

2019 LOCAL RULE REVISIONS
U.S. Bankruptcy Court, Eastern District of Missouri

Below are the proposed revisions to the Local Rules of the U.S. Bankruptcy Court for the Eastern District of Missouri that will become effective on December 1, 2019, if approved. The Local Rules with revisions are detailed below. These revisions regard:

1. Clarification of the required filings in a converted case;
2. Increasing the amount attorneys for debtors in Chapter 13 cases who elect the “Fee Application Option” are permitted to be paid, without application to the Court;
3. Codifying a filing requirement for attorneys moving to substitute as counsel for the debtor;
4. Removing reference to Chapter 11 Mega Cases as it relates to claims bar dates in Chapter 11 cases;
5. Clarification of relief from a case being closed without a discharge as it relates to filing the required certificate of completion of a post-petition personal financial management course, and
6. Requiring exhibits to be filed on the record, instead of an exhibit summary.

-
1. **L.R. 1019 – Conversions – Explanation of Revisions.** The change was made to include the Means Test and Statement of Current Monthly Income forms in the list of General Filing Requirements in a Converted Case in Subsection A, and remove Subsection B. This information is better included in the list of required documents in Subsection A.

L.R. 1019 – Conversions.

A. General Filing Requirements in a Converted Case.

...

4. Means Test/Statement of Current Monthly Income Forms. When an individual debtor seeks to convert a case filed on or after October 17, 2005 to a case under Chapter 7, 11 or 13, the debtor shall either attach the appropriate Official Form B 122 A-1 (and, if necessary, B 122A-1 Supp and/or B 122 A-2), B 122 B, or B 122 C-1 (and, if necessary, B 122 C-2) to the debtor’s motion or notice to convert, or file the appropriate form(s) simultaneously with the motion or notice to convert. Failure to attach or promptly file the appropriate form(s) for the converted case may result in denial of the motion to convert, or dismissal or reconversion of the case. The information provided on the Form B 122 filed for the converted case shall reflect average monthly income for the six calendar months prior to the filing of the original bankruptcy petition.

~~**B. Deadline to File Means Test/Statement of Current Monthly Income Forms upon Conversion of Case.**~~

~~When an individual debtor seeks to convert a case filed on or after October 17, 2005 to a case under Chapter 7, 11 or 13, the debtor shall attach the appropriate Official Form B-122 A-1 (and, if necessary, B-122A-1 Supp and/or B-122 A-2), B-122 B, or B-122 C-1 (and, if necessary, B-122 C-2) to the debtor's motion or notice to convert. If not attached to the motion or notice, the appropriate form(s) shall be filed simultaneously with the motion or notice to convert. Failure to promptly file the form(s) for the converted case may result in denial of the motion to convert, or dismissal or reconversion of the case. The information provided on the Form B-122 filed for the converted case shall reflect average monthly income for the six calendar months prior to the filing of the original bankruptcy petition.~~

2. **L.R. 2016-3 – Employment and Compensation of Debtor's Counsel in Chapter 13 Cases.** The change was made to increase the amount that attorneys for debtors in Chapter 13 cases who elect the "Fee Application Option" are permitted to be paid, without application to the Court, from \$2,300 to \$3,000.

L.R. 2016-3 – Employment and Compensation of Debtor's Counsel in Chapter 13 Cases.

A. Fee Election Requirements

Attorneys for debtors in Chapter 13 cases may receive compensation for professional services and reimbursement of expenses under either a "Flat Fee Option" or a "Fee Application Option" in accordance with these Rules. Attorneys for debtors in Chapter 13 cases shall disclose which fee election option the attorney elects by using the "Attorney Fee Election Form" event ~~in the CM/ECF system. Such The~~ fee election event shall be completed at the time of the attorney's initial Fed. R. Bankr. P. 2016(b) disclosure.

1. Flat Fee Option. Attorneys for debtors in Chapter 13 cases who elect the "Flat Fee Option" shall, without application to the Court, be permitted to be paid attorneys' fees, including expenses, not to exceed \$4,800 for cases filed on or after December 1, 2018 (plus the filing fee if the filing fee is advanced).
 2. Fee Application Option. Attorneys for debtors in Chapter 13 cases who elect the "Fee Application Option" shall be permitted to be paid, without application to the Court, an initial fee in an amount not to exceed ~~\$3000 \$2,300~~ for cases filed on or after December 1, 2019 (plus the filing fee if the filing fee is advanced). All other fee will be allowed to the debtor's attorneys who elect the "Fee Application Option" only on application filed in accordance with L.R. 2016-1(B).
3. **L.R. 2091 – Withdrawal of Counsel.** The change was made to codify a long-standing filing requirement that had not previously been included in the Court's Local Rules.

L.R. 2091 – Withdrawal of Counsel.

A. General Requirements.

...

3. Substitution of Counsel

...

- d. **Disclosure of Compensation.** If not filed simultaneously with the motion to substitute as counsel, substitute counsel shall file a Disclosure of Compensation and Fee Election Form within fourteen (14) days after the motion is filed.

4. **L.R. 3003 – Additional Proof of Claim Filing Provisions for Chapter 11 Cases.** The change was made to remove the reference to “Chapter 11 Mega Cases.”

L.R. 3003 – Additional Proof of Claim Filing Provisions for Chapter 11 Cases.

A. Claims Bar Date

In Chapter 11 Cases, ~~with the exception of Mega Chapter 11 cases,~~ the Court shall fix a claims bar date upon motion without hearing. The motion to establish a claims bar date shall include a proposed notice of claims bar date. The movant shall serve the motion and proposed notice on the L.R. 9013-3(D) Master Service List or on those who would be on such a list.

5. **L.R. 4004-2 – Post-Petition Personal Financial Management.** The heading of Subsection B was changed to better describe the process the subsection details.

L.R. 4004-2 – Post-Petition Personal Financial Management.

...

B. Relief from ~~the Case being Closed without a Discharge Dismissal Order.~~

If, after the Court sends the notice described in L.R. 4004-2(A), a case has been closed without a discharge for failure to file a certificate of completion of the post-petition personal financial management course, the debtor shall not move the Court for any type of relief from the closing of the case (including a motion to reconsider) without first paying the case reopening fee.

6. **L.R. 9040 – Exhibits.** This Local Rule has been revised to a single paragraph detailing the manner in which the court expects attorneys to file exhibits using the CM/ECF system. Immediately following the revision of **L.R. 9040 – Exhibits** are the revisions to references to this rule elsewhere in the Local Rules.

L.R. 9040 – Exhibits

All exhibits shall be filed with the motion, pleading, or claim to which they refer, either as an attachment or as their own entry on the docket linked to the appropriate document. Exhibits shall mean the entire document, instrument, or form. This Rule shall apply to exhibits in all cases, no matter the content of the motion, pleading or claim.

L.R. 3001 - Proofs of Claim.

...

B. Exhibits.

All exhibits to proofs of claim shall be filed in accordance with L.R. 9040.

~~Except for exhibits to proofs of claim subject to the requirements of Fed. R. Bankr. P. 3001(e)(2) or (3), or that are to be filed as directed by any of Official Form 410's official Attachments or Supplements, exhibits, including evidence of a writing and proof of perfection of a security interest, shall not be filed with any proof of claim. Instead, an "Exhibit Summary" (Local Form 9) shall be attached to the proof of claim and the exhibit procedures in L.R. 9040 shall be followed.~~

...

E. Chapter 13 Liens on Principal Residence - Evidentiary Effect.

In a Chapter 13 case, any claim filed by an entity identified by the Debtor in the schedules and Chapter 13 plan as having a lien on the real property that is the principal residence of the Debtor shall be considered prima facie evidence of the right of such entity to receive payments during the pendency of the Chapter 13 case, subject to any properly filed transfer of claim, provided said claim is accompanied by a recorded copy of the original deed of trust or mortgage. Such a claim and its accompanying documents ~~shall not be subject to the exhibit summary requirements of L.R. 9040 but~~ shall be subject to the privacy and redaction requirements of L.R. 9037.

L.R. 4001-1 - Relief from the Automatic Stay.

...

C. Content of Motion for Relief from the Automatic Stay.

1. Motion for Relief from the Automatic Stay to Foreclose on Collateral.

- a. **General Provisions.** In a case filed under any chapter in which the movant is seeking to foreclose on collateral, the motion shall recite the legal and factual basis on which relief is sought including:
- i. the basis for the debt;
 - ii. the balance of the indebtedness on the petition date or otherwise; and
 - iii. the date and manner of perfection, including book and page number, certificate of title, or UCC-1 recording.

Documentation in support of a motion for relief shall ~~be filed in accordance with L.R. 9040 summarized using an Exhibit Summary following the procedures under L.R. 9040(A) unless otherwise permitted in this Rule. On request, the movant shall provide copies of all exhibits in their entirety as set forth in L.R. 9040(C).~~

- b. **Chapter 13 Cases.** In a Chapter 13 case in which the movant is seeking to foreclose ~~its on~~ collateral, the following procedures apply:
- i. **Balance due.** The motion shall include a statement of the amount due including a breakdown of the following categories:
 1. unpaid principal;
 2. accrued interest from a specific date to a specific date;
 3. late charges from a specific date to a specific date;
 4. attorneys' fees;
 5. advances for taxes, insurance and the like; and
 6. any other charges.
 - ii. **Post-Petition Payments.** In Chapter 13 cases, where the movant is seeking relief from the stay for failure to make post-petition payments on a claim secured by real property that is the debtor's principal residence or is treated by the debtor's Chapter 13 plan pursuant to Bankruptcy Code § 1322(b)(5), the motion or attachments thereto, shall contain a legible post- petition payment history. The payment history shall set forth:
 1. the date each post-petition payment was received,
 2. the amount of each post-petition payment received, and
 3. how each post-petition payment was applied by the movant.Pursuant to Bankruptcy Code § 362(g)(2), the debtor has the burden to prove any post-petition payment(s) alleged to have been made but not set forth in the motion, or attachments thereto.
 - iii. **Exhibits.** Exhibits shall be filed in accordance with L.R. 9040, including those containing evidence of perfection, such as a deed of trust, certificate of title or UCC-1 form showing the recorder's stamp and verifying lien perfection. ~~Select exhibits or page(s) may be attached to the motion provided the exhibit page(s) contain evidence of perfection. It is sufficient for the movant to attach only the first page of a deed of trust, certificate of title, or UCC-1 form showing the recorder's stamp and verifying lien perfection. On request, the movant shall provide copies of all exhibits in their entirety as set forth in L.R. 9040(C).~~
 - iv. **Order Granting Relief from Automatic Stay - Effect on Secured Claims.** All orders granting relief from the automatic stay in a Chapter 13 case shall contain the following language:

The Trustee is directed to discontinue payment on all claims secured by the property against which relief from the automatic stay is granted in this Order. The Trustee is directed to resume payment on such claims on notification pursuant to L.R. 3021(A).
2. **Motions for Relief from the Automatic Stay for All Other Purposes.** In a case under any chapter of the Bankruptcy Code, a motion for relief from the automatic

stay for any purpose other than to foreclose on collateral shall include all legal and factual allegations supporting the relief requested and shall ~~comply with use the Exhibit Summary procedures of~~ L.R. 9040.

B. Responses to Motions for Relief from the Automatic Stay.

Any response to a motion for relief from the automatic stay shall be filed no later than 7 days before the hearing date set for the motion for relief. The response shall specifically admit or deny the allegations in each paragraph. A general denial is insufficient and prohibited. When a response asserts adequate protection, the response shall state how the movant will be adequately protected if the automatic stay remains in effect. The parties shall ~~exchange and~~ file exhibits ~~in accordance with L.R. 9040 following the procedures in L.R. 9040(C).~~

...

L.R. 7026 - Discovery.

...

C. Filing of Discovery Materials.

Local Rule 3.02 of the United States District Court for the Eastern District of Missouri shall apply as modified herein. Discovery requests and responses and any disclosures required under Fed. R. Civ. P. 26, 30, 31, 33, 34, 35 and 36 shall not be filed with the Court except as exhibits to a motion or memorandum ~~pursuant to and then only as permitted by~~ L.R. 7056 and 9040. At the time of service of discovery requests or responses, the party issuing the discovery or responding to it shall file a certificate of service advising that the discovery has been served or answered. No deposition transcript shall be filed until admitted into evidence at trial. If deposition testimony is needed to support any pleading, a copy of the relevant excerpts shall be attached to the motion or pleading ~~as well as a designation of deposition transcript listing the page and lines.~~

...