

1 UNITED STATES BANKRUPTCY COURT
2 EASTERN DISTRICT OF CALIFORNIA

FILED

10/21/2016

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

3
4 In re

5 ORDER ADOPTING REVISIONS TO
6 LOCAL BANKRUPTCY RULES

General Order 16-05

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10 **IT IS HEREBY ORDERED** that the Local Rules of Practice of the United States
11 Bankruptcy Court, Eastern District of California, be amended to include the following,
12 effective October 21, 2016:

13 **LBR 7067-1 is modified to provide:**

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

17 (b) Receipt of Funds.

18 (1) No money shall be sent to the Court or its officers for deposit in the
19 Court's registry without a court order signed by the presiding judge
in the case or proceeding.

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

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

27 (c) Investment of Registry Funds.

28 (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

1 a court-approved, interest-bearing instrument in accordance with
2 Rule 67 of the Federal Rules of Civil Procedure, the Court Registry
3 Investment System ("CRIS"), administered by the Administrative
4 Office of the United States Courts under 28 U.S.C. § 2045, shall be
5 the only investment mechanism authorized.

6 (2) Interpleader funds deposited under 28 U.S.C. § 1335 meet the IRS
7 definition of a "Disputed Ownership Fund" (DOF), a taxable entity
8 that requires tax administration. Unless otherwise ordered by the
9 court, interpleader funds shall be deposited in the DOF established
10 within the CRIS and administered by the Administrative Office of
11 the United States Courts, which shall be responsible for meeting all
12 DOF tax administration requirements.

13 (3) The Director of Administrative Office of the United States Courts is
14 designated as custodian for all CRIS funds. The Director or the
15 Director's designee shall perform the duties of custodian. Funds
16 held in the CRIS remain subject to the control and jurisdiction of the
17 Court.

18 (4) Money from each case deposited in the CRIS shall be "pooled"
19 together with those on deposit with Treasury to the credit of other
20 courts in the CRIS and used to purchase Government Account
21 Series securities through the Bureau of Public Debt, which will be
22 held at Treasury, in an account in the name and to the credit of the
23 Director of Administrative Office of the United States Courts. The
24 pooled funds will be invested in accordance with the principles of
25 the CRIS Investment Policy as approved by the Registry Monitoring
26 Group.

27 (5) An account will be established in the CRIS Liquidity Fund titled in
28 the name of the case giving rise to the deposit invested in the fund.
Income generated from fund investments will be distributed to each
case based on the ratio each account's principal and earnings has
to the aggregate principal and income total in the fund after the
CRIS fee has been applied. 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.

(6) For each interpleader case, an account shall be established in the
CRIS Disputed Ownership Fund, titled in the name of the case
giving rise to the deposit invested in the fund. Income generated

1 from fund investments will be distributed to each case after the
2 DOF fee has been applied and tax withholdings have been
3 deducted from the fund. Reports showing the interest earned and
4 the principal amounts contributed in each case will be available
5 through the FedInvest/CMS application for each court participating
6 in the CRIS and made available to litigants and/or their counsel. On
7 appointment of an administrator authorized to incur expenses on
8 behalf of the DOF in a case, the case DOF funds should be
9 transferred to another investment account as directed by court
10 order.

11 (d) Fees and Taxes.

12 (1) The custodian is authorized and directed by this Order to deduct
13 the CRIS fee of an annualized 10 basis points on assets on deposit for all
14 CRIS funds, excluding the case funds held in the DOF, for the
15 management of investments in the CRIS. According to the Court's
16 Miscellaneous Fee Schedule, the CRIS fee is assessed from interest
17 earnings to the pool before a pro rata distribution of earnings is made to
18 court cases.

19 (2) The custodian is authorized and directed by this Order to deduct
20 the DOF fee of an annualized 20 basis points on assets on deposit in the
21 DOF for management of investments and tax administration. According to
22 the Court's Miscellaneous Fee Schedule, the DOF fee is assessed from
23 interest earnings to the pool before a pro rata distribution of earnings is
24 made to court cases. The custodian is further authorized and directed by
25 this Order to withhold and pay federal taxes due on behalf of the DOF.

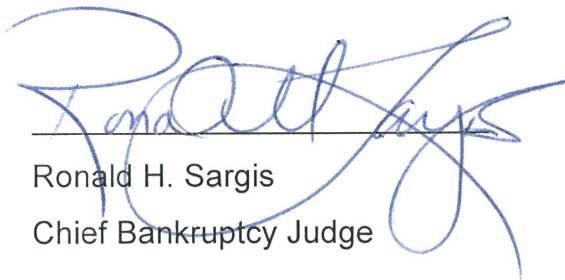
26 (e) Order for Disbursement of Registry Funds. Payment of funds from any
27 funds deposited pursuant to this Rule shall be by order of the Court only.
28 The form of order submitted shall contain the names and addresses for
each of the parties to whom funds are to be paid, the amounts to be paid,
the percentage of interest earned to be paid to each party and a
statement acknowledging that 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.


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


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4 **LBR 9014-1(d)(7) is modified to provide:**

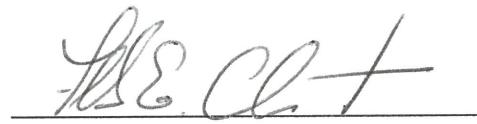
5 Affidavits and declarations shall comply with Fed. R. Civ. P. 56(c)(4)

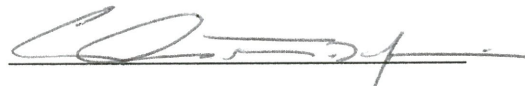
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7 DATED: October 21, 2016

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11 Ronald H. Sargis
12 Chief Bankruptcy Judge

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15 Michael S. McManus
16 Bankruptcy Judge

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19 Robert S. Bardwil
20 Bankruptcy Judge

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23 Fredrick E. Clement
24 Bankruptcy Judge

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26 
27 Christopher D. Jaime
28 Bankruptcy Judge


René Lastreto, II
Bankruptcy Judge