



**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MARYLAND
OFFICE OF THE CLERK**

MARK A. NEAL
Clerk of Court

THOMAS C. KEARNS
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www.mdb.uscourts.gov

September 15, 2021

**NOTICE OF PROPOSED AMENDMENTS
TO LOCAL BANKRUPTCY RULES AND FORMS**

The United States Bankruptcy Court for the District of Maryland has approved for publication and public comment amendments to the following local rules and forms:

- **Local Rule 1002-2** is new and sets forth the procedure for a Chapter 11 debtor to elect to proceed under Subchapter V of the Bankruptcy Code.
- **Local Rule 1002-3** is new as part of an effort to reduce the impact on practice and procedures before the Court through Administrative Orders. Upon the effective date of this local rule, Administrative Order 21-03 will be rescinded as unnecessary.
- **Local Rule 1007-3** is deleted as duplicative of proposed amended LBR 1009-1.
- **Local Rule 1009-1** is amended to combine the provisions of LBR 1007-3 into one rule setting forth the noticing requirements for mailing matrix amendments and creditors impacted by amendments to bankruptcy schedules.
- **Local Rule 2081-1** is deleted as unnecessary. The Notice of Commencement of Case issued by the Court and served on all creditors through the Bankruptcy Noticing Center notifies disputed, contingent, or unliquidated creditors of the need to file proofs of claim. Neither the Bankruptcy Code nor Federal Bankruptcy Rules require Chapter 11 debtors to provide additional notice to creditors with disputed, contingent, and/or unliquidated claims. The obligation remains for Chapter 11 debtors to provide special notice to such creditors in the event of bankruptcy schedule amendments (see proposed amended LBR 1009-1(d)).
- **Local Rule 3007-1** is amended to conform to previous amendments to Federal Bankruptcy Rule 3007.
- **Local Rule 3011-1** is new and sets forth (1) the procedure for applying for the payment of unclaimed funds; and (2) under a Chapter 11 liquidating plan the authorization and procedure for the potential distribution of unclaimed funds to not-for-profit, non-religious organizations.
- **Local Rule 4001-6** is amended to update the requirements for mortgage service holders to send certain customary notices and correspondence post-petition and to maintain electronic access to account information and payment methods.

- **Local Rule 5005-1** is amended as part of an effort to reduce the impact on practice and procedures before the Court through Administrative Orders by incorporating relevant Administrative Orders into the local rules. Upon the effective date of this local rule amendment, Administrative Order 03-02 will be rescinded as unnecessary.
- **Local Rule 7007-1** is new and sets forth a procedure for debtors to request the expedited turnover of motor vehicles within an adversary proceeding under 11 U.S.C. Section 542 in light of *City of Chicago v. Fulton*, 141 S. Ct. 585 (2021).

Redline copies of the proposed local rule amendments are attached and are also available on the Court’s website at: www.mdb.uscourts.gov. The pending December 1, 2021 amendments to the Federal Bankruptcy Rules are available at: <http://www.uscourts.gov/rules-policies/pending-rules-and-forms-amendments>. This summary was prepared by the Clerk’s Office as an overview of the proposed changes and is neither intended to serve as legal advice nor as a commentary on the proposed changes to the Local Rules, and nothing herein should be cited as legal authority. This summary does not include any minor stylistic changes that may be incorporated into the Local Rules as part of this amendment process.

Many of the pending draft rule amendments were proposed by a local rules committee comprised of the following Bankruptcy Bar Association and MSBA Consumer Bankruptcy Section members who the Court thanks for their valuable and thoughtful contributions to the local rule amendment process:

Fred Nix, Chair	Mark Meyer
Marguerite Lee Devoll	Mary Miguez-Jordan
Seth Diamond	Frank Morris, II
Morgan Fisher	Dennis J. Shaffer
Richard London	Lisa Y. Stevens

Comments on the proposed amended local rules must be submitted on or before November 1, 2021, to Mark A. Neal, Clerk of Court, 101 West Lombard Street, Suite 8525, Baltimore, MD 21201 or emailed to LocalRules@mdb.uscourts.gov. If adopted, the amended rules will take effect on December 1, 2021.

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RULE 1002-2 **ELECTION TO PROCEED UNDER SUBCHAPTER V OF CHAPTER 11**

(a) A debtor who qualifies under 11 U.S.C. § 1182 may elect to proceed under Subchapter V of Chapter 11 of the Bankruptcy Code by indicating that election on their bankruptcy petition.

(b) If a debtor who qualifies under 11 U.S.C. § 1182 elects to proceed under Subchapter V of Chapter 11 of the Bankruptcy Code *after* the debtor files a bankruptcy petition under Chapter 11 or *after* the court grants a motion filed by the debtor to convert a pending case to one under Chapter 11, the debtor must file an amended bankruptcy petition indicating the election to proceed under Subchapter V of Chapter 11 of the Bankruptcy Code.

RULE 1002-3 COMPLEX CHAPTER 11 CASE PROCEDURES

The United States Bankruptcy Court for the District of Maryland's Complex Chapter 11 Case Procedures, as amended, are attached to these Local Bankruptcy Rules as Appendix J and are incorporated herein in their entirety.

~~**RULE 1007.3 — NOTICE TO CREDITORS OMITTED FROM OR INCORRECTLY LISTED ON MASTER MAILING MATRIX**~~

~~If a debtor files schedules or a supplemental mailing matrix after filing the petition, and if the debtor's schedules or a supplemental mailing matrix include one or more creditors that were not included, or were listed incorrectly, on the debtor's master mailing matrix filed with the petition, a debtor must comply with the following procedures:~~

~~(a) Notice to Creditors. The debtor must send to each creditor that is added or whose address is corrected:~~

~~(1) a copy of the original Notice for Meeting of Creditors; and~~

~~(2) a copy of each order that establishes or extends a bar date for claims or for complaints to determine the dischargeability of certain debts or to object to the discharge of the debtor.~~

~~(b) Certificate of Compliance. With the schedules and supplemental mailing matrix, the debtor must file a certificate of compliance with this Rule, together with a dated and clearly titled supplemental mailing matrix that lists only the names and correct mailing addresses of each newly scheduled creditor.~~

RULE 1009-1

~~AMENDMENTS TO LISTS AND SCHEDULES~~NOTICES TO CREDITORS (I)
OMITTED FROM OR INCORRECTLY LISTED ON MASTER MAILING
MATRIX OR (II) AFFECTED BY AMENDMENT TO SCHEDULE

~~When filing~~ Upon the debtor's filing of (i) amended schedules; or (ii) a supplemental/ amended mailing matrix to add a creditor or correct a creditor's information, the debtor shall comply with the following notice requirements ~~that add previously unscheduled creditors, a debtor must comply with the following procedures:~~

~~(a) Notice to United States Trustee. The debtor must send a copy of the amended schedules to the Office of the United States Trustee and to any trustee appointed in the case.~~ (b) Notice to Creditors. The debtor must send to each creditor who is added, whose address is corrected, or whose status or scheduled claim is changed by an ~~amend~~ment~~ed schedule:~~

~~(1) —a copy of the amended schedule;~~

~~(2)~~ a copy of the original Notice for Meeting of Creditors; and

~~(3)~~ a copy of each order that establishes or extends a bar date for filing proofs of claims or complaints to determine the dischargeability of certain debts or to object to the discharge of the debtor; and

(3) a copy of the amended schedule, if applicable.

(b) Notice to United States Trustee. Upon the filing of an amended schedule that adds a previously unscheduled creditor or alters a creditor's scheduled status or claim, in addition to complying with subsection (a) of this Rule, the debtor shall send a copy of the amended schedule to the United States Trustee and to any trustee appointed in the case.

(c) Certificate of Compliance. Contemporaneously with the filing of either (i) an ~~With the~~ amended schedule; or (ii) a supplemental/amended mailing matrix, the debtor must file a certificate of compliance with this Rule, together with, if applicable, a dated and clearly titled supplemental mailing matrix that lists only the names and correct mailing addresses of ~~all~~each newly scheduled and/or amended creditors.

(d) Notice of Amendment of Schedules in Chapter 9 and Chapter 11 Cases. Whenever the debtor or trustee in a Chapter 9 or a Chapter 11 case amends the debtor's schedules to change the amount, nature, classification or characterization of a debt owing to a creditor, the debtor or trustee must, within fourteen (14) days of filing, transmit notice of the amendment to the creditor, which notice shall conspicuously identify the claims being amended, and provide notice of the creditor's right to file a proof of claim by the later of: (i) the bar date (if any); or (ii) either (a) thirty (30) days from the date of notice in a case proceeding under Subchapter V; or (b) sixty (60) days from the date

of the notice in all other cases in Chapter 9 and Chapter 11. The debtor or trustee must file a certificate of service of the notice with the Clerk within seven (7) days ~~of~~after service.

~~RULE 2081-1~~ ————— ~~CHAPTER 11~~ ~~SCHEDULED CLAIMS~~

~~The debtor in a Chapter 11 case must serve on each creditor whose claim is listed on a schedule as disputed, contingent, or unliquidated, notice of that listing within fourteen (14) days after filing the schedule or within fourteen (14) days after adding a disputed, contingent or unliquidated creditor to a previously filed schedule. The notice must clearly identify each creditor whose claim has been scheduled as disputed, contingent or unliquidated and state that such creditor has the right to file a proof of claim and the failure to do so timely may prevent the creditor from voting on a plan or participating in any distribution. The debtor must file a certificate of service of the notice within seven (7) days of service.~~

RULE 3007-1

CLAIMS -- OBJECTIONS

~~In addition to the service required by Federal Bankruptcy Rules 9014 and 7004(b), a [Any](#) party objecting to a proof of claim must serve a copy of the objection and any supporting memorandum and affidavit on the claimant [in accordance with Federal Bankruptcy Rule 3007](#) at the name and address where notices should be sent as shown on the proof of claim and must certify that service to the court.~~ The objection must conspicuously state that:

(a) within thirty (30) days after the date on the certificate of service of the objection, the claimant may file and serve a memorandum in opposition, together with any documents and other evidence the claimant wishes to attach in support of its claim, unless the claimant wishes to rely solely upon the proof of claim; and

(b) an interested party may request a hearing that will be held at the court's discretion.

RULE 3011-1 UNCLAIMED FUNDS

(a) Application for Payment. An application for payment of unclaimed funds pursuant to 28 U.S.C. § 2042 shall be submitted in accordance with the Instructions for Filing Application for Payment of Unclaimed Funds available on the court’s website (the “Instructions”). The application shall be served on the United States Attorney for the District of Maryland (the “U.S. Attorney”). Failure to submit an application with all supporting documentation that complies with the Instructions and has been properly served on the U.S. Attorney may result in denial of the application without a hearing.

(b) Disposition of Unclaimed or Undistributable Funds Under A Chapter 11 Liquidating Plan.

(1) A Chapter 11 liquidating plan may provide that unclaimed funds may be redistributed to other creditors or administrative claimants or donated to a not-for-profit, non-religious organization identified in the plan or disclosure statement accompanying the plan.

(2) A Chapter 11 liquidating plan may provide that any undistributable funds, if applicable or practicable, may be redistributed to other creditors or administrative claimants or donated to a not for profit, non-religious organization identified in the plan or disclosure statement accompanying the plan.

(A) Undistributable funds are any funds other than unclaimed funds, including, but not limited to, funds that cannot be disbursed because: (i) a creditor has affirmatively rejected a distribution, (ii) the administrative costs of distribution effectively interfere with distribution, or (iii) all creditors, including administrative claimants, have been paid in full and there is no one that has a right to the funds.

RULE 4001-6

**POST-PETITION PAYMENT NOTICES ~~AND~~, ACCOUNT ACCESS, AND
ELECTRONIC PAYMENTS**

Creditors and lessors ~~may~~shall continue to provide customary notices and correspondence, both electronically and by mail, including, but not limited to, monthly statements, payment coupons, ~~and~~ escrow adjustment analyses, and tax statements to debtors regarding post-petition account activity. ~~Further, to the extent available, creditors~~ Creditors and lessors ~~may~~shall allow debtors to access, obtain information, and make post-petition payments through electronic, telephonic, and/or on-line means. ~~The creditor's, to the extent such electronic, telephonic or lessor's on-line methods were available to the debtor prior to filing bankruptcy. Creditors and lessors shall make electronic payment methods available to debtors to the same extent they are available to their customers who have not filed for bankruptcy.~~

The actions outlined in the immediately preceding paragraph of creditors or lessors pursuant to this rule shall not be considered a violation of the automatic stay.

RULE 5005-1**FILING BY ELECTRONIC MEANS**

The court will accept for filing documents submitted, signed or verified by electronic means that comply with the Electronic Case Filing Procedures (~~Administrative Order 03-02~~, attached as Appendix H) established by the court as published on the court's website.

RULE 7007-1 MOTIONS TO EXPEDITE TURNOVER OF MOTOR VEHICLES

(a) In an adversary proceeding to recover a motor vehicle under 11 U.S.C. § 542, the plaintiff may file a motion for expedited turnover of the motor vehicle, provided that the following conditions are satisfied:

(1) The motion specifically identifies the motor vehicle, the legal authority supporting the requested turnover, and the justification for the requested expedited relief (including any adequate protection offered to the defendant by the plaintiff);

(2) The plaintiff files an affidavit (or an unsworn declaration in accordance with 28 U.S.C. § 1746) supporting the requested turnover of the motor vehicle; and

(3) The plaintiff files a certificate with the motion stating that the plaintiff conferred with the defendant and made a good faith effort to resolve the requested relief consensually prior to the filing of the motion.

(b) The Clerk will maintain a list of dates available for hearings on motions for expedited turnover of motor vehicles for each judge of the court. The list will be posted on the court's website. The plaintiff must select a hearing date from the list for the judge to whom the case is assigned that is more than seven days after the date of service.

(c) The plaintiff must file and serve a Motion for Expedited Turnover on the defendant that provides notice of the relief requested, the objection deadline, and the hearing date.