wet ink signature, the signature forms described herein:

- (A) A copy, or digitally scanned image, of the original document containing a wet ink signature; or
 - (B) An image with a signature captured electronically at the time of document creation, or signatures created and verified by use of special software programs for electronic signatures, such as DocuSign or Sign Easy.
- (2) An attorney's electronic filing of such a document with the signature form described above will constitute a certification by the attorney that:
- (A) the attorney transmitted the entire document to the signatory(ies) for review and signature, communicated with the signatory(ies) regarding the substance and purpose of the document, and received express authorization from the signatory(ies) to file the document; and
 - (B) the signatory(ies) signed the document and that, at the time of electronic filing, the signatory's(ies') attorney is in possession of an image format, facsimile, or software-assisted signature of the document from the signatory(ies).

(ed) Contact Information and Bar Registration Numbers.

(1) *Requirements for Unrepresented Parties and Attorneys.* Each party or attorney signing papers submitted for filing must include the signer's:

- (A) name;
- (B) address;
- (C) telephone number;
- (D) facsimile number; and
- (E) e-mail address.

(2) *Additional Requirements for Attorneys.* Each attorney signing a document must also include the attorney's state supreme court registration number, 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 3/17/2022 (formerly S.O. 20-2), 3/17/19, 3/17/10, 3/17/09, 3/17/05.

**Proposed Technical Changes to Local Rules Related to
Consolidating Local Forms into a Single Appendix**

**LBR 1007.1
INITIAL FILINGS**

...

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

	Name of Document	Official Form
(A)	Application for Individuals to Pay the Filing Fee in Installments	103A
(B)	Application to Have the Chapter 7 Filing Fee Waived	103B
(C)	The Plan (if submitted when petition is filed in Chapters 11, 12, and 13)	
(D)	<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. <u>When Debtors are self-represented:</u> Statement About Social Security Number.	See Forms page of court website 121
(E)	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)	Appendix 1-01 to D. Kan. LBR 1007.1 See Forms page of court website
(F)	A Record of Any Interest That the Debtor Has in an Account or	

	Program of the Type Specified in § 521(c);	
(G)	A Certificate for Credit Counseling and Debt Repayment Plan, if any, a Certification Under § 109(h)(3), or a Request for Determination by the Court Under § 109(h)(4)	
(H)	A Debtor's Electronic Noticing Request (DeBN Request) Form	See Forms page of court website
(I)	A Statement About Payment of an Eviction Judgment	101B

...

As amended 3/17/22, 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.

Related Forms:

Declaration Regarding Payment Advices or Evidence of Payment under 11 U.S.C. § 521(a)(1)(B)(iv)

Declaration Re: Electronic Filing

Debtor's Electronic Noticing Request (DeBN)

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 the **Notice of Amendment of Schedules D, E/F, G or H (Addition of Creditor(s)) form. ~~Appendix 1-01 to this Rule.~~**

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

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

As amended 3/17/22, 10/17/05.

Related forms:

Notice of Amendment of Schedules D, E/F, G or H (Addition of Creditor(s))

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. ~~See the Notice of Rule 2004 Examination form for 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 ~~N~~notice what attempts counsel made to contact the examinee or, if represented, counsel for the examinee prior to filing the ~~N~~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.

* * *

~~As amended Adopted~~ 3/17/2022, 3/17/16.

Related forms:

[Notice of Rule 2004 Examination](#)

[Subpoena for Rule 2004 Examination \(Director's Form B2540\)](#)

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

...

(e) Debtor's Duties.

(1) Debtor may be excused from complying with this rule only upon entry of a Court order upon a showing of circumstances justifying the same.¹

(2) Debtor must complete ~~a Exhibit B~~ (Mortgage Creditor Checklist) and ~~an Exhibit C~~ (Authorization to Release Information to the Trustee Regarding Secured Claims Being

¹ See, e.g., *In re Perez*, 339 B.R. 385, 409 (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.

Paid by the Trustee) and forward those documents to the Trustee (not to the Court) within 14 days of the filing of the bankruptcy petition.

(3) 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.

(4) 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.

(5) Pursuant to provisions of Paragraph (f)(5) below, in the event the monthly conduit payment changes due to either changed escrow requirements or a change in an adjustable interest rate, Debtor's plan payment to the Trustee shall change by the same amount, plus the Trustee's fee.

(6) 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 Debtor's employer. 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.

(7) If Debtor modifies a previously confirmed Chapter 13 Plan that originally provided for Debtor to pay the on-going post-petition payments directly to a holder of the claim to bring all or some part of the on-going payments into the Chapter 13 Plan for payments, then any post-confirmation amendment to the Plan must spell out with specificity all of the following:

(i) the name, address, and redacted account number of the creditor to whom the payments are to be paid;

(ii) the month for which the Trustee is to commence making the on-going post-petition payments;

(iii) the amount and treatment of the post-petition delinquency, including the gap between the date when Debtor proposed for modifying the Plan and the month for which the Trustee is to commence making the mortgage payment, if any.

(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 ~~an 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) 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.

(g) Real Property Creditor's Duties:

(1) The Real Property Creditor shall file a Proof of Claim, to which it shall attach the Official Form 410A and ~~Exhibit D~~ ~~(Addendum to Chapter 13 Proof of Claim for Residential Home Mortgage Debt Paid Through the Chapter 13 Trustee)~~.

(2) At least 45 days prior to the 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 ~~a~~~~Exhibit E~~ ~~(Notice of Transfer of Servicing and Claim)~~ or ~~Exhibit F~~ ~~(Notice of Transfer of Claim (Other than for Security))~~.

(3) 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.

(4) The holder of the mortgage claim shall not file a separate proof of claim for the amount of the 2 full regular monthly post-petition payments provided for in paragraph (f)(2) or include such post-petition payments in the pre-petition arrearage claim.

(5) Confirmation of the plan shall impose an affirmative duty and legal obligation on the Real Property Creditor to do all of the following:

(i) 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 the case, unless otherwise ordered by the Court.

(ii) 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 (f)(2) above. This obligation will have no force and effect if the case is dismissed or converted.

(iii) 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 in suspense, forbearance, or similar account, they will be deemed to have been applied to the note pursuant to this subsection.

(6) If the modification of a previously confirmed plan provides for mortgage payments to be made by the Trustee rather than the Debtor, and if the Real Property Creditor has not previously filed a proof of claim, the Real Property Creditor must file a proof of claim stating the amounts of the on-going payments as well as any post-petition delinquency that has occurred, including the gap between the date when Debtor modified the Plan and the month for which the Trustee is to commence making the mortgage payment, if any. Subparagraph (g)(1) of this Rule applies to the filing of the proof of claim.

(h) No Variance Without Court Order. The procedures set out in this rule may be varied in a particular case only by Court order.

* * *

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

Related forms:

[Mortgage Creditor Checklist](#)

[Authorization to Release Information to the Trustee Regarding Secured Claims Being Paid by the Trustee](#)

[Addendum to Chapter 13 Proof of Claim for Residential Home Mortgage Debt Paid Through Chapter 13 Trustee](#)

[Notice of Transfer of Servicing and Claim](#)

[Notice of Transfer of Claim \(Other than for Security\)](#)