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UNITED STATE BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA

In re )  
 )  
ORDER ADOPTING REVISION ) General Order 20-05  
TO LOCAL BANKRUPTCY )  
RULES )  
 )  
 )  
 )

28 U.S.C. § 2071(e) provides that if a prescribing court determines that there is an immediate need for a rule, such court may proceed under 28 U.S.C. § 2071 without public notice and opportunity for comment, but such court shall promptly thereafter afford such notice and opportunity for comment.

The judges of this Bankruptcy Court have considered the projected substantial increase in consumer Chapter 7 bankruptcy cases under the current and anticipated future economic conditions, including the COVID-19 pandemic, and the closure of the Federal Courthouses in the Eastern District of California to the public. After review of these issues and needs of the court, the parties and lawyers appearing in this court, review of these issues and the Rules that are the subject of this order with Local Bankruptcy Rules Committee members, and providing for post-adoption input from the public; the judges of this Court have determined there is the need for the immediate adoption of a new Rule 2016-3 to, and an amended Rule 5005-1 of, the Local Rules of Practice of the United States Bankruptcy Court, Eastern District of California ("Local Bankruptcy Rules").

Therefore,

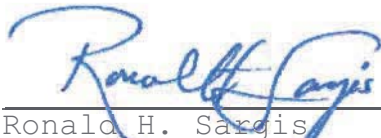
**IT IS ORDERED** that the Local Bankruptcy Rules are amended to

1 add Rule 2016-3 and amend Rule 5005-1 as reflected on the  
2 attached redline-version.

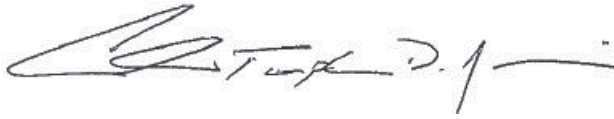
3 **IT IS FURTHER ORDERED** that the addition and amendment to the  
4 Local Bankruptcy Rules as provided herein are effective  
5 immediately upon entry of this order.

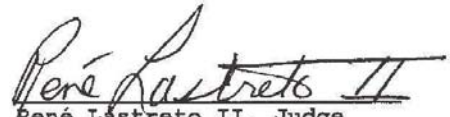
6 **IT IS FURTHER ORDERED** that there shall be allowed a public-  
7 comment period for such addition and amendment to the Local  
8 Bankruptcy Rules for a period of 90-days from and after the entry  
9 of this order with all comments submitted to the Clerk of this  
10 Bankruptcy Court.

11 Dated: November 19, 2020

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14 Ronald H. Sargis  
15 Chief Bankruptcy Judge

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17 \_\_\_\_\_  
18 Fredrick E. Clement  
19 Bankruptcy Judge

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21 \_\_\_\_\_  
22 Christopher D. Jaime  
23 Bankruptcy Judge

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25 \_\_\_\_\_  
26 René Lastrero II, Judge  
27 United States Bankruptcy Court

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\_\_\_\_\_

Honorable Jennifer E. Niemann  
United States Bankruptcy Judge

## Proposed Local Bankruptcy Rule 2016-3

### Bifurcation of Individual Debtor Counsel Fees in Chapter 7 Cases

The payment in full of attorneys' fees to Chapter 7 individual debtor counsel who provide the basic services specified in Local Bankruptcy Rule 2017-1 may create a financial burden for some debtors. To provide debtors seeking such relief access to the broadest range of potential counsel, the court adopts this local rule for pre-petition and post-petition bifurcation of payment of the Chapter 7 individual debtor attorneys' fees as provided herein.

To provide a transparent procedure for an attorney and an individual debtor agreeing to a bifurcated Chapter 7 fee agreement as permitted by *Gordon v. Hines (In re Hines)*, 147 F.3d 1185 (9th Cir. 1998), the following are required for any such agreement:

- A. The agreement shall expressly state the attorneys' fees which are to be paid for pre-petition and post-petition services;
- B. Any obligation for costs advanced relating to the filing of the bankruptcy case shall not be included in the post-petition obligation; and
- C. The Disclosure of Compensation of Attorney for Debtor (Form 2030) shall state whether there is a bifurcation of attorneys' fees and specifically identify the dollar amounts attributed to pre-petition and post-petition services.
- D. The Chapter 7 Trustee shall review the Disclosure of Compensation of Attorney for Debtor and confirm with counsel and the debtor: (1) that the attorneys' fees for the pre-petition services were paid pre-petition; and (2) if not, counsel shall confirm that he or she will not attempt to obtain payment for the unpaid attorney's fees for pre-petition services.
- E. It shall be deemed presumptively reasonable to charge one-third of the total attorneys' fees pre-petition for pre-petition services.
  - 1) This presumption is rebuttable by any party in interest who may move to address the terms of the bifurcated fee agreement and the allocation of fees for the pre-petition and

post-petition services.<sup>1</sup>

- 2) No more than fourteen days after the petition date, counsel for an individual debtor may request a post-petition order allowing for a greater percentage of the attorneys' fees for basic services provided under Local Bankruptcy Rule to be allocated to post-petition services.
- F. The bifurcation of the payment of attorney's fees, and a default in post-petition payment thereof, does not relieve the attorney of professional duties and obligations to the client, including without limitation, continuing to represent the client unless withdrawal is authorized by the court and to provide basic services required by Local Bankruptcy Rule 2017-1(a). Additionally, the bifurcation of attorneys' fees does not alter the duties and certifications arising under Federal Rule of Bankruptcy Procedure 9011 and the obligations of the attorney admitted to practice in the United States District Court for the Eastern District of California.

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<sup>1</sup>This is without limitation of the court's authority under 11 U.S.C. § 329.

**Local Rule 5005-1**  
Electronic Records; Files of the Court

(d) Exceptions to and Waivers of Requirement to File Documents in Electronic Form.

1. Pro Se Exception. Except as provided in Subpart (c), all unrepresented persons, sometimes referenced as "pro se litigants" or as "persons appearing *in propria persona*," shall file and serve paper documents, **except that they may use the Court's Debtor Dropbox to lodge documents with the Clerk's Office in electronic format. Documents lodged with the Court via the Debtor Dropbox are not considered filed with the Court until they have been reviewed and docketed by the Clerk's Office staff. For example, if a debtor lodges documents in the Debtor Dropbox on a Saturday, and the Clerk's Office reviews and docketed these documents on the following Tuesday, the documents will be considered filed on that Tuesday.**