

**UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA**

**Request for Comment of Proposed Amendments to Local
Bankruptcy Rules to Implement Changes in Connection
with Federal Rule Amendments and the Manner in Which
Time is Computed and other Matters**

On March 26, 2009, the Supreme Court approved changes to Bankruptcy Rule 9006(a), as well as changes to similar appellate, civil, and criminal rules, which address the method in which time is calculated in the federal courts. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-016). The law likewise adjusts the time periods in 28 statutes, including nine sections of the Bankruptcy Code. Both the statutory and rule changes will take effect on December 1, 2009.

Summary of Changes: Under the current federal rules, intermediate weekends and holidays are excluded when calculating time periods fewer than eight days. The amended rules count intermediate weekends and holidays for all time periods. Periods stated in days exclude the day of the event that triggers the period, and periods stated in hours begin counting immediately on the day of the event that triggers the period. Deadline of less than 30 days were changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules:

- 5 day deadlines become 7 days;
- 10 and 15 day deadlines become 14 days;
- 20 day deadlines become 21 days; and
- 25 day deadlines become 28 days.

In order to be consistent with the manner in which time is computed under the federal rule changes, proposed amendments to the local bankruptcy rules for the Southern District of Alabama have been drafted and are attached.

In addition, LBR 9007-1 has been amended to add the Motion for Discharge for Chp 12 & 13 and Debtor's Certifications Regarding Domestic Support Obligations.

Before entering an administrative order implementing the proposed local rule amendments, the Bankruptcy Judges for the Southern District of Alabama welcome any comments, favorable or adverse, for careful consideration. Such comments may either be signed or submitted anonymously, and submitted to one of the following addresses:

Email

Leonard_maldonado@alsb.uscourts.gov

U.S. Mail

U.S. Bankruptcy Court
Attn: Clerk of Court
201 St. Louis Street
Mobile, AL 36602

All comments should be submitted no later than October 30, 2009

Local Bankruptcy Rule 1007(b)-1
LISTS, SCHEDULES AND STATEMENTS

(a) All lists and schedules pertaining to real estate filed by the debtor in any bankruptcy case must contain the address of the real property (street, road or 911 number) and also shall contain sufficient information to particularly identify each individual parcel of real property.

(b) Parties shall submit master address lists in the format and manner prescribed by the Clerk of Court.

(c) The Debtor shall sign, with an original ink signature, his or her Petition and all Schedules, Statements of Financial Affairs, Forms BA-1 and BA-2, and all amendments to such documents. Debtor's counsel shall maintain such documents, with actual ink signatures, for not less than six (6) years from the date of the closing of the bankruptcy case. Such documents shall be made available for inspection and

copying by the Bankruptcy Administrator, Department of Justice and interested parties upon payment of a reasonable retrieval fee.

(d) In cases filed under Chapters 7 and 11 of the Bankruptcy code, Debtors or their attorney shall list on the matrix of creditors the tax assessor or revenue commissioner of the county or counties in which estate property is located.

(e) Copies of payment advices and other evidence of payment received within sixty (60) days before the date of the filing of the petition by the debtor from any employer of the debtor shall be provided to the Chapter 7 trustee or the Bankruptcy Administrator in an individual or joint Chapter 11 case, at least seven (7) days prior to the meeting of creditors. In Chapter 13 cases, the debtors shall file payment advices and other evidence of payment received from employers via the mailbox or e-mail account designated by the Chapter 13 Trustee at least seven (7) days prior to the meeting of creditors. Said documents shall not be filed with the court unless otherwise ordered. The debtor shall file a certification or notice with the court evidencing compliance with this rule. Creditors may request copies of payment advices or other evidence of payment from the debtor and that request shall be considered timely if received at least ~~fifteen~~ (15) **fourteen (14)** days before the first date set for the meeting of creditors.

Local Bankruptcy Rule 1009-1
AMENDMENT TO PETITIONS, LISTS, AND SCHEDULES

(a) If a debtor or the debtor's attorney amends any schedule to include an additional creditor, the debtor or the debtor's attorney shall send a summary of amendment which, in a chapter 11 or chapter 13 case, includes the notice described in paragraph (b) to any affected party and to the trustee. The summary of amendment must contain a clear statement of what creditor(s) is added, including the name and address of the creditor, the amount owed and the type of claim added.

(b) The notice to be included is:

NOTICE OF AMENDMENT TO SCHEDULES

The debtor has amended his or her bankruptcy schedules to include additional creditors. This amendment may decrease the amount paid to you under any plan. If you have any objections to the amendment, you must file them in writing, stating the specific ground(s) upon

which your objection is based with the Clerk of Court, 201 S t. Louis Street, Mobile, AL 3 6602, and serve a copy on the debtor and the debtor's attorney. You must file an objection within ~~10~~ 14 days of the date you receive your copy of the amendment.

(c) When a petition, list, schedule, or statement is amended as provided by Fed. R. Bankr. P. 1009, it shall be accompanied by a Cumulative Statement of Amendment which describes each specific amendment which is being made and which has previously been made.

(d) In each instance in which the schedules, statement of affairs, statement of executory contracts or lists are amended, each schedule affected by the amendment shall be re-filed in its entirety, unless otherwise authorized by the court. Such amendments shall consist of all pages of each schedule, statement, or list being amended, and shall not be submitted on a line-by-line basis.

Local Bankruptcy Rule 5005-1
FILING PAPERS - REQUIREMENTS

All pleadings, motions, briefs, and discovery requests and responses shall be filed electronically. If a pleading, motion, brief, or discovery request or response does not comply with this rule and is tendered to the clerk for filing, the clerk shall accept and docket the same and shall inform the person filing of the requirement of this rule. Such tender shall be deemed the "filing" defined by Fed. R. Civ. P. 3 and 5(e), as incorporated by Fed. R. Bankr. P. 7003 and 7005. The party so informed will be allowed ~~10~~ 14 days to substitute conforming papers. If the party does not file the conforming paper as ordered, the court will strike the pleading, motion or brief from the record.

Local Bankruptcy Rule 9007-1
NEGATIVE NOTICE PROCEDURE

(a) The following motions, objections, and other matters may be considered by the court without an actual hearing under the negative notice procedure described in this rule if no party in interest files a written objection stating a specific ground or grounds on which the

objection is based:

(1) Motions to approve agreements relating to relief from the automatic stay, prohibiting or conditioning the use, sale, or lease of property, providing adequate protection, use of cash collateral, and obtaining credit pursuant to Fed. R. Bankr. P. 4001(d).

(2) Motions to avoid liens on exempt property pursuant to Fed. R. Bankr. P. 4003(d).

(3) Motions to use, sell, or lease property not in the ordinary course of business pursuant to Fed. R. Bankr. P. 6004(a) but not motions to sell property free and clear of liens or other interests pursuant to Fed. R. Bankr. P. 6004(c).

(4) Notices of abandonment pursuant to Fed. R. Bankr. P. 6007(a) and motions to compel abandonment pursuant to Fed. R. Bankr. P. 6007(b).

(5) Motions to approve compromises or settlements pursuant to Fed. R. Bankr. P. 9019(a).

(6) Objections to claims pursuant to Fed. R. Bankr. P. 3007 other than objections joined with a demand for relief of the kind specified in Fed. R. Bankr. P. 7001.

(7) Applications for compensation or reimbursement pursuant to Fed. R. Bankr. P. 2016, when permissible.

(8) Motions to extend the time for filing claims pursuant to Fed. R. Bankr. P. 3002(c) or Fed. R. Bankr. P. 3003(c).

(9) Motions to extend the time for the filing of dischargeability complaints under Fed. R. Bankr. P. 4007.

(10) Motions to increase the exclusivity periods for filing a chapter 11 plan pursuant to section 1121(d) of the Bankruptcy Code.

(11) Motions for extension of the time for the assumption or rejection of executory contracts or leases pursuant to section 365(d)(1) of the Bankruptcy Code.

(12) Approval of trustees' final accountings and compensation when permissible under the Rules of Bankruptcy Procedure.

(13) Objections to exemptions pursuant to Fed. R. Bankr. P. 4003(b).

(14) Motions to increase or decrease payments to be made under a plan in a chapter 13 case.

(15) Motions to reopen cases pursuant to section 350.

(16) Motions to change the venue of a case from one division in this district to another.

(17) Motions to assume or reject executory contracts pursuant to section 365.

(18) Motions to redeem personal property pursuant to section 722.

(19) Motions to abandon property pursuant to section 554.

(20) Motion for Discharge for Chp 12 & 13 and Debtor's Certifications Regarding Domestic Support Obligations

(b) Motions, objections, and other matters filed pursuant to this negative notice procedure shall:

(1) Be filed in the Court Electronic Case Filing System and shall be served, in the manner and on the parties as required by the provisions of the Federal Rules of Bankruptcy Procedure, Local Rule, or any order of court applicable to motions, objections, or matters of the type made and shall be filed with the proof of such service.

(2) Contain a negative notice legend prominently displayed on the face of the first page of the paper. The negative notice legend shall be in a form substantially as follows:

NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING

Pursuant to Local Rule, the Court will consider this motion, objection, or other matter without further notice or hearing unless a party in interest files a written objection within [number] days from the date of service of this paper. If you object to the relief requested in this paper, you must file your written objection stating the specific ground or grounds on which your objection is based with the Clerk of the Court at 201 St. Louis Street, Mobile, AL 36602, and serve a copy on the movant's attorney, [name and address, and any other appropriate persons].

If you file and serve a written objection stating the specific ground or grounds on which your objection is based within the time permitted, the Court will schedule a hearing and you will be notified. If you do not file a proper written objection within the time permitted, the Court will consider that you do not oppose the granting of the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

(3) Be filed with a proposed form of order granting the relief sought, a copy of which shall also be served with the motion, objection or other matter. In addition to any other requirements, the proposed form of order shall recite that:

(A) The motion, objection, or other matter, together with the proposed form of order, was served upon all interested parties with the negative notice legend informing the parties of their opportunity to object within ~~20~~ 21 (or other) days of the date of service;

(B) No party filed a written objection stating a specific ground or grounds on which the objection is based within the time permitted; and

(C) The court therefore considers the matter to be unopposed.

(4) The number of days in which parties may object that is placed in the negative notice legend shall be ~~20~~ 21 days except:

(A) In the case of motions to approve agreements relating to relief from the automatic stay, prohibiting or conditioning the use, sale, or lease of property, providing adequate protection, use of cash collateral, and obtaining credit pursuant to Fed. R. Bankr. P. 4001(d), the time shall be ~~15~~ 14 days;

(B) In the case of objections to proofs of claim pursuant to Fed. R. Bankr. P. 3007, the time shall be 30 days;

(C) In the case of disclosure statements filed pursuant to Fed. R. Bankr. P. 3016(c), the time shall be ~~25~~ 28 days.

(c) In the event a party in interest files a written objection stating the specific ground or grounds on which the objection is based within the time permitted in the negative notice legend, the court will schedule a hearing on the motion, objection, or other matter upon notice to the movant's attorney, the objecting party or parties, and others as may be appropriate.

(d) In the event no party in interest files a written objection stating the specific ground or grounds on which the objection is based within the time permitted in the negative notice legend as computed under Fed- R. Bankr. P. 9006(a) and (f), the court will consider the matter in chambers without further notice or hearing upon the proposed form of order granting the relief submitted by the movant after the expiration of the applicable time period for response or objection.

(e) Nothing in this rule is intended to preclude the court from conducting a hearing on the motion, objection, or other matter even if no objection is filed within the time permitted in the negative notice legend.