United States Bankruptcy Court
Eastern District of California

Redlined Version

Local Rules of Practice

Effective December 1, 2015

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

LOCAL RULES OF PRACTICE

Table of Contents

Rule #	Title	Page
1001-1	Scope of Rules; Short Title	1
1002-1	Intra-District Case Assignment	2
1007-1	Lists, Schedules, Statements, and Other Documents	2
1015-1	Related and Joint Cases	3
1016-1	Procedure Upon the Death or Incapacity of a Debtor During the Pendency of a Bankruptcy Case.	4
1017-1	Procedure for Conversion	5
2002-1	Notice Requirements	5
2014-1	Employment of Professional Persons; Disclosure of Connections	6
2015-1	Monthly Operating and Tax Reports	6
2015-2	Moneys of Chapter 11 Estates	7
2016-1	Attorneys' Fees in Chapter 13 Cases	8
2016-2	Compensation of Chapter 7 Trustees	9
2017-1	Attorneys - Appearances, Scope of Representation, and Withdrawal	10
3003-1	Filing Proofs of Claim in Chapter 11 Cases	12
3004-1	Filing Proofs of Claim by Chapter 13 Debtors or Trustee	12
3007-1	Objections to Proofs of Claim	13
3015-1	Chapter 13 Debt Adjustment Cases	15
4001-1	Relief from Stay; Use of Cash Collateral; Post-Petition Credit	23
5005-1	Electronic Record Is the Official Record; Filing of Documents	26
5005.5-1	Eligibility and Registration for Electronic Filing; Use of Passwords	28
5009-1	Closing Procedures in Chapter 13 Cases	28
5010-1	Motions to Reopen Cases	30
7003-1	Cover Sheet in Adversary Proceedings	30

Table of Contents (continued)

Rule #	Title	Page
7004-1	Process, Service of Summons, and Complaints	30
7005-1	Service by Electronic Means	31
7015-1	Motions to Amend Pleadings	32
7026-1	Discovery Limitations	32
7030-1	Deposition Transcripts	32
7038-1	Jury Trial of Right	33
7039-1	Trial by Jury or the Court	33
7055-1	Default and Default Judgment Procedures in Adversary Proceedings	33
7056-1	Motions for Summary Judgment or Partial Summary Judgment	33
7065-1	Temporary Restraining Orders	34
7067-1	Deposits of Registry Funds	35
7090-1	Disposition of Unclaimed Exhibits	36
8020-1	Procedures Following Remand by an Appellate Court	36
9001-1	Definitions	37
9004-1	General Requirements of Form	38
9014-1	Motion Calendar and Procedure	41
9014-2	Motions Involving Disclosure or Discovery Disputes	49
9017-1	Alternate Direct Testimony, Exhibits, and Qualification of Expert Witnesses	50
9019-1	Stipulations	51
9022-1	Notice of Entry of Judgment Pursuant to Fed. R. Bankr. P. 9022	51
9037-1	Electronic Availability and Redaction of Electronically Filed Transcripts	52

Appendix I 55
Appendix II 56
Appendix III 57
Appendix IV 59

LOCAL RULE 1001-1
Scope of Rules; Short Title

(a) *Title*. These are the Local Rules of Practice for the United States Bankruptcy Court, Eastern District of California. They may be cited as "LBR."

(b) *Construction*. These Local Rules are adopted pursuant to 28 U.S.C. § 2075, Fed. R. Civ. P. 83, and Fed. R. Bankr. P. 9029. They are intended to supplement and shall be construed consistently with and subordinate to the Federal Rules of Bankruptcy Procedure and those portions of the Federal Rules of Civil Procedure that are incorporated by the Federal Rules of Bankruptcy Procedure.

(c) *Applicability of Local Bankruptcy and District Court Rules*. The Federal Rule of Bankruptcy Procedure and these Local Rules govern procedure in all bankruptcy cases and bankruptcy proceedings in the Eastern District of California. The following Local Rules of Practice of the United States District Court for the Eastern District of California apply in all bankruptcy cases and proceedings: Rules 173 (Photographing, Recording or Broadcasting of Judicial Proceedings), 180 (Attorneys), 181 (Certified Students), 183 (Persons Appearing In Propria Persona), 184 (Disciplinary Proceedings Against Attorneys), 292 (Costs), and 293 (Awards of Attorneys' Fees). Except for these enumerated rules, no other Local Rules of Practice of the United States District Court for the Eastern District of California apply.

(d) *General and Special Orders*. Outside the scope of these Rules are matters relating to internal court administration that, in the discretion of the Court en banc, may be accomplished through the use of General and Special Orders, which orders shall be available on the Court's website (www.caeb.uscourts.gov).

(e) *Availability of Local Rules*. The Clerk shall maintain on the Court's website (www.caeb.uscourts.gov) the current version of these Rules and shall promptly notify the Supreme Court, the Administrative Office of the United States Courts, the Circuit Council of the Ninth Circuit Court of Appeals, the District Court of the Eastern District of California, and local law libraries of any changes in these Rules. The Clerk shall make paper copies of these Rules available on request.

(f) *Modification of Requirements*. The Court may sua sponte or on motion of a party-in-interest for cause, modify the provisions of these Rules in a manner not inconsistent with the Federal Rules of Bankruptcy Procedure to accommodate the needs of a particular case or proceeding.

(g) *Sanctions for Noncompliance with Rules*. Failure of counsel or of a party to comply with these Rules, with the Federal Rules of Civil Procedure or the Federal Rules of Bankruptcy Procedure, or with any order of the Court may be grounds for imposition of any and all sanctions authorized by statute or rule or within the inherent power of the Court, including, without limitation, dismissal of any action, entry of default, finding of contempt, imposition of monetary sanctions or attorneys' fees and costs, and other lesser sanctions.

LOCAL RULE 1002-1

Intra-District Case Assignment

Petitions for relief under Title 11 of the United States Code, shall be assigned to one of the three divisions of the Eastern District as determined by the following:

(a) *Fresno Division*. Petitions from the Counties of Fresno, Inyo, Kern, Kings, Madera, Mariposa, Merced, and Tulare shall be assigned to the Fresno Division.

(b) *Modesto Division*. Petitions from the Counties of Calaveras, Stanislaus, and Tuolumne shall be assigned to the Modesto Division.

(c) *Sacramento Division*. Petitions from the Counties of Alpine, Amador, Butte, Colusa, El Dorado, Glenn, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sutter, Tehama, Trinity, Yolo, and Yuba shall be assigned to the Sacramento Division.

(d) *Transfer of Incorrectly Filed Petitions*. If the debtor's address on a petition indicates that it should be assigned to a division other than the division to which it is presented for filing, the Clerk shall nevertheless accept it, and any other pleadings presented with the petition, for filing on behalf of the proper division. The Clerk shall obtain and place the proper division's case number on the petition and accompanying pleadings and transmit them to the proper division.

(e) *Request for Different Venue*. If the debtor believes that a petition should be assigned to a division other than the division designated for the debtor's address, the debtor may file a motion to transfer the case to another division. The Clerk shall promptly present the motion to any available judge.

LOCAL RULE 1007-1

Lists, Schedules, Statements, and Other Documents

(a) *Listing of Creditors on ~~Schedules D, E, and F~~ Schedules D and E/F*. Creditors shall be listed on the appropriate schedule in alphabetical order by name and complete address (if an address is unknown, it should be so indicated). Addresses of governmental agencies shall be listed in conformance with the requirements specified in LBR 2002-1.

(b) *Master Address List*. With every petition for relief under the Bankruptcy Code presented for filing, there shall be submitted concurrently a Master Address List which includes the name, address, and zip code of all of the debtor's known creditors. The Master Address List shall be prepared in strict compliance with instructions of the Clerk (Form EDC 2-190, *Guidelines for Preparation of Master Address Lists*) in a format approved by the Court.

(c) *Employer Payment Advices.*

(1) Copies of employer payment advices or other evidence of payments from an employer required by 11 U.S.C. § 521(a)(1)(B)(iv) shall not be filed with the Court. Instead, the documents shall be provided by the debtor to the assigned case trustee not later than seven (7) days before the date first set for the meeting of creditors.

(2) Not later than thirty 30 days after the date first set for the meeting of creditors called pursuant to 11 U.S.C. § 341, a party-in-interest may demand the debtor provide copies of the documents provided to the trustee pursuant to Subpart (c)(1) of this Local Rule. The debtor shall, within fourteen (14) days of such demand, provide the requested copies.

LOCAL RULE 1015-1

Related and Joint Cases

(a) *Notice of Related Cases*. When a case on file or about to be filed is related to another case that is pending or that was pending within the last eight (8) years, the debtor shall, and a party-in-interest may, file a Notice of Related Cases, setting forth the title, number, and filing date of each related case, together with a brief statement of the relationship.

(b) *Cases Deemed Related*. Cases deemed to be related within the meaning of this Rule include the following fact situations:

(1) The debtors in both cases are the same entity;

(2) The debtors in both cases are husband and wife;

(3) The debtors in both cases are partners;

(4) The debtor in one case is a general partner or major shareholder of the debtor in the other case;

(5) The debtors in both cases have the same partners or substantially the same shareholders; and

(6) The cases are otherwise so related as to warrant being treated as related.

(c) *Joint Cases*. All joint cases commenced by the filing of a single petition under 11 U.S.C. § 302(a) shall be deemed substantively consolidated unless the Court orders otherwise. Objections to substantive consolidation may be raised by the Court or filed by any party-in-interest. An objection to substantive consolidation shall be filed and served no later than forty-five (45) days after the filing of the petition. The objection shall be filed, served, and

set for hearing consistent with these Rules (see LBR 9014-1) by the objecting party. The objection, notice of hearing, and all evidence and other papers filed in support of it, shall be served on the debtor(s), the trustee, and the U.S. Trustee. All remaining parties-in-interest shall be served with the objection and notice of hearing.

LOCAL RULE 1016-1

Procedure Upon the Death or Incapacity of a Debtor
During the Pendency of a Bankruptcy Case.

(a) *Notice of Death*. In a bankruptcy case which has not been closed, a Notice of Death of the debtor [Fed. R. Civ. P. 25(a), Fed. R. Bankr. P. 7025] shall be filed within sixty (60) days of the death of a debtor by the counsel for the deceased debtor or the person who intends to be appointed as the representative for or successor to a deceased debtor. The Notice of Death shall be served on the trustee, U.S. Trustee, and all other parties in interest. A copy of the death certificate (redacted as appropriate) shall be filed as an exhibit to the Notice of Death.

The Notice of Death may be combined with the single motion permitted by paragraph (b) of this Rule. If so combined, the title to the motion and notice of motion shall be: **"NOTICE OF DEATH AND MOTION FOR** [state relief requested]." The death certificate (redacted as appropriate) shall be filed as an exhibit to such motion.

(b) *Single Motion For Omnibus Relief Upon Death of Debtor*. When the debtor has died or has become incompetent prior to a closing of a bankruptcy case, the provisions of Federal Rule of Civil Procedure 18(a) [Fed. R. Bankr. P. 7018, 9014(c)] apply to the following claims for relief which may be requested in a single motion:

(1) Substitution as the representative for or successor to the deceased or legally incompetent debtor in the bankruptcy case [Fed. R. Civ. P. 25(a), (b); Fed. R. Bankr. P. 1004.1 & 7025];

(2) Continued administration of a case under chapter 11, 12, or 13 [Fed. R. Bank. P. 1016];

(3) Waiver of post-petition education requirement for entry of discharge [11 U.S.C. §§ 727(a)(11), 1328(g)]; and

(4) Waiver of the certification requirements for entry of discharge in a Chapter 13 case, to the extent that the representative for or successor to the deceased or incompetent debtor can demonstrate an inability to provide such certifications [11 U.S.C. § 1328]

LOCAL RULE 1017-1
Procedure for Conversion

A motion to convert to chapter 7 filed by a debtor under 11 U.S.C. §1208(a) or §1307(a) shall be construed as a notice of conversion for the purposes of applying 11 U.S.C. §348(c), Fed. R. Bankr. P. 1019, and Fed. R. Bankr. P. 1017(f).

LOCAL RULE 2002-1
Notice Requirements

(a) *Listing the United States as a Creditor; Notice to the United States*. When listing a debt to the United States for other than taxes the debtor shall separately list both the U.S. Attorney and the federal agency through which the debtor became indebted, as required by Fed. R. Bankr. P. 2002(j)(4). The address listed for the U.S. Attorney shall include, in parentheses, the name of the federal agency as follows:

(1) For Cases assigned to the Sacramento Division:

United States Attorney
(For [insert name of agency])
501 I Street, Suite 10-100
Sacramento, CA 95814

(2) For Cases assigned to the Modesto and Fresno Divisions:

United States Attorney
(For [insert name of agency])
2500 Tulare Street, Suite 4401
Fresno, CA 93721

For example, the address listed for the U.S. Attorney for a debt owed to the Department of Education for a case assigned to the Modesto Division would be as follows:

United States Attorney
(For Department of Education)
2500 Tulare Street, Suite 4401
Fresno, CA 93721

(b) *Notice to Other Governmental Agencies*. Certain federal and state agencies specify particular addresses to which notice of bankruptcy proceedings shall be directed. The roster of such agencies and their addresses (Form EDC 2-785, *Roster of Governmental Agencies*) shall be available on the Court's website (www.caeb.uscourts.gov) to enable compliance with this Rule and the provisions of Fed. R. Bankr. P. 2002(j). The Clerk shall make paper copies of the roster available upon request. When listing a debt to an agency included on this roster, the debtor and the debtor's attorney shall complete the Master Address List and the schedule of creditors using the address as shown on the agency roster. When listing a debt to an agency not on the roster, the debtor and the debtor's attorney shall use such address as will effect proper notice to the agency.

(c) *Notice to the Internal Revenue Service*. In addition to addresses specified on the *Roster of*

Governmental Agencies maintained by the Clerk, notices in adversary proceedings and contested matters relating to the Internal Revenue Service shall be sent to all of the following addresses:

(1) United States Department of Justice
Civil Trial Section, Western Region
Box 683, Ben Franklin Station
Washington, D.C. 20044;

(2) United States Attorney as specified in LBR 2002-1(a) above; and

(3) Internal Revenue Service at the addresses specified on the *Roster of Governmental Agencies* maintained by the Clerk.

LOCAL RULE 2014-1

Employment of Professional Persons
Disclosure of Connections

To insure public confidence in the integrity of the bankruptcy process, the verified statement that must accompany an Application for Employment of Professional Persons pursuant to Fed. R. Bankr. P. 2014(a) shall, after disclosure of any actual connections, close with the statement: "Except as set forth above, I have no connection with the debtor, creditors, or any party-in-interest, their respective attorneys, accountants, or the U.S. Trustee, or any employee of the U.S. Trustee." Applications for Employment which are not accompanied by a verified statement containing such a statement may be denied without prejudice.

LOCAL RULE 2015-1

Monthly Operating and Tax Reports

(a) *Cases in Which Required*. Monthly operating and tax reports are required from a trustee or debtor in the following cases:

(1) All cases under chapter 11;

(2) Chapter 7 cases where a business is being operated by a trustee;

(3) Chapter 12 cases if the Court so orders; and

(4) Chapter 13 cases where a business is being operated by a debtor, if the Court so orders upon motion by the trustee or any party-in-interest.

(b) *Cutoff of Books and Records for Reporting Purposes*. The books and records of the debtor shall be closed (cut off) at the close of business on the day immediately preceding the filing of the petition, whether or not a separate estate is created for tax purposes. Pre-petition

liabilities shall be segregated and reported separately from post-petition liabilities.

(c) *Due Dates and Duration*. Monthly reports shall be filed with the Clerk not later than the fourteenth (14th) day of the month following the month of the reported period. Reports shall be filed for the portion of a calendar month from the date of filing, and monthly thereafter through the month in which an order of confirmation, conversion, or dismissal is entered. If the portion of a calendar month from the date of filing is seven (7) days or less, the report for such period may be combined with the report due for the following calendar month.

(d) *Service of Reports*. Not later than seven (7) days from the date upon which it is filed with the Court, a copy of each monthly report shall be served on the U.S. Trustee, the case trustee, the chairperson and counsel of any committee of creditors or equity security holders, and any other entity ordered by the Court.

(e) *Format of Reports*. Monthly operating reports and monthly tax reports shall be made according to the format established by the U.S. Trustee as approved by the Court.

(f) *Modification of Requirements*. The Court may, for cause, modify the provisions of this Rule to accommodate the needs of a particular case as provided in LBR 1001-1(f). Any application to modify shall be served on all parties upon whom the monthly report is required to be served.

LOCAL RULE 2015-2

Moneys of Chapter 11 Estates

(a) *New Bank, Deposit, and Investment Accounts*. For all moneys of the bankruptcy estate, immediately upon filing a chapter 11 petition, the debtor-in-possession shall close all bank, deposit, and investment accounts. The debtor-in-possession shall open and maintain a new general bank account in a federally insured depository. If the debtor has an ongoing business with employees, the debtor-in-possession shall similarly open and maintain a tax account, unless the Court deems it unnecessary. If the debtor maintained a separate payroll account immediately prior to filing, the debtor-in-possession shall similarly open and maintain a payroll account, unless the Court deems it unnecessary. The signature cards for the new accounts shall clearly indicate that the debtor is the “debtor-in-possession.”

(b) *Sales of Assets*. Unless the Court orders otherwise, the net cash proceeds from the sales of assets pursuant to 11 U.S.C. § 363 shall be deposited in separate, interest-bearing blocked accounts at a federally insured depository. All such accounts shall bear the inscription "not to be disbursed or withdrawn except upon further order of the Bankruptcy Court."

(c) *Insured Funds*. Except with respect to moneys of the estate that are deposited or invested with an entity that is included on the U.S. Trustee's list of cooperating depositories or with a federally insured depository in an amount which does not exceed the federal insurance or guaranty, moneys of the estate in excess of the maximum FDIC insurance limit in an account shall be deposited or invested as provided in 11 U.S.C. § 345(b). If necessary, additional

insured accounts shall be opened in different depositories so that any deposit shall not exceed the insured limits of the account.

LOCAL RULE 2016-1

Attorneys' Fees in Chapter 13 Cases

(a) *Compensation*. Compensation paid to attorneys for the representation of chapter 13 debtors shall be determined according to Subpart (c) of this Local Bankruptcy Rule, unless a party-in-interest objects or the attorney opts out of Subpart (c). The failure of an attorney to file an executed copy of Form EDC 3-096, *Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys*, shall signify that the attorney has opted out of Subpart (c). When there is an objection or when an attorney opts out, compensation shall be determined in accordance with 11 U.S.C. §§ 329 and 330, Fed. R. Bankr. P. 2002, 2016, and 2017, and any other applicable authority.

(b) *Court Approval Required*. After the filing of the petition, a debtor's attorney shall not accept or demand from the debtor or any other person any payment for services or cost reimbursement without first obtaining a court order authorizing the fees and/or costs and specifically permitting direct payment of those fees and/or costs by the debtor.

(c) *Fixed Fees Approved in Connection with Plan Confirmation*. The Court will, as part of the chapter 13 plan confirmation process, approve fees of attorneys representing chapter 13 debtors provided they comply with the requirements to this Subpart.

(1) The maximum fee that may be charged is $4,000.00 in nonbusiness cases, and $6,000.00 in business cases.

(2) The attorney for the chapter 13 debtor must file an executed copy of Form EDC 3-096, *Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys*.

(3) If the fee under this Subpart is not sufficient to fully and fairly compensate counsel for the legal services rendered in the case, the attorney may apply for additional fees. The fee permitted under this Subpart, however, is not a retainer that, once exhausted, automatically justifies a motion for additional fees. Generally, this fee will fairly compensate the debtor's attorney for all preconfirmation services and most post-confirmation services, such as reviewing the notice of filed claims, objecting to untimely claims, and modifying the plan to conform it to the claims filed. Only in instances where substantial and unanticipated post-confirmation work is necessary should counsel request additional compensation. Form EDC 3-095, *Application and Declaration RE: Additional Fees and Expenses in Chapter 13 Cases*, may be used when seeking additional fees. The necessity for a hearing on the application shall be governed by Fed. R. Bankr. P. 2002(a)(6).

(4) If an attorney elects to be compensated pursuant to Subpart (c) but the case is dismissed prior to confirmation of a plan, absent a contrary order, the trustee shall

pay to the attorney, to the extent funds are available, an administrative claim equal to fifty per cent (50%) of the total fee the debtor agreed to pay less any pre-petition retainer. The attorney shall not collect, receive, or demand additional fees from the debtor unless authorized by the Court.

(5) The Court may allow compensation different from the compensation provided under this Subpart any time prior to entry of a final decree, if such compensation proves to have been improvident in light of developments not capable of being anticipated at the time the plan is confirmed or denied confirmation.

(d) *Service of Disclosures of Compensation*. All attorneys shall file and serve on the U.S. Trustee and the trustee the initial and supplemental disclosures of compensation required by Fed. R. Bankr. P. 2016(b).

LOCAL RULE 2016-2

Compensation of Chapter 7 Trustees

(a) *Motion Procedure*. Every application for compensation of a Chapter 7 trustee in the categories set forth in paragraph (b) shall be presented by motion noticed and set for hearing pursuant to LBR 9014-1. Such motion shall be supported by time records and a narrative statement of the trustee's services.

(b) *Categories*. The procedure specified in paragraph (a) shall be followed for requests that satisfy any of the following criteria:.

(1) Fee requests seeking $10,000.00, or more;
(2) Cases in which the trustee seeks fees exceeding the amount remaining to pay unsecured priority and general claims;
(3) Cases in which there is a "carve out" for the estate or a "short sale";
(4) Cases where the trustee has operated the business of the debtor; or
(5) Cases in which the court specifically orders such a fee application.

LOCAL RULE 2017-1

Attorneys - Appearances, Scope of Representation, and Withdrawal

(a) *Scope of Representation in Bankruptcy Cases and Proceedings*.

(1) An attorney who is retained to represent a debtor in a bankruptcy case constitutes an appearance for all purposes in the case, including, without limitation, motions for relief from the automatic stay, motions to avoid liens, objections to claims, and reaffirmation agreements. However, an appearance in the bankruptcy case for a

party does not require the attorney to appear for that party in an adversary proceeding.

(2) An attorney appearing in a bankruptcy case or in an adversary proceeding may not withdraw from representation, or decline to act on behalf of the client, without first complying with the withdrawal requirements of Subpart (e) of this Rule. Any contract or agreement which purports to limit the scope of an attorney's representation, except as permitted by Subpart (a)(1) of this Rule, will not be recognized by the Court.

(b) *Appearance as Attorney of Record*.

(1) *Appearance Required*. Except as permitted in Subpart (c) of this Rule, no attorney may participate in any action unless the attorney has appeared as an attorney of record. A single client may be represented by more than one attorney of record to the extent authorized by the applicable Rules of Professional Conduct.

(2) *Manner of Making Appearance*. Appearance as an attorney of record is made:

(A) By signing and filing an initial document;

(B) By causing the attorney's name to be listed in the upper left hand corner of the first page of the initial document;

(C) By physically appearing at a court hearing in the matter, formally stating the appearance on the record, and then signing and filing a confirmation of appearance within seven (7) days; or

(D) By filing and serving on all parties a substitution of attorneys as provided in Subpart (h) of this Rule.

(c) *Attorneys Within Organizations*. Appearances as an attorney of record shall not be made in the name of a law firm, organization, public entity, agency, or department. See Fed. R. Civ. P. 11. When an attorney is employed or retained by a law firm, organization, public entity, agency, or department, however, the attorney may participate in an action, without filing a substitution of attorneys, if another person employed or retained by the same law firm, organization, public entity, agency, or department is attorney of record in the action.

(d) *Counsel for Service*.

(1) *Designation of Counsel for Service*. When multiple attorneys from a single law firm, organization, public entity, agency, or department are listed in the upper left hand corner of the first page of each filed document, one of the listed attorneys shall be designated as counsel for service. That designation shall be accomplished by so designating in the counsel identification in the upper left hand corner of the first page of the initial document or by filing and serving a document entitled "Designation of

Counsel for Service," which will state the name, address, and telephone number of the designated counsel for service and will be signed by that counsel. The Clerk will serve court orders on the designated counsel for service. The identity of counsel for service in a particular action may be changed by filing and serving on all parties a document entitled "Change in Designation of Counsel for Service" stating the name, address, and telephone number of new and old counsel for service, identifying new counsel for service, and bearing the signature of the new counsel for service.

(2) *Service in the Absence of a Designation*. If no designation of counsel for service has been made in a particular instance, the Clerk may select the attorney for service from the listing in the upper left hand corner of the first page of the initial filed document or from the signature block.

(e) *Withdrawal*. Unless otherwise provided herein, an attorney who has appeared may not withdraw leaving the client in propria persona without leave of court upon noticed motion and notice to the client and all other parties who have appeared. The attorney shall provide an affidavit stating the current or last known address or addresses of the client and the efforts made to notify the client of the motion to withdraw. Withdrawal as attorney is governed by the Rules of Professional Conduct of the State Bar of California, and the attorney shall conform to the requirements of those Rules. The authority and duty of the attorney of record shall continue until relieved by order of the Court issued hereunder. Leave to withdraw may be granted subject to such appropriate conditions as the Court deems fit.

(f) *Withdrawal Following Limited Appearance*. Any attorney who has appeared on behalf of a party in an action solely for the purpose of contesting an application for a temporary restraining order or other preliminary injunctive relief may withdraw from that action within fourteen (14) days after making that appearance, or at such other time as the Court may determine, by filing a notice and affidavit that the attorney is no longer attorney of record for the party. Such application shall establish that the attorney has returned all documents and other items received in connection with the action and shall set forth the last known address and telephone number of the party.

(g) *Change of Address*. Each appearing attorney and pro se party is under a continuing duty to notify the Clerk and all other parties of any change of address or telephone number of the attorney or the pro se party. Absent such notice, service of documents at the prior address of the attorney or pro se party shall be fully effective. Separate notice shall be filed and served on all parties in each action in which an appearance has been made.

(h) *Substitution of Attorneys*. An attorney who has appeared in an action may substitute another attorney and thereby withdraw from the action by submitting a substitution of attorneys that shall set forth the full name and address of the new individual attorney and shall be signed by the withdrawing attorney, the new attorney, and the client. All substitutions of attorneys shall require the approval of the Court.

(i) *Local Co-Counsel*. A judge to whom an action is assigned has discretion in that action, and

upon notice, to require an attorney appearing in this Court who maintains an office outside this District to designate a member of the Bar of this Court who does maintain an office within this District as co-counsel with the authority to act as attorney of record for all purposes. In such a case, the attorney shall file with such designation the address, telephone number, and consent of the designee.

(*j*) *Formal Notice of Association of Counsel*. Any attorney not substituted in as attorney of record under Subpart (h) of this Rule and not authorized to participate under other provisions in this Rule must file a notice of association, signed by an attorney of record and the associating attorney, and served on all parties.

LOCAL RULE 3003-1

Filing Proofs of Claim in Chapter 11 Cases

Unless otherwise ordered by the Court, and except as provided in Fed. R. Bankr. P. 3003(c)(3), a proof of claim in a chapter 11 case shall be filed within ninety (90) days after the date first set for the meeting of creditors called pursuant to 11 U.S.C. § 341(a), unless the claimant is a governmental unit, in which case a proof of claim shall be filed before 180 days after the date of the order for relief or such later time as the Federal Rules of Bankruptcy Procedure may provide.

LOCAL RULE 3004-1

Filing Proofs of Claim by Chapter 13 Debtors or Trustee

If a creditor fails to file a proof of claim in a chapter 13 case within the time required by Fed. R. Bankr. P. 3002(c) or 11 U.S.C. § 502, the debtor or the trustee may file a proof of claim on behalf of the creditor pursuant to Fed. R. Bankr. P. 3004. The time for the filing of such a claim is extended to sixty (60) days after service on the debtor and the debtor's attorney, if any, of the Notice of Filed Claims as required by LBR 3007-1(d)(2).

LOCAL RULE 3007-1

Objections to Proofs of Claim

(*a*) An objection to a proof of claim shall include the name of the claimant, the date the proof of claim was filed with the Court, the amount of the claim, and the number of the claim as it appears on the claims register maintained by the Court. Unless the basis for the objection appears on the face of the proof of claim, the objection shall be accompanied by evidence establishing its factual allegations and demonstrating that the proof of claim should be disallowed. A mere assertion that the proof of claim is not valid or that the debt is not owed is not sufficient to overcome the presumptive validity of the proof of claim.

(b) *Amount of Notice*.

(1) *Objections Set on 44 Days' Notice*. Unless the objecting party elects to give the notice permitted by LBR 3007-1(b)(2), the objecting party shall file and serve the objection at least forty-four (44) days prior to the hearing date.

(A) *Opposition*. Opposition, if any, to the sustaining of the objection shall be in writing and shall be served and filed with the Court by the responding party at least fourteen (14) days preceding the date or continued date of the hearing. Without good cause, no party shall be heard in opposition to an objection at oral argument if written opposition to the objection has not been timely filed. Failure of the responding party to timely file written opposition may be deemed a waiver of any opposition to the sustaining of the objection or may result in the imposition of sanctions.

The opposition shall specify whether the responding party consents to the Court's resolution of disputed material factual issues pursuant to Fed. R. Civ. P. 43(c) as made applicable by Fed. R. Bankr. P. 9017. If the responding party does not so consent, the opposition shall include a separate statement identifying each disputed material factual issue. The separate statement shall enumerate discretely each of the disputed material factual issues and cite the particular portions of the record demonstrating that a factual issue is both material and in dispute.

(B) *Reply*. The objecting party may, at least seven (7) days prior to the date of the hearing, serve and file with the Court a reply to any written opposition filed by a responding party.

If the objecting party does not consent to the Court's resolution of disputed material factual issues pursuant to Fed. R. Civ. P. 43(c), the objecting party shall file and serve, within the time required for a reply, a separate statement identifying each disputed material factual issue. The separate statement shall enumerate discretely each of the disputed material factual issues and cite the particular portions of the record demonstrating that a factual issue is both material and in dispute.

Unless the Court determines that an evidentiary hearing is necessary, the evidentiary record closes upon expiration of the time for the filing of the reply.

(C) Prior to the noticed hearing date, counsel may bring to the Court's attention relevant judicial opinions published after the date the opposition or reply was filed by filing and serving a Statement of Recent Development, containing a citation to and providing a copy of the new opinion without argument. No memoranda, declarations, or documents other than those specified in this

Local Rule shall be filed without prior Court approval.

(2) *Objection Set on 30 Days' Notice.* Alternatively, the objecting party may file and serve the objection at least thirty (30) days prior to the hearing date. When fewer than forty-four (44) days' notice of a hearing is given, no party-in-interest shall be required to file written opposition to the objection. Opposition, if any, shall be presented at the hearing on the objection. If opposition is presented, or if there is other good cause, the Court may continue the hearing to permit the filing of evidence and briefs.

(c) An objection to a proof of claim shall be served on the claimant at the address on the proof of claim and the address listed in the schedules, if different from the claimant's address noted on the proof of claim.

(d) *Objections to Proofs of Claim in Chapter 13 Cases.*

(1) Prior to the expiration of the deadline to object to proofs of claim applicable in chapter 13 cases, set in Subpart (d)(3) below, the trustee shall pay a claim as specified in the confirmed chapter 13 plan unless the trustee is served with an objection to such claim that is set for hearing within sixty (60) days of its service. Until the objection is adjudicated or settled, the trustee shall cease paying dividends on account of the claim. If the objection is overruled, at the request of the claimant or the trustee, the court may make provision for payment of any dividends not paid while the objection was pending.

(2) The Notice of Filed Claims shall be filed and served by the trustee upon the debtor and the debtor's attorney, if any, no later than the longer of 250 days after the order for relief or 180 days after plan confirmation.

(3) Objections to claims shall be filed and served no later than sixty (60) days after service of the Notice of Filed Claims. The debtor shall set a hearing on any objection pursuant to LBR 3007-1(b)(1) or (b)(2) on the earliest available court date.

(4) Nothing herein shall prevent the debtor, the trustee, or any other party-in-interest from objecting to a proof of claim after the expiration of the deadline for objections specified in Subparagraph (d)(3) above. However, any objection filed after the expiration of that deadline shall not, if sustained, result in any order that the claimant refund amounts paid on account of its claim.

(5) If the Notice of Filed Claims includes allowed claims that are not provided for in the chapter 13 plan, or that will prevent the chapter 13 plan from being completed timely, the debtor shall file a motion to modify the chapter 13 plan, along with any valuation and lien avoidance motions not previously filed, in order to reconcile the chapter 13 plan and the filed claims with the requirements of the Bankruptcy Code. These motions shall be filed and served no later than ninety (90) days after service

by the trustee of the Notice of Filed Claims and set for hearing by the debtor on the earliest available court date.

(6) Nothing herein shall prevent the debtor, the trustee, or the holder of an allowed unsecured claim from requesting plan modifications at other times.

(7) If the Court enters an order valuing a creditor's collateral and the creditor has filed or later files a proof of a secured claim in an amount greater than the value established for the collateral, the allowed secured claim shall be the value of the collateral determined by the Court. It is unnecessary for the trustee or the debtor to file a claim objection in addition to the motion valuing the collateral. If the creditor has filed or later files a proof of a secured claim in an amount less than the value established for the collateral, the allowed secured claim shall be the amount claimed by the creditor.

(8) If the Court enters an order avoiding the judicial lien or nonpossessory, nonpurchase money security interest of a creditor and the creditor has filed or later files proof of a secured claim that identifies as security only the avoided lien or security interest, the claim shall be allowed as a general unsecured claim. It is unnecessary for the trustee or the debtor to file a claim objection in addition to the lien avoidance motion.

LOCAL RULE 3015-1

Chapter 13 Debt Adjustment Cases

(a) *Mandatory Form Plan*. All chapter 13 debtors, as well as the trustee and holders of unsecured claims, when proposing a plan pursuant to 11 U.S.C. §§ 1321, 1323, and 1329(a), shall utilize Form EDC 3-080, the standard form *Chapter 13 Plan*.

(b) *Chapter 13 Debtor's Duties*. In addition to the duties imposed on a chapter 13 debtor by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and elsewhere in these Local Bankruptcy Rules, the following duties are imposed on chapter 13 debtors:

(1) *Transfers of Property*. The debtor shall not transfer, encumber, sell, or otherwise dispose of any personal or real property with a value of $1,000.00 or more other than in the ordinary course of business without prior Court authorization. To obtain Court authorization, the debtor shall comply with LBR 3015-1(i).

(2) *New Debt*. Except as provided in 11 U.S.C. §§ 364 and 1304, the debtor shall not incur new debt exceeding $1,000.00 without prior Court authorization. To obtain Court authorization, the debtor shall comply with LBR 3015-1(i). A new consumer debt of less than $1,000.00 shall not be paid through this plan absent compliance with 11 U.S.C. § 1305(c).

(3) *Insurance*. The debtor shall maintain insurance as required by any law or contract and the debtor shall provide evidence of that insurance as required by 11 U.S.C. §

1326(a)(4).

(4) *Compliance with Applicable Nonbankruptcy Law*. The debtor's financial and business affairs shall be conducted in accordance with applicable nonbankruptcy law including the timely filing of tax returns and payment of taxes.

(5) *Periodic Reports*. Upon the trustee's request, the debtor shall provide the trustee with a copy of any tax return, W-2 form, and 1099 form filed or received while the case is pending, and furnish the trustee with periodic financial information regarding the debtor's business or financial affairs.

(6) *Documents Required by Trustee*. The debtor shall provide to the trustee, not later than the fourteen (14) days after the filing of the petition, Form EDC 3-088, *Domestic Support Obligation Checklist*, or other written notice of the name and address of each person to whom the debtor owes a domestic support obligation together with the name and address of the relevant state child support enforcement agency (see 42 U.S.C. §§ 464 & 466), Form EDC 3-086, *Class 1 Checklist*, for each Class 1 claim, and Form EDC 3-087, *Authorization to Release Information to Trustee Regarding Secured Claims Being Paid By The Trustee*.

(c) *Procedure to Confirm Original Plan*.

(1) *Filing the Plan*. The debtor shall file Form EDC 3-080, *Chapter 13 Plan*, within fourteen (14) days of the filing of the petition.

(2) *Serving the Plan on the Trustee*. The debtor shall serve the chapter 13 plan on the trustee. The plan, together with Form EDC 3-088, *Domestic Support Obligation Checklist*, Form EDC 3-086, *Class 1 Checklist*, and Form EDC 3-087, *Authorization to Release Information to Trustee Regarding Secured Claims Being Paid By The Trustee*., must be received by the trustee no later than fourteen (14) days after the filing of the petition.

(3) *Trustee's Service of the Plan on Creditors*. The trustee shall serve all creditors and other persons entitled to notice with a copy of the debtor's chapter 13 plan. However, if the trustee does not receive the debtor's chapter 13 plan by the fourteenth (14th) day after the filing of the petition, the debtor shall seek confirmation of the chapter 13 plan by complying with the requirements of LBR 3015-1(d)(1).

(4) *Objecting to Plan Confirmation*. Creditors, as well as the trustee, may object to the confirmation of the chapter 13 plan. An objection and a notice of hearing must be filed and served upon the debtor, the debtor's attorney, and the trustee within seven (7) days after the first date set for the meeting of creditors held pursuant to 11 U.S.C. § 341(a). The objection shall be set for hearing on the confirmation hearing date and time designated in the Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors & Deadlines. The objection shall comply with LBR 9014-1(a)-(e), (f)(2), and (g)-

(l), including the requirement for a Docket Control Number on all documents relating to the objection. The notice of hearing shall inform the debtor, the debtor's attorney, and the trustee that no written response to the objection is necessary. Absent a timely objection and a properly noticed hearing on it, the Court may confirm the chapter 13 plan without a hearing.

(d) *Procedure to Confirm Modified Plans*.

(1) *Modified Plans Proposed Prior to Confirmation*. If the debtor modifies the chapter 13 plan before confirmation pursuant to 11 U.S.C. § 1323, the debtor shall file and serve the modified chapter 13 plan together with a motion to confirm it. The plan shall be filed as a separate document. Notice of the motion shall comply with Fed. R. Bankr. P. 2002(b), which requires twenty-eight (28) days' of notice of the time fixed for filing objections, as well as LBR 9014-1(f)(1). LBR 9014-1(f)(1) requires twenty-eight (28) days' notice of the hearing and notice that opposition must be filed fourteen (14) days prior to the hearing. In order to comply with both Fed. R. Bankr. P. 2002(b) and LBR 9014-1(f)(1), parties-in-interest shall be served at least forty-two (42) days prior to the hearing.

(2) *Modified Plans Proposed After Confirmation*. If the debtor, trustee, or the holder of an allowed unsecured claim modifies the chapter 13 plan after confirmation pursuant to 11 U.S.C. § 1329, the plan proponent shall file and serve the modified chapter 13 plan together with a motion to confirm it. The plan shall be filed as a separate document. Notice of the motion shall comply with Fed. R. Bankr. P. 3015(g), which requires twenty-one (21) days' of notice of the time fixed for filing objections, as well as LBR 9014-1(f)(1). LBR 9014-1(f)(1) requires twenty-eight (28) days' notice of the hearing and notice that opposition must be filed fourteen (14) days prior to the hearing. In order to comply with both Fed. R. Bankr. P. 3015(g) and LBR 9014-1(f)(1), parties-in-interest shall be served at least thirty-five (35) days prior to the hearing.

(3) *Minor Modifications*. The Court may approve, on the written stipulation of the debtor and the trustee, nonmaterial modifications of a confirmed chapter 13 plan. To be regarded as nonmaterial, the modification must not delay or reduce the dividend payable on account of any claim or otherwise modify the claim of any creditor absent the affected creditor's written consent.

(e) *Lodging Confirmation Order*. When no objection is filed to the proposed chapter 13 plan, a confirmation order shall be lodged within fourteen (14) days of the expiration of the deadline for filing objections. The confirmation order shall identify the plan by the date it was filed. If an objection is filed but is overruled, an order confirming the plan and overruling the objection shall be lodged within fourteen (14) days after conclusion of the hearing on the objection. The order shall conform substantially with Form EDC 3-081, *Order Confirming Plan*.

(f) *Plan Payments*.

(1) *Due Date*. Plan payments shall be made monthly and must be received by the trustee on the twenty-fifth (25th) day of each month beginning the month after the order for relief under chapter 13. All plan payments to the trustee by the debtor shall be by cashier's check, money order, or electronic transfer approved by the trustee.

(2) *Adequate Protection Payments*. Prior to confirmation, the trustee shall pay on account of each allowed claim secured by a purchase money security interest in personal property an adequate protection payment if required by 11 U.S.C. § 1326(a)(1)(C). The adequate protection payment shall equal the monthly dividend stated in the proposed plan. Adequate protection payments shall be disbursed by the trustee in connection with his or her customary month-end disbursement cycle beginning the month after the case was filed. If a claimant is paid an adequate protection payment prior to plan confirmation, that claimant shall not be paid a monthly dividend for the same month after confirmation.

(3) *Trustee's Fees on Certain Plan Payments*. The trustee may collect, with the authorization of the U.S. Trustee, the percentage fee fixed under 28 U.S.C. § 586(e)(1)(B) on all receipts used to pay post-petition contract installment payments paid to holders of secured claims, whether made before or after confirmation of the chapter 13 plan, as well as on all adequate protection payments made by the trustee to holders of secured claims.

(4) *Late Charges*.

(A) If the trustee is unable to pay timely a post-petition contract installment payment due to the holder of a Class 1 secured claim in the first month following the filing of the petition, the trustee shall pay from the debtor's plan payments the applicable late charge prior to the completion of the plan whether or not it is demanded in a proof of claim.

(B) A late charge may not be imposed on a post-petition contract installment payment paid or tendered during the contractual grace period even though an earlier installment, or any late charge thereon, may not have been paid when due. For purposes of determining whether a late charge may be imposed, any post-petition contract installment payment tendered by the trustee shall be applied by the holder of the Class 1 claim to the most recent post-petition contract installment payment to fall due.

(5) *Wage Order*. After confirmation of a plan, in the discretion of the trustee, the trustee may obtain the issuance of a wage order (Form EDC 3-083) in order to obtain plan payments from the debtor's employer.

(g) *Dismissal Due to Plan Payment Defaults*.

(1) If the debtor fails to make a payment pursuant to a confirmed plan, including a direct payment to a creditor, the trustee may mail to the debtor and the debtor's attorney written notice of the default.

(2) If the debtor believes that the default noticed by the trustee does not exist, the debtor shall set a hearing within twenty-eight (28) days of the mailing of the notice of default and give at least fourteen (14) days' notice of the hearing to the trustee pursuant to LBR 9014-1(f)(2). At the hearing, if the trustee demonstrates that the debtor has failed to make a payment required by the confirmed plan, and if the debtor fails to rebut the trustee's evidence, the case shall be dismissed at the hearing.

(3) Alternatively, the debtor may acknowledge that the plan payment(s) has(have) not been made and, within thirty (30) days of the mailing of the notice of default, either (A) make the delinquent plan payment(s) and all subsequent plan payments that have fallen due, or (B) file a modified plan and a motion to confirm the modified plan. If the debtor's financial condition has materially changed, amended Schedules I and J shall be filed and served with the motion to modify the chapter 13 plan.

(4) If the debtor fails to set a hearing on the trustee's notice, or cure the default by payment, or file a proposed modified chapter 13 plan and motion, or perform the modified chapter 13 plan pending its approval, or obtain approval of the modified chapter 13 plan, all within the time constraints set out above, the case shall be dismissed without a hearing on the trustee's application.

(5) Rather than utilize the notice of default procedure authorized by this paragraph, the trustee may file, serve, and set for hearing a motion to dismiss the case. Such a motion may be set for hearing pursuant to either LBR 9014-1(f)(1) or (f)(2).

(h) *Trustee's Fees Before Confirmation*. The trustee shall be allowed a fee of up to $250.00 from available funds in a case that is closed prior to confirmation due to conversion or dismissal.

(i) *Court Approval of Sales, Transfers, and Credit*.

(1) *Prior to Completion of Payments Under the Plan*. Except for transfers made in the ordinary course by a business debtor, prior to completion of payments under the applicable plan, the debtor shall not sell or transfer property or incur debt except as provided herein.

(A) *Vehicle Loans*. The court may approve an ex parte motion by the debtor to finance the purchase of a motor vehicle if the trustee's written consent is filed with or as part of the motion. The debtor's motion and the trustee's approval are their certification to the Court that:

(i) All payments required by the chapter 13 plan are current;

(ii) The chapter 13 plan is not in default;

(iii) A declaration, which may be in the format of Schedules I and J, by the debtor has been filed within the prior thirty (30) days that demonstrates an ability to pay all future plan payments, projected living and business expenses, and the new debt;

(iv) The new debt is a single loan incurred to purchase a motor vehicle that is reasonably necessary for the maintenance or support of the debtor or a dependent of the debtor or, if the debtor is engaged in business, is necessary for the continuation, preservation, and operation of the debtor's business;

(v) The only security for the new debt will be the motor vehicle to be purchased by the debtor; and

(vi) The new debt does not exceed $20,000.00.

(B) *New Home Loans*. The Court may approve an ex parte motion by the debtor to finance the purchase of a residence if the trustee's written consent is filed with or as part of the motion. The debtor's motion and the trustee's approval are their certification to the Court that:

(i) All payments required by the chapter 13 plan are current;

(ii) The chapter 13 plan is not in default;

(iii) A declaration, which may be in the format of Schedules I and J, by the debtor has been filed within the prior thirty (30) days that demonstrates an ability to pay all future plan payments, projected living and business expenses, and the new debt;

(iv) The new debt is a single loan incurred to purchase a residence that is reasonably necessary for the maintenance or support of the debtor and his or her family;

(v) The only security for the new debt will be the residence to be purchased by the debtor; and

(vi) The monthly payment (the principal and interest payment on account of the new debt plus all impounds, taxes, insurance, association fees, and bonds and other assessments) will not exceed the greater of the debtor's current such monthly payment or rental payment or $2,500.00.

(C) *Refinance of Existing Home Loans*. The Court may approve an ex parte motion by the debtor to refinance existing debt(s) encumbering the debtor's residence if the trustee's written consent is filed with or as part of the motion. The debtor's motion and the trustee's approval are their certification to the

Court that:

(i) All payments required by the chapter 13 plan are current;

(ii) The chapter 13 plan is not in default;

(iii) A declaration, which may be in the format of Schedules I and J, by the debtor has been filed within the prior thirty (30) days that demonstrates an ability to pay all future plan payments, projected living and business expenses, and the refinanced debt;

(iv) The new debt is a single loan incurred only to refinance existing debt encumbering the debtor's residence;

(v) The only security for the new debt will be the debtor's existing residence;

(vi) All creditors with liens and security interests encumbering the debtor's residence will be paid in full from the proceeds of the new debt and in a manner consistent with the chapter 13 plan;

(vii) The monthly payment (the principal and interest payment on account of the new debt plus all impounds, taxes, insurance, association fees, and bonds and other assessments) will not exceed the greater of the debtor's current such monthly payment(s) on the existing debt(s) being paid or $2,500.00. The Court will not approve ex parte motions to obtain secured credit pursuant to 11 U.S.C. § 364(d).

(D) *Sale of Property*. The Court may approve an ex parte motion by the debtor to sell real or personal property with a value of $1,000.00 or more other than in the ordinary course of business if the trustee's written consent is filed with or as part of the motion. The debtor's motion and the trustee's approval are their certification to the Court that:

(i) The sale price represents a fair value for the subject property;

(ii) All creditors with liens and security interests encumbering the subject property will be paid in full before or simultaneously with the transfer of title or possession to the buyer;

(iii) All costs of sale, such as escrow fees, title insurance, and broker's commissions, will be paid in full from the sale proceeds;

(iv) The sale price is all cash;

(v) The debtor will not relinquish title to or possession of the subject property prior to payment in full of the purchase price; and

(vi) The sale is an arm's length transaction.

"Trading in" a vehicle as part of the purchase price for a new vehicle complies with the requirements of (v) and (vi) of this Subparagraph. The Court will not approve ex parte motions to sell property pursuant to 11 U.S.C. § 363(f).

(E) *Other New Debt and Transfers*. If the trustee will not give the consent required by Subparagraphs (A), (B), (C), or (D) of this Paragraph (1) or if the debtor wishes to incur new debt or transfer property on terms and conditions not authorized by those Subparagraphs, the debtor shall file the appropriate motion, serve it on the trustee, those creditors who are entitled to notice, and all persons requesting notice, and set the hearing on the Court's calendar with the notice required by Fed. R. Bankr. P. 2002 and LBR 9014-1.

(2) *After Completion of Plan Payments*. Except for transfers made in the ordinary course by a business debtor, after completion of payments under the plan but prior to the closing of the case, the debtor shall not sell or transfer property or incur debt except as provided herein.

(A) *Ex Parte Motion*. The debtor may request by *ex parte* motion that the court authorize the debtor to sell or transfer property or to incur debt, without regard to the limitations provided in Subpart (i)(1), if the trustee's written consent is filed with or as part of the motion. The debtor's motion and the trustee's approval are their certification to the court that:

(i) All payments required by the chapter 13 plan have been paid to the trustee;

(ii) Debtor has completed and filed the certificate for the required post-petition education [11 U.S.C. § 1328(g)] or such requirement has been waived by order of the court;

(iii) Debtor has filed the certifications required in 11 U.S.C. § 1328(a) or such requirement has been waived by order of the court.

(B) *Noticed Motion*. If the trustee does not provide approval for an *ex parte* motion under Subpart (i)(2)(A), the debtor may file the appropriate motion, serve it on the trustee, those creditors who are entitled to notice, and all persons requesting notice, and set the hearing on the Court's calendar with the notice required by Fed. R. Bankr. P. 2002 and LBR 9014-1.

(j) *Valuation and Lien Avoidance Motions*. If a proposed plan will reduce or eliminate a secured claim based on the value of its collateral or the avoidability of a lien pursuant to 11 U.S.C. § 522(f), the debtor must file, serve, and set for hearing a valuation motion and/or a lien avoidance motion. The hearing must be concluded before or in conjunction with the confirmation of the plan. If a motion is not filed, or it is unsuccessful, the Court may deny

confirmation of the plan.

LOCAL RULE 4001-1

Relief from Stay; Use of Cash Collateral; Post-Petition Credit

(a) *Procedures Applicable to Motions for Relief from Stay in All Chapters*.

(1) Motions for relief from the automatic stay of 11 U.S.C. § 362(a) shall be set for hearing in accordance with LBR 9014-1. Motions seeking to invoke the time constraints of 11 U.S.C. § 362(e) must be set for hearing pursuant to Paragraph (f)(1) of LBR 9014-1.

(2) Relief from the automatic stay will not be granted if the movant utilizes the notice and opportunity for hearing procedure defined in 11 U.S.C. § 102(1). A hearing must be set on every motion for relief from the automatic stay. See LBR 9014-1.

(3) With all motions for relief from stay, the movant shall file and serve as a separate document completed Form EDC 3-468, *Relief from Stay Summary Sheet*.

(b) *Additional Procedures Applicable to Motions for Relief from Stay in Chapter 12 and 13 Cases*.

(1) If the motion alleges that the debtor or the trustee has failed to maintain post-petition payments on an obligation secured by real or personal property, including, but not limited to, installment payments and lease payments, the motion shall:

(A) Include a verified statement showing all post-petition payments and other obligations that have accrued and all payments received post-petition, the dates of the post-petition payments, and the obligation(s) to which each of the post-petition payments was applied;

(B) State whether a contract or applicable nonbankruptcy law requires that the debtor be given a statement, payment coupon, invoice, or other comparable document and whether such document was sent to the debtor or the trustee for any post-petition payment(s) allegedly not made by the debtor or the trustee; and

(C) State whether the debtor or the trustee was advised prior to the filing of the motion of the alleged delinquency and given an opportunity to cure it, if a document of the kind described in the preceding subparagraph was not sent, or if a contract or applicable nonbankruptcy law does not require one to be sent.

(2) If the motion alleges the debtor has failed to make plan payments to the chapter 12 or 13 trustee, the movant shall include in the motion a certification that the movant or its counsel conferred with the chapter 12 or 13 trustee before the motion was filed and confirmed that the alleged delinquency under the plan was outstanding within

fourteen (14) days of the filing of the motion. This requirement may be satisfied by downloading from the trustee's website, and attaching to the motion, a report indicating that the alleged delinquency was outstanding within fourteen (14) days prior to the filing of the motion. If the movant does not confer with the trustee, the motion shall detail the attempts made to confer with the trustee or explain why no such attempt was made.

(c) *Motions Regarding Use of Cash Collateral and Post-Petition Financing Agreements*.

(1) Motions for authorization to use cash collateral or for approval of a cash collateral or post-petition financing agreement shall be set for hearing in accordance with LBR 9014-1.

(2) Authorization to use cash collateral, or to obtain post-petition financing, will not be granted if the movant uses the notice and opportunity for hearing procedure defined in 11 U.S.C. § 102(1).

(3) The motion must recite whether the proposed cash collateral or post petition financing agreement contains any provision described below, identify any such provision, and explain the justification for the provision.

(A) Cross-collateralization clauses, i.e., clauses that secure pre-petition debt by post-petition assets in which the secured party would not otherwise have a security interest by virtue of its pre-petition security agreement. See 11 U.S.C. § 552.

(B) Provisions or findings of fact that bind the estate or all parties-in-interest with respect to the validity, perfection, or amount of the secured party's lien or debt.

(C) Provisions or findings of fact that bind the estate or all parties-in-interest with respect to the relative priorities of the secured party's lien and liens held by persons who are not parties to the stipulation. (This would include, for example, an order approving a stipulation providing that the secured party's lien is a "first priority" lien.)

(D) Waivers of 11 U.S.C. § 506(c), unless the waiver is effective only during the period in which the debtor is authorized to use cash collateral or borrow funds.

(E) Provisions that operate to divest the debtor-in- possession of any discretion in the formulation of a plan or administration of the estate or limit access to the court to seek any relief under other applicable provisions of law.

(F) Releases of liability for the creditor's alleged pre-petition torts or breaches of contract.

(G) Waivers of avoidance actions arising under the Bankruptcy Code.

(H) Automatic relief from the automatic stay upon default, conversion to chapter 7, or appointment of a trustee.

(I) Waivers of the procedural requirements for foreclosure mandated under applicable nonbankruptcy law.

(J) Adequate protection provisions that create liens on claims for relief arising under the Bankruptcy Code (see 11 U.S.C. §§ 506(c), 544, 545 and 547-549).

(K) Waivers, effective on default or expiration, of the debtor's right to move for a court order pursuant to 11 U.S.C. § 363(c)(2)(B) authorizing the use of cash collateral in the absence of the secured party's consent.

(L) Findings of fact on matters extraneous to the approval process. (For example, in connection with an application to borrow on a secured basis, a finding that the debtor cannot obtain unsecured credit would be acceptable, whereas a "finding" that the lender acted in good faith in declaring the pre-petition loan in default would not be acceptable.)

(4) The following provisions may be included in a cash collateral or post-petition financing agreement without the need for special identification or explanation:

(A) Withdrawal of consent to use cash collateral or termination of further financing, upon occurrence of a default or conversion to chapter 7.

(B) Securing any post-petition diminution in the value of the secured party's collateral with a new lien on post-petition collateral of the same type as the secured party had pre-petition, provide such lien shall be subordinated to the compensation and expense reimbursement (excluding professional fees) allowed to any trustee thereafter appointed in the case.

(C) Securing new advances or value diminution with a lien on other assets of the estate, provided the lien shall be subordinated to all the expenses of administration (including professional fees) of any trustee thereafter appointed in the case.

(D) Reservations of rights under 11 U.S.C. § 507(b), provided the agreement may not modify the Bankruptcy Code's priorities in the event of a conversion to chapter 7. See 11 U.S.C. § 726(b).

(E) Reasonable reporting requirements.

(F) Reasonable budgets and use restrictions.

(G) Expiration date for the agreement.

(d) *Certification of Service of Motions for Relief from Stay, for Use of Cash Collateral and to Approve Post-Petition Financing Agreements in Chapter 11 Cases.* In chapter 11 cases, the

party seeking relief shall certify that the twenty (20) largest unsecured creditors as listed in the debtor's ~~Schedule B-4~~ Schedule B104 have been served with a copy of any Motions for Relief From Stay, For Use of Cash Collateral and to Approve a Post-Petition Financing Agreement, or if a committee of unsecured creditors has been formed, that all committee members and committee counsel have been served. See Fed. R. Bankr. P. 4001(a)(1).

LOCAL RULE 5005-1

Electronic Record Is the Official Record; Filing of Documents

(a) *Electronic Record Is the Official Record*. Except for documents filed prior to March 1, 1999, the electronic record maintained by the Clerk in the Court's Electronic Case File (ECF) System is the official court record for all cases and proceedings.

(b) *Electronic Filing Mandatory*. Except as provided in Subpart (d) below, all documents shall be submitted for filing in electronic form in strict compliance with instructions of the Clerk in a format approved by the Court.

(c) *Filing Proofs of Claim by Electronic Means Directly with the Court*. In all cases, proofs of claim may be filed by electronic means directly with the Clerk of Court through the court's website according to those guidelines established by the Clerk. When filing proofs of claim, the claimant shall comply with the requirements of Bankruptcy Rule 3001(c) and (d). The filing of a proof of claim by electronic means directly with the Clerk shall constitute the filing claimant's approved signature by law, and the provisions of 18 U.S.C. § 152(4) shall apply to the filing of a proof of claim under this procedure.

(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.

(2) *Attorney and Trustee Waivers*. Attorneys who regularly practice and trustees assigned cases in the Eastern District of California shall register as users of the Court's electronic filing system and file documents in electronic form, provided, however, that an attorney or trustee may apply for a waiver of this requirement. A request for waiver shall be submitted as an ex parte application supported by a declaration demonstrating cause for relief from the requirement to file in electronic form. The decision to permit the filing of paper documents is in the sole discretion of the Court and may be cancelled at any time upon notice to the attorney.

(3) *Sealed Document Exception*. Unless otherwise ordered by the Court, requests to file documents under seal pursuant to 11 U.S.C. §§ 107(b) and (c) and Fed. R. Bankr. P. 9018 shall be filed as paper documents. A paper copy of the order sealing documents shall be attached to the documents under seal and be delivered to the Clerk's Office. The Clerk shall maintain sealed documents in paper form.

(e) *Scanning and Disposition of Paper Documents*. Paper documents filed pursuant to Subpart (d)(1) or (d)(2) of this Rule shall promptly be scanned by the Clerk into electronic form. Once scanned and made part of the ECF system, the paper documents may be discarded.

(f) *Violations*. The Clerk shall not refuse to file any proffered paper document submitted in violation of this Rule, but following scanning into electronic form, shall bring such paper document to the attention of the Court. Any attorney or trustee who files a document in violation of this Rule may be subject to monetary or non-monetary sanctions.

(g) *Time of Filing*.

(1) *Documents Submitted on Paper*. A document submitted on paper shall be deemed filed when the Clerk takes physical possession of such document.

(2) *Documents Submitted in Electronic Form*. Documents submitted in electronic form shall be deemed filed as of the date and time stated on the Notice of Electronic Filing issued by the Clerk.

(3) *Technical Failures Affecting Filing of Documents in Electronic Form*. Technical failure shall not alter the registered user's responsibility to comply with all applicable filing deadlines, provided, however, that a registered user whose electronic filing is made untimely as the result of a documented, technical failure of the Court's electronic filing system may seek appropriate relief from the Court.

LOCAL RULE 5005.5-1

Eligibility and Registration for Electronic Filing; Use of Passwords

(a) *Eligible Persons*. Attorneys admitted to practice in this Court (including those admitted *pro hac vice*), attorneys exempt from admission to the bar of this Court (including attorneys authorized to represent the United States and attorneys representing child support creditors as authorized by Bankruptcy Reform Act of 1994, Pub. L. No. 103-394, § 304(g), 108 Stat. 4106, U.S. Trustees and their assistants, trustees, claims agents, and others as the Clerk deems appropriate, shall be eligible to apply for registered user status and be issued a username and password authorizing them to access the court's electronic filing system and submit documents in electronic form. Support staff of registered users are not eligible for a separate username and password, although such staff may attend any electronic filing system training provided by the Court and may, with the permission and in the name of a registered user, use the username and password of that registered user to submit documents in electronic form.

(b) *Application to Be a Registered User*. All eligible persons shall complete and submit the online Electronic Filing System Registration Form and User Agreement available on the Court's website (www.caeb.uscourts.gov). All registered users shall also maintain an account in good standing with the PACER Service Center (http://pacer.psc.uscourts.gov).

(c) *Training*. Prior to receiving an electronic filing system username and password, registered users, or a person authorized to act on behalf of a registered user, must complete minimum

required electronic filing system training provided by the Court or obtain a waiver of the training requirement from the Clerk.

(d) *Unauthorized Use of Password Prohibited*.

(1) A registered user shall not use his/her username and password to file pleadings or other documents on behalf of someone who is not a registered user.

(2) No person may use a username and password without the permission of the registered user to whom they were issued. Registered users shall protect the security and confidentiality of their username and password and prevent their disclosure to any person other than the registered user's authorized agent.

(e) *Duty to Maintain an Email Account; Update Email Address*. Each registered user shall maintain an email account and shall update his/her e-Filing user information via the court's website whenever his/her email address changes.

LOCAL RULE 5009-1

Closing Procedures in Chapter 13 Cases

(a) *Notice to Debtor of Completed Plan*. When the chapter 13 trustee determines that the debtor has completed all payments required by the plan, the trustee shall file with the Court and serve on the debtor and the debtor's attorney Form EDC 5-200, *Notice to Debtor of Completed Plan Payments and of Obligation to File Documents.*

(b) *Debtor Certifications to Obtain Discharge*. No later than thirty (30) days after the date of a *Notice to Debtor of Completed Plan Payments and of Obligation to File Documents*, the debtor shall file with the Court and serve on the trustee Form EDC3-190, *Debtor's 11 U.S.C. § 1328 Certificate*, and, if applicable, Form EDC 3-191 and, *Statement of Chapter 13 Debtor Regarding 11 U.S.C. § 522(q) Exemptions*.

(c) *Notice of Impending Chapter 13 Discharge*. When the debtor has certified that (1) the debtor has completed an instructional course concerning personal financial management, (2) the debtor has not received a prior bankruptcy discharge within the time periods specified in 11 U.S.C. § 1328(f), (3) the debtor has paid all domestic support obligations, and (4) the debtor does not owe debts of the type described in 11 U.S.C. § 522(q) while claiming exemptions in real property, personal property, or a cooperative used as a residence or claimed as a homestead, or in a burial plot that exceed ~~in the aggregate $146,450.00~~ the amount stated in 11 U.S.C. § 522(q)(1), or that exemptions ~~in excess of $146,450.00~~ that exceed the amount stated in 11 U.S.C. § 522(q)(1) are reasonably necessary for the support of the debtor or the debtor's dependents, the Clerk shall serve Form EDC 5-300, *Notice of Intent to Enter Chapter 13 Discharge*, on the trustee, the U.S. Trustee, the debtor, the debtor's attorney, all creditors, and persons requesting notice. The Clerk shall serve the Notice upon court approval of the trustee's final report and account.

(d) *Objecting to Debtor's Eligibility for Discharge*. If a party- in-interest wishes to object to any

or all of the four (4) certifications referenced in the "Notice of Intent to Enter Chapter 13 Discharge," the party in interest must file and serve an Objection within fourteen (14) days of the date of that Notice. If an Objection is not filed, served, and set for hearing as directed in the "Notice of Intent to Enter Chapter 13 Discharge," the Court may enter the debtor's discharge without further notice or hearing.

(e) *Order Closing Case Without Discharge*. Form EDC 6-100, *Order Closing Chapter 13 Case Without Discharge*, will be entered:

(1) When the debtor fails to certify that (1) the debtor has completed an instructional course concerning personal financial management, (2) the debtor has not received a prior bankruptcy discharge within the time periods specified in 11 U.S.C. § 1328(f), (3) the debtor has paid all domestic support obligations, or (4) the debtor does not owe debts of the type described in 11 U.S.C. § 522(q) while claiming exemptions in real property, personal property, or a cooperative used as a residence or claimed as a homestead, or in a burial plot that exceed ~~in the aggregate $146,450.00~~ the amount stated in 11 U.S.C. § 522(q)(1), or that such exemptions ~~in excess of $146,450.00~~ that exceed the amount stated in 11 U.S.C. § 522(q)(1) are reasonably necessary for the support of the debtor or the debtor's dependents; or

(2) When a party-in-interest successfully objects to one or more of the certifications referenced in the "Notice of Intent to Enter Chapter 13 Discharge."

(f) *Motions for Discharge After Case Closed Without Entry of Discharge*. When a chapter 13 case is closed without entry of a discharge, subject to payment of the fee to reopen the case, a motion seeking entry of discharge will be considered by the Court provided the motion is set for hearing in accordance with LBR 9014-1(f)(1) or (f)(2) on notice to the trustee, the U.S. Trustee, all creditors, and other persons requesting notice.

LOCAL RULE 5010-1

Motions to Reopen Cases

(a) *Ex Parte Motion Permitted*. A motion to reopen a case may be made on an ex parte basis. Unless the Court orders otherwise, no hearing shall be set.

(b) *Contents of Motion.* A motion to reopen a case shall contain a statement of the grounds for reopening the case, and shall state whether, in the opinion of the moving party, the appointment of a trustee is necessary or advisable and the reasons why or why not, but shall not contain a request for any other relief. If filed by the debtor, the motion shall state: (1) whether the debtor intends to amend the schedules and statements; and (2) if so, the particular additions, deletions or other changes to be made. The motion shall be served on the United States Trustee.

(c) *Separate Motions/Adversary Proceedings*. Requests for any relief other than reopening, including relief based upon the grounds for reopening the case, shall be made in separate motions or adversary proceedings, which may be filed concurrently with the motion to reopen.

(d) *Closing of Reopened Case*. If no motion or adversary proceeding is pending thirty (30) days after the case is reopened and if no trustee has been ordered appointed, the case may be closed by the Clerk without further notice.

LOCAL RULE 7003-1

Cover Sheet in Adversary Proceedings

At the time of filing a complaint commencing an adversary proceeding, the plaintiff shall file a completed Adversary Proceeding Cover Sheet on ~~Form B 104~~ Form B1040.

LOCAL RULE 7004-1

Process, Service of Summons, and Complaints

(a) In all adversary proceedings in chapter 7 cases filed pursuant to either or both 11 U.S.C. § 523 and 11 U.S.C. § 727 where the debtor or debtors are not represented by counsel, the plaintiff shall serve with the summons and complaint a copy of Form EDC 3-100, *Notice to Pro Se Debtor(s)*, together with a sufficient number of copies for service, filing, and conforming of Form EDC 3-101, *Answer*, with the caption information completed.

(b) When service of the *Notice to Pro Se Debtor(s)* and *Answer* is required pursuant to this Rule, the plaintiff shall file a declaration that copies of the *Notice to Pro Se Debtor(s)* and the *Answer*, in the required number of copies, have been served together with the summons and complaint.

LOCAL RULE 7005-1

Service by Electronic Means

(a) *Consent to Service by Electronic Means*. A registered user of the Court's electronic filing system may consent to receive service by electronic means pursuant to Fed. R. Civ. P. 5(b)(2)(E), as made applicable to bankruptcy cases and proceedings by Fed. R. Bankr. P. 7005, by so indicating on his/her online Electronic Filing System Registration Form and User Agreement. This option may be changed by the registered user at any time thereafter by updating their e-Filing user information via the Court's website.

(b) *Opting Out of Service by Electronic Means*. A registered user of the Court's electronic filing system may opt out of receiving service by electronic means by so indicating on his/her online Electronic Filing System Registration Form and User Agreement. This option may be changed by the registered user at any time thereafter by updating their e-Filing user information via the Court's web site.

(c) *Roster of Those Consenting to Service by Electronic Means*. The Clerk shall maintain a roster containing the names and email addresses of registered users who have consented to service by electronic means. The roster shall only be accessible by registered users of the Court's electronic filing system and shall be password-protected to prevent access by unauthorized persons or entities.

(d) *Method of Service.*

(1) *Upon Those Parties Consenting to Service by Electronic Means.* Service by electronic means pursuant to Fed. R. Civ. P. 5(b)(2)(E) shall be accomplished by transmitting an email which includes as a PDF attachment the document(s) served. The subject line of the email shall include the words "Service Pursuant to Fed. R. Civ. P. 5," and the first text line of the email shall include the case or proceeding name and number and the title(s) of the document(s) served.

(2) *Upon All Other Parties.* Service on parties who are not registered users of the Court's electronic filing system or who are registered users but have opted out as provided for in Subpart (b) above must be made in the conventional manner as provided for in Fed. R. Civ. P. 5(b)(2).

(3) *Certificate of Service.* The certificate of service shall include all parties served, whether by electronic or conventional means. Where service was accomplished by electronic means, the certificate of service shall include the email addresses to which the document(s) were transmitted, and the party, if any, whom the recipient represents.

LOCAL RULE 7015-1
Motions to Amend Pleadings

A motion for leave to amend or supplement a pleading before trial must include as exhibits: (1) a copy of the proposed amendment, amended or supplemental pleading, which must be serially numbered to differentiate it from previous pleadings or amendments; and (2) either a redline copy, which compares the proposed pleading to the most recent applicable pleading, or a table that specifies the location by citation to the page, paragraph and recites verbatim each addition or deletion.

LOCAL RULE 7026-1
Discovery Limitations

(a) Pursuant to the provisions of Fed. R. Civ. P. 26(a)(1), and unless otherwise ordered by the Court in the specific adversary proceeding, contested petition, or contested matter, the automatic disclosure procedures described therein shall not be required in any action pending in this Court, nor shall any automatic disclosures of any type be required in any action pending in this Court.

(b) Pursuant to the provisions of Fed. R. Civ. P. 26(a)(2)(B), and unless otherwise ordered by the Court in the specific adversary proceeding, contested petition, or contested matter, the expert witness disclosure requirements described therein shall not be required in any action pending in this Court, and all disclosure of matters pertaining to expert witnesses shall be performed in accordance with the provisions of a scheduling or other order entered in the specific adversary proceeding, contested petition, or contested matter, or pursuant to the

provisions of Fed. R. Civ. P. 30, 33, and 34, as applicable.

(c) Pursuant to the provisions of Fed. R. Civ. P. 26(a)(3), and unless otherwise ordered by the Court in the specific adversary proceeding, contested petition, or contested matter, the pretrial disclosure requirements described therein shall not be required in any action pending in this Court, and all disclosure of matter of the type described therein shall be performed in accordance with the provisions of LBR 9017-1 and any pretrial, scheduling, or status order.

(d) Pursuant to the provisions of Fed. R. Civ. P. 26(d) and 26(f), and unless otherwise ordered by the Court in the specific adversary proceeding, contested petition, or contested matter, there is no requirement that parties or counsel engage in any meet-and-confer procedure prior to any scheduling conference or prior to seeking discovery in the first instance.

LOCAL RULE 7030-1
Deposition Transcripts

It shall be the duty of the party requesting a deposition to obtain from the reporter the original transcript thereof in a sealed envelope and to safely retain the same under conditions suitable to protect it from loss, destruction, or tampering until such time as the Court shall order its production.

LOCAL RULE 7038-1
Jury Trial of Right

(a) *Right Preserved*. Fed. R. Civ. P. 38 shall apply in adversary proceedings where there is a right to trial by jury.

(b) *Demand*. Where demand is made for a jury trial, it shall appear immediately following the title of the complaint or answer containing the demand, or in such other document as may be permitted by Fed. R. Civ. P. 38(b). Any notation on the Adversary Proceeding Cover Sheet (~~Form B 104~~ Form B1040.) concerning whether a jury trial is or is not demanded shall not constitute a demand for a jury trial under these Local Rules.

LOCAL RULE 7039-1
Trial by Jury or the Court

Fed. R. Civ. P. 39 applies in adversary proceedings. This Rule shall not be interpreted to suggest that a bankruptcy judge will or may preside over a jury trial.

LOCAL RULE 7055-1
Default and Default Judgment Procedures in Adversary Proceedings

A party seeking entry of default must submit “Request for Entry of Default by Plaintiff(s)” (local

form EDC.003-726) and "Entry of Default and Order Re: Default Judgment Procedures" (local form EDC.003-727).

LOCAL RULE 7056-1

Motions for Summary Judgment or Partial Summary Judgment

(a) *Motions for Summary Judgment or Partial Summary Judgment*. Each motion for summary judgment or partial summary judgment shall be accompanied by a "Statement of Undisputed Facts" which shall enumerate discretely each of the specific material facts relied upon in support of the motion and cite the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission, or other document relied upon to establish that fact. The moving party shall be responsible for the filing with the Court of all evidentiary documents cited in the moving papers.

(b) *Opposition*. Any party opposing a motion for summary judgment or partial judgment shall reproduce the itemized facts in the Statement of Undisputed Facts and admit those facts which are undisputed and deny those which are disputed, including with each denial a citation to the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission, or other document relied upon in support of that denial. The opposing party may also file a concise "Statement of Disputed Facts," and the source thereof in the record, of all additional material facts as to which there is a genuine issue precluding summary judgment or adjudication. The opposing party shall be responsible for the filing with the Court of all evidentiary documents cited in the opposing papers. If a need for discovery is asserted as a basis for denial of the motion, the party opposing the motion shall provide a specification of the particular facts on which discovery is to be had or the issues on which discovery is necessary.

(c) *Stipulated Facts*. All parties-in-interest may jointly file a stipulation setting forth a statement of stipulated facts to which all parties-in-interest agree. As to any stipulated facts, the parties so stipulating may state that their stipulations are entered into only for the purposes of the motion for summary judgment and are not intended to be otherwise binding.

(d) *Partial Summary Judgment*. This Rule shall apply to motions for orders specifying material facts that appear without substantial controversy pursuant to Fed. R. Civ. P. 56(d), except that the proposed "Statement of Undisputed Facts" and the "Statement of Disputed Facts" shall be limited to the facts which the moving party asserts are without substantial controversy and the facts the opposing party contends are in dispute.

LOCAL RULE 7065-1

Temporary Restraining Orders

(a) *Notice to Affected Parties*. Any party seeking a temporary restraining order in the absence of actual notice to the affected parties and/or counsel shall comply with the requirements of Fed. R. Civ. P. 65(b). Appropriate notice would inform the affected parties and/or counsel of the intention to seek a temporary restraining order, the date and time for hearing to be requested of the Court, whether the judge will permit a counsel to appear by telephone, and the nature of the relief requested. Once a specific time and location has been set by the

Court, additional notice of the time and location of the hearing shall be given.

(b) *Documents to Be Filed*. No hearing on a temporary restraining order will normally be set unless the following documents are filed with the Clerk and, unless impossible under the circumstances, served on the affected parties and/or their counsel:

(1) An adversary complaint;

(2) A motion for temporary restraining order;

(3) A brief on all relevant legal issues presented by the motion;

(4) A declaration in support of the existence of an irreparable injury;

(5) A declaration detailing the notice or efforts to effect notice to the affected parties and/or counsel or showing good cause why notice should not be given; and

(6) A proof of service.

(c) *Contents and Service of Proposed Order*. The party seeking the order shall deliver to the Court and, unless impossible under the circumstances, serve the affected parties and/or counsel with a proposed temporary restraining order with, if applicable under Fed. R. Bankr. P. 7065, a provision for a bond. In all circumstances in which a temporary restraining order is requested ex parte, the proposed order shall further notify the affected parties and/or counsel that they may apply to the Court for modification or dissolution on two (2) days notice by personal service or such other notice as the Court may allow.

(d) *Modification or Dissolution*. When a preliminary injunction or temporary restraining order has been issued, the affected parties may apply to the Court for modification or dissolution of the injunction or order. Such motion shall normally be accompanied by a brief on all relevant legal issues to be presented in support and declarations supporting modification or dissolution and detailing the notice or efforts to notify the other parties and/or counsel.

LOCAL RULE 7067-1

Deposits of Registry Funds

(a) Registry funds maintained pursuant to 28 U.S.C. § 2041 and Rule 67 of the Federal Rules of Civil Procedure shall include, but shall not be limited to, monies to be held in escrow pending resolution of a particular dispute before the Court.

(b) *Receipt of Funds*

(1) No money shall be sent to the Court or its officers for deposit in the court's registry pursuant to 28 U.S.C. § 2041 without a court order signed by the presiding judge in the case or proceeding.

(2) The party making the deposit or transferring funds to the Court's registry shall serve the order permitting the deposit or transfer on the clerk of Court.

(3) Unless otherwise ordered, all monies ordered to be paid to the Court or received by its officers in any case pending or adjudicated shall be deposited with the Treasurer of the United States in the name and to the credit of this Court pursuant to 28 U.S.C. § 2041 through depositories designated by the Treasury to accept such deposit on its behalf.

(c) *Investment of Registry Funds*

(1) Where, by order of the Court, funds on deposit with the court are to be placed in some form of interest bearing account or invested in a court-approved, interest-bearing instrument in accordance with Rule 67 of the Federal Rules of Civil Procedure, the Court Registry Investment System ("CRIS"), administered by the Administrative Office of the United States Courts under 28 U.S.C. 2045, shall be the only investment mechanism authorized.

(2) Money from each case deposited in the CRIS shall be "pooled" together with those on deposit with Treasury to the credit of other courts in the CRIS and used to purchase Government Account Series securities through the Bureau of Public Debt, which will be held at Treasury in an account in the name and to the credit of the Director of Administrative Office of the United States Courts, hereby designated as custodian for the CRIS.

(3) An account for each case will be established in the CRIS titled in the name of the case giving rise to the investment in the fund. Income generated from fund investments will be distributed to each case based on the ratio each account's principal and earning has to the aggregate principal and income total in the fund. Reports showing the interest earned and the principal amounts contributed in each case will be prepared and distributed to each court participating in the CRIS and made available to litigants and/or their counsel.

(4) Funds held in the CRIS remain subject to the control and jurisdiction of the court.

(d) *Registry and Investment Fees*. The custodian is authorized and directed to deduct the registry fee for maintaining accounts deposited with the Court and the investment services fee for the management of investments in the CRIS. The registry fee is determined on the basis of the rates published by the Director of the Administrative Office of United States Courts as approved by the Judicial Conference and the investment services fee is assessed according to the Court's Miscellaneous Fee Schedule.

(e) *Order for Disbursement of Registry Funds*. Payment of funds from any funds deposited pursuant to this Rule shall be by order of the Court only. The form of order submitted shall contain the names and addresses for each of the parties to whom funds are to be paid, the amounts to be paid and a statement acknowledging the fees on the interest earned will be deducted before payment of funds will be distributed. Taxpayer information for each party

must be submitted on form AO 213, which is available on the Court's website. Funds shall be disbursed only after the time for appeal of the related judgment or order has expired, or upon approval by the court of a written stipulation by all parties.

(f) *Copy of Order*. Counsel obtaining an order as described above will serve a copy on the Clerk, when the order has been signed.

LOCAL RULE 7090-1
Disposition of Unclaimed Exhibits

If exhibits offered at trial are not reclaimed within sixty (60) days after entry of judgment or order following completion of trial, and the judgment or order is final and non-appealable, the Clerk may dispose of them as the Clerk may deem fit.

LOCAL RULE 8020-1
Procedures Following Remand by an Appellate Court

Whenever a case, proceeding, or matter is remanded by an Appellate Court to the Bankruptcy Court for further proceedings, any party to the appeal may move to set the matter for further proceedings by filing a motion pursuant to LBR 9014-1. The Court will not set the matter for further proceedings as a matter of course.

LOCAL RULE 9001-1
Definitions

These definitions supplement the definitions set forth in Fed. R. Bankr. P. 9001 and 9002. For purposes of these Rules, unless the context otherwise requires, the terms below are defined as follows:

(a) *"Briefs"* include memoranda, points and authorities, and other written arguments, or compilations of authorities.

(b) "*Case*" means the bankruptcy case initiated by the filing of a petition for relief.

(c) *"Clerk"* means the clerk of the bankruptcy court appointed pursuant to 28 U.S.C. § 156(b).

(d) *"Contested matter(s)"* include motions, objections, applications, and other matters for which a hearing is necessary, and are collectively referred to herein as "motions." Contested matters are governed by Fed. R. Bankr. P. 9014.

(e) *"Courtroom deputy"* means the deputy clerk assigned to the particular judge to whom a case or proceeding has been assigned or the judge before whom a matter or a part thereof is being

conducted.

(f) *"Declaration"* includes an affidavit prepared in accordance with federal law. See 28 U.S.C. § 1746.

(g) *"DIP"* means debtor-in-possession.

(h) *"Ex parte"* means without prior notice.

(i) *"Federally insured depository"* means a financial institution that is insured by the Federal Deposit Insurance Corporation or other federal agency providing deposit protection.

(j) *"Fed. R. Bankr. P."* means the Federal Rules of Bankruptcy Procedure.

(k) *"Fed. R. Civ. P."* means the Federal Rules of Civil Procedure.

(l) "*Filed*" means delivered into the custody of the Clerk, either by electronic means or by physical delivery in paper form as provided for in LBR 5005-1, and accepted by the Clerk for inclusion in the official records of the case or proceeding.

(m) *"Judgment"* is defined in Fed. R. Bankr. P. 7054, incorporating Fed. R. Civ. P. 54, and includes a decree and any order from which an appeal lies.

(n) *"Motion"* includes all motions, applications, objections, or other requests made to the Court for orders or other judicial activity.

(o) *"Order"* means any directive by the Court, including oral or telephonic as well as written directives, that is not a judgment.

(p) *"Proceeding"* includes adversary proceeding, any hearing conducted by the Court, and any other continuing matter before the Court arising in the bankruptcy case.

LOCAL RULE 9004-1

General Requirements of Form

(a) *General Format of Documents*. All pleadings and documents shall conform with the Court's *Revised Guidelines for the Preparation of Documents*, Form EDC 2-901. The Clerk shall maintain on the Court's website (www.caeb.uscourts.gov) the current version of these Guidelines and shall make paper copies available upon request without charge. The Clerk shall not refuse to file any proffered document submitted in violation of this Rule, but shall bring such document to the attention of the Court. Any attorney or trustee who files a document in violation of this Rule may be subject to monetary or non-monetary sanctions.

(b) *Counsel Identification*. The name, address (including email address, if the document is to be submitted in electronic form), telephone number, and the California State Bar membership number (not applicable to counsel for the United States) of all counsel (or, if

in propria persona, of the party), and the specific identification of each party represented by name and interest in the proceeding (e.g., Debtor Smith, Creditor Bank, Plaintiff Roe, Defendant Doe) shall appear in the upper left hand corner of the first page of each document presented for filing, except that in the instance of multiparty representation reference may be made to the signature page for the complete list of parties represented.

(c) *Signatures Generally*. All pleadings and non-evidentiary documents shall be signed by the individual attorney for the party presenting them, or by the party involved if that party is appearing in propria persona. Affidavits and certifications shall be signed by the person offering the evidentiary material contained in the document. The name of the person signing the document shall be typed underneath the signature.

(1) *Signatures on Documents Submitted Electronically*.

(A) *Signature of the Registered User*. The username and password required to access the electronic filing system shall serve as the registered user's signature on all electronic documents filed with the Court. They shall also serve as a signature, with the same force and effect as a written signature, for purposes of the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules of this Court, including Fed. R. Bankr. P. 9011-1 and LBR 9004-1(c), and for any other purpose for which a signature is required in connection with proceedings before the Court. Unless the electronically filed document has been scanned and shows the registered user's original signature or bears a software-generated electronic signature thereof, an "/s/" and the registered user's name shall be typed in the space where the signature would otherwise appear.

(B) *Signatures of Other Persons*. Signatures of persons other than the registered user may be indicated by either:

(i) Submitting a scanned copy of the originally signed document;

(ii) Attaching a scanned copy of the signature page(s) to the electronic document; or

(iii) Through the use of "/s/ Name" or a software-generated electronic signature in the signature block where signatures would otherwise appear. Electronically filed documents on which "/s/ Name" or a software-generated electronic signature is used to indicate the signatures of persons other than the registered user shall be subject to the requirements set forth in Subparts (C) and (D) below.

(C) *The Use of "/s/ Name" or a Software Generated-Electronic Signature*. The use of "/s/ Name" or a software-generated electronic signature on documents constitutes the registered user's representation that an originally signed copy of the document exists and is in the registered user's possession at the time of filing.

(D) *Retention Requirements When "/s/ Name" or a Software-Generated Electronic Signature Is Used*. When "/s/ Name" or a software-generated electronic signature is used in an electronically filed document to indicate the required signature(s) of persons other than that of the registered user, the registered user shall retain the originally signed document in paper form for no less than three (3) years following the closing of the case. On request of the Court, U.S. Trustee, U.S. Attorney, or other party, the registered user shall produce the originally signed document(s) for review. The failure to do so may result in the imposition of sanctions on the Court's own motion, or upon motion of the case trustee, U.S. Trustee, U.S. Attorney, or other party.

(2) *Signature of Creditor or Other Person Authorized to File a Proof of Claim*. The full name, title, and address of the creditor or other authorized person filing a claim must appear on the proof of claim. Entry on the electronic proof of claim form of the full name, title, and address of the creditor or other person authorized to file the proof of claim by the creditor or authorized person filing the claim shall constitute the signature of the creditor or authorized person filing the claim and the claim will be deemed signed by the creditor or authorized person. It shall also serve as a signature, with the same force and effect as a written signature, for purposes of the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules of this Court, and for any other purpose for which a signature is required on the proof of claim. The name of the creditor or authorized person filing the claim shall appear in the space on the proof of claim form where the signature would otherwise appear.

(d) *Signature on Facsimile Documents and on Software-Generated Documents*. For the purposes of this Rule, the image of an original manual signature appearing on a facsimile (fax) copy, or appearing in a software-generated copy such as a document created in the "portable document format" (PDF), filed pursuant to this Rule shall constitute an original signature for all court purposes. The document, which itself may be in whole or in part a fax copy, must be marked "original" prior to submission to the Clerk's Office for filing. The originator of the document, or in the case of an affidavit or certification, the presenting attorney or party, is required to maintain the document containing the original manual signature until the conclusion of the case or proceeding, including any appeal and remand after appeal. In the event there are multiple signatories to a document, the filing party or attorney shall retain the originally signed document(s). The Court may require that the document containing the original manual signature be filed. This Rule does not provide for documents to be transmitted via fax directly to the Clerk's Office. Documents directly faxed to the Clerk or to a chambers of the Court will not be filed, lodged, received, returned, or acknowledged.

(e) *Proposed Orders and Judgments*.

(1) *Content and Format*. Proposed orders and judgments presented to the Court for signature shall:

(A) Be submitted as separate documents;

(B) Not include the word "Proposed" in the title of the order;

(C) Be complete in all respects using "best estimates" where necessary;

(D) On the final page contain at least one line of substantive text (i.e., the final page of a proposed order or judgment must not include only "boilerplate" words such as "it is so ordered" or similar) and at least two inches of space below the final line of text for placement of a date and the judge's signature; and

(E) In all other respects be formatted in strict compliance with the Court's Guidelines for the Preparation of Documents.

(2) *Exhibits*. If a proposed order includes references to an exhibit or exhibits, the exhibit(s) shall be attached to the proposed order or judgment. An exhibit shall not be filed as a separate document.

(3) *Approval by Counsel or Party*. If the court at the hearing on the matter, or by separate order, requires that any attorney or unrepresented party appearing in the matter be provided the opportunity to review and approve a form of order or judgment prior to its submission, the proposed order or judgment shall, just below the space reserved for placement of the judge's signature, contain the signatures of such counsel or party indicating their approval. Approval indicates only that the document accurately reflects the ruling of the court and does not constitute agreement or waiver of appellate rights. Orders not bearing the signature of an attorney or unrepresented party designated by the court to approve the form of the order shall not be lodged with the court for at least three days after transmission to that attorney. In the event a dispute arises regarding the form of order, the submitting counsel or party shall submit, along with the proposed order, a brief declaration summarizing the reason for the lack of approval by the attorney or unrepresented party, along with a proof of service demonstrating service of the proposed form of order and the declaration on the non-approving counsel or party.

(4) *Proposed Order as Exhibit*. Nothing in these local rules prohibits a party from submitting a proposed form of order or judgment as an exhibit to a notice, motion, memorandum, or other document.

LOCAL RULE 9014-1

Motion Calendar and Procedure

(a) *Applicability*. Parties shall file, serve, and set for hearing all contested matters, including motions, whether filed in the bankruptcy case or in an adversary proceeding, objections, applications, and other matters for which a hearing is necessary (hereafter referred to

collectively as "motions"), in accordance with this Local Rule, any other applicable Local Rules, and the applicable provisions of Title 11 of the United States Code and the Federal Rules of Bankruptcy Procedure. Except as otherwise provided in LBR 3007-1, this Local Rule shall apply to objections to proofs of claim.

(b) *Motion Calendar.*

(1) Each judge of the Court shall maintain his or her department's individual motion calendar. All hearings shall be set on the motion calendar of the department to which the case is assigned. A party shall self-set a motion for hearing on the dates and times specified on each department's motion calendar.

(2) Each judge's motion calendar and instructions for self-setting hearings are posted on the Court's website site (www.caeb.uscourts.gov) and are also available from the Clerk's Office at the public counters.

(c) *Docket Control Number.*

(1) In motions filed in the bankruptcy case, a Docket Control Number (designated as DC No.) shall be included by all parties immediately below the case number on all pleadings and other documents, including proofs of service, filed in support of or opposition to motions.

(2) In motions filed in adversary proceedings, the Docket Control Number shall be placed immediately below the adversary number.

(3) The Docket Control Number shall consist of not more than three letters, which may be the initials of the attorney for the moving party (e.g., first, middle, and last name) or the first three initials of the law firm for the moving party, and the number that is one number higher than the number of motions previously filed by said attorney or law firm in connection with that specific bankruptcy case.

Example: The first Docket Control Number assigned to attorney John D. Doe would be DC No. JDD-1, the second DC No. JDD-2, the third DC No. JDD-3, and so on. This sequence would be repeated for each specific bankruptcy case and adversary proceeding in which said attorney or law firm filed motions.

(4) Once a Docket Control Number is assigned, all related papers filed by any party, including motions for orders shortening the amount of notice, shall include the same number. However, motions for reconsideration and countermotions shall be treated as separate motions with a new Docket Control Number assigned in the manner provided for above.

(d) *Format and Content of Motions and Notices*.

(1) *Contents of Motion*. Except as otherwise provided in these rules, every application, motion, contested matter or other request for an order, shall be filed separately from any other request, except that relief in the alternative based on the same statute or rule may be filed in a single motion. Without incorporation by reference to any other document, exhibit or supporting pleading, the motion shall state with particularity the grounds therefor, and shall set forth the relief or order sought.

(2) *Format*. All pleadings and documents filed in support and in opposition to a motion shall contain in the caption the date and time of the hearing and the courtroom in which the hearing will be held and shall otherwise comply with LBR 9004-1, General Requirements of Form.

(3) *Separate Notice*. Every motion shall be accompanied by a separate notice of hearing stating the Docket Control Number, the date and time of the hearing, the location of the courthouse, the name of the judge hearing the motion, and the courtroom in which the hearing will be held.

(4) *Contents of Notice*. The notice of hearing shall advise potential respondents whether and when written opposition must be filed, the deadline for filing and serving it, and the names and addresses of the persons who must be served with any opposition. If written opposition is required, the notice of hearing shall advise potential respondents that the failure to file timely written opposition may result in the motion being resolved without oral argument and the striking of untimely written opposition.

(5) *Service of Notice Only*. When notice of a motion is served without the motion or supporting papers, the notice of hearing shall also succinctly and sufficiently describe the nature of the relief being requested and set forth the essential facts necessary for a party to determine whether to oppose the motion. However, the motion and supporting papers shall be served on those parties who have requested special notice and those who are directly affected by the requested relief.

(6) *Legal Authority*. Each motion, opposition, and reply shall cite the legal authority relied upon by the filing party.

(7) *Evidence*. Every motion shall be accompanied by evidence establishing its factual allegations and demonstrating that the movant is entitled to the relief requested. Affidavits and declarations shall comply with Fed. R. Civ. P. 56(e).

(e) *Service and Proof of Service*.

(1) Service of all pleadings and documents filed in support of, or in opposition to, a motion shall be made on or before the date they are filed with the Court.

(2) A proof of service, in the form of a certificate of service, shall be filed with the Clerk concurrently with the pleadings or documents served, or not more than three (3) days after they are filed.

(3) The proof of service for all pleadings and documents filed in support or opposition to a motion shall be filed as a separate document and shall bear the Docket Control Number. Copies of the pleadings and documents served shall not be attached to the proof of service. Instead, the proof of service shall identify the title of the pleadings and documents served.

(f) *Amount of Notice*.

(1) *Motions Set on 28 Days' Notice*. Unless a different amount of time is required by the Federal Rules of Bankruptcy Procedure, these Local Rules, or by order of the Court, or the moving party elects to give the notice permitted by LBR 9014-1(f)(2), the moving party shall file and serve the motion at least twenty-eight (28) days prior to the hearing date.

(A) If the motion is a motion for relief from the automatic stay, it shall be the duty of the moving party to set a hearing within thirty (30) days of the filing of the motion. The failure of the moving party to set the hearing within thirty (30) days shall be deemed a waiver of the time constraints of 11 U.S.C. § 362(e).

(B) *Opposition*. Opposition, if any, to the granting of the motion shall be in writing and shall be served and filed with the Court by the responding party at least fourteen (14) days preceding the date or continued date of the hearing. Opposition shall be accompanied by evidence establishing its factual allegations. Without good cause, no party shall be heard in opposition to a motion at oral argument if written opposition to the motion has not been timely filed. Failure of the responding party to timely file written opposition may be deemed a waiver of any opposition to the granting of the motion or may result in the imposition of sanctions.

The opposition shall specify whether the responding party consents to the Court's resolution of disputed material factual issues pursuant to Fed. R. Civ. P. 43(c) as made applicable by Fed. R. Bankr. P. 9017. If the responding party does not so consent, the opposition shall include a separate statement identifying each disputed material factual issue. The separate statement shall enumerate discretely each of the disputed material factual issues and cite the particular portions of the record demonstrating that a factual issue is both material and in dispute. Failure to file the separate statement shall be construed as consent to resolution of the motion and all disputed material factual issues pursuant to Fed. R. Civ. P. 43(c).

(C) *Reply*. The moving party may, at least seven (7) days prior to the date of the hearing, serve and file with the Court a written reply to any written opposition filed by a responding party.

If the moving party does not consent to the Court's resolution of disputed material factual issues pursuant to Fed. R. Civ. P. 43(c), the moving party shall file and serve, within the time required for a reply, a separate statement identifying each disputed material factual issue. The separate statement shall enumerate discretely each of the disputed material factual issues and cite the particular portions of the record demonstrating that a factual issue is both material and in dispute. Failure to file the separate statement shall be construed as consent to resolution of the motion and all disputed material factual issues pursuant to Fed. R. Civ. P. 43(c).

Unless the Court determines that an evidentiary hearing is necessary, the evidentiary record closes upon expiration of the time for the filing of the reply.

(D) Prior to the noticed hearing date, counsel may bring to the Court's attention relevant judicial opinions published after the date the opposition or reply was filed by filing and serving a Statement of Recent Development, containing a citation to and providing a copy of the new opinion without argument. No memoranda, declarations, or documents other than those specified in this Local Rule shall be filed without prior court approval.

(2) *Motions Set on 14 Days' Notice*. Alternatively, unless additional notice is required by the Federal Rules of Bankruptcy Procedure or these Local Rules, the moving party may file and serve the motion at least fourteen (14) days prior to the hearing date.

(A) This alternative procedure shall not be used for a motion filed in connection with an adversary proceeding.

(B) The use of this alternative procedure in connection with a motion for relief from the automatic stay shall be deemed a waiver of the time limitations contained in 11 U.S.C. § 362(e).

(C) When fewer than twenty-eight (28) days' notice of a hearing is given, no party-in-interest shall be required to file written opposition to the motion. Opposition, if any, shall be presented at the hearing on the motion. If opposition is presented, or if there is other good cause, the Court may continue the hearing to permit the filing of evidence and briefs.

(3) *Orders Shortening Time*. In appropriate circumstances and for good cause shown, the Court may order that the amount of notice of a hearing on a motion be shortened

to fewer than fourteen (14) days. Unless otherwise ordered, when the time for service is shortened to fewer than fourteen (14) days, no written opposition is required.

If the motion for which notice is to be shortened has not been filed, a copy of it or a summary shall be filed with the application as a separate exhibit document. If the motion or a summary cannot be filed as an exhibit, the application shall describe the motion with particularity and explain why the moving party is unable either to file the motion or file it as an exhibit to the application.

(4) *Notice Requirements for Preliminary Hearings on "First Day Orders."* In chapter 11, 12, and 13 cases, preliminary hearings on motions for "first day orders," including, but not limited to, motions to use cash collateral, borrow money, and pay employees, shall comply with Fed. R. Bankr. P. 4001(b) and Fed. R. Bankr. P. 6003. Such motions will generally be heard by the Court within two (2) days of a request for such preliminary hearing or as soon thereafter as reasonably possible. Counsel for the debtor or the trustee shall contact the chambers of the assigned judge as soon as it is known that a hearing will be needed to ascertain what notice will be required and the date and time of the hearing.

(g) *Evidentiary Hearings.*

(1) If the Court determines that there is a disputed material factual issue that must be resolved before the relief requested in the motion can be granted or denied, testimony shall be taken in accordance with Fed. R. Civ. P. 43(a) unless the parties waive such right or consent to proceeding under Fed. R. Civ. P. 43(c).

(2) Telephonic appearances are not allowed at evidentiary hearings.

(3) An opposition and/or reply to a motion shall state whether a party consents to the use of affidavits in accordance with Fed. R. Civ. P. 43(c). Any party that fails to file the separate statement of disputed material facts as required by LBR 9014-1 will thereby consent to proceed on the basis of the written record without live testimony.

(4) If a party does not consent to proceed on the basis of the written record without live testimony, the Court may determine in advance of or at the scheduled hearing date on the motion whether an evidentiary hearing is required to resolve disputed material factual issues. The disposition of these motions will be available on the court day prior to the scheduled hearing, according to the practice of the assigned judge, on the Court's website at http://www.caeb.uscourts.gov/calendar/tentative.asp. The disposition will ordinarily consist of one of the following:

(A) The Court may determine that no evidentiary hearing is required because no material factual dispute exists. The motion will then proceed on the scheduled hearing date on the basis of the written record.

(B) The court may treat the motion as a "short cause" matter (expected to last no more than thirty (30) minutes) and set the matter for hearing on a short cause calendar with other short cause matters. Witnesses on short cause matters will be limited to those individuals whose declarations were filed in connection with the motion. Unless the Court orders otherwise, the direct testimony of a witness will not be admitted into evidence unless the witness is present at the hearing for interrogation by the Court under Fed. R. Evid. 614(b) and for cross-examination. Matters set on a short cause calendar will not be continued except by order of the Court.

(C) The Court may treat the motion as a "long cause" matter. The scheduled hearing date will be used as a scheduling conference, during which the Court will establish deadlines for, inter alia, discovery and the presentation of evidence, including the use of alternative direct testimony, exhibits, and expert witnesses pursuant to LBR 9017-1, and set a date for an evidentiary hearing. Pursuant to Fed. R. Bankr. P. 9014(c), the following mandatory disclosures under Fed. R. Civ. P. 26(a) shall apply to a motion or other contested matter treated as a "long cause" matter, as follows:

(i) Initial disclosures shall be made in accordance with Fed. R. Civ. P. 26(a)(1), except Fed. R. Civ. P. 26(a)(1)(C) and (D). A party must make the initial disclosures at or within fourteen (14) days after the scheduling conference, unless a different time is set by stipulation or court order.

(ii) Disclosure of expert witnesses shall be made in accordance with Fed. R. Civ. P. 26(a)(2), except Fed. R. Civ. P. 26(a)(2)(C). A party must make disclosure of expert witnesses under Fed. R. Civ. P. 26(a)(2)(A), accompanied by a written report prepared and signed by each expert witness pursuant to Fed. R. Civ. P. 26(a)(2)(B), at or within fourteen (14) days after the scheduling conference, unless a different time is set by stipulation or court order.

(iii) The "pretrial disclosures" required under Fed. R. Civ. P. 26(a)(3)(A) shall be made by a party at least thirty (30) days before the date of the evidentiary hearing, unless a different time is set by stipulation or court order. Within fourteen (14) days after such disclosures are made, unless the Court sets a different time, a party may serve and promptly file any objection to the disclosures, as set forth in Fed. R. Civ. P. 26(a)(3)(B).

(h) *Oral Argument; Removal from Calendar; Tentative Rulings*. Unless the assigned judge determines that the resolution of the motion does not require oral argument, he or she may hear appropriate and reasonable oral argument. Alternatively, the motion may be submitted upon the record and briefs on file if the parties stipulate thereto, or the judge so orders, subject to the power of the judge to reopen the matter for further briefs, oral argument or both. Parties can ascertain which matters are resolved without oral argument and can view

tentative rulings by checking the Court's website at (www.caeb.uscourts.gov) after 4:00 P.M. the day before the hearing. Parties appearing telephonically shall view the tentative ruling prior to the hearing.

(i) *Related and Countermotions*. Any countermotion or other motion related to the general subject matter of the original motion set for hearing pursuant to this Local Rule may be filed and served no later than the time opposition to the original motion is required to be filed. In the event a counter or related motion is filed by the responding party, the judge may continue the hearing on the original and all related motions so as to give the responding and moving parties reasonable opportunity to serve and file oppositions and replies to all pending motions. No written opposition need be filed to any related matter unless the matter is continued by the Court. Nothing herein shall be construed to require the filing of a counter or related motion.

(j) *Continuances*. Continuances of hearings must be approved by the Court. A request for a continuance may be made orally at the scheduled hearing or in advance of it if made by written application. A written application shall disclose whether all other parties-in-interest oppose or support the request for a continuance. Failure to comply with this provision may be grounds for denial of the motion without prejudice.

(k) *Opportunity for Hearing*.

(1) *When an Order Is Necessary or Desired*. The notice of opportunity for hearing procedure, as defined in 11 U.S.C. § 102(1), may only be used as permitted in LBR 3015-1(c) and (d) relating to confirmation of chapter 13 plans. In all other matters, if an order is necessary or is desired by the moving party, the motion shall be set for hearing pursuant to this Local Rule.

(2) *When an Order Is Not Necessary or Desired*. When the notice of opportunity for hearing procedure is used and no order is necessary or desired, the notice shall:

(A) Succinctly describe the action to be taken;

(B) State that unless written objections and/or a request for a hearing are served on the moving party and filed with the Clerk on or before the date specified in the notice, the action shall be taken;

(C) Provide a minimum of fourteen (14) days after service (or the longer periods required by, for example, Fed. R. Bankr. P. 2002 or 3007) for the filing of the request for hearing or objections by a party-in-interest; and

(D) Be filed with the Clerk and served by the moving party on all creditors, the debtor, the trustee, or other persons as appropriate or required.

(3) *Hearing Date*. No hearing date shall be set by the moving party unless an objection or a request for hearing is made by a party-in-interest, in which event, the moving

party shall promptly set the matter for hearing by filing a notice of hearing with the Clerk and serving the notice in accordance with this Local Rule.

(4) *Procedure in Absence of Objection*. If no objection or request for hearing is timely filed, the moving party may proceed to take any proposed action that does not require court approval.

(l) *Sanctions*. Failure to comply with the requirements of this Local Rule or the provisions of other Local Rules applicable to motion practice shall constitute grounds, without limitation, to deny the motion, strike late-filed pleadings and documents, continue the hearing on the motion, deem the moving party to have waived the time limitations of 11 U.S.C. § 362(e), deny the offending party the ability to appear by telephone, or assess other appropriate sanctions.

LOCAL RULE 9014-2

Motions Involving Disclosure or Discovery Disputes

Any motion involving a disclosure or discovery dispute in an adversary proceeding or a contested matter shall comply with this rule.

(a) *Separate Statement Required*. Except as provided herein, any motion under Fed. R. Civ. P. 37, *incorporated by* Fed. R. Bankr. P. 7037, 9014(c), or other applicable rule involving the adequacy of a disclosure or discovery response under Fed. R. Civ. P. 26-37, *incorporated by* Fed. R. Bankr. *P*. 7026-7036, 9014(c), or seeking monetary or other sanctions arising from the inadequacy of the disclosure or discovery response shall be accompanied by a separate statement.

(b) *Separate Statement Not Required*. A separate statement is not required when no disclosure or response to discovery has been provided.

(c) *Contents of Separate Statement*. A separate statement is a separate document filed and served with the discovery motion that provides all the information necessary to understand each disclosure or discovery request and all the responses to it that are at issue. The separate statement must be full and complete so that no person is required to review any other document in order to determine the full request and the full response. Material must not be incorporated into the separate statement by reference. The separate statement must include--for each disclosure or discovery request (e.g., each interrogatory, request for admission, deposition question, or inspection demand) to which a further response, answer, or production is requested--the following:

(1) The text of the applicable portion of Rule 26 or the request, interrogatory, question, or inspection demand;

(2) The text of each Rule 26 disclosure, response, answer, or objection, and any further responses or answers;

(3) A statement of the factual and legal reasons for compelling further responses, answers, or production as to each matter in dispute;

(4) If necessary, the text of all definitions, instructions, and other matters required to understand each discovery request and the responses to it;

(5) If the response to a particular discovery request is dependent on the response given to another discovery request, or if the reasons a further response to a particular discovery request is deemed necessary are based on the response to some other discovery request, the other request and the response to it must be set forth; and

(6) If the pleadings, other documents in the file, or other items of discovery are relevant to the motion, the party relying on them must summarize each relevant document.

(d) *Identification of Interrogatories, Demands, or Requests*. A motion concerning interrogatories, inspection demands, or admission requests must identify the interrogatories, demands, or requests by set and number.

LOCAL RULE 9017-1

Alternate Direct Testimony, Exhibits, and Qualification of Expert Witnesses

(a) *Alternate Direct Testimony Procedure*.

(1) *Purpose*. The purpose of this procedure is to streamline the adducement of direct testimony in trials and contested matters requiring an evidentiary hearing, so as to reduce trial time without sacrificing due process and a fair trial. This procedure shall be known as the Alternate Direct Testimony Procedure.

(2) *Applicability*. If ordered by the Court, the Alternate Direct Testimony Procedure shall be used in a trial or contested matter requiring an evidentiary hearing. A party to any such trial or such contested matter that intends to use the Alternate Direct Testimony Procedure shall request at or in writing before the pre trial or scheduling conference, if one is held, or if not, on or before the date of the hearing during which a trial or evidentiary hearing is scheduled, the use of this Alternate Direct Testimony Procedure.

(3) *Content and Preparation of Alternate Direct Testimony Declarations*. For each witness (excluding hostile or adverse witnesses) that an attorney calls on behalf of his/her client's case, there shall be prepared in triplicate a succinct written declaration, executed under penalty of perjury, of the direct testimony which that witness would be prepared to give as though questions were propounded in the usual fashion. Each statement of fact or opinion shall be separate, sequentially numbered and shall contain only matters that are admissible under the Federal Rules of Evidence (e.g., avoiding redundancies, hearsay, and other obvious objectionable statements).

(b) *Submission of Alternate Direct Testimony Declarations, Exhibits, and Objections*. Unless otherwise ordered by the Court, copies of all alternate direct testimony declarations by witnesses and exhibits that are intended to be presented at trial or hearing shall be furnished to opposing counsel as follows:

(1) *Plaintiff's Declarations and Exhibits*. The plaintiff shall submit to opposing counsel all such declarations and exhibits comprising the plaintiff's case in chief fourteen (14) days before trial.

(2) *Defendant's Declarations and Exhibits*. The defendant shall submit to opposing counsel all such declarations and exhibits comprising the defendant's case seven (7) days before trial.

(3) *Objections to Declarations and Exhibits*. Two (2) days before trial or hearing, all such declarations and exhibits, together with any written objections to the admission of any of the exhibits or to any of the declarations or any portion thereof, shall be lodged with the courtroom deputy of the department to which the trial or hearing is assigned. No objections to testimony presented by written declaration or exhibits need be entertained unless in writing and presented as herein specified. The exhibits (no originals) lodged with the courtroom deputy as herein required shall be premarked by counsel (e.g., Plaintiff's Exhibit 1, Defendant's Exhibit A, etc.) and if three (3) or more, shall be accompanied by a cover sheet index containing a brief description of each exhibit.

(c) *Utilization of Live Testimony*. All cross-examination, rebuttal, surrebuttal and appropriate impeachment evidence shall be given by live testimony. Notwithstanding provisions of this Rule, the Court, in its discretion, may allow live direct testimony.

LOCAL RULE 9019-1

Stipulations

Except stipulations entered into during the course of a deposition and set forth in the transcript thereof, stipulations shall be:

(a) In writing, signed by all counsel or parties in propria persona who have appeared in the proceeding and are affected by the stipulation;

(b) Made in open court and noted by the courtroom deputy upon the minutes or by the court reporter in the notes; or

(c) Recited in a pretrial order or other court order. Stipulations not in conformity with these requirements will not be recognized unless necessary to prevent manifest injustice.

LOCAL RULE 9022-1

Notice of Entry of Judgment Pursuant to Fed. R. Bankr. P. 9022

(a) *On Whom Notice Must Be Served*. Unless otherwise ordered by the Court, the requirements of Fed. R. Bankr. P. 9022 shall be satisfied by service of the notice of entry of judgment or

of order on only those contesting parties who appeared in connection with the judgment or order. Appearances are defined in LBR 2017-1 and Rule 183 of the Local Rules of Practice of the United States District Court for the Eastern District of California, which is made applicable to these Rules pursuant to LBR 1001-1(c).

(b) *Service*. The clerk shall serve notice of entry on the parties who appeared in connection with the judgment or order by sending the appropriate Bankruptcy Noticing Center (BNC) notice for service on parties who appeared in connection with the judgment or order unless the Court otherwise directs.

(c) *Service of Judgment or Order on U.S. Trustee*. Unless the case is a chapter 9 municipality case, the Clerk shall forthwith transmit to the U.S. Trustee a copy of the judgment or order.

LOCAL RULE 9037-1

Electronic Availability and Redaction of Electronically Filed Transcripts

(a) A transcript provided to the Court by a court reporter shall be available at the Clerk's Office for inspection only, for a period of ninety (90) days after it is filed. No portion of the transcript will be copied or printed at the Clerk's Office during the ninety (90)-day restriction period.

(b) During the ninety (90)-day restriction period, a copy of the transcript may be obtained from the court reporter at the rate established by the Judicial Conference. The transcript will be available within the Court for internal use, available at the public terminals at the courthouse, and remotely electronically available to attorneys who have purchased a copy from the court reporter. The name(s) of the purchasing attorney(s) shall be provided to the Clerk by the court reporter via electronic mail sent to an email address designated for this purpose by the Clerk. Members of the general public, including unrepresented parties who purchase the transcript, will not be given remote electronic access to the transcript or any redacted version filed with the Court during the ninety (90)-day restriction period.

(c) After the ninety (90)-day restriction period has ended, the transcript (or redacted version if one has been filed) will be available for viewing and copying at the Clerk's Office public terminals and remotely available for viewing, downloading, and printing through the Judiciary's PACER system.

(d) Each party's attorney is required to review a transcript for information that should be redacted under the Judicial Conference's privacy policy and as more particularly described in Fed. R. Bankr. P. 9037. References to social security numbers, individual taxpayer identification numbers, and financial account numbers shall include only the last four digits of such numbers. Birth dates shall include the year of birth only. The names of individuals, other than debtors, known to be and identified as minors shall include the minor's initials only.

(e) With the exception of transcripts, redaction of the information described in Fed. R. Bankr. P. 9037(a) is the responsibility of the person filing the document. When a transcript is filed, the attorneys and unrepresented parties who entered an appearance at the hearing are solely responsible for redaction of the information described in Fed. R. Bankr. P. 9037(a). Court reporters are not responsible for identifying a need for redaction or for redacting transcripts absent a request by an attorney or an unrepresented party. The Court's responsibility is to follow Judicial Conference guidelines for providing public access to the transcript and for restricting access in accordance with the privacy policy. The Clerk is not required to review documents filed with the Court for compliance with Fed., R. Bankr. P. 9037.

(f) The date the transcript is filed is the starting date for all deadlines related to restriction and redaction of the transcript.

(g) Notice of the filing of a transcript (including notice of the deadlines related to restriction and redaction of the transcript) shall be provided by the Clerk to the attorneys and unrepresented parties who entered an appearance at the hearing.

(h) Within seven (7) days of a court reporter's filing of the transcript, an attorney or unrepresented party must file a *Notice of Intent to Request Redaction* that substantially complies with Form EDC 3-300 with the Clerk if he or she intends to request redaction of information from the transcript, and serve copies on the court reporter and the other attorneys and unrepresented parties who entered an appearance at the hearing. An attorney or unrepresented party is responsible for reviewing the opening and closing statements made on behalf of the party he or she represents, any statements made by the party, and the testimony of any witness called by the party. If no *Notice of Intent to Request Redaction* is filed during this seven (7) day period, the court will conclude that redaction of personal data is not necessary, and will make the transcript remotely electronically available to the public through PACER after the ninety (90) day restriction period.

(i) Once an attorney or unrepresented party has filed a *Notice of Intent to Request Redaction*, he or she has twenty-one (21) days from the date of filing of the transcript to review the transcript and file a *Redaction Request and List of Items to be Redacted* that substantially complies with Form EDC 3-301 with the Clerk and serve copies on the court reporter and the other attorneys and unrepresented parties who entered an appearance at the hearing that indicates the type of personal data identifier to be redacted, where it appears in the transcript by page and line, and how it is to be redacted. The Court may order this time extended, for good cause shown. If an attorney or unrepresented party files a *Notice of Intent to Request Redaction* but fails to timely file a *Redaction Request and List of Items to be Redacted* or a motion to extend time, no redactions will be made and the original transcript will be remotely publicly available after the ninety (90) day restriction period.

(j) The court reporter must redact the identifiers, as directed by the attorney or unrepresented party, and then refile the redacted transcript within thirty-one (31) days of the filing of the original transcript. Also during this time period, an attorney or unrepresented party may, by motion for a protective order, request that additional information be redacted. No remote electronic access to the transcript will be allowed (other than to attorneys who paid for the original transcript) until the Court has ruled on any such motion.

(k) If a redacted transcript is filed with the Clerk, the Clerk shall permanently restrict access to the original transcript and the redacted transcript will be remotely electronically available through PACER after ninety (90) days from the date of filing of the original transcript. If the original transcript is filed without redaction, the original transcript will be remotely electronically available through PACER after ninety (90) days.

(l) Charges for access through PACER apply during and after the ninety (90)-day restriction period. Charges are not capped at thirty (30) pages. The user will incur PACER charges each time the transcript is accessed even though he or she may have purchased it from the court reporter and obtained remote access. A free copy of the transcript is not available via remote access.

APPENDIX I

ADMINISTRATIVE INFORMATION

EDC 2-034	Bankruptcy Court Miscellaneous Fee Schedule
EDC 2-035	Required Documents and Fees
EDC 2-036	Electronic Public Access Fee Schedule
EDC 2-070	United States Bankruptcy Courts Within California
EDC 2-071	Courtroom Locations and Nomenclature
EDC 2-785	Roster of Governmental Agencies

The documents listed above are available on the Court's website at http://www.caeb.uscourts.gov. If you do not have Internet access, the documents are available in the Fresno, Modesto, and Sacramento Bankruptcy Clerk's Office public lobbies.

APPENDIX II

GUIDELINES AND POLICY STATEMENTS

Guidelines Pertaining to Bankruptcy Petition Preparers in Eastern District of California Cases

Form EDC 2-190, Guidelines For Preparation of Master Address Lists

Form EDC 2-901, Revised Guidelines for Preparation of Documents

The documents listed above are available on the Court's website at http://www.caeb.uscourts.gov. If you do not have Internet access, the documents are available in the Fresno, Modesto, and Sacramento Bankruptcy Clerk's Office public lobbies.

APPENDIX III

LOCAL RULES FORMS

~~B104~~ B1040	Adversary Proceeding Cover Sheet
~~B254~~ B2540	Subpoena for Rule 2004 Examination
~~B255~~ B2550	Subpoena in an Adversary Proceeding
~~B256~~ B2560	Subpoena in a Case Under the Bankruptcy Code
EDC 2-100	Verification of Master Address List
EDC 3-300	Notice of Intent to Request Redaction
EDC 3-301	Redaction Request and List of Items to be Redacted
EDC 3-080	Chapter 13 Plan
EDC 3-081	Order Confirming Plan
EDC 3-083	Wage Order
EDC 3-085	Declaration Requesting Entry of Order Confirming Chapter 13 Plan Without Chapter 13 Trustee's Approval of Form of Order
EDC 3-086	Class I Checklist
EDC 3-087	Authorization to Release Information to the Trustee Regarding Secured Claims Being Paid by the Trustee
EDC 3-088	Domestic Support Obligation Checklist
EDC 3-095	Application and Declaration Re: Additional Fees and Expenses in Chapter 13 Cases
EDC 3-096	Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys
EDC 3-100	Notice to Pro Se Debtor(s)
EDC 3-101	Answer
EDC 3-190	Debtor's 11 U.S.C. § 1328 Certificate
EDC 3-191	Statement of Chapter 13 Debtor Regarding 11 U.S.C.§ 522(q) Exemptions

APPENDIX III

LOCAL RULES FORMS (continued)

EDC 3-468	Relief from Stay Summary Sheet
EDC 3-468-INST	Instructions for Completing Relief from Stay Summary Sheet
EDC 5-200	Notice to Debtor of Completed Plan Payments and of Obligation to File Documents
EDC 5-300	Notice of Intent to Enter Chapter 13 Discharge
EDC 6-100	Order Closing Chapter 13 Case Without Discharge
EDC 6-970A	Order Granting Application for Order of Examination Under Federal Rule of Bankruptcy Procedure 2004(a) [No Document Production]
EDC 6-970B	Order Granting Application for Order of Examination Under Federal Rule of Bankruptcy Procedure 2004(a)

The documents listed above and on the previous page are available on the Court's website at http://www.caeb.uscourts.gov. If you do not have Internet access, the documents are available in the Fresno, Modesto, and Sacramento Bankruptcy Clerk's Office public lobbies.

APPENDIX IV

SELECTED GENERAL ORDERS

General Order 95-1		Adoption of Dispute Resolution Procedures for Bankruptcy Cases and Adversary Proceedings
General Order 00-03		Modification of Dispute Resolution Procedures for Bankruptcy Cases and Adversary Proceedings
General Order 11-01		Order Authorizing Trustee to Pay Bank Service Charges and Fees Incurred By Estate Accounts
General Order 11-02		Order Adopting Revised Interim Rule 1007-1
General Order ~~11-04~~	15-02	Delegation of Authority to the Clerk of the Bankruptcy Court and His Deputies
General Order ~~12-01~~	15-03	Order Adopting Local Rules of Practice

The documents listed above are available on the Court's website at http://www.caeb.uscourts.gov. If you do not have Internet access, the documents are available in the Fresno, Modesto, and Sacramento Bankruptcy Clerk's Office public lobbies.