

**United States Bankruptcy Court
Eastern District of Missouri**



**Thomas F. Eagleton U. S. Courthouse
St. Louis, MO**

**Local Rules of Bankruptcy Procedure
Amendments Effective December 1, 2024**

The following amendments to the Local Rules of Bankruptcy Procedure for the U.S. Bankruptcy Court for the Eastern District of Missouri have been approved by the 8th Circuit and will become effective on December 1, 2024. This document represents all changes to the Court's Local Rules for 2024. This year's amendments include changes to eleven (11) of the Court's Local Rules and the introduction of two (2) new Local Rules. A copy of this summary of amendments as well as a redline version and clean version of the Local Rules of Bankruptcy Procedure effective December 1, 2024, can be found on the Court's website at: <http://www.moeb.uscourts.gov/rules-and-procedures>.

Comments, questions, or concerns regarding these amendments or the Local Rules in their entirety can be directed to the Attorney Advisor to the Clerk of Court at: attorney_advisor@moeb.uscourts.gov

1. L.R. 1009 - Amended Schedules and/or Matrix.

The change was made to clarify that the deadline to object to a debtor's discharge or the dischargeability of a debt is extended only if it hasn't already expired. Parties are directed to file a motion seeking to extend the deadline to object in instances where the deadline has expired.

L.R. 1009 - Amended Schedules and/or Matrix

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E. Extension of Deadline for Objection to Discharge

The deadline to object to a debtor's discharge or the dischargeability of a debt will be extended by sixty (60) days from the date of the amended schedules and/or matrix only for newly added creditors **if the original deadline to object to a debtor's discharge or the dischargeability of a debt has not expired. If the original deadline has expired, parties wishing to object should file a motion seeking to extend the deadline to object.**

2. L.R. 1017-3 – Motions to Reinstate Following Dismissal on Trustee's Motion to Dismiss for Failure to Make Plan Payments.

The change was made to require the debtor to identify the amount paid, date paid and the manner in which funds were tendered when bringing plan payments current in relation to a Motion to Reinstate following a dismissal for failure to make plan payments.

L.R. 1017-3 – Motions to Reinstate Following Dismissal on Trustee's Motion to Dismiss for Failure to Make Plan Payments.

A. Time, Content, and Service

A Chapter 13 debtor will have fourteen (14) days after entry of an order granting the Trustee's motion to dismiss for failure to make plan payments in which to file a motion to reinstate and set aside dismissal and to pay funds to the Trustee to bring payments current as of the date of the debtor's motion. The motion must state whether the case was previously dismissed and reinstated and must provide dates of any prior dismissals and orders of reinstatement. The motion must also recite that the debtor has paid funds to the Trustee to bring payments current as of the date of the debtor's motion, **list the amount and date tendered, and detail the manner in which the funds were tendered.** The debtor must serve a copy of its motion on the Trustee, all creditors and parties in interest who have filed a proof of claim, and all entities that have filed a request for notice. No later than fourteen (14) days after service of the motion, the Trustee must file a response to the motion, stating whether the Trustee consents or opposes reinstatement. Upon submission of the Trustee's consent, the case may be reinstated without hearing. Absent a compelling reason, the Court will enter an order without hearing after receipt of the Trustee's response.

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

The change was made to raise the attorney fee amounts for debtor's counsel who select either the "Flat Fee Option" or "Fee Application Option" in Chapter 13 cases for compensation.

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 must disclose which fee election option the attorney elects by using the "Attorney Fee Election Form" event in the CM/ECF system. Such fee election event must 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” are, without application to the Court, permitted to be paid attorneys’ fees, including expenses, not to exceed ~~\$4,800.00~~ **\$5,800.00** for cases filed on or after December 1, ~~2018~~ **2024** (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” are permitted to be paid, without application to the Court, an initial fee in an amount not to exceed ~~\$3,000.00~~ **\$3,600.00** for cases filed on or after December 1, ~~2018~~ **2024** (plus the filing fee if the filing fee is advanced). All other fees 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).

4. **L.R. 3015-2 – Chapter 13 Plans – Plan Contents.**

- A change was made to allow debtors in Chapter 13 cases to repay mortgage arrears over the life of their Chapter 13 plan, instead of the shorter of forty-eight (48) months or the duration of the plan.
- A change was made to reduce the amount of time debtors have to turnover collateral to twenty-one (21) days from forty-five (45) days but calculating this deadline from the confirmation of a plan (original or amended) rather than from the petition date.

L.R. 3015-2 – Chapter 13 Plans – Plan Contents

A. “Reasonable Time” to Cure Defaults under Bankruptcy Code § 1322(b)(5).

~~The duration to cure pre-petition arrearages pursuant to Bankruptcy Code § 1322(b)(5) is any length of time not to exceed the life of the plan. Absent a showing of cause or the written consent of the mortgagee, the “reasonable time” referred to in Bankruptcy Code § 1322(b)(5) will not exceed the shorter of forty-eight (48) months or the plan duration. Consent of the mortgagee to any other time period must be in writing, filed with the Court, and served on the Trustee prior to the hearing on confirmation of the plan.~~

B. Turnover of Collateral

When a Chapter 13 plan states that the debtor will surrender collateral to a creditor, the debtor must release the collateral to the creditor within ~~forty-five (45)~~ **twenty-one (21)** days of the date of the ~~order confirming the plan filing of the petition~~. To surrender collateral, the debtor will make the collateral available to the creditor during reasonable hours and at a reasonable location. The debtor and creditor should cooperate in surrendering and recovering the collateral.

5. **L.R. 3017.2 – Subchapter V Requirements.**

Two procedural requirements were added to this rule to standardize confirmation procedures across Subchapter V cases in this district.

L.R. 3017.2 – Subchapter V Requirements

The following requirements apply in Subchapter V cases:

1. Unless otherwise ordered by the Court, no disclosure statement is required in a case filed under Subchapter V. Additionally, no Statement of Current Monthly Income (Official Form 122B) is required in a case filed under Subchapter V.

2. Counsel must file and serve a Motion to Establish Confirmation Procedures within seven (7) days following the filing of the Subchapter V plan and submit a proposed order in substantial conformity with the Local Form “Order Establishing Confirmation Procedures” found on the Court’s website. The Court may consider the motion without a hearing pursuant to L.R. 9062.
3. Counsel must file and serve a Notice of Confirmation Hearing and Related Deadlines in substantial conformity with the Local Form “Notice of Confirmation Hearing and Related Deadlines” found on the Court’s website after the Court grants the Motion to Establish Confirmation Procedures.

Practice Point:

The Court has created **Local Form 54** (Order Establishing Confirmation Procedures) and **Local Form 55** (Notice of Confirmation Hearing and Related Deadlines) in the light of the above addition to L.R. 3017.2. All Local Forms can be accessed at: <https://www.moeb.uscourts.gov/forms-0>

Practice Point:

The CM/ECF event filing pathway to file the Motion to Establish Confirmation Procedures is as follows:

Bankruptcy Events → Motions/Applications → Generic Motion

The filer should enhance the docket text to match the relief sought.

The CM/ECF event filing pathway to file the Notice of Confirmation Hearing and Related Deadlines is as follows:

Bankruptcy Events → Notices → Notice (Generic)

The filer should enhance the docket text to match the notice given.

6. **L.R. 3021 – Distribution on Claims in Chapter 13 Cases.**

The change was made to except claims for sewer and real estate tax debt from the direction that the Trustee will cease distribution on the claim of a creditor that obtains an order for relief from the automatic stay to foreclose on collateral and cease payment on all claims secured by the collateral against which relief from the automatic stay is granted.

L.R. 3021 – Distribution on Claims in Chapter 13 Cases

A. Distribution Following Relief from the Automatic Stay

1. **Certain Lienholders Not Entitled to Share in Subsequent Distributions.** In a Chapter 13 case, if a creditor obtains an order for relief from the automatic stay of Bankruptcy Code § 362 to foreclose on collateral, the Trustee will cease distribution on the claim of such creditor and cease payment on all claims secured by the property against which relief from the automatic stay is granted (except claims for sewer service or real estate tax debts) until such time as:

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7. **L.R. 4001-1 – Relief from the Automatic Stay.**

The change was made to conform the language that must be contained in all orders granting relief from the automatic stay in Chapter 13 cases to the change detailed immediately above in L.R. 3021.

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

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

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

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- b. Chapter 13 Cases. In a case filed under any chapter in which the movant is seeking to foreclose its collateral, the following procedures apply:

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- iv. ***Order Granting Relief from the Automatic Stay – Effect on Secured Claims.*** All order granting relief from the automatic stay in a Chapter 13 case must 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 (except claims for sewer service or real estate tax debts) in this Order. The Trustee is directed to resume payment on such claims on notification pursuant to L.R. 3021(A)

8. **L.R. 4002-1 – Designation of Responsible Individual. (NEW)**

The rule was added to provide non-individual debtors or debtors in possession the option of designating a responsible individual who will be responsible for the duties and obligations of the debtor or debtor-in-possession and who will be the point of contact for parties' communications. The intent of this rule is to increase collaboration and communication. However, this rule is permissive and should not be interpreted as a mandatory requirement for non-individual debtors or debtors-in-possession.

L.R. 4002-1 – Designation of Responsible Individual (NEW)

- A. Any debtor or debtor-in-possession that is not an individual may file an application with the Court and submit a proposed order to the applicable orders mailbox appointing a natural person to be responsible for the duties and obligations of the debtor or debtor-in-possession. The order must identify such person by name and include the person's address, telephone number, and position within the organization. If the duties are to be divided among two or more individuals, the responsibilities of each must be specified. The application and order must be filed with the petition, or promptly thereafter.
- B. Any notice or application filed under subparagraph (a) of this rule must be served on any trustee appointed in the case, on counsel for (or if there is no counsel, the members of) any committee appointed in the case, on the United States Trustee, on any party who has requested notice pursuant to Bankruptcy Rule 2002(i), and on the L.R. 9013-3(D) Master Service List in applicable cases.

9. **L.R. 4003-2 - Motion to Avoid Liens under Bankruptcy Code § 522(f)(1).**

The change was made to provide the filer of a motion to avoid liens with direction as to what forms to use when filing the motion and options to effect proper service when a non-individual whose lien is sought to be avoided does not have a registered agent in Missouri.

L.R. 4003-2 - Motion to Avoid Liens under Bankruptcy Code § 522(f)(1).

A. Content and Service.

All motions to avoid liens must contain:

1. a specific description of the property subject to the lien avoidance action; and
2. a description of the documents giving rise to the lien.

A specific description of the property is not necessary if the debtor does not have a listing of the property and the debtor can demonstrate an attempt to obtain that information in writing from the creditor at least fourteen (14) days prior to filing the motion. The motion must be served ~~in accordance with L.R. 9013-1(A) on the Trustee and the creditor whose lien is sought to be avoided.~~ All motions to avoid judicial liens on real property should be filed using the Local Form "Motion to Avoid Judicial Lien" found on the Court's web site. All motions to avoid ~~liens nonpossessory security interests under Bankruptcy Code § 522(f)(1)(B)~~ should be filed using the Local Form "Motion to Avoid Nonpossessory, Nonpurchase-Money Security Interest" found on the Court's web site. All motions of either type must be served on the registered agent of any non-individual whose lien is sought to be avoided. ~~If the non-individual whose lien is sought to be avoided does not have a registered agent in Missouri, the motion may be served upon (a) another person or entity designated or permitted by law to receive service of process, including a registered agent in another jurisdiction, or (b) another person or entity in a manner that complies with Fed. R. Bankr. P. 7004.~~

Practice Point:

The Court has created **Local Form 56** (Motion to Avoid Judicial Lien) and **Local Form 57** (Motion to Avoid Nonpossessory, Nonpurchase-Money Security Interest) for counsel to use when filing these motions. The Court has also created corresponding orders in **Local Form 58** (Certification of No Response and Order Avoiding Judicial Lien) and **Local Form 59** (Certification of No Response and Order Avoiding Nonpossessory, Nonpurchase-Money Security Interest). All Local Forms can be accessed at: <https://www.moeb.uscourts.gov/forms-0>

Practice Point:

The CM/ECF event titled "Motion to Avoid Lien" has been changed to "Motion to Avoid Judicial Lien" to conform with this rule change. The revised CM/ECF event filing pathway is as follows:

Bankruptcy Events → Motions/Applications → Motion to Avoid Judicial Lien

The CM/ECF event titled "Motion to Avoid Lien on Household Goods" has been changed to "Motion to Avoid Nonpossessory, Nonpurchase-Money Security Interest" to conform with this rule change. The revised CM/ECF event filing pathway is as follows:

Bankruptcy Events → Motions/Applications → Motion to Avoid Nonpossessory, Nonpurchase-Money Security Interest

10. L.R. 4003-3 – Motion by Individual Debtor to Recover Tangible Personal Property Under § 542(a). (NEW)

The rule was added to establish a process and procedure for individual debtors filing motions to recover tangible personal property under § 542(a) in response to the change to Fed R. Bankr. P. 7001(a) effective December 1, 2024, that allows a debtor to seek this relief by motion instead of by adversary proceeding.

L.R. 4003-3 – Motion by Individual Debtor to Recover Tangible Personal Property Under § 542(a) (NEW)

All motions by individual debtors to recover tangible personal property must include a specific description of the property to be recovered. The motion must be served in accordance with L.R. 9031-1(A). All motions must be served on the registered agent of any non-individual creditor. If the non-individual creditor does not have a registered agent in Missouri, the motion may be served upon (a) another person or entity designated or permitted by law to receive service of process, including a registered agent in another jurisdiction, or (b) another person or entity in a manner that complies with Fed. R. Bankr. P. 7004.

Practice Point:

A new CM/ECF event has been created to file these motions. The CM/ECF event filing pathway is as follows:

Bankruptcy Events → Motions/Applications → Motion by Individual Debtor to Recover Tangible Personal Property Under § 542(a)

11. L.R. 7055 – Default Judgment.

- A change was made to explicitly state that any affidavit in support filed by a plaintiff seeking the Clerk of Court's entry of default must be notarized by a notary public holding a current and valid commission.
- A change was also made to provide plaintiffs the option of filing a declaration in support under penalty of perjury pursuant to 28 U.S.C. § 1746 in lieu of an affidavit.

L.R. 7055 – Default Judgment

A. Clerk's Entry of Default.

A plaintiff seeking the Clerk of Court's entry of default must follow the procedures set forth in Fed. R. Bankr. P. 7055. To obtain the Clerk of Court's entry of default, the Court requires the filing of the following:

1. Request for Clerk of Court's entry of default; and
2. Affidavit **or declaration under penalty of perjury pursuant to 28 U.S.C. § 1746** supporting entitlement to entry of default.

The Any affidavit **or declaration** must contain:

- a. Date of issuance of summons;
- b. Statement of whether the Court fixed a deadline for filing an answer or motion, or whether the 30 or 35 day limit applies;

- c. Date of service of the complaint;
- d. Date of filing of affidavit or return of service;
- e. Statement that no answer or motion has been received within the time limit fixed by the Court;
- f. Statement that the defendant is not in the military service (as required by the Soldier's & Sailor's Civil Relief Act, 50 U.S.C. App. § 521); and
- g. Statement that the defendant is not an infant or an incompetent as required by Fed. R. Civ. P. 55(b)(1)).

Any affidavit must be notarized by a notary public holding a current and valid commission. Any declaration must comply with the requirements of 28 U.S.C. § 1746. If the plaintiff is entitled to entry of default, the Clerk of Court's office will complete the entry of default and return a copy of the entry of default to the plaintiff.

B. Motion for Default Judgment

Any motion for default judgment must be accompanied by (1) the Clerk of Court's entry of default using Director's Form B 2600 (found through the link to Official Forms on the Court's web site), and (2) ~~an affidavit~~ one or more affidavits in support of the motion. The plaintiff filing the motion for default must submit a proposed order via the Judge's e-mail (see the Procedures Manual for the Judges' e-mail addresses) at the time the motion is filed. The affidavit in support of the motion must contain the following:

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12. L.R. 9061 – Negative Notice Procedures.

- A change was made to clarify the response deadlines when a matter is set for hearing that may have otherwise may have been set on Negative Notice.
- A change was made to reduce the Negative Notice period to file a response to a motion to retain automobile insurance proceeds in a Chapter 13 case to (14) days after service.

L.R. 9061 – Negative Notice Procedures

A. Negative Notice.

Certain motions or pleadings may be considered by the Court without setting a hearing date if appropriate notice and opportunity to object to the requested relief are provided to necessary parties ("Negative Notice"). If a party sets a motion for hearing that may have otherwise been set on Negative Notice, any response must be filed no later than seven (7) days before the date of hearing pursuant to L.R. 9013-1(B).

Negative Notice may be used for the following types of motions or pleadings:

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- 8. motions to retain automobile insurance proceeds in Chapter 13 cases.**

B. Response to Matters set on Negative Notice.

Unless another time period is specified by the Federal Rules of Bankruptcy Procedure, the Bankruptcy Code, these Rules, or a Court notice or order, any party served with a motion or pleading to be heard on Negative Notice will have twenty-one (21) days after service to file a response to the motion or pleading. The response time for **objections to claims in Chapter 13 cases and** motions for continuation of utility service/adequate assurance of payment under 11 U.S.C. §366

will be thirty (30) days. ~~The negative notice period to file a response to a motion to incur debt relating to an automobile in a Chapter 13 case or a motion to retain automobile insurance proceeds in a Chapter 13 case is fourteen (14) days after service.~~ The respondent must serve the response at the time the response is filed on the movant or applicant and on all entities described in L.R. 9013-1(A). ~~The negative notice period to file a response to a motion to incur debt relating to an automobile in a Chapter 13 case is fourteen (14) days after service.~~

13. L.R. 9062 – Matters Without Hearing.

The change was made to add two more matters to the list of matters that will ordinarily be considered without hearing.

L.R. 9062 - Matters Without Hearing.

Unless otherwise directed, the Court will ordinarily consider the following matters without hearing. Nothing, however, precludes any party from requesting that any of these matters be set for hearing. Copies of any motion or application that will not be set for hearing under this Rule must be served on all entities entitled to notice as specified in the Federal Rules of Bankruptcy Procedure or in these Rules. Any response must be filed and served immediately.

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23. Motions to increase plan base in Chapter 13 cases.

24. Motions to establish confirmation procedures in Subchapter V cases.