



UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA

Local Rules

EFFECTIVE DATE: January 1, 2020

TABLE OF CONTENTS

<u>Rule Number</u>	<u>Title</u>	<u>Page</u>
1007-1	Lists, schedules, pay advices, and tax returns	1
1007-2	Creditor matrix not filed with petition	1
1009-1	Amendments to petitions, lists, schedules, and statements	2
1019-1	Conversion from chapter 13 to chapter 7	2
2016-1	Compensation of professionals from retainers.....	2
2016-2	Separate pre- and postpetition legal services contracts in chapter 7 cases	2
3010-1	Chapter 13 dividends	3
3015-1	Required local form for chapter 13 plans.....	3
3015-2	Chapter 13 confirmation procedures.....	3
3022-1	Closing individual chapter 11 cases.....	5
4001-1	Motions for relief from the automatic stay	5
4001-2	Conditional denials of relief from stay in chapter 13 cases.....	6
4003-1	Motions to avoid judicial liens.....	7
4004-1	Motions for discharge in chapter 12 and 13 cases	7
5003	Redaction of transcripts	7
5005	Facsimile and email filings	8
7004-1	Summons	8
9007-1	Negative notice procedure	8
9009-1	Local bankruptcy forms	10
9011-1	Maintenance of original documents.....	10

9029-1 Attorneys – admission to practice and pro hac admission 10

9029-2 Discipline and disbarment of attorneys..... 10

9029-3 Local rules – general.....11

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

Local Bankruptcy Rule 1007-1

LISTS, SCHEDULES, PAY ADVICES, AND TAX RETURNS

(a) The master mailing list (a/k/a official creditor list or creditor matrix) required by Bankruptcy Rule 1007(a) shall be submitted in the format and manner prescribed by the clerk of court. When an addition or change is made to the master mailing list, the entire master mailing list must not be refiled; only a supplemental master mailing list containing the newly-added or changed creditors shall be filed and electronically submitted in the required format. Each submission of a master mailing list (both initial and supplemental) shall be accompanied by a verification using a local form available on the court website.

(b) 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.

(c) In a case filed under chapter 7 or 11, the debtor shall include on the master mailing list the tax assessor or revenue commissioner of the county or counties in which estate property is located.

(d) Copies of payment advices and other evidence of payment received within 60 days before the date of the filing of the petition by the debtor from any employer of the debtor shall be filed with the court via the appropriate restricted entry in CM/ECF unless otherwise ordered. The advices shall be filed at least 7 days prior to the meeting of creditors in appropriate chapter 7, 11, 12 and 13 cases. The debtor shall also file any tax returns (or transcripts, if applicable) required under applicable law for the most recent tax year ending immediately before the commencement of the case for which a tax return was filed with the court via the appropriate restricted entry in CM/ECF unless otherwise ordered. Creditors may request copies of payment advices or other evidence of payment from the debtor and may request copies of tax returns from the debtor; any request shall be considered timely if received at least 14 days before the first date set for the meeting of creditors.

Local Bankruptcy Rule 1007-2

CREDITOR MATRIX NOT FILED WITH PETITION

If the debtor in a voluntary case does not file the list required by Bankruptcy Rule 1007(a)(1) with the petition, the debtor must serve the notice of bankruptcy case on all creditors and file a certificate of service stating how service was accomplished.

Local Bankruptcy Rule 1009-1

AMENDMENTS TO PETITIONS, LISTS, SCHEDULES, AND STATEMENTS

(a) If the debtor amends any schedule to add creditors after the clerk of court has issued the notice of bankruptcy case, the debtor must serve the notice of bankruptcy case and the amended schedule on each newly-scheduled creditor and file a certificate of service reflecting that service. Pursuant to Bankruptcy Rule 1009(a), no motion to amend is required. The addition of a creditor constitutes a representation by the debtor and debtor's counsel that the creditor's claim arose prepetition.

(b) An amended petition, list, schedule, or statement shall be accompanied by a cumulative statement of amendment which describes each specific amendment which is being made and those which have been previously made. Each amended document shall be refiled in its entirety unless otherwise authorized by the court.

Local Bankruptcy Rule 1019-1

CONVERSION FROM CHAPTER 13 TO CHAPTER 7

If a chapter 13 case is converted to chapter 7, the chapter 13 trustee shall file a final report and account within 30 days after all outstanding checks issued by the chapter 13 trustee in that case have cleared.

Local Bankruptcy Rule 2016-1

COMPENSATION OF PROFESSIONALS FROM RETAINERS

If a professional whose compensation is subject to approval under Bankruptcy Code § 330 has accepted a retainer from any source for future services in a bankruptcy case in this court, the professional must obtain court approval before making any draw against the retainer funds.

Local Bankruptcy Rule 2016-2

SEPARATE PRE- AND POSTPETITION LEGAL SERVICES CONTRACTS IN CHAPTER 7 CASES

The debtor and the debtor's counsel may agree to separate prepetition and postpetition contracts for legal services in a chapter 7 bankruptcy case. The contracts shall be in writing and comply with Alabama Rules of Professional Conduct 1.1 and 1.2, Bankruptcy Code §§ 526-28, and any other applicable standards. The prepetition agreement must allow the debtor at least 10 days postpetition to decide whether to enter into a postpetition legal services contract and must provide that the debtor's counsel will remain as counsel of record until allowed to withdraw. The

postpetition contract must cover all remaining aspects of the case except for adversary proceedings. All compensation paid or agreed to be paid must be disclosed pursuant to Bankruptcy Code § 329(a) and Bankruptcy Rule 2016(b). Pursuant to Bankruptcy Rule 1006(b)(3), no attorney's fees shall be paid or accepted postpetition until the filing fee has been paid in full.

If the debtor's counsel has not agreed to postpetition representation and the debtor fails to enter into an agreement for postpetition legal services, the court may allow the attorney to withdraw from the representation of the debtor upon the attorney's motion with service on the debtor, trustee, and bankruptcy administrator. Motions to withdraw may be considered on an expedited basis without being set for hearing.

Local Bankruptcy Rule 3010-1

CHAPTER 13 DIVIDENDS

If unsecured claims have been paid pursuant to the terms of a confirmed plan, the chapter 13 trustee may increase the monthly disbursements on secured claims.

Local Bankruptcy Rule 3015-1

REQUIRED LOCAL FORM FOR CHAPTER 13 PLANS

Pursuant to Bankruptcy Rule 3015.1, this district has adopted a local form for chapter 13 plans which is available on the court's website. Use of the applicable local plan form is required in chapter 13 cases.

Local Bankruptcy Rule 3015-2

CHAPTER 13 CONFIRMATION PROCEDURES

(a) § 341 meeting and confirmation hearing. The debtor is required to appear for examination at the § 341 meeting of creditors. Confirmation hearings will be scheduled and held after the expiration of the non-governmental claims bar date. The debtor and the debtor's counsel are not required to appear at the scheduled confirmation hearing if there are no unresolved objections to confirmation.

(b) Service of original plan. If the debtor files a plan at the same time of the filing of the petition and creditor matrix, the clerk of court will serve the plan with the notice of a commencement of a chapter 13 case on the creditor matrix. The debtor is responsible for any additional service required by Bankruptcy Rules 3012(b) and 7004. Otherwise, pursuant to Bankruptcy Rule 3015(d) the debtor shall serve the plan on all creditors when it is filed with the court.

(c) Preconfirmation modification of a plan. The modification of treatment for a secured, priority, or nondischargeable debt that is already addressed in the original plan can be handled with an agreed withdrawal of objection to confirmation and/or joint motion for valuation which is not required to be served on other creditors. The modified treatment must be reflected in the final plan summary as set out below.

However, other preconfirmation plan modifications must be made by an amended plan form, which must be served by the debtor on all creditors as listed on the most recent creditor matrix. The debtor is also responsible for any additional service required by Bankruptcy Rules 3012(b) and 7004. The preconfirmation plan modifications which require an amended plan form include but are not limited to:

- (1) Adding or deleting a secured, priority, or nondischargeable debt;
- (2) Modifying the treatment of a secured, priority, or nondischargeable debt other than by consent; or
- (3) Modifying the plan payment or term of the plan.

The debtor is not required to sign the amended plan if signed by the debtor's counsel.

(d) Final plan summary. Within 14 days of the chapter 13 trustee's recommendation of confirmation, the debtor shall file a final plan summary, using the form provided on the court's website, which shall include all changes made to the debtor's plan since it was originally filed. Failure to timely file the final plan summary may result in dismissal of the case or reduction of attorney's fees. The final plan summary will be a private filing event in CM/ECF.

(e) Confirmation order. After the final plan summary has been filed, the chapter 13 trustee shall prepare and submit to the court a proposed order confirming the terms of the debtor's plan. Upon its entry, the clerk of court shall serve the confirmation order on all creditors. The confirmation order will include a summary of the plan terms and the percentage distribution to be paid on unsecured claims. The confirmation order will also include a negative notice provision that a creditor with an allowed unsecured claim may file an objection to the treatment of unsecured claims within 21 days of the entry of the order. The court will schedule a hearing on any timely-filed objection to the confirmation order. The chapter 13 trustee shall begin disbursements pursuant to the plan upon entry of the confirmation order.

(f) Postconfirmation modifications to plans. A motion to modify a confirmed plan must be specific as to the proposed modification. The debtor is not required to sign the motion to modify, and no amended plan is required. The motion must be served upon the trustee (unless filed by the trustee), the debtor, and any creditors whose treatment is proposed to be modified (using the notice address on the creditor's most recent proof of claim). A proposed modification which would change the percentage distribution on unsecured claims must be served on all creditors as listed on the most recent creditor matrix. However, a debtor's motion to modify seeking to change the term of the plan or temporarily suspend plan payments is not required to

be served on creditors other than the chapter 13 trustee if it does not otherwise seek to modify the treatment of claims.

If the motion is granted, the chapter 13 trustee shall prepare and submit to the court a proposed order approving modification of the terms of the debtor's plan, which the clerk of court shall serve on all creditors upon its entry. The order approving the modification shall include a summary of the plan terms as modified and the percentage distribution to be paid on unsecured claims. An exception to the above is that the court may issue a separate order regarding any temporary plan payment suspension.

Local Bankruptcy Rule 3022-1

CLOSING INDIVIDUAL CHAPTER 11 CASES

(a) After confirmation of a chapter 11 case filed by an individual, the clerk of court shall administratively close the case upon the recommendation of the bankruptcy administrator.

(b) Upon application by the debtor with certification that all plan payments have been made, the debtor may move to reopen the case and request entry of an order of discharge. Because the closing is required by local rule at least in part for the court's administrative convenience, no filing fee will be required.

Local Bankruptcy Rule 4001-1

MOTIONS FOR RELIEF FROM THE AUTOMATIC STAY

(a) Upon the filing of a motion for relief from the automatic stay imposed by Bankruptcy Code § 362 or from the co-debtor stay imposed by Bankruptcy Code § 1301, the preliminary hearing shall be consolidated with the final hearing unless directed otherwise by the court. The movant shall serve the motion upon the following parties with an appropriate certificate of service: the debtor, the debtor's counsel, any co-debtor, the chapter 11 debtor-in-possession, the trustee, any committee appointed in the case, the bankruptcy administrator (if a chapter 11, 12, or 9 proceeding), and such other parties as the court may direct.

(b) All motions for relief from the automatic stay or the co-debtor stay shall state with particularity the grounds for the motion. The moving party shall attach to the motion or to an affidavit submitted in support of the motion copies of any documents in support of its claim that it has an interest in the debtor's property. Mortgages on real property shall show the recording information. If the movant does not intend to present testimony at the hearing, the motion must be supported by an affidavit. All affidavits or other pleadings shall be filed and served on all adverse parties at least 7 days prior to the hearing.

(c) In a case filed by an individual (not a business organization), an attorney filing a motion for relief from stay and/or co-debtor stay seeking foreclosure or repossession of a mortgage, security interest, or leasehold interest shall also file a fact summary in the form

provided on the court's website. The fact summary shall be filed at least 7 days prior to the first hearing date on the motion. The fact summary shall be filed as a separate CM/ECF event, not as an attachment to the motion.

(d) Any order granted under this rule shall not operate to waive any right the debtor may have with respect to property under non-bankruptcy law, including the right to notice of sale, notice of disposition of property, or rights of redemption.

Local Bankruptcy Rule 4001-2

CONDITIONAL DENIALS OF RELIEF FROM STAY IN CHAPTER 13 CASES

Unless otherwise ordered by the court, an agreed order in a chapter 13 case conditionally denying a motion for relief from stay (or conditionally extending or imposing the automatic stay) with a future relief provision is subject to the requirements set out below. The conditional denial order may deviate from these requirements only if the terms are requested by both parties in open court and approved by the court.

- (a) The future relief provision must expire no later than 2 years after entry of the conditional denial order.
- (b) Termination of the stay cannot be based upon the number of default notices.
- (c) The order shall provide that the creditor must mail any notice of default to the debtor and file it with the court within 1 business day of mailing. The order shall further provide that, if the stay terminates pursuant to the terms of the conditional denial order, the creditor must file a "notice of termination of stay" with the court and mail a copy to the debtor, and that the stay termination is not effective unless and until the notices described in this paragraph are filed with the court. The notice filings required by this paragraph are for information only and will not be set for hearing.
- (d) The conditional denial order must not contain an open-ended provision for future attorney's fees or costs in addition to the fees and costs specifically authorized in the order.
- (e) The creditor must file an amended or supplemental proof of claim in order for any postpetition arrearage or attorney's fees authorized by the conditional denial order to be paid by the chapter 13 trustee. Any such proof of claim must be filed within 60 days of the conditional denial order's entry.
- (f) If the denial is conditioned upon current payments being made directly to the creditor, the order must state the date of the month when payments are due. The cure period after notice of default must be at least 20 days from the date of mailing.

- (g) If the denial is conditioned upon plan payments being made to the chapter 13 trustee, the order must not provide that the debtor is in default prior to the end of the month in which the plan payment is due. The cure period after notice of default must be at least 15 days from the date of mailing. The trustee's records shall control as to the date payment was received.

Local Bankruptcy Rule 4003-1

MOTIONS TO AVOID JUDICIAL LIENS

A motion to avoid a judicial lien under Bankruptcy Code § 522(f) shall:

- (a) Clearly identify the party that holds the lien sought to be avoided in both the title and the body of the motion;
- (b) Describe when and where the lien is recorded in the official records, i.e., book and page or instrument numbers; and
- (c) Have attached a copy of the lien sought to be avoided.

Local Bankruptcy Rule 4004-1

MOTIONS FOR DISCHARGE IN CHAPTER 12 AND 13 CASES

In all chapter 12 or 13 cases, upon notice of completion of the plan by the trustee, the debtor shall file a motion for discharge under Bankruptcy Code §§ 1228 and 1328 and debtor's certifications regarding discharge eligibility, domestic support obligations, and Bankruptcy Code § 522(q). The motion/certifications shall be filed using Local Bankruptcy Form 283 or national form B2830 and may be filed via negative notice pursuant to Local Bankruptcy Rule 9007-1. If the motion/certifications are not filed within 21 days after the notice of completion is filed by the trustee, the court may close the case without issuing a discharge. If the case is closed without a discharge, the debtor must file a motion to reopen the case and pay any applicable filing fee in order to seek a discharge.

Local Bankruptcy Rule 5003

REDACTION OF TRANSCRIPTS

In compliance with the policy of the Judicial Conference of the United States on electronic availability of transcripts of court proceedings, during the first 90 days after filing a transcript will be available via the PACER system for remote access only to parties in the case or adversary proceeding who have paid the transcriber for the transcript. During that time, other parties who wish to view a transcript may do so at the clerk's office but may not print, copy, or

save the transcript either in part or in full. After the 90 days, the transcript will be available for remote access via the PACER system. It is the parties' responsibility to monitor the docket for the filing of transcripts.

Local Bankruptcy Rule 5005

FACSIMILE AND EMAIL FILINGS

Papers transmitted to the court via facsimile or email are not acceptable for filing and will not be docketed.

Local Bankruptcy Rule 7004-1

SUMMONS

The clerk of court's office will generate a summons in an adversary proceeding and provide it to plaintiff's counsel (or plaintiff, if pro se). Plaintiff's counsel or plaintiff will then serve the summons as required by Bankruptcy Rule 7004 and file proof of service. An adversary proceeding complaint not filed through the ECF system must be accompanied by a completed adversary proceeding cover sheet.

Local Bankruptcy Rule 9007-1

NEGATIVE NOTICE PROCEDURE

(a) The court by separate administrative order published on the court website may specify certain motions, objections, and other matters which may be considered by the court without a 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.

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

(1) Be filed in CM/ECF 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 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) The number of days in which parties may object that is placed in the negative notice legend shall be 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 Bankruptcy Rule 4001(d), the time shall be 14 days;

(B) In the case of objections to proofs of claim pursuant to Bankruptcy Rule 3007, the time shall be 30 days.

(c) If 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) If 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, the court may consider the matter without further notice or hearing. Nothing in this rule shall preclude the court from denying or 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.

(e) In addition to any other requirements, any proposed form of order shall recite that:

(A) The motion, objection, or other matter was served upon all interested parties with the negative notice legend informing the parties of their opportunity to object within _____ 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.

(f) Pursuant to Fed. R. Civ. P. Rule 55(d), made applicable by Bankruptcy Rules 7055 and 9014, no motion seeking relief against the United States may be filed under the negative notice procedures.

Local Bankruptcy Rule 9009-1

LOCAL BANKRUPTCY FORMS

The court may from time to time promulgate forms that shall be known as Local Bankruptcy Forms. As consistent with applicable law, the court may make use of these forms by parties and applicants mandatory.

Local Bankruptcy Rule 9011-1

MAINTENANCE OF ORIGINAL DOCUMENTS

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. The debtor's counsel shall maintain the original documents, with actual ink signatures, for at least 6 years after the closing of the bankruptcy case. The originals of other electronically-filed affidavits, verified documents, or declarations made under penalty of perjury shall be maintained for at least a year after the case is closed or, in an adversary proceeding, for at least a year after the matter is concluded and all appeal times have expired. 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.

Local Bankruptcy Rule 9029-1

ATTORNEYS - ADMISSION TO PRACTICE AND PRO HAC ADMISSION

Admission to practice before the bar of the U.S. District Court of the Southern District of Alabama shall constitute admission to practice before this court. Members of the bar of this court shall comply with all of the requirements of Southern District of Alabama Local Rule 83.3, and that rule is incorporated by reference.

Local Bankruptcy Rule 9029-2

DISCIPLINE AND DISBARMENT OF ATTORNEYS

Southern District of Alabama Local Rule 83.4 is incorporated by reference.

Local Bankruptcy Rule 9029-3

LOCAL RULES - GENERAL

(a) These rules govern practice and procedure in all cases and proceedings in the U.S. Bankruptcy Court for the Southern District of Alabama in accordance with Bankruptcy Code § 105(a) and Bankruptcy Rule 9029.

(b) These rules apply generally to all bankruptcy cases and proceedings. Upon application of a party in interest and for good cause shown, the court may excuse a party in interest from compliance with a requirement of these rules provided compliance with such requirement is not both separately mandated by the Federal Rules of Bankruptcy Procedure and outside the discretion of the court to excuse under the Federal Rules of Bankruptcy Procedure.

(c) These rules shall be interpreted in all circumstances to maintain their consistency with all acts of Congress and the Federal Rules of Bankruptcy Procedure and to avoid prohibition or limitation of the use of the Official Forms. In all cases not provided for by these Local Bankruptcy Rules or the Federal Rules of Bankruptcy Procedure, the court may regulate its practice in any manner not inconsistent with these rules or the Federal Rules of Bankruptcy Procedure.

(d) These rules supersede and rescind all local rules entered prior to the effective date of these rules.

Date: November 25, 2019


HENRY A. CALLAWAY
CHIEF U.S. BANKRUPTCY JUDGE


JERRY C. OLDSHUE, JR.
U.S. BANKRUPTCY JUDGE