

**RULE ME ONCE:**  
an update on recent local rule changes  
in the Middle District of Florida

CFBLA, July 20, 2023

Course Objective: To update lawyers on recent changes to the local rules for the United States Bankruptcy Court for the Middle District of Florida and explain how such rules may impact their practice.

**I. Adversary Proceedings**

**1. Rule 1001-2 Case Management and Electronic Filing System – CM/ECF**

(2022 Change) This amendment to section (d) allows for service on debtor’s counsel under Fed. R. Bankr. P. 7004(g) to be made electronically through CM/ECF.

(2023 Change) This amendment to section (f) specifies the format of papers filed electronically. Other changes are stylistic.

**2. Rule 5011-1 Withdrawal of Reference**

(2022 Change) This amendment revises section (a) to provide that the form, format, and length of any legal memoranda should comply with the Local Rules of the District Court. Section (c) is revised to provide that motions for withdrawal of the reference must be filed no later than 30 days after service of the initial pleading or such other time period as ordered by the Court; the United States or an officer or agency thereof shall move for withdrawal of the reference no later than 35 days after service of the initial pleading or such other time period as ordered by the Court.

**II. Consumer**

**1. Rule 1004-1.1 Petition – Filing on Debtor’s Behalf by a Court-Appointed Representative, Holder of Power of Attorney, Proposed Next Friend, or Guardian ad Litem**

(2021 Change) This amendment renumbers the rule to be consistent with Fed. R. Bankr. P. 1004.1 (Petition for Infant or Incompetent Person). Section (b)(4) is revised to state that the Court “may” (as opposed to “will”) schedule a status conference.

(2022 Change) This amendment outlines a procedure for waiving the credit counseling requirement under 11 U.S.C. § 109(h) for an incapacitated person as well as a procedure in the event a debtor becomes incapacitated after a petition is filed. This amendment also removes the limitation on a Filing Party’s authority to act pending a status conference.

**Rule 3002-1 Deadline for Filing Proofs of Claim in Reinstated Cases; Late-Filed Proofs of Claim; Service of Proofs of Claim on *Pro Se* Debtors**

(2021 Change) This amendment adds a provision requiring creditors to serve *pro se* Chapter 13 debtors with proofs of claim.

**2. New Rule 4004-2 Modification of Deadline for Objections to Discharge**

(2021) This new rule creates a uniform procedure for extending the deadline for filing objections to discharge in reinstated cases.

**3. New Rule 4007-1 Modification of Deadline for Objecting to Dischargeability of a Debt**

(2021) This new rule creates a uniform procedure for extending the deadline for filing objections to dischargeability in reinstated cases.

**4. Rule 4001-1 Automatic Stay**

(2022 Change) This amendment adds new subsection (c)(10) which deems use of the negative notice procedure under Local Rule 2002-4 in connection with a request for relief from the automatic stay as an acknowledged waiver of the timing requirements for hearings contained in 11 U.S.C. § 362(e).

(2023 Change) This amendment revises section (c)(2)(C) to conform with the Court's current procedures that a request for relief by negative notice also waives the deadlines for relief from the codebtor stay in 11 U.S.C. §§ 1201(d) and 1301(d).

**III. Business**

**1. Rule 1074-1 Corporations and Other Non-Individual Persons**

(2023 Change) This amendment adds new section (b) requiring the filing of documentation stating that a non-individual debtor authorizes the filing of a bankruptcy petition.

**2. Rule 2081-1 Chapter 11 – General**

(2021 Change) This amendment revises section (b)(4) to require a list of only those officers, directors and insiders receiving salaries or benefits from the debtor. This amendment further revises section (d) to require Small Business Debtors and Subchapter V Debtors to file a Check Register in the form of Appendix B with the Small Business Monthly Operating Report and clarifies that both Small Business Debtors and Subchapter V Debtors are required to file a Schedule of Receipts and Disbursements with their monthly operating reports.

**3. Rule 3022-1 Final Report/Decree (Chapter 11)**

(2021 Change) This amendment adds new section (a) establishing the deadline for filing a motion for final decree in Subchapter V cases. New section (b)(2)(C) requires individual Chapter

11 debtors seeking a discharge to file a statement certifying under penalty of perjury whether the provisions of 11 U.S.C. § 522(q)(1) are applicable to their case. This amendment also includes an objection procedure pursuant to which any interested party may object to the statement required by subparagraph (b)(2)(C) prior to the entry of an order of discharge.

#### **IV. Appeals**

##### **1. New Rule 8002-1 Dismissal of Untimely Appeals**

(2023) This new rule establishes procedures of dismissal of appeals that are filed after the time period specified in Fed. R. Bankr. P. 8002.

##### **2. New Rule 8007-1 Stay Pending Appeal; Posting Bonds**

(2023) This new rule establishes the procedure for implementing Fed. R. Bankr. P. 8007(c) that requires the posting of a bond pending appeal if ordered by the bankruptcy court, district court, or circuit court of appeals.

#### **V. Attorney Retention and Compensation**

##### **1. Rule 2016-1 Compensation of Professionals**

(2022 Change) This amendment modifies the rule to clarify that all fee applications may be served on negative notice in accordance with Local Rule 2002-4. Subsection (c)(3)(C) is also amended to clarify the procedure for final fee applications to be approved at confirmation in Chapter 11 cases.

(2023 Change) This proposed amendment to section (c)(2)(B) provides that the Court may consider approval of monthly payment of interim fee applications for professionals based on the needs of the case. Other changes are stylistic.

##### **2. Rule 2091-1 Attorneys – Duties of Debtor’s Counsel**

(2021 Change) This amendment permits an attorney who represents a debtor on a *pro bono* basis to limit the representation to specified tasks in accordance with the Rules of Professional Conduct.

#### **VI. Miscellaneous**

##### **1. Rule 2002-1 Notice to Creditors and Other Interested Parties**

(2021 Change) This amendment revises section (i) to provide a procedure for address corrections and removal of parties from the mailing matrix when mail is returned as undeliverable.

##### **2. Rule 2004-1 Examination of Debtor and Others**

(2021 Change) This amendment revises the rule to conform with Fed. R. Bankr. P. 2004(c) (effective December 1, 2020) to add the term “electronically stored information” to the description of items produced during discovery.

(2022 Change) This amendment adds a new section (h) that provides that the prevailing party may be awarded expenses incurred in making or opposing motions to compel pursuant to Fed. R. Civ. P. 37(a)(5).

3. **Rule 5005-4 Sealed Papers**

(2023 Change) This amendment adds new section (c)(3) outlining the procedure for requesting *in camera* review before a motion to file under seal is decided by the Court. Other changes are stylistic.

4. **Rule 6004-1 Sale of Estate Property**

(2021 Change) This amendment adds new section (a) requiring motions to sell property of the estate to include a description of the property sufficient for identification.

5. **Rule 9019-2 Mediation**

(2023 Change) This amendment updates the rule to specify the duties of the mediator, counsel and parties to mediation. The amendment also establishes a deadline and terms for payment of the mediator and clarifies that litigation is not stayed while mediation is pending.

6. **Rule 9072-1 Orders – Proposed**

(2022 Change) This amendment adds a provision to section (b) requiring that an agreed order should include “Agreed” or “Consented” in the title. Section (d) is revised to remove the ability to submit an agreed order signed by all parties without a prior filed motion.

## Rule 1001-2

### CASE MANAGEMENT AND ELECTRONIC CASE FILING SYSTEM – CM/ECF

(a) ***Case Management/Electronic Case Filing System.*** The Court has established an online case management and electronic case filing system (“CM/ECF”), on which the Court maintains paperless court files and dockets, and which allows a party with a login and password issued by the Clerk (“Electronic Filing User”) to electronically file papers in court files.

(b) ***Electronic Filing Users.*** Attorneys filing papers with the Court must be Electronic Filing Users. Those persons entitled to become Electronic Filing Users include attorneys admitted to practice in the United States District Court for the Middle District of Florida, United States Trustees and their assistants, private trustees, governmental units, commercial claim filers, or others as may be provided by administrative order. To become an Electronic Filing User, attorneys and other parties must complete CM/ECF training and register with the Clerk. The Clerk shall establish registration, training, and certification procedures, which shall include administering a CM/ECF training program. Electronic Filing Users shall adhere to all requirements as promulgated by the Clerk and posted on the Court’s website, [www.flmb.uscourts.gov](http://www.flmb.uscourts.gov). The Clerk shall maintain and promulgate the requirements and guidelines as necessary.

(c) ***Restriction on Use of User Login and Password.*** No Electronic Filing User or other person may knowingly permit or cause to permit an Electronic Filing User’s password to be used by anyone other than an authorized agent of the Electronic Filing User. An attorney is not permitted to use another attorney’s password to file a paper with the Court using CM/ECF. An Electronic Filing User agrees to protect the security of the Electronic Filing User’s login and password and shall immediately notify the Clerk if the security of their password has been compromised. An Electronic Filing User may be subject to sanctions for failure to comply with this provision.

(d) ***Waiver of Service by Mail.*** Registration as an Electronic Filing User constitutes (1) waiver of the right to receive notice by first-class mail and the right to service by first-class mail or personal service and (2) consent to receive notice electronically and consent to electronic service, except with regard to service of a summons and complaint on the defendant(s) under Fed. R. Bankr. P. 7004. Waiver of service and notice by first-class mail applies to notice of the entry of an order or judgment under Fed. R. Bankr. P. ~~9022,9022~~ and to service of a summons and complaint on debtor’s attorney under Fed. R. Bankr. P. 7004(g).

(e) ***Access to CM/ECF by Non-Electronic Filing Users.***

(1) ***PACER Access.*** Any person or organization, including parties appearing before the Court *pro se*, may access CM/ECF at the Court’s website by obtaining a login and password from PACER (Public Access to Court Electronic Records), available at [www.pacer.gov](http://www.pacer.gov). Those who have PACER access but who are not Electronic Filing Users may retrieve docket sheets and court papers but may not file documents electronically.

(2) **Request by Pro Se Debtors to Receive Electronic Notification.** Individual *pro se* debtors who have an Internet email address may request to receive electronic notification of filings made in their bankruptcy cases by submitting the form available on the Court's website at [www.flmb.uscourts.gov/cmecf](http://www.flmb.uscourts.gov/cmecf). A *pro se* debtor's election to receive electronic notification of filings is not a waiver of service by mail. However, if a *pro se* debtor makes the election, the Court will serve notices and orders upon the debtor electronically and will not serve the debtor by mail.

(f) **Format.** Papers filed electronically shall be submitted in Portable Document Format (PDF). Papers in electronic format shall be converted to PDF from the word processing original, not scanned, to permit text searches and to facilitate transmission and retrieval. If only a paper copy of a paper to be filed with the Court (*e.g.*, an original or copy of an exhibit) is available, it may be converted to PDF format by scanning.

(g) **Signatures.**

(1) **CM/ECF User Login and Password Serve as Attorney's Signature.** A filing made through an Electronic Filing User's CM/ECF account and authorized by the Electronic Filing User, together with the Electronic Filing User's name on a signature block, constitutes the Electronic Filing User's signature for all purposes for which a signature is required in connection with cases and proceedings before the Court, including Fed. R. Bankr. P. 9011, the Federal Rules of Bankruptcy Procedure, and the Local Rules.

(2) **Client Signatures.** Attorneys may file papers signed by their clients by including a scanned paper bearing the client's signature or, subject to the retention requirements of section (h) of this rule, by including the client's name on a signature block.

(3) **Papers Requiring More Than One Signature.** Electronically filed papers that require the signatures of more than one party shall be filed:

(A) by filing a scanned signature page that contains all necessary signatures;

(B) by including a signature block for each signatory together with an attestation by the filing attorney that concurrence in the filing of the paper has been obtained from each of the other signatories. The filing attorney's attestation may be included after the signature block of the additional signatory or may take the form of a declaration attached to the paper. An acceptable form of attestation is:

*"Filer's Attestation: Pursuant to Local Rule 1001-2(g)(3) regarding signatures, [name of filing attorney] attests that concurrence in the filing of this paper has been obtained;"*

or

(C) in any other manner approved by the Court.

(h) ***Retention of Original Papers.*** Electronic Filing Users shall retain paper copies bearing original signatures of the following papers for two years after the closing of the case:

(1) petitions, lists of creditors, schedules, Statements of Financial Affairs, and Statements About Your Social Security Numbers;

(2) affidavits, other papers that require verification under Fed. R. Bankr. P. 1008, and unsworn declarations as provided for in 28 U.S.C. § 1746;

(3) the written and fully executed contracts required of debt relief agencies by 11 U.S.C. § 528(a)(1) and § 528(a)(2); and

(4) proofs of service executed by a non-lawyer in compliance with Local Rule 9013-3.

On request, the Electronic Filing User shall provide original documents for review to the Court, the Office of the United States Trustee, or any party in interest as ordered by the Court.

(i) ***Proof of Service.*** Proof of service of a paper is not required if service of the paper is effectuated on Electronic Filing Users when the paper is filed via CM/ECF. However, when a filing party serves a paper on a person who is not an Electronic Filing User, the filing party, or the party directed by the Court to serve the paper (*e.g.*, a court order), shall file a proof of service with the paper or within a reasonable time after its service.

(j) ***Electronic Filing of Proofs of Claim and Related Documents.*** Claimants who are not Electronic Filing Users may file proofs of claim in paper or through the eProof of Claim hyperlink on the Court's website, [www.flmb.uscourts.gov](http://www.flmb.uscourts.gov). All claimants who have filed or expect to file ten or more claims and/or claim-related papers, such as transfers of claims and withdrawals of claims, within a one-year period, shall file these claims and documents electronically through CM/ECF or the eProof of Claim hyperlink.

(k) ***Electronic Ballot Filing in Chapter 11 Cases.*** Parties may file paper ballots with the Court under Local Rule 3018-1, but are encouraged to electronically file ballots through the Chapter 11 eBallots hyperlink on the Court's website, [www.flmb.uscourts.gov](http://www.flmb.uscourts.gov).

(l) ***Filing Papers Under Seal.*** Local Rule 5005-4 governs the filing of papers under seal.

(m) ***Unavailability of CM/ECF or Hyperlinks.*** Electronic Filing Users may file paper documents whenever CM/ECF is inaccessible, or an Electronic Filing User's computer system is not functioning. Filers of proofs of claim who cannot access the Court's eProof of Claim hyperlink and filers of ballots who cannot access the Court's eBallot hyperlink may file paper proofs of claim and ballots. After-hours emergency filing procedures are set forth in Local Rule 5001-2.

---

*Notes of Advisory Committee*

2022 Amendment

This amendment allows for service on debtor's counsel under Fed. R. Bankr. P. 7004(g) to be made electronically through CM/ECF. This amendment to the rule is effective July 1, 2022.



## Rule 1001-2

### CASE MANAGEMENT AND ELECTRONIC CASE FILING SYSTEM – CM/ECF

(a) ***Case Management/Electronic Case Filing System.*** The Court has established an online case management and electronic case filing system (“CM/ECF”), on which the Court maintains paperless court files and dockets, and which allows a party with a login and password issued by the Clerk (“Electronic Filing User”) to electronically file papers in court files.

(b) ***Electronic Filing Users.*** Attorneys filing papers with the Court must be Electronic Filing Users. Those persons entitled to become Electronic Filing Users include attorneys admitted to practice in the United States District Court for the Middle District of Florida, United States Trustees and their assistants, private trustees, governmental units, commercial claim filers, or others as may be provided by administrative order. To become an Electronic Filing User, attorneys and other parties must complete CM/ECF training and register with the Clerk. The Clerk ~~shall~~will establish registration, training, and certification procedures, which ~~shall~~will include administering a CM/ECF training program. Electronic Filing Users ~~shall~~must adhere to all requirements as promulgated by the Clerk and posted on the Court’s website, [www.flmb.uscourts.gov](http://www.flmb.uscourts.gov). The Clerk ~~shall~~will maintain and promulgate the requirements and guidelines as necessary.

(c) ***Restriction on Use of User Login and Password.*** No Electronic Filing User or other person may knowingly permit or cause to permit an Electronic Filing User’s password to be used by anyone other than an authorized agent of the Electronic Filing User. An attorney is not permitted to use another attorney’s password to file a paper with the Court using CM/ECF. An Electronic Filing User agrees to protect the security of the Electronic Filing User’s login and password and ~~shall~~must immediately notify the Clerk if the security of their password has been compromised. An Electronic Filing User may be subject to sanctions for failure to comply with this provision.

(d) ***Waiver of Service by Mail.*** Registration as an Electronic Filing User constitutes (1) waiver of the right to receive notice by first-class mail and the right to service by first-class mail or personal service and (2) consent to receive notice electronically and consent to electronic service, except with regard to service of a summons and complaint on the defendant(s) under Fed. R. Bankr. P. 7004. Waiver of notice and service~~and notice~~ by first-class mail applies to notice of the entry of an order or judgment under Fed. R. Bankr. P. 9022 and to service of a summons and complaint on debtor’s attorney under Fed. R. Bankr. P. 7004(g).

(e) ***Access to CM/ECF by Non-Electronic Filing Users.***

(1) ***PACER Access.*** Any person or organization, including parties appearing before the Court *pro se*, may access CM/ECF at the Court’s website by obtaining a login and password from PACER (Public Access to Court Electronic Records), available at [www.pacer.gov](http://www.pacer.gov). Those who have PACER access but who are not Electronic Filing Users may retrieve docket sheets and court papers but may not file documents electronically.

(2) **Request by Pro Se Debtors to Receive Electronic Notification.** Individual *pro se* debtors who have an Internet email address may request to receive electronic notification of filings made in their bankruptcy cases by submitting the form available on the Court's website at [www.flmb.uscourts.gov/cmecf](http://www.flmb.uscourts.gov/cmecf). If a *pro se* debtor's election debtor elects to receive electronic notification of filings is not a waiver of service by mail. However, if a *pro se* debtor makes the election, the Court will serve notices and orders upon the debtor electronically and will not serve the debtor by mail. However, a *pro se* debtor's election to receive electronic notification of filings is not otherwise a waiver of service by mail.

(f) **Format.** Papers filed electronically ~~shall~~must be submitted in Portable Document Format (PDF). Papers in electronic format ~~shall~~must be converted to PDF from the word processing original, not scanned, to permit text searches and to facilitate transmission and retrieval, and must be on white paper 8-1/2 inches wide by 11 inches long, with one-inch margins. If only a paper copy of a paper to be filed with the Court (e.g., an original or copy of an exhibit) is available, it may be converted to PDF format by scanning.

(g) **Signatures.**

(1) **CM/ECF User Login and Password Serve as Attorney's Signature.** A filing made through an Electronic Filing User's CM/ECF account and authorized by the Electronic Filing User, together with the Electronic Filing User's name on a signature block, constitutes the Electronic Filing User's signature for all purposes for which a signature is required in connection with cases and proceedings before the Court, including Fed. R. Bankr. P. 9011, the Federal Rules of Bankruptcy Procedure, and the Local Rules.

(2) **Client Signatures.** Attorneys may file papers signed by their clients by including a scanned paper bearing the client's signature or, subject to the retention requirements of section (h) of this rule, by including the client's name on a signature block.

(3) **Papers Requiring More Than One Signature.** Electronically filed papers that require the signatures of more than one party ~~shall~~must be filed:

(A) by filing a scanned signature page that contains all necessary signatures;

(B) by including a signature block for each signatory together with an attestation by the filing attorney that concurrence in the filing of the paper has been obtained from each of the other signatories. The filing attorney's attestation may be included after the signature block of the additional signatory or may take the form of a declaration attached to the paper. An acceptable form of attestation is:

*"Filer's Attestation: Pursuant to Local Rule 1001-2(g)(3) regarding signatures, [name of filing attorney] attests that concurrence in the filing of this paper has been obtained;"*

or

(C) in any other manner approved by the Court.

(h) ***Retention of Original Papers.*** Electronic Filing Users ~~shall~~must retain paper copies bearing original signatures of the following papers for two years after the closing of the case:

(1) petitions, lists of creditors, schedules, Statements of Financial Affairs, and Statements About Your Social Security Numbers;

(2) affidavits, other papers that require verification under Fed. R. Bankr. P. 1008, and unsworn declarations as provided for in 28 U.S.C. § 1746;

(3) the written and fully executed contracts required of debt relief agencies by 11 U.S.C. § 528(a)(1) and § 528(a)(2); and

(4) proofs of service executed by a non-lawyer in compliance with Local Rule 9013-3.

On request, the Electronic Filing User ~~shall~~must provide original documents for review to the Court, the Office of the United States Trustee, or any party in interest as ordered by the Court.

(i) ***Proof of Service.*** Proof of service of a paper is not required if service of the paper is effectuated on Electronic Filing Users when the paper is filed via CM/ECF. However, when a filing party serves a paper on a person who is not an Electronic Filing User, the filing party, or the party directed by the Court to serve the paper (*e.g.*, a Court order), ~~shall~~must file a proof of service with the paper or within a ~~reasonable time~~three days after its service.

(j) ***Electronic Filing of Proofs of Claim and Related Documents.*** Claimants who are not Electronic Filing Users may file proofs of claim in paper or through the eProof of Claim hyperlink on the Court's website, [www.flmb.uscourts.gov](http://www.flmb.uscourts.gov). All claimants who have filed or expect to file ten or more claims and/or claim-related papers, such as transfers of claims and withdrawals of claims, within a one-year period, ~~shall~~must file these claims and documents electronically through CM/ECF or the eProof of Claim hyperlink.

(k) ***Electronic Ballot Filing in Chapter 11 Cases.*** Parties may file paper ballots with the Court under Local Rule 3018-1, but are encouraged to electronically file ballots through the Chapter 11 eBallot hyperlink on the Court's website, [www.flmb.uscourts.gov](http://www.flmb.uscourts.gov).

(l) ***Filing Papers Under Seal.*** Local Rule 5005-4 governs the filing of papers under seal.

(m) ***Unavailability of CM/ECF or Hyperlinks.*** Electronic Filing Users may file paper documents whenever CM/ECF is inaccessible or an Electronic Filing User's computer system is not functioning. Filers of proofs of claim who cannot access the Court's eProof of Claim hyperlink and filers of ballots who cannot access the Court's eBallot hyperlink may file paper proofs of claim and ballots. After-hours emergency filing procedures are set forth in Local Rule 5001-2.

*Notes of Advisory Committee*

2023 Amendment

This amendment to section (f) specifies the format of papers filed electronically. Other changes are stylistic. This amendment to the rule is effective August 1, 2023.

## Rule 5011-1

### WITHDRAWAL OF REFERENCE

(a) ***Contents of Motions for Withdrawal of Reference and Responses.*** Every written motion for withdrawal of the reference of a case or proceeding under 28 U.S.C. § 157(b)(5) or (d) and response thereto shall be accompanied by a legal memorandum with citation of supporting authorities. Absent prior permission of the District Court, ~~no party shall file any the form, format, and length of the legal memorandum over 20 pages in length~~ shall comply with the Local Rules of the District Court.

(b) ***Deadline for Filing Motion for Withdrawal of Reference of Bankruptcy Case.*** A motion for withdrawal, in whole or in part, of the reference of a bankruptcy case shall be filed with the Clerk ~~not~~no later than 21 days after the date of the notice of the meeting of creditors mandated by 11 U.S.C. § 341 and Fed. R. Bankr. P. 2003(a). Parties in interest without notice or without actual knowledge of the pendency of the case may move for withdrawal of the reference ~~not~~no later than 21 days after having acquired actual knowledge of the pendency of the case.

(c) ***Deadline for Filing Motion for Withdrawal of Reference of Adversary Proceeding or Contested Matter.*** A motion for withdrawal of the reference of an adversary proceeding or contested matter arising in, under, or related to a case that is a subject of the Order of General Reference must be filed with the Clerk ~~not~~no later than 30 days after ~~the filing service of the initial pleading or such other paper commencing the proceeding or contested matter~~time period as ordered by the Court. The United States or an officer or agency thereof shall move for withdrawal of the reference no later than 35 days after ~~the filing service of the initial pleading or such other paper commencing the proceeding or contested matter~~time period as ordered by the Court.

(d) ***Service of Motion for Withdrawal of Reference.*** A motion for withdrawal of an adversary proceeding or contested matter shall be served on counsel of record for all parties to the proceeding or contested matter or, if a party has no counsel, on the party, and on counsel of record for the debtor, the debtor, and the United States Trustee.

(e) ***Deadline for Filing Response Motion for Withdrawal of Reference.*** The opposing parties shall have 14 days after the entry of the motion on the docket to file a ~~responsive pleading~~response and legal memorandum.

(f) ***Transmission to the District Court.*** After expiration of the time allowed for a response, the Clerk shall transmit the motion and legal memorandum, response and legal memorandum, if any, and such other ~~pleadings~~papers filed with the Court as the parties request to the Clerk of the District Court.

(g) ***Bankruptcy Case Retains Jurisdiction Pending the District Court's Ruling on the Motion.*** Until and unless the Court or the District Court orders otherwise, the Court shall

continue to hear the case or proceeding while the motion for withdrawal of the reference is under consideration in the District Court.

---

*Notes of Advisory Committee*

*2022 Amendment*

This amendment revises section (a) to provide that the form, format, and length of any legal memoranda should comply with the Local Rules of the District Court. Section (c) is revised to provide that motions for withdrawal of the reference must be filed no later than 30 days after service of the initial pleading or such other time period as ordered by the Court; the United States or an officer or agency thereof shall move for withdrawal of the reference no later than 35 days after service of the initial pleading or such other time period as ordered by the Court. This amendment to the rule is effective July 1, 2022.

**Rule 10021004-1.1**

**PETITION – FILING ON DEBTOR’S BEHALF BY A  
COURT-APPOINTED REPRESENTATIVE, HOLDER OF  
POWER OF ATTORNEY, PROPOSED NEXT FRIEND, OR GUARDIAN AD LITEM**

(a) ***Filing of a Petition by a Court-Appointed Representative.*** If a bankruptcy petition is filed on a debtor’s behalf by a representative, such as a guardian or conservator, appointed by a court of competent jurisdiction before the filing of the petition, a copy of the appointment instrument shall be filed with the petition.

(b) ***Filing of a Voluntary Petition by the Holder of a Power of Attorney, Proposed Guardian Ad Litem, or Proposed Next Friend.***

(1) ***Declaration Required.*** Petitions filed by the holder of a power of attorney, proposed guardian ad litem, or proposed next friend (“Filing Party”) shall be accompanied by a copy of the power of attorney, if any, and the Filing Party’s declaration under penalty of perjury (“Declaration”). The Filing Party shall serve a copy of the petition and the Declaration on the debtor, all creditors, the U.S. Trustee, any governmental entity from which the debtor is receiving funds, and the debtor’s closest relative, if known.

(2) ***Contents of Declaration.*** The Declaration shall include the following information:

- (A) the reason for filing the bankruptcy petition;
- (B) the Filing Party’s name, address, and relationship to the debtor;
- (C) whether a representative was appointed for the debtor under nonbankruptcy law before the petition was filed;
- (D) if applicable, whether the power of attorney expressly authorizes the filing of a bankruptcy petition, and whether the debtor was a minor or has been adjudicated an incompetent person prior to the date of the power of attorney;
- (E) if applicable, why appointment of the Filing Party as next friend or guardian ad litem is necessary, including the reasons why the debtor is unable to file the petition himself or herself or otherwise unable to manage his or her financial affairs;
- (F) if applicable, why appointment of the Filing Party would be in the debtor’s best interest;
- (G) the fee, if any, that the Filing Party would charge the debtor for serving as next friend or guardian ad litem;

(H) the Filing Party's professional and criminal history, if any;

(I) the Filing Party's competence to handle the debtor's financial affairs, including the Filing Party's knowledge of the debtor's financial affairs;

(J) whether the Filing Party has any current or potential future interest in the debtor's financial affairs; and

(K) whether any of the debtor's debts were incurred for the benefit of the Filing Party.

(3) **Required Documents.** If appointment as guardian ad litem or next friend is sought on behalf of an incompetent person, the Declaration shall be accompanied by the following documents:

(A) a letter from the debtor's physician regarding the debtor's ability to conduct the debtor's own financial affairs that may be filed under seal as set forth in Local Rule 5005-4 Sealed Papers; and

(B) a copy of any power of attorney or other document giving the Filing Party the authority to act for the debtor.

(4) **Status Conference Regarding Filing Party's Authority and Appointment of Guardian Ad Litem or Next Friend.** If a bankruptcy petition is filed on the debtor's behalf by the holder of a power of attorney, proposed guardian ad litem, or proposed next friend, the Court will schedule a status conference ("Status Conference") to consider the following:

(A) the Filing Party's authority to file the case on the debtor's behalf and, if applicable, the appointment of the Filing Party as the debtor's guardian ad litem or next friend; and

(B) dismissal of the case if the Filing Party has not complied with the requirements of section (b).

(5) **Limitation on Filing Party's Authority.** Pending the Status Conference, unless the Court orders otherwise, the holder of a power of attorney, proposed guardian ad litem, or next friend shall take no further action in the bankruptcy case on the debtor's behalf.

---

*Notes of Advisory Committee*

2021 Amendment

This amendment renumbers the rule to be consistent with Fed. R. Bankr. P. 1004.1 (Petition for Infant or Incompetent Person). Section (b)(4) is revised to state that the Court "may"



(as opposed to “will”) schedule a status conference. This amendment to the rule is effective August 1, 2021.

**Rule 1004-1.1**

**PETITION – FILING ON DEBTOR’S BEHALF BY A  
COURT-APPOINTED REPRESENTATIVE, HOLDER OF  
POWER OF ATTORNEY, PROPOSED NEXT FRIEND, OR GUARDIAN AD LITEM**

(a) ***Filing of a Petition by a Court-Appointed Representative.*** If a bankruptcy petition is filed on a debtor’s behalf by a representative, such as a guardian or conservator, appointed by a court of competent jurisdiction before the filing of the petition, a copy of the appointment instrument shall be filed with the petition.

(b) ***Filing of a Voluntary Petition by the Holder of a Power of Attorney, Proposed Guardian Ad Litem, or Proposed Next Friend.***

(1) ***Declaration Required.*** Petitions filed by the holder of a power of attorney, proposed guardian ad litem, or proposed next friend (“Filing Party”) shall be accompanied by a copy of the power of attorney, if any, and the Filing Party’s declaration under penalty of perjury (“Declaration”). The Filing Party shall serve a copy of the petition and the Declaration on the debtor, all creditors, the U.S. Trustee, any governmental entity from which the debtor is receiving funds, and the debtor’s closest relative, if known.

(2) ***Contents of Declaration.*** The Declaration shall include the following information:

- (A) the reason for filing the bankruptcy petition;
- (B) the Filing Party’s name, address, and relationship to the debtor;
- (C) whether a representative was appointed for the debtor under nonbankruptcy law before the petition was filed;
- (D) if applicable, whether the power of attorney expressly authorizes the filing of a bankruptcy petition, and whether the debtor was a minor or has been adjudicated an incompetent person prior to the date of the power of attorney;
- (E) if applicable, why appointment of the Filing Party as next friend or guardian ad litem is necessary, including the reasons why the debtor is unable to file the petition himself or herself or otherwise unable to manage his or her financial affairs;
- (F) if applicable, why appointment of the Filing Party would be in the debtor’s best interest;
- (G) the fee, if any, that the Filing Party would charge the debtor for serving as next friend or guardian ad litem;

(H) the Filing Party's professional and criminal history, if any;

(I) the Filing Party's competence to handle the debtor's financial affairs, including the Filing Party's knowledge of the debtor's financial affairs;

(J) whether the Filing Party has any current or potential future interest in the debtor's financial affairs; and

(K) whether any of the debtor's debts were incurred for the benefit of the Filing Party.

(3) **Required Documents.** If appointment as guardian ad litem or next friend is sought on behalf of an incompetent person, the Declaration shall be accompanied by the following documents:

(A) a letter from the debtor's physician regarding the debtor's ability to conduct the debtor's own financial affairs that may be filed under seal as set forth in Local Rule 5005-4 Sealed Papers; and

(B) a copy of any power of attorney or other document giving the Filing Party the authority to act for the debtor.

(4) **Status Conference Regarding Filing Party's Authority and Appointment of Guardian Ad Litem or Next Friend.** If a bankruptcy petition is filed on the debtor's behalf by the holder of a power of attorney, proposed guardian ad litem, or proposed next friend, the Court may schedule a status conference ("Status Conference") to consider the following:

(A) the Filing Party's authority to file the case on the debtor's behalf and, if applicable, the appointment of the Filing Party as the debtor's guardian ad litem or next friend; and

(B) dismissal of the case if the Filing Party has not complied with the requirements of section (b).

(5) ~~Limitation on Filing Party's Authority.~~ Pending **Waiver of Credit Counseling Requirement Under 11 U.S.C. § 109(h).** Regardless of when the Status Conference, unless debtor becomes incapacitated, the Court orders otherwise debtor may be excused from the requirement to receive credit counseling under 11 U.S.C. § 109(h) upon motion by the Filing Party.

(c) **Subsequent Incapacitation.** Should the debtor become incapacitated at any time after the filing of the Petition, the holder of a power of attorney, proposed guardian ad litem, or proposed next friend shall take no further action follow the procedures as outlined in the bankruptcy case on the debtor's (b) above before any subsequent filing or requirement on behalf of the debtor.

---

*Notes of Advisory Committee*

2022 Amendment

This amendment outlines a procedure for waiving the credit counseling requirement under 11 U.S.C. § 109(h) for an incapacitated person as well as a procedure in the event a debtor becomes incapacitated after a petition is filed. This amendment also removes the limitation on a Filing Party's authority to act pending a status conference. This amendment to the rule is effective July 1, 2022.

Rule 3002-1

**DEADLINE FOR FILING PROOFS OF CLAIM IN REINSTATED CASES;  
LATE-FILED PROOFS OF CLAIM;  
SERVICE OF PROOFS OF CLAIM ON PRO SE DEBTORS**

(a) ***Deadline for Filing Proofs of Claim in Reinstated Cases.*** If a case is dismissed before the deadline for filing proofs of claim under Fed. R. Bankr. P. 3002(c) has expired and the case is thereafter reinstated, a proof of claim is timely filed if it is filed not later than 70 days after the date of entry of the order vacating the dismissal and reinstating the case.

(b) ***Tardily Filed Proofs of Claim in Chapter 7 Cases.*** A creditor in a Chapter 7 case that failed to file a claim before the deadline under Fed. R. Bankr. P. 3002(c) may tardily file a proof of claim without first obtaining leave of Court. However, under 11 U.S.C. § 726(a)(3), tardily filed claims receive a distribution only if all claims that were timely filed under 11 U.S.C. § 726(a)(2) are paid in full. A creditor that did not have notice or actual knowledge of the case in time for timely filing of a claim before the deadline may file a motion seeking relief under 11 U.S.C. § 726(a)(2)(C) to have the claim deemed timely filed.

(c) ***Service of Proofs of Claim on Pro Se Debtors.*** A creditor filing a proof of claim in a Chapter 13 case where the debtor is not represented by counsel shall serve the proof of claim on the debtor at the address indicated on the docket and file proof of service in accordance with Local Rule 9013-3.

---

*Notes of Advisory Committee*

**2021 Amendment**

This amendment adds new section (c) that requires creditors to serve *pro se* Chapter 13 debtors with proofs of claim. This amendment to the rule is effective August 1, 2021.

## Rule 4004-2

### MODIFICATION OF DEADLINE FOR OBJECTIONS TO DISCHARGE

If a case is dismissed prior to the expiration of the deadline for objecting to discharge and subsequently reinstated, the deadlines set pursuant to Fed. R. Bankr. P. 4004(a) for filing a complaint or motion objecting to discharge under 11 U.S.C. § 727 and for filing a motion objecting to discharge under 11 U.S.C. § 1328(f) are modified as follows:

(a) ***Cases Dismissed Before § 341 Meeting of Creditors is Held and Subsequently Reinstated.*** If a case is dismissed before the § 341 meeting of creditors is held and subsequently reinstated, the new deadline for objecting to discharge under 11 U.S.C. § 727 or 11 U.S.C. § 1328(f) shall be 60 days after the rescheduled § 341 meeting of creditors.

(b) ***Cases Dismissed After § 341 Meeting of Creditors is Held and Subsequently Reinstated.*** If a case is dismissed after the § 341 meeting of creditors is held and subsequently reinstated, the new deadline for objecting to discharge under 11 U.S.C. § 727 or 11 U.S.C. § 1328(f) shall be 60 days from entry of the order reinstating the case.

---

#### *Notes of Advisory Committee*

2021

This rule creates a uniform procedure for extending the deadline for filing objections to discharge in reinstated cases. This new rule is effective August 1, 2021.

Rule 4007-1

**MODIFICATION OF DEADLINE  
FOR OBJECTING TO DISCHARGEABILITY OF A DEBT**

If a case is dismissed prior to the expiration of the deadline for objecting to dischargeability and subsequently reinstated, the deadline set pursuant to Fed. R. Bankr. P. 4007(c) for filing a complaint objecting to dischargeability of a debt is modified as follows:

(a) ***Cases Dismissed Before § 341 Meeting of Creditors is Held and Subsequently Reinstated.*** If a case is dismissed before the § 341 meeting of creditors is held and subsequently reinstated, the new deadline for filing objections to dischargeability shall be 60 days after the rescheduled § 341 meeting of creditors.

(b) ***Cases Dismissed After § 341 Meeting of Creditors is Held and Subsequently Reinstated.*** If a case is dismissed after the § 341 meeting of creditors is held and subsequently reinstated, the new deadline for filing objections to dischargeability shall be 60 days from entry of the order reinstating the case.

---

*Notes of Advisory Committee*

2021

This rule creates a uniform procedure for extending the deadline for filing objections to dischargeability in reinstated cases. This new rule is effective August 1, 2021.

## Rule 4001-1

### AUTOMATIC STAY

(a) ***Motions to Extend or Impose the Automatic Stay.*** A motion to extend the automatic stay under 11 U.S.C. § 362(c)(3) shall be filed and served upon interested parties within seven days of the filing of the petition. A motion to impose the automatic stay under 11 U.S.C. § 362(c)(4) shall be filed and served upon interested parties as soon as practicable after the filing of the petition.

(b) ***Motions to Confirm that No Automatic Stay Is in Effect Under 11 U.S.C. § 362(j).*** No filing fee is required for motions filed under 11 U.S.C. § 362(j) for an order confirming that the automatic stay or the codebtor stay is terminated under 11 U.S.C. § 362(c)(3) or did not become effective under 11 U.S.C. § 362(c)(4). The motion shall include the date of filing and date of dismissal of the debtor's prior bankruptcy case(s), and, if the prior bankruptcy case(s) were in another district, copies of court records reflecting this information.

(c) ***Motions for Relief from Stay.***

(1) ***Chapters 7 and 11.*** Motions for relief from the automatic stay in Chapter 7 and 11 cases shall include the following:

(A) copies of loan documents, including filing and recording information necessary to establish a perfected security interest;

(B) if the basis for the motion is lack of equity under 11 U.S.C. § 362(d)(2)(A), evidence of value; and

(C) a statement of indebtedness, including information regarding any default under the loan.

(2) ***Chapters 12 and 13.***

(A) ***Generally.*** The Court discourages secured creditors whose claims are being paid through the debtor's Chapter 12 or Chapter 13 plan payments from seeking relief from the automatic stay based upon the debtor's default in plan payments. In most instances, the Court will rely upon the trustee to monitor payments under the plan and to file a motion to dismiss, if appropriate.

(B) ***Plan Provides for Surrender of Property, Direct Payment to Secured Creditor, or Does Not Provide for Claim.*** If the debtor's Chapter 12 or Chapter 13 plan provides for the surrender of collateral to the movant, for the debt to be paid by the debtor directly to the movant rather than through the Chapter 13 trustee's office, or does not provide for the movant's claim under the plan, the movant shall include a statement to that effect. If the statement is in the form of an affidavit or declaration by the movant's attorney, the Court's