

## SUMMARY OF PROPOSED AMENDMENTS TO AK LBRs

LBR 1001-1	<p>In subsection (b), the LBRs are made applicable to cases under chapters 7, 9, 11, 12, 13 <u>and 15</u>.</p> <p>In subsection (f)(1), District of Alaska Local Rule 83.3 is added as one applicable in bankruptcy proceedings.</p>
LBR 1002-1	In subsection (b), regarding joint petitions, “husband and wife” is changed to <u>spouses</u> .
LBR 1004-1	Subsection (b) has been reworded, and a typographical error has been corrected.
LBR 1005-1	<p>In subsection (b), regarding joint petitions, “husband and wife” is changed to <u>spouses</u>.</p> <p>Subsection (c), Individual with Business Entity, is amended to make that section also applicable to individuals with ownership interests in a limited liability company.</p>
LBR 1007-1	<p>This rule, regarding the formatting of schedules and statements, is substantially amended to be consistent with electronic filing. Also, because the modernized schedules and statements contain detailed requirements for the listing of information, the disclosure requirements in the existing rule have been abrogated as moot.</p> <p>In subsection (g), regarding petitions filed by married individuals, “husband and wife” is changed to “spouses.”</p>
LBR 1007-1	Proposed amendments substantially revise and simplify the requirements for a matrix, to be consistent with electronic filing realities and existing practice.
LBR 1009-1	Subsection (c)(1), regarding amendments to a matrix, has been amended to provide that such amendments “conform to the requirements of the Clerk.”
LBR 1015-1	<p>In subsection (d)(1), regarding substantive consolidation in joint cases, “husband and wife” has been changed to <u>spouses</u>.</p> <p>In subsection (d)(2)(B), the time for a party objecting to substantive consolidation in a joint case to request a hearing is changed to require that a calendar request be submitted contemporaneously with, or prior to, the filing of the objection. Existing rule requires that the calendar request be submitted within three (3) days of the filing of the objection.</p>
LBR 1017-1	<p>Title of rule changed to “Conversion <u>or Dismissal</u> of Cases.”</p> <p>Subsection (a) amended to clarify that the rule applies to both conversion under § 706(a) and dismissal under § 1307(b).</p> <p>In subsection (a)(2)[B], the phrase “in substantially the form as provided in LBF 39” is deleted, because this form does not apply to dismissals under § 1307(b).</p>
LBR 1019-1	This rule is new. It requires that post-conversion schedules required under FRBP 1019 be verified by the debtors. The debtor’s actual signature is required on the document, unless an LBF 37A, “Declaration re: Electronic Filing of Petition, Schedules, and Statements, and Plan if Chapter 11, 12, or 13 Case,” has been filed.

LBR 1020-1	<p>Existing subsection (b), regarding the timing of hearing objections to claims, valuation, and claims estimation in small business cases, has been moved to LBR 3017-2, "Disclosure Statements in Small Business Cases."</p> <p>The provisions of existing LBR 2071-1, Creditors Committees in Small Business Cases, have been inserted into LBR 1020 as subsections (b) and (c). There is no parallel FRBP 2071; instead, the federal bankruptcy rule pertaining to the appointment of a committee of unsecured creditors is found in FRBP 1020(c).</p> <p>Existing subsection (c), which requires a small business case caption to include the letters "SB," has been deleted.</p> <p>New subsection (d) permits the court, in appropriate circumstances, to order that an individual chapter 11 debtor be treated as a small business debtor.</p>
LBR 2002-1	<p>Subsection (a)(2) has been amended to be consistent with existing practice regarding notices served by the Clerk or a case trustee</p> <p>Subsection (b)(1)[B] has been amended to clarify which types of motions do, and do not, require an actual hearing. Existing subsection (b)(1)[C], regarding providing the place of any hearing, has been merged into existing subsection (b)(1)[D], and the letter headings within this subsection have been rearranged accordingly.</p> <p>A grammatical error has been corrected in subsection (c)(2)[A].</p> <p>Subsection (d) has been amended to permit the court to allow telephonic or email notice of emergency motions.</p>
LBR 2003-1	<p>Subsections (b) and (c) have been flipped. In new subsection (b), the procedure for a debtor to request telephonic attendance at a 341 meeting has been clarified, and in new subsection (c), the trustee must note any continuance of the 341 meeting on the case docket.</p> <p>Subsection (e) has been abrogated.</p>
LBR 2004-1	<p>The procedure for seeking permission to conduct a Rule 2004 examination has been amplified, and the Clerk is given authority to sign orders authorizing such examinations in certain circumstances.</p>
LBR 2015-1	<p>"Or NCUA" has been added in subsection (a)(2).</p>
LBR 2015-2	<p>Subsection (b), dealing with the disposition of original monthly financial reports, has been abrogated; this provision is outdated in light of electronic filing.</p>
LBR 2016-1	<p>Subsection (c)(1)(C) has been amended to clarify when fees are not recoverable by counsel providing services to the bankruptcy estate.</p> <p>A new provision [F] has been added to subsection (h)(2) to clarify that compensation awarded to a debtor's counsel in chapter 13 case is not deemed to obligate such counsel to represent the debtor in an adversary proceeding arising in the case.</p>
LBR 2071-1	<p>Existing provisions are renumbered as LBR 1020-1(b) and (c). Rule 2071-1 itself is deleted. There is no parallel FRBP 2071.</p>
LBR 2081-1	<p>This rule, regarding chapter 11 status conferences, has been renumbered LBR 3016-1, so that the provisions regarding status conferences in chapter 11 cases are found with the other local rules regarding chapter 11 procedure, and because there is no parallel FRBP 2081.</p>
LBR 2082-1	<p>This rule, pertaining to chapter 12 cases, has been renumbered LBR 3015-6, so that its numbering correlates with FRBP 3015, which relates to chapter 12 and 13 plans. There is no parallel FRBP 2082 .</p>

LBR 2083-1	<p>Subsections (a), (c), and (d) of this rule, regarding the scheduling of hearings in chapter 13 cases, have been renumbered LBR 3015-4, so that they are found with the other local rules regarding chapter 13 procedure. Further, there is no parallel FRBP 2083.</p> <p>Subsection (b) of this rule, regarding motions to value collateral, has been moved to LBR 3012-1, Valuation of Collateral, as subsection(f), which deals with valuation of collateral in chapter 12 and 13 cases.</p>
LBR 2090-1	The local rule regarding admission and practice of attorneys has been renumbered LBR 9010-2, so that its numbering correlates to related FRBP 9010.
LBR 3002-1	Subsection (d)(2) regarding rejection of executory contracts has been amended to require that notice of the 30-day bar date for filing a proof of claim be included in the order approving rejection of such contract.
LBR 3003-1	<p>Subsection (a) has been amended to be consistent with current practice. In chapter 11 cases, the Clerk gives notice of the claim bar deadline within the Notice of Chapter 11 Bankruptcy Filing, Form 309F.</p> <p>Subsection (b)(1) has been amended for purposes of clarification.</p>
LBR 3004-1	Subsections (1) and (2) have been renumbered as (a) and (b), respectively, to be consistent with the numbering conventions used in the LBRs.
LBR 3012-1	Subsection (c) of existing LBR 2082-1, dealing with valuation of collateral in chapter 12 cases, has been added to amended LBR 3012-1 as subsection (f).
LBR 3015-1	Subsection (b) has been amended to conform to, and properly reference the subparagraphs in, the proposed amended Chapter 13 Plan, LBF 5.
LBR 3015-2	The subsections have been renumbered to be consistent with the numbering conventions used in the LBRs.
LBR 3015-4	This new rule consists of subsections (a), (c), and (d) of existing LBR 2083-1. Subsection (b) of LBR 2083-1 has become subsection (f) of amended LBR 3012-1.
LBR 3015-5	Existing LBR 3070-1 has been renumbered 3015-4, so that this provision regarding payments by chapter 13 trustees is found with the other chapter 13 local rules, and because there is no parallel FRBP 3070.
LBR 3016-1	Existing LBR 2081-1, Status Conferences in Chapter 11 Cases, is renumbered LBR 3016- 1.
LBR 3016-2	Existing LBR 3016-1, Chapter 11 Disclosure Statement, is renumbered, and the rule has been substantially amended.
LBR 3016-3	Existing LBR 3016-2 is renumbered as LBR 3016-3.
LBR 4001-2	Subsection (d)(1), relating to cash collateral motions heard on shortened time, is amended to permit notice to be given by electronic transmission, in addition to telephonic notice or personal delivery.
LBR 4008-1	The local rule for objecting to claims of exemption has been amended in its entirety.
LBR 4008-1	Subsection (a)(2) has been amended to clarify the circumstances under which a reaffirmation hearing will be held.
LBR 5001-2	Subsection(a) is amended to remove the Clerk of the State Court in Nome as a location where an initial bankruptcy petition may be filed.
LBR 7004-1	This rule is new. It provides for service upon a debtor's attorney in an adversary case, in accordance with FRBP 7005, when that attorney represents the debtor in the main bankruptcy case.

LBR 7005-1	This rule for signifying consent for electronic service is abrogated, because it has been superceded by electronic filing.
LBR 7008-1 and LBR 7012-1	The requirement that parties provide a statement regarding jurisdiction of the bankruptcy court has been placed in amended LBR 7012-1, and LBR 7008-1 is abrogated.
LBR 7016-1	Subsection (b)(1) has been amended to clarify that counsel must personally attend a pretrial conference unless the court has approved an alternative method of appearance.  Subsection (e), regarding the scheduling of a pretrial conference, has been amended to conform to current procedure.
LBR 7041-1	New subsection (e) discusses dismissal of an adversary case for lack of prosecution.
LBR 7056-1	New subsection (b) sets out the deadlines for filing an opposition or reply to a summary judgment motion.
LBR 9003-1	The subsections headers have been changed to (a) and (b), titles to each subsection have been added, and the method for transmitting a reminder to the court regarding under advisement matters has been changed from written letter to email.
LBR 9004-1	The local rule regarding the format of pleadings has been substantially revised to conform to current practice and electronic filing.
LBR 9006-1	This rule has been amended for purposes of clarification.
LBR 9010-1	The provisions for substitution and withdrawal of attorneys have been amended to clarify how notice should be given, and when court approval of such substitution or withdrawal is required.
LBR 9010-2	Former LBR 2090-1, regarding admission and practice of attorneys, has been renumbered LBR 9010-2, so that its numbering correlates to related FRBP 9010.
LBR 9013-1	New subsection (a)(3) requires a motion be filed with a copy of the proposed order attached as an exhibit, and permits oppositions to include alternative orders as attached exhibits.  In subsection (c), the deadlines for filing oppositions and replies to motions under FRCP 12(b), 12(c), and 56 have been inserted.
LBR 9021-1	Subsections (b) and (c) have been amended to conform to current practice. Subsection (e), which requires ex parte orders to be clearly labeled, is deleted.
LBR 9023-1	Subsection (d), regarding the deemed denial of a motion for reconsideration, is deleted. The remaining subsections are renumbered accordingly.
LBR 9036-1	The local rule to request notice by electronic transmission is abrogated, because it has been superceded by the electronic noticing capabilities of CM/ECF.
LBR 9075-1	Subsection (b)(1) has been amended to add additional matters that require an actual hearing.  Subsection (d) has been amended to clarify that the court may authorize a party to appear in a manner other than in person.
LBR 9076-1	The subsection headers have been changed to conform to the LBR numbering convention, and new subsection(b) sets out the procedure for requested attendance at a hearing by video.

## PROPOSED AMENDED RULES

### Rule 1001-1 Scope and Applicability of Local Rules

#### (a) Scope

(1) These rules govern practice and procedure in the United States Bankruptcy Court for the District of Alaska.

(2) The court, on its own motion or the motion of any party, may modify or dispense with any of these rules in a particular case.

(b) **Applicability.** Unless otherwise indicated, these rules apply to all cases commenced under chapters 7, 9, 11, 12, 13, and 15 of the Bankruptcy Code as amended, Title 11 of the United States Code ("Code").

(c) **Conflicts.** In the event of a conflict between these Rules and the Federal Rules of Bankruptcy Procedure, the Federal Rules of Bankruptcy Procedure prevail.

(d) **Forms.** Local Forms contained in the Appendix to these Local Rules may be cited as "AK LBF\_\_."

(e) **Citation.** These rules may be cited as "AK LBR\_\_."

#### (f) Local District Rules Adopted

(1) District of Alaska Local Rules 1.3, 5.1, 5.4, 5.5, 16.2, 39.3, 39.5, 40.2, 43.1, 54.1, 54.3, 58.2, 67.1, 68.3, 80.1, and 83.3 apply to all matters, actions and proceedings before the Bankruptcy Court.

(2) The list contained in paragraph (f)(1) is not exclusive; other District of Alaska Local Rules are adopted in particular matters, including, but not limited to, the District of Alaska Local Rules listed in AK LBR 7001-1, 9010-2, and 9015-1.

(g) **Official Rules.** The rules maintained by the Clerk of the Court and posted on the court's website are the official rules of this court. In the event of any difference between the official rules maintained by the Clerk of the Court as posted on the Court's Website and the rules published by any commercial publisher, the official rules will control.

### Rule 1002-1 Petitions

#### (a) General. [*Abrogated*]

(b) **Joint Petitions.** A husband and wife Spouses commencing a joint case may file a single petition and pay a single filing fee.

(c) **Acceptance of Petition.** Acceptance of a petition for filing does not operate as a waiver of any of the provisions of the Bankruptcy Code or Federal Rules of Bankruptcy Procedure.

(d) **Tender of Rent Deposit.** A rent deposit as required by §362(l) tendered with the original petition must be:

(1) in the form of a bank certified or cashier's check or money order made payable to the lessor (not the Clerk) and;

(2) delivered to the Clerk of the Court not later than the business day next immediately following the day the petition is filed.

### Rule 1004-1 Petition Filed by a Corporation, Partnership, or Limited Liability Company

(a) **Signature.** A voluntary petition filed by a corporation, partnership, or limited liability company must be verified by a corporate officer, general partner of a partnership, or manager of a limited liability company as required by the appropriate official form.

(b) **Representation by Counsel.** A debtor who is a corporation, partnership, or limited liability company must be represented by an attorney and the attorney must sign the petition.

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### **Rule 1005-1 Caption of Petition**

(a) **Individual.** The name of the debtor set forth in the caption must include his or her first name, middle initial, and last name, for example, "Robin A. Smith."

(b) **Joint.** The names of joint debtors must be set forth in the caption to include their first names, middle initials, and last name, for example, "John B. Smith and Mary C. Smith, ~~husband and wife~~ spouses."

(c) **Individual with Business Entity.** An individual having an ownership interest in a corporation, LLC, or partnership must file a separate petition for the corporation, LLC, or partnership entity if bankruptcy relief is desired for that entity.

#### **(d) Partnership**

(1) If the debtor is a general partnership, the words "a general partnership" must follow the name.

(2) If the debtor is a limited partnership, the words "a limited partnership" must follow the name.

(e) **Limited Liability Company.** If the debtor is a limited liability company, the words "a limited liability company" or "LLC" must follow the name.

(f) **Corporation** If the debtor is a corporation, the words "a corporation" must follow the name and the state of incorporation indicated, for example, "ABC, Inc., an Alaska corporation."

### **Rule 1007-1 Form of Schedules and Statements**

(a) **Format.** Each schedule, statement and list must:

(1) be legible;

(2) be a separate document that contains all required information without reference to or incorporation of another schedule, document or list provided, however, that there may be appended thereto a separate list of items or information that—

[A] contains items or information relating to a single question or item on the schedule, statement or list to which the separate list is attached, and

[B] clearly identifies the question or item to which the attached list pertains; and

(3) contains all information required by the official form and this rule.

(b) **Sequential Order of Documents.** ~~[Abrogated]~~

(c) **Describing Property on Schedule A.** ~~[Abrogated]~~

(d) **Describing Property on Schedule B.** ~~[Abrogated]~~

(e) **Describing Property on Schedule C.** ~~[Abrogated]~~

(f) **Income and Expenses on Schedules I and J.** ~~[Abrogated]~~

(g) **Married Individuals.** ~~A husband and wife~~ Spouses filing jointly must file a single set of schedules and statement of financial affairs.

(h) **No Blank Items.** The word "none" or the words "not applicable," as appropriate, must be entered for each item in the schedules and statements of affairs not otherwise completed.

(i) **Statement of Social Security Number.** The Statement of Social Security Number (Form

B121) is to be submitted with the petition to the Clerk of the Court, but is **not** to be filed or attached to the petition or any other document. Participants in the ECF System shall, immediately after the electronic filing of a petition, submit the Statement of Social Security Number (Form B121) electronically, in the same manner as provided in AK LBR 5005-4(d)(4) for proposed orders.

## **Rule 1007-2 Matrix**

### **(a) Format.**

(1) The list of entities filed as required by Rule 1007(a), Federal Rules of Bankruptcy Procedure, as thereafter updated by the clerk's office, is referred to as the "Master Mailing List" or "Matrix."

(2) The format of the Matrix filed under Rule 1007(a) must conform to the requirements of the Clerk.

(b) **Amendments.** *[Abrogated. See LBR 1009-1]*

(c) **Accuracy of Matrix.** The debtor is responsible for ensuring that the matrix accurately reflects the names and addresses of the debtor, debtor's attorney, and those entities listed on Schedules D, E, F, G, and H of Official Bankruptcy Form B106/B206.

(d) **Government Entity as Creditor.** Whenever a governmental unit (federal, state, local government entity or political subdivision of the state, or any agency thereof) is scheduled as a creditor or as having a claim against the estate or the debtor, both the governmental unit and, as a separate entry, its legal department, must be included on the mailing matrix and schedules. *[E.g., United States Attorney, Alaska Department of Law, Municipal Attorney, Internal Revenue Service.]*

## **Rule 1009-1 Amendment of Schedules and Matrix**

### **(a) Schedule of Debts**

(1) *Requirements for Amendment.* Amended schedules must be accompanied by:

[A] if amended to include additional creditors or equity security holders, an amended mailing matrix as provided in subsection (c);

[B] an amended summary of schedules; and

[C] the statutory filing fee, if required.

(2) *Notice.*

[A] Notice of the amendment must be given to—

(i) any creditor or equity security holder added,

(ii) the trustee,

(iii) any entity affected by it, and

(iv) the United States trustee.

[B] In addition to the notice required by Rule 1009, Federal Rules of Bankruptcy Procedure, the amending party must mail a copy of the notice issued by the court under Rule 2003, Federal Rules of Bankruptcy Procedure to all creditors or equity security holders added by the amendment.

(b) **Schedule of Property Claimed as Exempt.** Upon filing, copies of any amendment of Schedule of Property Claimed as Exempt must be:

(1) transmitted to the United States trustee; and

(2) served on—

[A] the trustee,

[B] any entity holding or claiming an interest in the property, and

[C] any attorney or party who has filed an appearance or demand for notice.

### **(c) Amendments to the Master Mailing Matrix**

(1) All amendments to the matrix (additions and deletions) should be in pleading format and have attached a matrix including only the additions or deletions to the matrix, in the format specified in LBR 1007-2(a)(2) and conforms to the requirements of the Clerk.

- (2) The amended matrix must:
  - [A] contain an unsworn declaration of the debtors in accordance with Rule 1008, Federal Rules of Bankruptcy Procedure; and
  - [B] be accompanied by the appropriate filing fee.
- (3) A new master mailing list may not be substituted for an existing master mailing list unless approved by the clerk or the court.
- (4) The party amending the matrix must give notice as provided in paragraph (a)(2).

#### **Rule 1015-1 Joint Administration and Substantive Consolidation**

(a) **Motion.** Except as specifically provided for in this rule for joint cases, all motions for joint administration or substantive consolidation under Rule 1015, Federal Rules of Bankruptcy Procedure, must be:

- (1) filed in each affected case ;
- (2) transmitted to the United States trustee; and
- (3) served on the—
  - [A] debtors,
  - [B] trustees, and
  - [C] any committee(s) appointed in the cases.

(b) **Notice.** Except as specifically provided for in this rule for joint cases, twenty-one (21) days notice of a Motion for Joint Administration or Substantive Consolidation conforming to AK LBF 27 or AK LBF 28, as appropriate, must be mailed to the master mailing list in each affected case.

(c) **Joint Administration of Joint Cases Commenced Under 11 U.S.C. § 302**

(1) Unless upon motion by the debtors, any party in interest, the trustee or the United States trustee, the court orders otherwise, the estates of debtor spouses filing a joint petition will be jointly administered.

(2) Not later than thirty (30) days following the conclusion of the Meeting of Creditors held under § 341 of the Code, a motion that joint cases not be jointly administered must be:

- [A] filed;
- [B] transmitted to the United States trustee; and
- [C] served on the trustee.

(d) **Substantive Consolidation of Joint Cases Commenced Under 11 U.S.C. § 302.**

(1) The filing of a joint petition by ~~individual debtors spouses~~ constitutes a motion by the debtors that the separate estates of the debtors be substantively consolidated.

(2) Any party in interest, the debtors, trustee or the United States trustee may file an objection to substantive consolidation of the separate estates.

[A] An objection to substantive consolidation must be filed not later than the date set for filing a proof of claim under Rule 3002, Federal Rules of Bankruptcy Procedure, and—

- (i) transmitted to the United States trustee, and
- (ii) served on the debtors and trustee.

[B] The party objecting to substantive consolidation must:

(i) ~~within three (3) business days after filing the objection~~, submit a Calendar Request (AK LBF 7) requesting a hearing on substantive consolidation before or contemporaneously with the filing of an objection to substantive consolidation; and

(ii) give not less than fourteen (14) days notice of the hearing to all parties on the master mailing list.

(3) If no objection to substantive consolidation is served and filed by the time specified in paragraph (d)(2), the estates will be substantively consolidated without further order of the court.



### **Rule 1017-1 Conversion or Dismissal of Cases**

(a) **Conversion Under 11 U.S.C. § 706(a) or Dismissal Under § 1307(b).** A motion by the debtor seeking to convert a chapter 7 case under § 706(a) to a case under chapter 11, 12, or 13 of the Code or to dismiss a chapter 13 case under § 1307(b):

(1) is governed by AK LBR 9013-2(a); and

(2) must be—

[A] transmitted to the United States trustee; and

[B] served on the trustee; and

(3) Twenty-one (21) days notice of the motion must be given to the master mailing matrix ~~in substantially the form as provided in LBF 39.~~

(b) **Conversion Under 11 U.S.C. § 1112(a).** A motion by the debtor under § 1112(a) of the Code to convert the case from a case under chapter 11 of the Code to a case under Chapter 7 of the Code:

(1) is governed by AK LBR 9013-2(a); and

(2) must be:

[A] transmitted to the United States trustee; and

[B] served on—

(i) any committee appointed in the case, and

(ii) the holders of secured claims.

(c) **Conversion in Response to 11 U.S.C. § 707(b) Motion.** No separate or additional notice of conversion of a case to a case under Chapter 11 or 13 of the Code need be given if:

(1) the debtor requests such conversion in response to the motion to dismiss brought by the U.S. trustee under 11 U.S.C. § 707(b); and

(2) the U.S. trustee consents to the conversion.

### **Rule 1019-1 Post-Conversion Schedule of Unpaid Reports**

(a) Post-conversion schedules required under Fed. R. Bankr. P. 1019(5)(A)(i), (B)(i), or (C)(i) through (iii) must be verified by the debtor(s).

(b) The “/s/” signature designation may be used for a debtor on post-conversion schedules only if an AK LBF 37A, Declaration re: Electronic Filing of Petition, Schedules, Statements, OF 23, and Plan if Chapter 11, 12 or 13 Case, has previously been filed in that debtor’s bankruptcy case.

### **Rule 1020-1 Chapter 11 Small Business Cases**

(a) **Documents to Accompany Petition.** Unless otherwise ordered by the court, in any case that has been designated as a small business case in the petition, the debtor must comply with the provisions of §1116(1) of the Code.

**(b) Appointment in Small Business Cases.**

(1) Unless otherwise ordered by the court, the United States trustee will not appoint a committee under §1102 of the Code in any case in which the debtor has designated the case as a small business case in the petition.

(2) In the event the court sustains an objection to the debtor’s designation as a small business case, the United States trustee will appoint a committee of not less than three (3) members or file a notice of non-appointment as soon as practicable.

**(c) Request to be Added to Committee.**

(1) A request by a party in interest to be added to a committee under §1102(a)(4) of the Code must be in the form of a motion, which motion must:

[A] briefly state the reason the moving party believes that the party’s interests are not adequately represented by the committee as currently composed;

[B] be transmitted to the United States trustee; and

[C] be served on the committee.

(2) A motion filed under this subsection will be treated as a motion under Rule 9013, Federal Rules of Bankruptcy Procedure.

(d) **Individuals as Small Business Debtors.** The court may, in appropriate circumstances, order that an individual chapter 11 debtor be treated as a small business debtor.

## **Rule 2002-1 Notices**

### **(a) Party to Give**

(1) Unless otherwise ordered by the court, or as specifically provided in the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure or these Rules, notices will be served on the parties entitled to notice as follows:

[A] The Clerk of the Court will serve:

(i) in all cases under chapters 7, 9, 11, 12, 13, and 15, the notices specified in Rules 2002(a)(1), (f)(1)-(6), and 4004(g), Federal Rules of Bankruptcy Procedure;

(ii) in all other instances where notice is authorized or directed by the Administrative Office of the United States Courts to be given through the Bankruptcy Noticing Center.

[B] The case trustee will serve the notice specified in Rule 2002(f)(8), Federal Rules of Bankruptcy Procedure.

[C] All other notices will be served by the party requesting an order or other act.

### **(b) Content of Notices**

(1) Unless otherwise ordered by the court, or provided in the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or these rules, whenever the Code or Rules authorize any act, or authorize the court to enter an order, "after notice and hearing" or a similar phrase, the party giving the notice must state in the notice:

[A] that the act may be performed or the court may enter an order without an actual hearing unless a party in interest serves and files an objection in writing within a specified time; or

[B] that the court has entered the order or authorized the act to be done without a hearing.

[C] This subsection does not apply to matters for which the Code or Rules require an actual hearing, i.e., "notice of the hearing," or "notice by mail of the hearing," including, without limitation, conversions and dismissals under Rules 2002(a)(4) and 1017, sales free and clear under Section 363(f), Rule 6004(c), and AK LBR 6004-1(b), approval of disclosure statements and confirmation of plans under Sections 1125 and 1129 and Rule 2002(b), and objections to claims under Rule 3007.

(2) Notice of any Application, Motion, Stipulation or other matter that requires notice be given by the initiating party and, unless otherwise elsewhere specified by statute, Federal Rules of Bankruptcy Procedure or Local Rule, must include:

[A] a summary, fairly summarizing the relief requested, which must include—

(i) an accurate legal description of any real property involved,

(ii) list of any personal property or intangibles involved,

(iii) amounts of money and from whom claimed, to whom to be paid or delivered, and

(iv) the basis for seeking the relief;

[B] date by which a response is due;

~~[C] place of hearing;~~

~~[C D]~~ place or addresses upon which any response is to be made;

~~[D E]~~ if a hearing is required, the date, place, and time of the hearing as set by the court after the submission of a Bankruptcy Court Calendar Request (LBF 7) by the moving party; and

~~[E F]~~ unless contained in the information required by subparagraph (2)[A], an accurate, complete description of any real property, personal property or intangibles involved.

(3) Double-sided copying may be used to reduce costs of notice.

### **(c) To Whom Given**

(1) Except as otherwise specifically provided by the rules or ordered by the court, "Notice," as used in these rules means notice by first class mail or electronically to:

[A] all creditors,

[B] equity security holders,

[C] indenture trustee,

[D] the debtor,

[E] the debtor's attorney,

[F] the attorney or chair of any committee appointed in the case, and

[G] any other parties in interest, and any other person or entity known to have or claim a legal or equitable interest in the subject matter of the noticed matter.

(2) [A] The addresses utilized in notices to creditors, equity security holders or indenture trustees **is are** governed by Rule 2002(g), Federal Rules of Bankruptcy Procedure.

[B] A master mailing list of names and addresses, filed under Local Rule and updated in accordance with Rule 2002(g) may be obtained from the clerk.

[C] Notice required to be given to all creditors is presumed to be appropriate if mailed or sent electronically to all entries on a master mailing list:

(i) certified updated by the clerk within fourteen (14) days of the date notice is sent; or

(ii) if obtained electronically, bearing a computer generated date within fourteen (14) days of the date notice is sent.

(3) Whenever less inclusive notice is provided for by the rules or order of the court, as an alternative, service may be made on the master mailing list.

(d) **Telephonic or Email Notice of Emergency Motions and Hearings.** Notwithstanding the provisions of subsections (b) and (c), the court may allow telephonic **or email** notice of emergency motions and hearings for cause shown.

**(e) Certificate of Service**

(1) After giving notice, unless otherwise ordered, not less than seven (7) days prior to the date objections or responses are to be filed, the noticing party must file:

[A] the notice; and

[B] an affidavit of mailing with a list of persons, and their addresses, to whom the notice was sent.

(2) If notice to all creditors is required, the court will enter an order based on that notice only if the list of persons to whom the notice was sent is a copy of the master mailing list described in subparagraph (c)(2)[C].

(f) **Certificate of No Objections.** A party that has complied with the requirements of this Rule and received no objection to the request, may:

(1) file a certificate of no objections, signed under penalty of perjury, that substantially conforms to AK LBF 4; and

(2) lodge a proposed order.

**Rule 2003-1 Meeting of Creditors and Security Holders**

(a) **Failure to Attend or File Schedules.** *Abrogated*

**(b) Telephonic Appearances**

(1) A request for a telephonic appearance by the debtor(s), in any judicial district in the state in which the trustee conducts face to face creditor meetings, where the debtor(s) resides more than 150 air miles from the court in which such meeting is to be conducted, may be made by giving the trustee notice of such telephonic attendance; however, the trustee may continue the meeting and require the debtor/s to appear in person.

(2) If the trustee requires the personal appearance of the debtor(s), the court may grant a waiver of personal appearance at the creditors meeting on the motion of the debtor(s) for good cause shown after a hearing on notice given to all interested parties. Any motion to excuse attendance shall be supported by an affidavit from the debtor(s).

(3) Attorneys or creditors may, at the trustee's discretion, attend a meeting by telephone.

~~(c)~~ **Continuances.** Requests for a continuance must be made in writing to the trustee assigned to the case. Upon granting a request for continuance, the trustee shall note such continuance on the Court's docket.

**(d) Waiver of Personal Appearance.**

(1) The court may grant a waiver of personal appearance, other than a request for telephonic appearance, on the motion of the debtor(s) for good cause shown after a hearing on notice given to all interested parties.

(2) Motions for waiver of personal appearance must:

[A] be supported by affidavit or declaration under penalty of perjury setting forth in particular the facts that preclude personal appearance;

[B] set forth any alternative means reasonably available by which the trustee or any interested party may examine the debtor and obtain responses under oath, including, but not necessarily limited to, methods prescribed by Rules 26-36, Federal Rules of Civil Procedure; and

[C] be served on the trustee and transmitted to the United States trustee.

(3) [A] The court may, in its discretion, order the debtor to provide responses to any matter subject to inquiry by the trustee or any interested party by deposition upon written questions under Rule 31, Federal Rules of Civil Procedure.

[B] For the purposes of this paragraph, only the trustee, the United States trustee, and those interested parties actually appearing at the meeting of creditors will be considered a "party" within the scope of Rule 31.

~~(e) Individual Debtors in Chapters 7, 11, and 13. [Abrogated].~~

**Rule 2004-1 Rule 2004 Examinations**

(a) Request for Examination. All requests for orders under Fed. R. Bankr. P. 2004 must be made by motion in a form substantially similar to AK LBF 8 and must be accompanied by a proposed order substantially similar to AK LBF 9. The motion must contain a certification that counsel for the applicant conferred with counsel, if known, for the party whose examination is being sought. If the application contains such a certification the application may be presented *ex parte*. If the application does not contain such a certification, the matter may be heard on no fewer than two business days' notice unless the Court orders otherwise.

(b) Clerk's Authority to Sign Order. The clerk may only sign orders for examination if the date set for examination is more than fourteen (14) days from the date the motion is filed. If examination is requested on less than fourteen (14) days' notice, the clerk may not sign. The motion must state whether the examination date has been agreed on, or if there is no agreement, why examination on less than fourteen (14) days' notice is requested.

(c) Production of Documents Must be Obtained by Subpoena. Production of documents may not be obtained via an order under Fed. R. Bankr. P. 2004. Production of documents may, however, be obtained via subpoena as provided by Fed. R. Civ. P. 45(a)(1)(C), as adopted by Fed. R. Bankr. P. 9016.

(d) Attendance of Witness or Production of Documents. Securing the attendance of a witness or the production of documents must be done in accordance with Fed. R. Bankr. P. 9016.

**Rule 2015-1 Trustees – General**

**(a) Funds of the Estate.**

(1) Funds of a chapter 7, 11, 12 or 13 estate must be deposited in an account authorized by § 345 of the Code.

(2) If at any time the total amount deposited exceeds the FDIC or NCUA insurance limits, the funds must be deposited with an entity posting a bond approved by the United States trustee.

**(b) Return of Documents.**

(1) Except to the extent otherwise provided by law, or order of the court, the trustee:

[A] if return of the document has not been requested, may destroy the document; or  
[B] if return is requested in writing, must return the document to the person who provided the document within a reasonable time after the case is closed.

(2) The trustee may require any person who has requested the return of a document or paper to provide the trustee with a stamped, self-addressed return envelope or otherwise bear all expenses incurred for the return.

## **Rule 2015-2 Monthly Financial Reporting Requirements**

### **(a) Cooperation with United States Trustee**

(1) The trustee or debtor in possession in chapter 11 cases, debtors in business chapter 13 cases, and debtors in chapter 12 cases are required to cooperate with the United States trustee by furnishing all information the United States trustee requires to supervise the administration of the estate.

(2) All debtors in possession and trustees must use forms substantially complying with the forms for financial reporting established by the United States trustee, unless the United States trustee authorizes modifications in a particular case.

~~(b) Disposition of Original Reports: [Abrogated]~~

## **Rule 2016-1 Compensation of Trustees and Professional Fees**

(a) **General.** Except as otherwise specifically provided in this rule, requests for compensation and reimbursement under § 330 of the Code must comply with the guidelines promulgated by the Office of the United States Trustee.

### **(b) Trustee.**

(1) Applications for compensation for services as trustee must state the maximum amount payable to the trustee as compensation under § 326(a) of the Code.

(2) [A] In each Chapter 13 case that is dismissed prior to confirmation of a plan, the standing trustee may deduct, after payment of court fees and costs and other § 503(b) administrative expenses, the sum of \$450.00 and an additional amount of \$90.00 for each hearing or meeting of creditors beyond the initial meeting that the trustee attended, from funds available for return to the debtors.

[B] The award under this paragraph may not exceed the amount specified in Rule 2002(a)(6), Federal Rules of Bankruptcy Procedure, without a separate application.

[C] The debtor may object to an award under this paragraph within fourteen (14) days of the entry of the order dismissing the case.

### **(c) Attorney or Accountant for Trustee, Debtor in Possession, Debtor, Creditors' Committee, or Professional Under 11 U.S.C. § 503(b)(4).**

(1) [A] Applications for compensation and reimbursement under § 330(a) of the Code must be preceded by an order authorizing the employment of the professional.

[B] Unless otherwise specifically authorized by statute, rule or order of the court, an application for allowance of professional fees must be filed before payment of professional fees, including cases where employment of a professional on a contingency fee or percentage basis has been authorized by the court.

[C] Fees are not recoverable:

(i) for services rendered by general counsel for an estate in preparing the trustee's application to authorize employment of ~~a professional~~ such general counsel; or

(ii) in the absence of exigent circumstances, for services performed prior to the date the applicant filed an application seeking approval of employment by the Court ~~is authorized by the Court~~.

(2) Requests for compensation and reimbursement under §§ 330(a) and 503(b)(4) of the Code must contain a statement that the compensation sought will not be shared with another person except as provided in § 504 of the Code.

(3) Applications for compensation for services as attorney, accountant or other professional

for the trustee, debtor in possession, debtor, creditors' committee, or under § 503(a)(4) of the Code must include the following detail:

[A] a statement that all services for which compensation is requested were performed for or on behalf of the trustee, debtor in possession, debtor, or creditors' committee, and not on behalf of a creditor or any other entity, except in the case of a professional seeking compensation under § 503(b)(4) of the Code;

[B] a separate itemization of each service rendered, including—

- (i) the date for each item,
- (ii) the actual time spent on each item, and
- (iii) the charge for the item;

[C] each item of service must be sufficiently descriptive to enable the court to determine whether the service was reasonable—

- (i) an entry such as "research" or "telephone call" will not be sufficient, and
- (ii) items should not be aggregated, the time spent and the description of individual tasks should be distinctly identified;

[D] use of minimum time increments no larger than 1/10 of an hour;

[E] a statement of the hourly billing rate of each professional person, legal assistant or employee for whom compensation is sought;

[F] an itemization of costs by category and method of computation; and

[G] identify any board certifications in the bankruptcy field held by the applicant.

(4) [A] Applications by an attorney or accountant for a debtor must in addition show that all services performed were in connection with the performance by the debtor of the duties prescribed by the Code, were otherwise beneficial to the debtor's estate or were rendered under an order of the court.

[B] Services on behalf of the debtor in discharge and dischargeability actions are not compensable from the estate.

(5) Except as provided in paragraph (h)(2) of this Rule, applications for fees and expenses must:

[A] be categorized to group identifiable projects separately;

[B] include a narrative description of major projects; and

[C] include a description of the bill attributable to all categories. For example, representation of a party in an adversary proceeding, a major contested matter, or plan formulation, are categories that are to be separately reported on the fee application.

(6) [A] Except as otherwise ordered by the court or provided by rule, applications must be noticed by the applicant in accordance with AK LBR 2002-1(a).

[B] Applicants must keep themselves informed as to the progress of administration of the estate so that notice may be included in the notice of the final accounting, or so that notice can be sent within the time allowed after confirmation of a plan in a case under chapter 9 or 11.

(7) The court may, in its discretion, order a hearing even if no objection is filed.

**(d) Interim Fees**

(1) No interim fees or expenses for attorneys or accountants will be paid in a chapter 7 proceeding unless the trustee certifies or the applicant can clearly demonstrate that interim payment would not prejudice any party having a higher or equal priority or claim to the funds.

(2) [A] The court may, on its own motion or at the request of a party in interest, order that a percentage of the fees requested in an interim application that are found to be reasonable will not be disbursed at the time of approval of the interim application but will instead be held back pending the court's action on a final fee application.

[B] The amounts held back —

- (i) may be applied for as part of the final fee application, but
- (ii) may not be placed in escrow.

[C] Any payment allowed as part of the final fee award will depend, among other factors, upon the assets available for payment at that time.

**(e) Pre-Petition Retainers**

(1) In all cases in which court approval of the payment of professional fees is required, a pre-petition retainer is considered property of the estate being administered, and:

[A] must be segregated in a separate trust account; and

[B] may not be applied to fees or costs incurred after the filing of the petition without an order of the court.

(2) A professional holding a pre-petition retainer must, in conjunction with the fee application, give notice that the professional intends to apply the retainer to post-petition fees and disbursements.

[A] A retainer may not be applied without a court order approving an application for interim or final compensation.

[B] The court may review the amount and circumstances of any retainer and may order a refund to the estate or other action as appropriate.

**(f) Objections.**

(1) A written objection to the allowance of fees must be filed with the court within the time set forth in the notice.

(2) A copy of the objection is to be transmitted to the United States trustee; and

(3) served on—

[A] the applicant,

[B] trustee,

[C] debtor, and

[D] any committee appointed under the Code.

(g) **Time of Payment.** Unless otherwise ordered by the court, all administrative expenses allowed by the court will be paid by the trustee with the final distribution, or upon confirmation of a plan in a case under chapters 9, 11 or 12.

**(h) Applications in Chapter 12 and 13 Cases.**

(1) [A] Except as provided in paragraph (h)(2), attorney's fees must be applied for before allowance.

[B] The trustee may, without any personal liability to debtor or debtor's attorney, pay creditors and trustee's fees in advance of paying the administrative expense for debtor's attorney's compensation claim, if the debtor's attorney claiming compensation has not filed an application for compensation.

[C] When the trustee is served with notice of debtor's attorney's compensation application, the trustee must defer paying a lower priority creditor under § 1226(b)(1) or § 1326(b)(1) of the Code until the court has ruled on the fee application.

[D] Attorney's fees for a chapter 12 or 13 debtor will not be allowed in excess of the amount designated in the chapter 12 or 13 plan absent a showing of extreme or unusual circumstances by the applicant.

(2) In a case under chapter 13, no application for allowance of attorney's fees need be filed and allowance of fees and expenses is deemed approved on confirmation of the plan, provided:

[A] if requested by the trustee, United States trustee, or ordered by the court, counsel has filed an itemized statement of fees and costs conforming to subparagraphs (c)(3)[B], [C], [D], and [E], with a copy –

(i) served on the chapter 13 trustee, and

(ii) transmitted to the United States trustee;

[B] the fees and costs sought do not exceed the sum set forth in paragraph 2(c) of AK LBF 5 and the plan analysis attached to AK LBF 5; and

[C] in consumer (non-business) cases, the total fees to be paid, including the application of any prepetition retainer paid, does not exceed \$3,500.00 and costs, exclusive of any filing fees paid to the clerk of the court, do not exceed \$275.00; or



[D] in business (non-consumer) cases, the total fees to be paid, including the application of any prepetition retainer paid, does not exceed \$5,000.00 and costs, exclusive of any filing fees paid to the clerk of the court, do not exceed \$400.00.

[E] (i) The provisions of this paragraph notwithstanding, if the proposed chapter 13 plan does not provide for payment of allowed claims in full, any party in interest, including the United States trustee, may, at any time prior to confirmation of the plan, object to allowance of fees under this paragraph by filing a written objection, serving a copy thereof on the debtor, counsel for the debtor and the trustee, with transmittal to the United States trustee.

(ii) In the event an objection is filed and served, an application for allowance of fees must be filed, noticed and approved before any payment thereof is made.

[F] If an attorney is compensated under the terms of this paragraph, such compensation shall not be deemed to obligate the attorney to represent the debtor in any adversary proceeding arising in the case unless otherwise agreed to by the debtor and the attorney.

**(i) Applications in Chapter 7 Cases.**

(1) Final applications for professional fees in chapter 7 cases must be filed and transmitted to the United States trustee not later than seven (7) days after the Trustee's Final Report Before Distribution is transmitted to the United States trustee.

(2) The provisions of paragraph (c)(3) notwithstanding, the final application may include an estimate for services to be rendered by the professional in connection with closing out the estate; provided, however, that:

[A] the applicant must file with the court, serve on the trustee, and transmit to the United States trustee, a statement of the actual fees incurred; and

[B] no allowance for fees for professional services rendered after the date the final application is filed in excess of \$500.00 will be allowed without substantiation as provided in paragraph (c)(3).

(3) Notwithstanding any other provision in these rules, in the event of an objection to the Trustee's Final Report Before Distribution, other than an objection to the fee application, the court may allow payment of fees in an amount greater than the amount set forth in the Trustee's Final Report Before Distribution.

**Rule 3002-1 Claims**

(a) **Place of Conventional Filing.** Proofs of claim or interest filed conventionally must be filed with the Clerk of the Bankruptcy Court, Room 138, 605 West Fourth Avenue, Anchorage, Alaska 99501-2296 or at the Office of the Deputy Clerk of the United States District Court, 101 12th Avenue, Room 370, Box 1, Fairbanks, Alaska 99701.

(b) **Copies to be Filed.** *[Abrogated]*

(c) **Conformed Copies of Filed Claims.** *[Abrogated. See Official Form B410]*

(d) **Claims Arising from Rejection of Executory Contracts.**

(1) Claims arising from the rejection of executory contracts must be filed on or before the last date for filing proof of claims or thirty (30) days after entry of the order authorizing rejection, whichever date is later.

(2) Notice of the 30-day bar date must be ~~provided by the debtor or trustee, as appropriate, within seven (7) days of the order rejecting the executory contract~~ included in the order approving rejection of an executory contract.

(e) **Claims in Chapter 7 Cases That Supersede Chapter 11 and Chapter 13 Cases.**

*[Abrogated. See Rule 1019, Federal Rules of Bankruptcy Procedure.]*

(f) **Service of Proofs of Claim on Debtors.** In all cases in which the debtor is appearing without counsel, a creditor filing a proof of claim must serve a legible, complete paper copy of the claim, including a copy of all supporting documentation, by first class mail on the debtor.

(g) **Section 506(b) Claims in Chapter 13 Cases.**

(1) A secured creditor having a claim for post-petition fees, costs or charges under § 506(b)



of the Code, which claim is to be paid by the trustee under the terms of the plan, must, not later than thirty (30) days after entry of the order confirming the plan:

[A] file with the court an application for allowance of the claim, setting forth the amount of the post-petition fees, costs and charges claimed to be due; and

[B] transmit the application to the United States trustee; and

[C] serve it on—

(i) the debtor,

(ii) trustee,

(iii) the five (5) largest unsecured creditors, and

(iv) any creditor having or claiming to have an interest in the property securing the claim.

(2) A party objecting to the application for allowance of post-petition fees, costs and charges may serve and file an objection within fourteen (14) days after service of the application.

(3) If no objection is filed as specified in paragraph (g) (2), the application for allowance of post-petition fees, costs or charges will be deemed approved or allowed without further order of the court.

### **Rule 3003-1 Proof of Claim in Chapter 9 and 11 Cases**

(a) **Notice to Unscheduled Claimants or Claimants Scheduled as Disputed, Contingent, or Unliquidated.** Notice of the claims bar date applicable to creditors or equity security holders whose claims or interests are scheduled as disputed, contingent, or unliquidated, shall be included in the Notice of Chapter 11 Bankruptcy Case, Form 309E. The Clerk shall cause a copy of this Notice, which includes instructions for obtaining a proof of claim form, to be served at the inception of the case on all parties on the matrix, through the Bankruptcy Noticing Center. The claim deadline shall be set sixty (60) days after the first 341 meeting.

(b) **Claims in Chapter 9 and Chapter 11 Cases after Schedules have been Amended.**

(1) A debtor who amends the schedules to add a claim or interest shall provide notice of such addition to the claimant or interest holder. If an amendment filed in a case to show a claim or interest as disputed, contingent, unliquidated, or reduced in amount must provide additional notice to the holder of the claim.

(2) The notice must be a separate document and inform the holder:

[A] of the need to file a proof of claim or interest if that party disagrees with the treatment of the claim in the amended schedule; and

[B] that if a proof of claim is not filed by the time set forth in the additional notice, the holder may lose the right to participate in the case and to participate in any distribution.

(3) A creditor or equity security holder affected by an amendment to the schedules may file a proof of claim or interest within forty-five (45) days from the date notice of the amendment to the schedules is served on that party or the claims bar date specified in paragraph (a)(1), whichever is later.

(4) If necessary, any confirmation hearing will be continued for the purpose of allowing balloting by the creditors and equity security holders affected by the amendment.

(c) **Section 506(b) Claims in Chapter 9 and 11 Cases.**

(1) An agreement between the debtor and a secured creditor having a claim under § 506(b) of the Code for the allowance of post-petition interest, fees, costs and expenses must be evidenced by a stipulation filed with the court setting forth the agreed amount to be allowed as post-petition interest, fees, costs and expenses.

(2) [A] In the absence of an agreement between the debtor and the secured creditor, a secured creditor having a claim under § 506(b) of the Code must file an application for allowance of the claim post-petition interest, fees, costs and expenses.

[B] Unless otherwise ordered by the court, the application must be filed not later than sixty (60) days after notice of entry of the order confirming the plan of reorganization.

(3) The stipulation or application for allowance of post-petition interest, fees, costs and expenses must be:

[A] transmitted to the United States trustee; and

[B] served on—

(i) the debtor or trustee, if one has been appointed,

(ii) any committee appointed in the case, and

(iii) any creditor having or claiming to have an interest in the property securing the claim.

(4) A party objecting to the stipulation or application for allowance of post-petition interest, fees, costs and expenses may serve and file a written objection thereto within fourteen (14) days after service of the stipulation or application for allowance.

(5) If no objection is filed as specified in paragraph (c)(4), the stipulation or application for allowance of post-petition fees, costs or charges will be deemed approved or allowed without further order of the court.

### **Rule 3004-1 Claim by Debtor or Trustee**

(a) A proof of claim or interest filed by a debtor under § 501 of the Code must be served on the trustee and the creditor on whose behalf the proof of claim was filed.

(b) A proof of claim or interest filed by a trustee under § 501 of the Code must be served on the debtor and the creditor on whose behalf the proof of claim was filed.

### **Rule 3012-1 Valuation of Collateral**

(a) **How Raised.** The value of collateral for a secured claim may be bought before the court for determination by separate motion or as part of an objection to claim filed under Rule 3007, Federal Rules of Civil Bankruptcy Procedure.

(b) **Motion/Objection to Proof of Claim.** A motion to value collateral or an objection to a proof of claim that raises the issue of valuation must:

(1) state—

[A] value of the collateral,

[B] method of determining the value,

[C] amount of the claim, if any, that is secured,

[D] the date by which the opposition must be filed, and

[E] in case filed under chapter 13, the hearing date on the motion or objection; and

(2) be served on—

[A] each creditor having or claiming a security interest in the collateral,

[B] the trustee, and

[C] if represented by counsel, counsel for each.

(c) **Opposition to Motion or Objection to Proof of Claim.**

(1) A secured creditor who disagrees with the valuation of the collateral securing the creditor's claim may:

[A] File an objection to the valuation, which objection must state the—

(i) creditor's opinion of the value of the collateral,

(ii) method of determining the value, and

(iii) amount of the claim that is secured; and

[B] serve the objection on—

(i) the debtor,

(ii) any other creditor having or claiming to have a security interest in the collateral,

(iii) the trustee, and

(iv) if represented by counsel, counsel for each.

(2) The objection to the motion must be filed and served not later than twenty-one (21) days after the motion is served.

(3) Upon receipt of the objection, if requested by the creditor, the debtor must make the

collateral available for examination and appraisal.

(4) Not later than seven (7) days after an objection to valuation has been served, the debtor must:

[A] File a reply either—

- (i) accepting the creditor's valuation, or
- (ii) controverting the creditor's objection; and

[B] serve the reply on—

- (i) the objecting creditor,
- (ii) any other creditor having or claiming to have a security interest in the collateral,
- (iii) the trustee, and
- (iv) if represented by counsel, counsel for each.

(5) Failure of the debtor to file a timely controverting reply under paragraph (4) will be deemed an acceptance of the creditor's valuation.

(d) **Hearing.** Except as otherwise provided by these rules, any party desiring a hearing on the motion and any opposition thereto must request a hearing by submitting a Calendar Request.

(e) **Mandatory Discovery Exchange.**

(1) Unless otherwise ordered by the court or as provided by rule, in any case in which the valuation of collateral is placed at issue the parties must exchange all valuation data and appraisals not later than seven (7) days before the hearing; and

(2) Any party refusing or failing to comply with paragraph (1) may be subjected to such sanctions as the court may deem appropriate under the circumstances, including the assessment of costs and attorney's fees and/or the exclusion of the evidentiary materials not produced.

(f) **Chapter 13 Cases.** Unless otherwise ordered by the court:

(1) a motion to value collateral under Rule 3012, Federal Rules of Bankruptcy Procedure must be served and filed not later than the time the Plan and Notice of Confirmation Hearing Date is served; and

(2) the hearing thereon will be held at the same time as the hearing on confirmation of the plan.

### **Rule 3015-1 Chapter 13 Plans**

(a) **Format.** Unless otherwise ordered by the court, a chapter 13 plan must conform to AK LBF 5 and include the plan, disposable income, and liquidation analyses, and schedule of direct payments to creditors attached to AK LBF 5.

(b) **Contents**

(1) The Alaska Permanent Fund Dividend is to be included in paragraph ~~1(b)~~ 2(b) of AK LBF 5 and may not be included in the regular periodic payments provided in paragraph ~~1(a)~~ 2(a).

(2) Payments to all secured creditors whose claims are not modified and provided for in paragraph ~~2(e)~~ 3(e) of AK LBF 5, other than payments to the holders of residential mortgages, must be included in paragraph ~~2(f)~~ 3(f) of AK LBF 5.

(3) Paragraph ~~2(h)~~ (3)(h) of AK LBF 5 may be modified to provide separate classes of unsecured claims to the extent provided by §1322(b)(1) of the Code.

(4) The following matters may not be accomplished through a chapter 13 plan:

- [A] lien avoidance;
- [B] objections to claims;
- [C] determination of the dischargeability of debts; **and**
- [D] valuation of collateral; **and**
- [E] reduction of interest rates.

(c) **Dismissal/Conversion.** **[Abrogated]**

(d) **Service of Plan.** **[Abrogated]**

(e) **Payroll Deduction.** Following a default of two (2) monthly payments, all future wage earner debtor chapter 13 plan payments will be by payroll deduction.

**(f) Reporting Income/Expenses.**

(1) Schedules of income and expenses, and required periodic financial reports, if any, must clearly delineate the source and amount of gross receipts and projected expenditures.

(2) Expenses incident to the production of any non-wage income must be accurately set forth.

(g) **Certification.** The plan must be signed by the debtor and debtor's attorney, if represented by counsel, which signatures constitute certification that the plan complies with the provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and this rule.

**Rule 3015-2 Amendment of Chapter 13 Plans**

**(1 a)** The proposed plan may be amended:

**[A 1]** as a matter of course without leave of court at any time prior to the first date set for the confirmation hearing; or

**[B 2]**, at or after the first confirmation hearing if the plan is not confirmed.

**(2 b)** Any amendment prior to confirmation must be in the form of an amended plan.

**(3 1)[A] Where If** the amendment does not adversely affect any other party in interest, the court may confirm the plan as amended without further notice or a hearing to those unaffected parties.

**[B] Where If** the amendment would adversely affect another party in interest, the plan as amended must be mailed to each adversely affected party with a notice providing twenty-eight (28) days to object to the amendment.

**Rule 2083-1 3015-4 Scheduling Hearings in Chapter 13 Cases**

**(a) Scheduling Hearings.** The parties should, to the extent practicable, move, notice and submit a calendar request for all hearings on objections to claims under Rule 3007, Federal Rules of Bankruptcy Procedure, and any other miscellaneous motions in conjunction with a chapter 13 case, so that the hearings on all motions are set for the same time, date and place.

**(c b) Payments to Secured Creditors.** Unless otherwise ordered by the court, all payments required to be made under 11 U.S.C. § 1326(a)(1)(C) on debts paid through the plan must be made to the trustee concurrently with the payment required by 11 U.S.C. § 1326(a)(1)(A).

**(d c) Reporting Requirements for Payments Made Directly to Creditors.**

(1) As a separate attachment to the plan, the debtor must provide a written schedule of all existing payment obligations as defined in § 1326(a)(1) (B) or (C) of the Code and all domestic support payments coming due after the date the petition was filed.

(2) On or before the third business day of each month, the debtor must provide the trustee with a certification of payments made directly by the debtor(s) during the preceding month:

**[A]** in the form substantially similar to LBF 5B; and

**[B]** having attached a copy of the receipt received from the creditor or, if no receipt was received, a photocopy of the check or other instrument used to make the payment.

**Rule 3070-1 3015-5 Payments by Chapter 13 Trustee**

**(a) Payments by Trustee.**

(1) Unless otherwise ordered by the court, upon notice and hearing, for good cause shown, or as otherwise provided by rule, the trustee will commence payments under the plan not later than the last business day of the month following the later of the entry of the order confirming the plan or the last day for filing a proof of claim by a governmental unit.

(2) Unless otherwise provided in the plan or the order confirming the plan, the trustee will make distributions under the confirmed plan not later than the last business day of each month.

(3) Prior to confirmation of the plan, the trustee will disburse any payment as defined in 11 U.S.C. § 1326(a)(1)(B) or (C) to the creditor entitled to such payment not later than the last business day of each month.

**(b) Effect of Payments.**

(1) Notwithstanding any other provision in the contract between the debtor and any creditor, payments by the debtor that are made timely to the trustee as provided in the plan or by otherwise applicable law or rule and timely distributed by the trustee are conclusively presumed to have been made timely for all purposes.

(2) If the debtor timely pays the amount of the allowed claim for any arrearage as provided in Paragraph 2(d) of the plan, while making all required postpetition payments, the mortgage or secured loan agreement will be reinstated according to its original terms, extinguishing any right of the lender to recover any amount alleged to have arisen prior to the filing of the petition.

**Rule ~~2082-1~~ 3015-6 Chapter 12 Cases**

**(a) Plan.**

(1) Unless otherwise ordered by the court, a chapter 12 plan should substantially conform to AK LBF 5 and include the plan and liquidation analyses attached to AK LBF 5.

(2) [A] The Alaska Permanent Fund Dividend is to be included in paragraph 1(b) of AK LBF 5 and may not be included in the regular periodic payments provided in paragraph 1(a).

[B] Paragraph (2)(e) of AK LBF 5 may be modified to provide separate classes of unsecured claims to the extent provided by §1222(b)(1) of the Bankruptcy Code.

[C] The following matters may not be accomplished simply by inclusion in a chapter 12 plan:

- (i) lien avoidance;
- (ii) objections to claims;
- (iii) determination of the dischargeability of debts; and
- (iv) valuation of collateral.

(3) The plan must be signed by the debtor and, if represented by counsel, debtor's attorney, which signatures constitute certification that the plan complies with the provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and this rule.

**(b) Reporting Income/Expenses.**

(1) Schedules of income and expenses, and required periodic financial reports, if any, must clearly delineate the source and amount of gross receipts and projected expenditures.

(2) Expenses incident to the production of any non-wage income must be accurately set forth.

**(c) Motions to Value Collateral.** Motions to value collateral under Rule 3012, Federal Rules of Bankruptcy Procedure, must be filed not later than the later of:

(1) Twenty-one (21) days after the conclusion of the meeting of creditors held under § 341 of the Code; or

(2) Sixty (60) days after the petition is filed.

**(d) Scheduling Hearings.** The debtor should, to the extent practicable, move, notice and submit a calendar request for all hearings on objections to claims under Rule 3007, Federal Rules of Bankruptcy Procedure, valuations of collateral under Rule 3012, Federal Rules of Bankruptcy Procedure, and any other miscellaneous motions in conjunction with a chapter 12 case, so that the hearings on all motions are set for the same time, date and place.

**Rule ~~2084-1~~ 3016-1 Status Conferences in Chapter 11 Cases**

**(a) Scheduling.**

(1) [A] The court may, upon its own motion or upon request by a party in interest, set a case for a status and scheduling conference.

[B] Unless set by the court on its own motion or requested by the debtor, the status conference will ordinarily not be scheduled less than forty-five (45) days after the order for relief is entered.

(2) Any party in interest or the United States trustee may request the court set a status and scheduling conference by submitting a Bankruptcy Court Calendar Request form (AK LBF 7).

**(b) Notice.**

(1) Notice of the status and scheduling conference hearing must be given to all parties in

interest not less than fourteen (14) days prior to the conference date.

(2) Unless otherwise ordered by the court:

[A] if the status and scheduling conference is made at the request of a party in interest, the party requesting the status and scheduling conference must provide the required notice; and

[B] status and scheduling conferences set by the court on its own motion will be noticed by the debtor in possession (or trustee, if one has been appointed).

**(c) Conference Statement**

(1) Not less than seven (7) days before the date set for the status and scheduling conference, the debtor in possession (or trustee, if one is appointed) must file with the court a statement of the status of the case, including:

[A] any pending proceedings and the impact, if any, on the formulation of the plan;

[B] any proceedings contemplated to be initiated by the debtor in possession, including any actions to avoid preferential or fraudulent transfers, recover property of the estate, or any other proceeding materially affecting the reorganization or rehabilitation of the debtor, providing—

(i) brief description of the proceedings,

(ii) date by which the debtor intends to initiate the action,

(iii) date by which it is anticipated the proceedings will be concluded, excluding any appeal time,

(iv) the impact of the proceedings on the formulation of a plan;

[C] any unusual or extraordinary administration problems known to or anticipated by the debtor in possession;

[D] the date by which the debtor in possession anticipates filing a plan and its accompanying disclosure statement;

[E] recommendation by the debtor in possession concerning scheduling and whether combining the hearing on approval of the disclosure statement with the plan confirmation hearing is appropriate; and

[F] such other information as the debtor in possession may deem appropriate and necessary to setting a schedule for matters to be brought before the court.

(2) The status report must be transmitted to the United States trustee and served on any committee appointed under the Code.

(3) Not less than three (3) business days before the date scheduled for the status and scheduling conference, any party in interest, including the United States trustee, may file with the court and serve on the debtor in possession (or trustee, if one has been appointed) and transmit to the United States trustee, a written statement covering those matters provided for in paragraph (c)(1).

**(d) Conference.** At the status and scheduling conference, the court may:

(1) set the date by which the debtor (or trustee, if one has been appointed) must accept or reject an executory contract or unexpired lease;

(2) set the date by which the debtor (or trustee, if one has been appointed) must file a plan and disclosure statement;

(3) set the date by which a party in interest, other than the debtor, may file a plan and disclosure statement;

(4) set the date by which the debtor (or trustee, if one has been appointed) will solicit acceptances of the plan;

(5) fix the notice to be provided regarding the hearing on approval of the disclosure statement;

(6) provide that the hearing on approval of the disclosure statement may be combined with the hearing on confirmation of the plan;

(7) direct that a particular format of plan or disclosure statement must be used or provide for any deviation from the requirements of the rules;

(8) set the claims bar date;

(9) set the date by which the debtor (or trustee, if one has been appointed) and/or any



interested party must file objections to claims filed;

(10) set the date by which the debtor (or trustee, if one has been appointed) must file any actions to avoid transfers or recover property of the estate; or

(11) enter any other order relating to the efficient, economical and expeditious administration of the bankruptcy estate as the court may deem necessary or appropriate in the case.

### **Rule 3016-2 Chapter 11 Disclosure Statement**

(a) **Table of Contents.** Unless otherwise ordered by the court, a disclosure statement must contain a table of contents, with appropriate page numbers, that fully lists the headings and subheadings set forth in subsection (b).

(b) **Content.** Unless otherwise ordered by the court or as provided in AK LBR 3017-2, the disclosure statement must include information covering the following topics, when applicable:

(1) Short history of the business activities of the debtor covering the five-year period preceding the petition filing date, or such shorter period as the debtor has been operating its business.

(2) General nature of the business transacted and to be transacted by the debtor.

(3) A complete description of equity interests, including:

[A] number and classes of shares;

[B] description of the voting rights and other properties or attributes of the stock; and

[C] any outstanding options.

(4) Names and addresses of all persons owning more than five percent (5%) of any equity interest and the percentage so held.

(5) For all debtors, a listing of affiliate entities and their relationships to the debtor.

(6) Complete description of the business, including:

[A] competitive conditions in the industry and debtor's competitive condition;

[B] principal product(s) and/or services;

[C] current backlog of business (e.g. current orders for products or services or current uncompleted contracts to provide products or services) and comparable figures for the same time during each of the two (2) years preceding the date the plan is filed;

[D] (i) if a manufacturing or fabricating business, source and availability of raw materials, or

(ii) if a retail or wholesale business, source and availability of goods or product sold in the ordinary course of business;

[E] existence and significance of any patents, trademarks, licenses, franchises and concessions;

[F] nature, scope and importance of any research and development activities;

[G] number of persons employed by category (e.g., executive officers, supervisory personnel, production personnel, sales personnel);

[H] seasonal nature of business;

[I] description of any foreign operations; and

[J] governmental regulatory agencies having jurisdiction over debtor's operations, including the nature of the regulatory supervision and any problems encountered or anticipated.

(7) Description of any pending and anticipated legal or administrative proceedings.

(8) Description of securities to be issued, if any, and consideration to be received in connection with the issuance.

(9) Information regarding officers and directors of a corporation, general partners of a partnership, or managers of a limited liability company to be continued in office upon confirmation of the plan, including:

[A] name and position held;

[B] familial relationship, if any, to:

(i) other officers,

(ii) directors,

- (iii) general partners, or
  - (iv) managers;
  - [C] complete disclosure of all remuneration, including salaries, bonuses, fringe benefits, and stock options; and
  - [D] whether or not each individual is an "insider."
- (10) Financial information that accurately sets forth:
  - [A] summaries of tax returns for the three (3) tax years preceding the date the plan is filed;
  - [B] current balance sheet, including all appropriate footnotes and assumptions;
  - [C] projected balance sheet applicable upon confirmation of the plan, including all appropriate footnotes and assumptions;
  - [D] income statements accurately reflecting debtor's income and expenses since the fiscal year of the debtor's last tax return until two (2) months prior to the filing of the disclosure statement;
  - [E] income/expense and cash flow projections of operations over the term of the payment to unsecured creditors or five (5) years, whichever is less, including all assumptions underlying those projections;
  - [F] a schedule of payments to be made towards obligations undertaken by the debtor as part of the plan;
  - [G] a description of the debtor's working capital position and any changes thereto expected to occur within the first twelve (12) months of the plan;
  - [H] brief explanation of the tax consequences, if any, of plan confirmation;
  - [I] if applicable, income and expense information for each profit center, line of business and class of similar products or services;
  - [J] attorney and professional fees for debtor and all payments made or expected to be made for services in connection with the case or plan;
  - [K] if the plan calls for the liquidation of real or personal property in conjunction with the plan, current values of the property to be liquidated;
  - [L] source of financial information in paragraphs [A]-[K] hereof and the qualifications of the source;
  - [M] a list, by the classes established in the plan and alphabetically within each class, of all claims and interests for which proofs of claim have been filed or deemed filed in the case that are allowed or deemed allowed, that includes-
    - (i) the name of the holder of each claim or interest, and
    - (ii) the claimed or deemed allowed amount of each claim or interest;
  - [N] a list of all disputed, contingent and unliquidated claims for which the claimants have filed proofs of claim and a discussion of the impact, if any, the allowance of these claims will have on the plan, debtor and other parties in interest; and
  - [O] a liquidation analysis with a specific description of all assumptions underlying the analysis.
- (11) Description of the plan, how it is to be implemented and its effect on all classes of creditors and equity interests.
- (12) Description of management to be retained and compensation to be paid, including as a minimum:
  - [A] for corporations-
    - (i) the chief executive officer,
    - (ii) chief operating officer,
    - (iii) chief financial officer, and
    - (iv) general managers of any facility, division or department;
  - [B] for limited partnerships-
    - (i) the general partners, and
    - (ii) any general manager of any facility, division or department;



[C] for general partnerships-

(i) the managing partner or members of any management committee, and

(ii) general managers of any facility, division or department;

[D] for limited liability companies, any manager or member; and

[E] for individuals, the debtor and any person holding a position comparable to the chief executive officer, chief operating officer, chief financial officer or general manager of a corporate entity.

(13) Any dividends, draws or other payments, other than as compensation as set forth in paragraph (b)(9) or reimbursement of expenses incurred in the ordinary course of debtor's business, contemplated to be made to, or for the benefit of, equity security holders, partners, members, or individual debtors.

(14) Transactions with insiders and potential conflicts of interest involving each member of management for which disclosure is made under paragraph (b)(12), and of every shareholder, partner or member holding more than a ten percent (10%) equity or profits interest in debtor, including:

[A] full particulars of the nature and extent of the interest of those persons in any property acquired other than in the ordinary course of business of the debtor within two years preceding the filing of the petition;

[B] description of management contracts and any contracts made other than in the ordinary course of business with those persons;

[C] loans made to or obligations incurred by such persons;

[D] any guarantees of indebtedness by or for those persons; and

[E] transactions with those persons that are necessary to, or contemplated by, the plan.

(15) Information concerning changes occurring within the twelve (12) months preceding the disclosure statement affecting revenue and expenses, including:

[A] product mix;

[B] added, discontinued or significantly modified operations;

[C] advertising, research, development, product introduction or deletion, or other discretionary costs;

[D] acquisition or disposition of any material asset other than in the ordinary course of business;

[E] material extraordinary charges or gains, including charges associated with any discontinuation of operations; and

[F] material changes in assumed investment return.

(16) Information concerning changes expected to occur within the first twelve (12) months of the plan affecting revenue and/or expenses, including any closing of a facility, branch or other material interruption, completion of a material contract, or any event that will materially reduce or increase revenues in subsequent periods (as used herein, "materially" means a change of ten (10) or more percentage points).

(17) Other information, including:

[A] extraordinary risk factors;

[B] nondischargeable debts (individuals only);

[C] effect of plan on retiree benefits, if any;

[D] brief explanation of the cause of debtor's financial difficulties and the reason(s) those difficulties are not expected to recur during the life of the plan;

[E] vote required for acceptance of the plan; and

[F] disposition of equity interests in corporate, partnership, or limited liability company debtors.

(c) **Individual Debtor.** In a case in which the debtor is an individual, in addition to information required by subsection (b), the debtor must provide a computation of debtor's disposable income determined as provided in §1325(b)(2) of the Code, itemized to show how the amount is calculated.

(d) **Consultation with United States Trustee.** Unless waived by the United States trustee, not less than seven (7) days before the plan and disclosure statement are filed, counsel for the proponent or the proponent will consult with the United States trustee regarding the proper formulation of a plan and disclosure statement.

#### **Rule ~~3046-2~~ 3016-3 Chapter 11 Plan**

(a) **Table of Contents.** A plan must contain a table of contents that appropriately lists the headings and subheadings of the plan with page numbers.

(b) **Substantial Consummation.** A chapter 11 plan of reorganization must clearly set forth what events or acts the plan proponent considers constitutes substantial consummation of the plan, as defined in § 1101(2) of the Code.

(c) **Liquidating Plans.** If the plan provides for liquidation of property of the estate, it must:

(1) set forth the date certain by which liquidation must occur and provide for an alternative if liquidation does not occur by the date so set; and

(2) if the debtor is an individual, indicate whether the debtor will engage in business after consummation of the plan.

(d) **Notes.** If the plan calls for definite payments to unsecured creditors over time, contain a provision calling for the issuance of promissory notes or individualized statements memorializing the amount of the claims and the payments due over the life of the plan.

#### **Rule 4001-2 Use of Cash Collateral and Obtaining Post Petition Credit**

(a) **Motions to Use Cash Collateral.** Motions by the debtor in possession or trustee for authorization to use cash collateral must, in addition to Fed. R. Bankr. P. 4001(b), contain:

(1) the relationship to the debtor, if any, of the creditor whose cash collateral is to be utilized;

(2) the nature or source of the cash collateral;

(3) the estimated amount of cash collateral to be used;

(4) a 90-day cash flow projection segregating cash receipts from cash collateral from all other sources of cash receipts;

(5) the balance owed to the creditor, as of the date the petition was filed, including any accrued, unpaid interest, cost or fees as provided in the agreement;

(6) an estimate of the amounts of any postpetition interest, costs and fees the creditor would be entitled to recover under § 506(b) of the Code;

(7) if the cash collateral is rent, the amount of the gross and net rent realized each month, and the fair market value of the property from which the rent emanates;

(8) if the collateral is receivables, an accounts receivable aging statement;

(9) if the collateral is inventory, current book or market value, whichever is lower, of the inventory;

(10) for any other collateral, the fair market value of the collateral;

(11) the method or means by which the interests of the creditor are to be adequately protected; and

(12) a statement of whether or not the debtor proposes to grant any provision contained in subsection (f) and, if so, identify the provision.

(b) **Cash Collateral Utilization Agreements.** Motions or applications for the approval of an agreement for use of cash collateral must, in addition to complying with Fed. R. Bank. P. 4001(b), set forth in the body of the motion or application the information required by paragraphs (a)(1) through (a)(10), inclusive, and whether or not the agreement contains any provision contained in subsection (f) and, if so, identify the provision.

(c) **Postpetition Financing.** Motions by the debtor in possession or trustee for authorization to obtain postpetition credit or for approval of a postpetition financing agreement must contain, as a minimum:

(1) identity of the lender and relationship, if any, of the lender to the debtor;

(2) the amount of credit to be obtained or, in the case of line of credit financing, the maximum amount the lender is to advance;

(3) if funding is to be incremental, timing of funding or method by which funding is to be determined;

(4) a 90-day cash flow projection showing all sources of cash receipts other than the amounts to be borrowed;

(5) if the lender is a prepetition creditor the following information—

[A] the balance owed to the creditor, as of the date the petition was filed, including any accrued, unpaid interest, cost or fees as provided in the agreement,

[B] if the lender is secured by receivables, an accounts receivable aging statement,

[C] if the lender is secured by inventory, current book or market value, whichever is lower, of the inventory,

[D] if the lender is secured by real property, the current fair market value of the property and, if income producing, the gross and net rents produced by the property, and

[E] if the lender is secured by any other property, the fair market value of the property;

(6) a description of the collateral, if any, to secure the postpetition financing;

(7) the current fair market value of the collateral, if any, to secure the post petition financing;

(8) if any other entity has, or claims, a security interest in the collateral to secure the postpetition financing, set forth—

[A] identity of the entity, including any relationship to the debtor,

[B] the balance owed that entity,

[C] whether the interest of that entity is to be subordinated to the postpetition financing and if so—

(i) whether the subordinated entity has consented, or

(ii) in the absence of consent, how the interest of that entity is to be adequately protected; and

(9) whether or not the financing agreement contains any provision contained in subsection (f) and, if so, identify the provision.

**(d) Motions Heard on Shortened Time.**

(1) Unless otherwise ordered by the court, emergency motions or applications for interim relief made under subsections (a), (b), and (c), may be heard upon twenty-four (24) hours notice by telephonic, **electronic**, or personal delivery to the entities identified in the applicable provision of Rule 4001, Federal Rules of Bankruptcy Procedure.

(2) All requests for hearings on shortened time, must set forth with specificity:

[A] the immediate and irreparable harm the estate will suffer if relief is not immediately granted;

[B] the extent of the relief required to prevent such immediate and irreparable harm to the estate; and

[C] contain as much of the information required by subsection (a), (b), or (c), as applicable, as may be necessary to establish the necessity to avoid immediate and irreparable harm to the estate pending a final hearing.

(3) Unless otherwise specifically ordered by the court, any interim order entered under this subsection will expire not later than twenty-one (21) days after the motion under subsection (a), (b), or (c) is filed.

(4) [A] The court may, at its discretion, hold emergency hearings telephonically.

[B] The moving party is responsible for providing the court with the telephone numbers at which interested parties, or their representatives, may be reached.

**(e) Provisions Normally Approved.** The court will normally approve inclusion of the following provisions in any order or agreement for the use of cash collateral or any postpetition financing agreement:

(1) withdrawal of consent to use cash collateral or termination of further financing, upon occurrence of a default or conversion to chapter 7;

(2) securing any postpetition diminution in the value of the secured party's collateral with a lien on postpetition collateral of the same type as the secured party had prepetition, if such lien is subordinated to the compensation and expense reimbursement allowed to any trustee thereafter appointed in the case;

(3) securing new advances or value diminution with a lien on other assets of the estate, but only if the lien is subordinated to all the expenses of administration of a superseding chapter 7 case;

(4) reservation of rights under Bankruptcy Code § 507(b), unless the provision calls for modification of the Code's priorities in the event of conversion to chapter 7;

(5) reasonable reporting requirements;

(6) reasonable budgets and use restrictions; and

(7) expiration date for the stipulation.

(f) **Other Provisions.** Inclusion of any of the following provisions in any order or agreement for the use of cash collateral may be scrutinized by the court even in the absence of an objection by a party in interest:

(1) cross-collateralization clauses that secure prepetition debt by postpetition assets in which the secured party would not otherwise have a security interest by virtue of its prepetition security agreement;

(2) provisions or findings of fact that bind the estate or all parties in interest with respect to the validity, perfection or amount of the secured party's lien or debt;

(3) provisions or findings of fact that bind the estate or all parties in interest with respect to the relative priorities of the secured party's lien and liens held by persons who are not party to the agreement;

(4) clauses that prime the liens and/or security interests of secured creditors who are not parties to the agreement, unless consented to by the affected creditor;

(5) waivers of Bankruptcy Code § 506(c), except to the extent effective only during the period in which the debtor in possession or trustee is authorized to use cash collateral or borrow funds;

(6) provisions that preclude a future trustee with a duty to care for, preserve, and/or liquidate collateral from recovering the expenses of administration;

(7) provisions that characterize any postpetition payments as payments of interest, fees, or costs on prepetition obligations;

(8) provisions that operate specifically or as a practical matter to divest the debtor, or any other party in interest, of any discretion in the formulation of a plan or administration of the estate, or limit access to the court to seek any relief under applicable provisions of law;

(9) releases of liability for the creditor's prepetition torts, breaches of contract, or lender liability, as well as releases of prepetition or postpetition defenses and/or counterclaims;

(10) waivers of avoidance actions;

(11) provisions that would include the recovery from avoidance actions as adequate protection or part of the secured creditor's collateral;

(12) automatic relief from the automatic stay of Bankruptcy Code § 362(a) upon default, conversion to chapter 7, or the appointment of a trustee;

(13) adequate protection provisions that create liens on claims for relief arising under the Bankruptcy Code;

(14) waivers of the right to move for a court order under Bankruptcy Code § 363(c) (2) [B] authorizing the use of cash collateral in the absence of the secured party's consent;

(15) carve outs for administrative expenses that do not treat all professionals equally or on a pro rata basis;

(16) provisions that shorten the period of limitations any party in interest (including a successor trustee) for bringing claims or causes of action against the lender or secured creditor;

(17) a finding without testimony to the effect that in consenting to the use of cash collateral or postpetition financing, the secured creditor or lender is acting in good faith;

(18) waivers of the procedural requirements for foreclosure or repossession mandated under applicable nonbankruptcy law;

(19) provisions applicable in the event of a dispute under the agreement that place venue in a foreign jurisdiction;

(20) provisions applicable in the event of a dispute or default under the agreement wherein the debtor waives—

[A] service of process,

[B] the doctrine of *forum non conveniens*,

[C] notice and hearing, or

[D] the right to a jury trial; and

(21) Findings of fact on matters extraneous to the approval process.

**(g) Notice of Final Hearing.**

(1) In addition to service of the persons specified in Rule 4001, Federal Rules of Bankruptcy Procedure, a motion for the use of cash collateral under subsections (a) or (b), or to obtain credit under subsection (c), must be transmitted to the United States trustee.

(2) In addition to the persons specified in rule 4001, Federal Rules of Bankruptcy Procedure, notice of the final hearing on a motion for the use of cash collateral under subsections (a) or (b), or to obtain credit under subsection (c), must be given in form substantially conforming to AK LBF 35 or AK LBF 36, as applicable, to:

[A] the United States trustee;

[B] any person having filed a request for special notice; and

[C] such other persons as the court may direct.

**Rule 4003-1 Objections to Claims of Exemption**

The court will not determine an objection to a claim of exemption under Rule 4003(b) unless a hearing is held. The court will schedule a hearing on submission of a calendar request. The party requesting the hearing must, within seven (7) days of receiving the hearing date from the court, give notice of the hearing date conforming to AK LBF 34 to the trustee and all parties on whom the objection to exemptions must be served in accordance with Rule 4003, Federal Rules of Bankruptcy Procedure.

**Rule 4008-1 Reaffirmation Hearing**

**(a) General**

(1) Reaffirmation agreements must follow the format of Directors Form B2400A, “Reaffirmation Agreement,” and all applicable parts of the agreement must be must be completed in their entirety.

(2) When a debtor is represented by counsel in the negotiation of a reaffirmation agreement, a hearing on the reaffirmation agreement will not be required in individual Chapter 7 cases unless the presumption of undue hardship arises or the court orders otherwise. When a debtor is not represented by counsel in the negotiation of a reaffirmation agreement, a hearing on a reaffirmation agreement is required.

(3) [A] The court will enter a discharge as soon as appropriate without regard to whether reaffirmation agreements have been entered into in accordance with §521(a)(2) of the Code.

[B] It is the duty of counsel for the debtor, the debtor, and the creditor whose obligation is to be reaffirmed to assure compliance with the requirements of §524(c) of the Code.

**(b) Delay of Entry of Discharge.**

(1) Entry of discharge may be delayed to accomodate entry into a reaffirmation agreement for a period not to exceed thirty (30) days upon *ex parte* motion filed by the debtor.

(2) On *ex parte* motion of the debtor within the 30-day period, the court may defer entry of discharge to a date certain.

**(c) Service of Reaffirmation Agreement.**

(1) If a reaffirmation agreement is filed conventionally, the party filing the reaffirmation agreement must serve a conformed copy of the agreement (showing the date filed stamp) on the

other party or party's counsel.

(2) If a reaffirmation agreement is filed electronically, unless the other party or counsel for the other party is served electronically, the party filing the reaffirmation agreement must serve a true and correct copy of the agreement, together with a copy of the Notice of Electronic Filing generated by the CM/ECF System for the agreement, on the other party or party's counsel.

### **Rule 5001-2 Clerk's Office Locations and Hours**

(a) **Petitions.** Petitions and documents filed with the initial petition may be filed conventionally at the following locations:

Office of the Clerk, Bankruptcy Court  
605 West Fourth Avenue, Room 138  
Anchorage, AK 99501-2296

~~Clerk of the State Court  
Federal Building, 113 Front St., Room 229  
Nome, AK 99762~~

Office of the Clerk, District Court  
Federal Building & U.S. Courthouse  
101 12th Avenue, Room 370, Box 1  
Fairbanks, AK 99701-6237

Office of the Clerk, District Court  
648 Mission Street  
Ketchikan, AK 99901-6534  
(Hours 8:00 to 11:00 a.m.)

Office of the Clerk, District Court  
709 West Ninth Street, Room 979  
Box 020349  
Juneau, AK 99802-0349

(b) **Subsequent Documents.** All subsequent documents may be filed conventionally only at the Anchorage or Fairbanks locations.

(c) **Filing by Mail or Special Delivery.** All documents filed by delivery utilizing the U.S. Postal Service, Fed-Ex, UPS, DHL, or similar services, are to be filed in the Anchorage office only.

(d) **Disposition of Conventionally Filed Documents.** Once digitally imaged ("scanned") into the CM/ECF system, the Clerk of the Court will retain, distribute, or otherwise dispose of the original of all conventionally filed pleadings, papers, and documents as may be otherwise provided by statute or court rule.

(e) **Business Hours.**

(1) Except as noted in subsection (a), regular business hours are from 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:30 p.m., Monday through Friday, except federal holidays, and days designated as holidays by the Chief Judge of the United States District Court or the Administrative Office of the United States Courts.

(2) Office locations and business hours may be adjusted or changed, with or without prior notice, as staffing and budgetary conditions dictate.

(f) **Replacing Papers Lost or Withheld.** If an original paper or pleading, other than a paper or pleading that has been electronically imaged ("scanned") and filed in the CM/ECF system, is lost or withheld by any person, the court may order a verified copy to be filed and used in lieu of the original.

### **Rule 7004-1 Service on Debtor's Attorney**

If a debtor is represented by an attorney in the main bankruptcy case, whenever service is made upon the debtor under Fed. R. Bankr. P. 7004, service of the summons and complaint shall also be served upon the debtor's attorney by any means authorized by Fed. R. Bankr. P. 7005.

### **~~Rule 7005-1 Electronic Service~~**

**~~(a) Method for Signifying Consent:~~**

~~—(1) Consent to service by electronic transmission is given by filing with the court and serving on the adverse party(ies) notice that substantially complies with the appropriate version of AK LBF-32:~~

~~—(2) The consent to service by electronic transmission should indicate:~~

~~—[A] the method of electronic service acceptable;~~

~~—[B] whether the party consents to service by facsimile of pleadings and documents in excess of twenty-five (25) pages;~~

~~—[C] whether the party will accept service of pleadings by e-mail in a format other than Adobe Acrobat portable document format (“pdf”), and, if so, the alternative format that is acceptable;~~

~~—[D] the number of the party’s facsimile machine; and~~

~~—[E] the party’s e-mail address.~~

**(b) Special Conditions:**

~~—(1) Any pleading, motion, paper or other document that exceeds twenty-five (25) pages in length, including all attachments and exhibits thereto, may not be served by facsimile unless the party to be served has expressly consented to receive documents in excess of twenty-five (25) pages by facsimile:~~

~~—(2) Consent to service by e-mail constitutes consent to service of pleadings and documents in Adobe Acrobat portable document format (“pdf”).~~

**Rule 7008-1 Pleadings**

~~—In an adversary proceeding before the bankruptcy court, the complaint, counterclaim, crossclaim, or third-party complaint must contain a statement that the pleader does or does not consent to entry of final orders or judgment by the bankruptcy court.~~

**Rule 7012-1 Responsive Pleadings Consent to Entry of Final Decree**

~~In an adversary proceeding before the bankruptcy court, the complaint, counterclaim, crossclaim, or third-party complaint and any responsive pleading thereto must contain a statement that the pleader does or does not consent to entry of final orders or judgment by the bankruptcy court. In an adversary proceeding before the bankruptcy court, a responsive pleading must contain a statement that the pleader does or does not consent to entry of final orders or judgment by the bankruptcy court.~~

**Rule 7016-1 Pretrial Procedure**

**(a) Pretrial Conference.** A pretrial conference may be set by the court in a contested matter or adversary proceeding. At the pretrial conference the attorneys for the parties will be prepared to:

(1) consider those matters specified in Rule 16, Federal Rules of Civil Procedure;

(2) determine the dates for—

[A] closing of witness lists,

[B] closing or limiting discovery,

[C] settlement conferences,

[D] exchanging and filing exhibits, and

[E] trial; and

(3) review any materials or reports ordered by the court to be filed in a pretrial or status conference order.

**(b) Appearance by Responsible Attorney.** The attorneys who will be in charge of each party's case must:

(1) attend personally, unless alternative appearance has been approved by the Court; and

(2) be prepared to discuss in detail and in good faith—

[A] the issues of fact and law remaining,

[B] the evidence to be presented, and



[C] the respective positions of the various parties.

**(c) Pretrial or Status Conference Report.**

(1) If the court so orders, the parties will meet and in good faith attempt to file a report indicating the contested and uncontested facts and issues of law.

(2) The parties must meet and discuss the case before the pretrial conference to eliminate the need to litigate uncontested matters.

**(d) Status and Settlement Conferences.**

(1) At the request of any party or on its own motion, the court may order additional status conferences to be held with respect to any adversary proceeding or contested matter.

(2) Settlement conferences may be scheduled when the parties or the court believes it would be productive.

(3) A status or settlement conference may be requested by any party in interest by submitting a Bankruptcy Court Calendar Request form (AK LBF 7) as provided in AK LBR 9075-1(c).

**(e) Notice of Pretrial, Status or Settlement Conference.**

(1) Notice of a pretrial, status or settlement conference must be given to all parties who have appeared in the adversary proceeding not less than fourteen (14) days prior to the conference date.

(2) Notice of a status or settlement conference shall be made in the method ordered by the Court.

**Rule 7016-2 Pre-trial Procedures**

~~The bankruptcy court must decide, on its own motion or a timely motion by a party, whether—~~

~~—(1) to hear and determine the proceeding;~~

~~—(2) to hear the proceeding and issue proposed findings of fact and conclusions of law; or~~

~~—(3) to take some other action.~~

**Rule 7041-1 Dismissal of Discharge Actions**

**(a) Required Information.** Unless it is contained in the stipulation or settlement agreement, a stipulation or request by the plaintiff to dismiss a complaint brought to bar discharge of a debtor must be accompanied by a separate statement, signed by counsel (or by the party if not represented by counsel) for all parties to the stipulation or settlement agreement, setting forth:

(1) any consideration, monetary or otherwise, to be received by the plaintiff;

(2) the basis and source of that consideration; or

(3) that the plaintiff is not to receive any consideration.

**(b) Notice.**

(1) Notice of the stipulation or settlement must contain a clear and concise statement of the consideration, if any, to be received by the plaintiff.

(2) In addition to the persons specified in Rule 7041, Federal Rules of Bankruptcy Procedure, notice of the stipulated dismissal must be given to:

[A] any party in interest having filed a special request for notice; and

[B] (i) any creditor having filed a proof of claim, or

(ii) in a case in which no claims are to be filed, the five (5) largest unsecured creditors other than those creditors whose claims are nondischargeable under § 523 of the Code.

**(c) Opposition.**

(1) A party in interest opposing dismissal of the § 727 complaint may file a written opposition thereto within twenty-one (21) days of the date the notice is served and:

[A] serve a copy on—

(i) the parties to the adversary action, and

(ii) the case trustee; and



- [B] transmit a copy to the United States trustee.
- (2) Any opposition to the dismissal must set forth:
- [A] specifically the basis for the objection;
- [B] any terms or conditions the objecting party requests be imposed on the dismissal;
- and
- [C] a statement of whether or not the objecting party is agreeable to substituting as party plaintiff in the action.

**(d) Hearing.**

(1) In any case in which the plaintiff is to receive consideration in any form in exchange for dismissal, unless the court, for cause, otherwise orders, a hearing must be held before a discharge action is dismissed by stipulation or agreement of the parties, even if no objection is filed in response to the notice.

(2) [A] In any case where the plaintiff is not to receive consideration in any form in exchange for the dismissal, the court may deny, grant, or impose terms and conditions on dismissal of the action without a hearing.

[B] If an objection or opposition to dismissal is timely filed, ordinarily the court will not grant dismissal without a hearing.

(e) **Dismissal for Lack of Prosecution.** Any proceeding that has been pending in this court for more than one (1) year without any activity of record may, after notice, be dismissed for want of prosecution on motion by any party, or by the court. In addition, in appropriate circumstances, the court may issue an order to show cause why a proceeding should not be dismissed regardless of how long it has been pending.

**Rule 7056-1 Summary Judgment**

(a) **Opposition - Documents Required.** A party opposing a motion for summary judgment must serve and file simultaneously with the brief in opposition to the motion a statement of genuine issues setting forth clearly, concisely, completely and candidly those issues of material fact that must be tried.

(b) **Response Deadlines.** Unless the Court orders otherwise, the opposition must be served and filed within twenty-one (21) days of the service of the motion, and a reply, if any, within fourteen (14) days of the opposition.

**Rule 9003-1 Reminders to Court**

(4 a) **Reminders Permitted.** In the event a Judge has under advisement any matter, including, but not limited to, a motion or decision in a bench trial, for a period of more than sixty (60) days, each party affected by the undecided matter should send ~~to the judge a letter~~ an email to [ecf\\_orders@akb.uscourts.gov](mailto:ecf_orders@akb.uscourts.gov) particularly describing the matter under advisement and stating the date the matter was taken under advisement.

(2 b) **Intervals for Subsequent Reminders.** As long as the matter remains under advisement, at intervals of forty-five (45) days thereafter, each affected party should send a similar letter to the judge.

**Rule 9004-1 Form of Pleadings and Other Papers**

(a) **Form in General.** Except as otherwise provided in these rules, all documents, including exhibits, other than forms prescribed elsewhere, presented for filing with the clerk or intended for use of the judge must:

(1) be upon letter size (8½ inches X 11 inches) white paper of good quality; ~~reasonably opaque and not onionskin;~~

(2) have a margin of not less than one inch (1") on all four sides of each page;

(3) be either in original clear and legible typewriting, or in clear and legible printing;

(4) be in either double-spaced or one-and-one-half-spaced typewriting or printing, except that

quotations exceeding fifty (50) words are to be single-spaced and indented;

(5) if consisting of more than one page, have each consecutive page numbered at the bottom of each page;

(6) be printed or written upon only one side of the paper;

(7) utilize twelve (12) point or ten (10) pitch type;

(8) each pleading filed as a separate document and, if filed conventionally, all pages of each document securely clipped but not stapled together; and

(9) names are to be typed or printed beneath signatures on all documents.

**(b) Notices.**

(1) Notices served upon creditors and parties in interest may be doubled-sided and single-spaced to conserve paper.

(2) Original notices filed with the court must be single-sided.

**(c) Information to be Placed on First Page.** The first page of each document must be prepared as follows:

(1) The first page of each document shall contain a case caption that conforms to either the Official Form for Caption (Short Title), Form B416B, or the Official Form for Use in Adversary Proceeding, Form B416D, unless otherwise ordered by the court.

(2) The following information must be included in the top of the first page, preceding the case caption:

[A] The name, address, telephone number and email address of the attorney appearing for a party to an action or proceeding and the name of the party, or of a person appearing without an attorney, typewritten or printed in the space to the left of center of the paper and beginning at least one inch (1") below the top edge.

[B] Following the name, address and telephone number, indicate the party represented, e.g., Attorney for Creditor John Doe, Attorney for Trustee, as appropriate.

**Rule 9006-1 Motion to Shorten Time**

A motion ~~for shortened time~~ seeking to shorten time for notice must conform to Rule 9006(c), Federal Rules of Bankruptcy Procedure, and the party making the motion must serve the motion on all parties affected by the motion, and such other parties as the court may direct.

**Rule 9010-1 Appearances**

**(a) Appearances by Attorneys or Parties.**

(1) [A] The filing of any document in a bankruptcy case or adversary proceeding constitutes an appearance by the attorney who signs the document, but

[B] an attorney who wishes the appearance noted on the docket and the matrix must separately file an entry of appearance.

(2) Whenever a party is represented by counsel, the party may not appear or act on his, her, or its own behalf.

(3) When a party is not an individual:

[A] A debtor who is not an individual must be represented by an attorney; and

[B] A party, other than a debtor, that is not an individual will not be allowed to represent itself except:

(i) with respect to contested matters where its claim or interest does not exceed the jurisdictional limit on small claims actions brought in the Alaska Court System,

(ii) for the purpose of executing a proof of claim in a bankruptcy case, or

(iii) at the meeting of creditors held under § 341 of the Code.

(4) [A] In a case to which subparagraph (3)[B] applies, the corporation, partnership, limited liability company, or unincorporated association may appear through a corporate officer, general partner, manager of a limited liability company, association officer, or a designated employee.

[B] If the representative is not a corporate officer, general partner, manager of a limited

liability company, or association officer, the designated employee representative must file with the court prior to participation written authorization signed by a corporate officer, general partner, manager of a limited liability company, or association officer designating such person as the representative and acknowledging that the corporation, partnership, limited liability company, or unincorporated association will be bound by the actions of the designated employee.

**(b) Limited Appearance By Counsel in Adversary Proceedings and Contested Matters.** A party in an adversary proceeding or contested matter may appear through an attorney for limited purposes during the course of an action, including, but not limited to, depositions, hearings, discovery, and motion practice, if the following conditions are satisfied:

(1) The attorney files and serves an entry of appearance with the court before or during the initial action or proceeding that expressly states that the appearance is limited, and all parties of record are served with the limited entry of appearance; and

(2) The entry of appearance specifically identifies the limitation by date, time period, or subject matter.

**(c) Limited Appearance by Debtor's Counsel in Individual Cases.**

(1) An attorney appearing for an individual debtor in a case under chapter 7 of the Code:

[A] is conclusively presumed to have entered an appearance as counsel for the debtor in all matters or proceedings in the case, except—

[i] adversary proceedings, whether or not initiated in connection with the case, and

[ii] those matters and proceedings specifically designated as excluded on the statement filed under § 329 of the Code and Rule 2016(b), Federal Rules of Bankruptcy Procedure; and

[B] the attorney filing the petition and/or the schedules may not exclude from representation appearance at the meeting of creditors held under § 341 of the Code and all continuances thereof until the meeting is concluded.

(2) An attorney who provides counsel or assistance to an individual debtor in the preparation of the schedules and statements required under § 521(a) of the Code and Rule 1007(b), Federal Rules of Bankruptcy Procedure, or a plan under § 1221 or § 1321 of the Code, must enter an appearance as counsel for the debtor and comply with § 329 of the Code and Rule 2016(b) before or at the time the schedules and statements, or plan, are filed by the debtor.

(3) Except as otherwise provided in this subsection, an attorney may provide limited representation of a debtor under subsection (b).

**(d) Withdrawal or Substitution of Attorney.**

**(1) Withdrawal of Attorney:**

[A] Except as provided in paragraph (d)(5), an attorney who wishes to withdraw must file a motion, which motion must set forth:

[i] the reason(s) for the request;

[ii] the names and last known addresses and telephone numbers of the persons represented by the withdrawing attorney; and

[iii] any significant events that are set, e.g., a trial or pretrial conference, hearings, etc., and the date and time of the events.

[B] A notice of the motion to withdraw must be given, which must include:

[i] the names and last known addresses and telephone numbers of the persons represented by the withdrawing attorney;

[ii] the date when the attorney intends to withdraw, not less than twenty-one (21) days after the service of the notice; and

[iii] a statement that an order permitting the withdrawal may be entered unless an objection to the withdrawal is filed within the time set forth in the notice.

**(2) Substitution of Attorneys.** Substitution of attorneys is accomplished by the filing of a document that must include the effective date of substitution.

[A] The document must be:

- [i] signed by both attorneys; or
    - [ii] signed by the new attorney and the client with notice to the original attorney.
  - [B]) Court approval of substitution of attorneys is required only where a provision of the Bankruptcy Code or Federal Rules of Bankruptcy Procedure requires approval of the employment of an attorney in the first instance.
- (3) **Service of Motion to Withdraw or Substitution of Attorneys.** A notice of a motion to withdraw as attorney, or a substitution of attorneys, must be served on the following:
  - [A] In the case of an attorney for debtor, trustee, or debtor in possession—all those listed on the master mailing list.
  - [B] In the case of an attorney representing a party to an adversary proceeding or contested matter—
    - (i) the attorney's client, and
    - (ii) all other parties to the adversary proceeding or contested matter; and
  - [C] In the case of all other attorneys —
    - (i) the attorney's client,
    - (ii) the debtor or debtor in possession,
    - (iv) any trustee, and
    - (v) transmit a copy to the United States trustee.
  - [D] The client may be served at the client's last known address, but service upon the client is unnecessary if the client's written consent to withdraw has been filed.
- (4) [A] If an attorney for a non-individual debtor withdraws, the debtor or debtor in possession must obtain new counsel in order to proceed with the case.
  - [B] The court may refuse to permit withdrawal of an attorney or may provide that the case will be dismissed if a new attorney does not appear within fourteen (14) days of the withdrawal.
- (5) [A] An attorney may withdraw without further leave of court in accordance with the limitations set forth in any limited entry of appearance filed in accordance with subsection (b) or limitation enumerated as provided in subsection (c).
  - [B] Withdrawal under this paragraph is accomplished by filing a notice with the court, served as provided in paragraph (d)(3), stating that:
    - [i] the attorney's limited representation has concluded;
    - [ii] certifying that the attorney has taken all actions necessitated by the limited representation; and
    - [iii] providing a current service address and telephone number of the represented party.
  - [C] Upon the filing of the notice prescribed herein, the withdrawal will be effective without further court action or approval.
- (e) **New Attorneys.** If the original attorney dies, withdraws without substitution, or otherwise ceases to act, notice of the retention of a new attorney must be filed and served on the parties set forth in paragraph (d)(3).

## **Rule ~~2090-4~~ 9010-2 Admission and Practice of Attorneys**

(a) **Admission to Practice.** Any attorney who is admitted to practice law in the United States District Court for the District of Alaska is admitted to practice in this court.

### **(b) Practice by Attorneys Not Admitted in District Court.**

(1) [A] Any attorney who is a member in good standing of the bar of any United States court or the highest court of any state or territory of the United States, may be permitted upon *ex parte* application to appear in a particular case.

(i) An original certificate of good standing or a certified copy from the state court or bar governing or regulating admission in the territory where the applicant has been admitted to practice must be filed with the application.

(ii) The court may waive the requirement of application by an attorney not admitted in the

United States District Court for the District of Alaska in the interest of expediency and reduction of costs where the participation is limited and the matter is likely to be resolved without extensive hearings.

[B] The court may require designation of local counsel to participate, sign pleadings, and receive service of notice should there be any problem with the cooperation, responsiveness, or accessibility of an attorney not admitted to practice in the United States District Court for the District of Alaska.

(2) Any attorney representing the United States (or any of its agencies) may appear and participate in particular cases without submitting an application as set forth above. If the government has both local and non-local attorneys appearing in a matter, service must be made on both the local and non-local offices unless the court orders otherwise.

(c) **Local District Rules Adopted.** District of Alaska Local Rules 83.1(g) – (i) and 83.2 apply to all attorneys practicing before the bankruptcy court.

### **Rule 9013-1 Briefs; Memoranda**

(a) **In Support of Motion or Application.** A motion or other application governed by Rule 9014, Federal Rules of Bankruptcy Procedure must be accompanied by:

(1) Legible copies of all documentary evidence that the moving party intends to submit in support of the motion or application;

(2) A clear, concise, complete and candid written statement of the reasons in support thereof, together with an adequate brief of the points and authorities upon which the moving party relies; and

(3) A copy of a proposed order, except one requested *ex parte* or by stipulation, shall be attached as an exhibit to the motion as a separate document. Opponents may propose alternative orders in the same fashion.

(b) **Opposition to Motion or Application.** Unless another time is specified in the Notice of Motion, the Federal Rules of Bankruptcy Procedure or these rules, each party opposing a motion or other application must, within twenty-one (21) days of service of the motion or other application upon that party serve and file:

(1) legible copies of all documentary evidence upon which the party intends to rely; and

(2) a clear, concise, complete and candid written statement of the reasons in opposition thereto and an adequate opposing brief of points and authorities.

(c) **Reply by Moving Party.** If desired, the moving party, within seven (7) days after the service of the opposition to the motion or other application by the opposing party, may serve and file a reply brief. For motions brought under Federal Rule of Civil Procedure 12(b), 12(c), and 56, the reply deadline is extended to fourteen (14) days after service of the opposition.

(d) **Failure to File Briefs.** Failure to file briefs within the time prescribed (or within any extension granted by the court or stipulated to by the parties) will subject the motion or application to summary ruling by the court.

(1) Failure to file a brief by the moving party may be deemed an admission that, in the opinion of counsel, the motion or application is without merit.

(2) Failure to file a brief by the adverse party may be deemed an admission that, in the opinion of counsel, the motion or application is well taken.

(e) **Stipulations Extending Time.** The parties may stipulate, in writing filed with the court, for different times for filing any opposition or reply to the opposition.

(1) Any stipulation for an extension of time as provided in this subdivision for a period of ten (10) days or less, does not require express approval by the court.

(2) Any stipulation for an extension of time to file an opposition or reply in excess of ten (10) days requires court approval.

(f) **Affidavits/Exhibits.**

(1) Unless otherwise ordered by the court, if a motion or opposition is supported by affidavit, the affidavits must be served with the motion.

(2) If exhibits to a motion or opposition are lengthy, the moving or opposing party may file only the relevant excerpts of the exhibits, without prejudice to the right of any party to file additional excerpts or the complete exhibit with the court at any time.

### **Rule 9021-1 Orders, Findings, Conclusions, Judgments**

(a) **Time for Submission; Prohibition Against Premature Submission.** When dealing with motions, no order or findings should be submitted until after the court has ruled, unless the time for opposition has passed and either:

- (1) no opposition has been filed and served;
  - (2) neither party has asked for a hearing on the opposed matter and seven (7) days have passed after the date objections were due to be filed; or
  - (3) the order is submitted in conjunction with an *ex parte* motion.
- (4) In instances where no opposition has been filed or where neither party has requested a hearing, it is the responsibility of the moving party to submit an appropriate order or findings for the court's consideration no later than fourteen (14) days after the date objections were due to be filed.

(b) **Form and Content.**

(1) All orders, findings of fact and conclusions of law, judgments, and decrees, unless otherwise directed by the court are required to be in writing, and, when not entered by the clerk as provided in Rule 58, Federal Rules of Civil Procedure, will be prepared by the attorney obtaining the order, judgment or decree, or the attorney representing the prevailing party.

(2) Every judgment or order, including stipulated matters, must be set forth on a separate document from the motion or other request for the order, and must set forth with particularity the terms of the order.

(3) Unless otherwise ordered, the prevailing party will submit a judgment following entry of any dispositive order.

(4) When ordered by the court:

[A] proposed findings of fact must list the name of the witness and/or the number of the exhibit supporting the finding; and

[B] proposed conclusions of law must cite legal authority supporting the conclusion.

(5) On all orders, judgments or decrees prepared for signature, the name of the ordering judge, if known, must be typed immediately under the signature line prior to presentation for signature.

~~—(6) All orders, judgments or decrees must include, at the end of the order, judgment or decree following the signature of the ordering judge, or the clerk, if appropriate, a "Service List" of the parties, or the party's attorney, to be served with a copy of the order, judgment or decree.~~

(c) **Filing, Service and Comment.**

(1) The attorney preparing the order, findings of fact and conclusions of law, judgment or decree must file the original document with the clerk with a certificate of service that copies have been served on any party who opposed the order and all parties who participated in the hearing from which the order arose.

(2) [A] Upon receipt of an order, findings and conclusions, judgment or decree, the court may enter the pleading.

[B] The opposing party, if not satisfied with the document, may move for amendment, alteration or other modification in accordance with Rules 52(b) or 59(e), Federal Rules of Civil Procedure, made applicable through Rules 7052 and 9023, Federal Rules of Bankruptcy Procedure.

(3) The court may allow parties to submit proposed findings, orders and judgments ~~on a computer disk in a computer language that is compatible with the court's computer system~~ via email.

(d) **Orders Lodged After a Hearing.**

(1) If an order is submitted after a hearing, the hearing date must be set forth in the first



paragraph of the proposed order.

(2) The lodging of the order constitutes counsel's representation that the form of the order fairly reiterates the substance of the ruling.

~~(e) Ex-Parte Order. An order submitted upon ex-parte application must be clearly labeled "exparte."~~

### **Rule 9023-1 Motion to Amend Findings or for New Trial, Rehearing, or Reconsideration**

(a) **Time for Filing.** A party filing a motion for rehearing or reconsideration must do so within the time specified in Rule 9023, Federal Rules of Bankruptcy Procedure.

(b) **Opposition.**

(1) Unless otherwise provided by the Code or Federal Rules of Bankruptcy Procedure or ordered by the court, no opposition to a motion to amend or make additional findings, for new trial, rehearing or reconsideration may be filed.

(2) The court generally will not amend or make additional findings, or grant a new trial, rehearing, or reconsideration without first requesting opposition be filed.

(3) No reply to an opposition to a motion to amend or make additional findings or for new trial, rehearing, or reconsideration may be filed unless requested by the court.

(c) **Submission Without Argument.** Unless the court otherwise orders, a motion to amend or make additional findings, for new trial, rehearing, or reconsideration will be submitted to the court for decision on the briefs without oral argument.

~~(d) **Deemed Denial.** Unless the court by order extends the time, if a motion to amend or make additional findings, for new trial, rehearing, or reconsideration has been pending before the court without decision for a period of thirty (30) days after the motion was filed, the last brief requested by the court has been filed, or oral argument on the motion is heard, whichever is later, the motion will be deemed denied without further order of the court.~~

(d) **Applicability to Rule 9024 Motions.** This rule applies to motions for relief from judgment or order under Rule 9024, Federal Rules of Bankruptcy Procedure, if the motion is made within the time specified in Rule 8002(b), Federal Rules of Bankruptcy Procedure.

(e) **Non-Appealable Orders.** The provisions of subsection (a) notwithstanding, a motion for reconsideration of a non-appealable order based upon an intervening change in controlling law may be made at any time prior to entry of an appealable order or judgment.

### ~~**Rule 9036-1 Request For Notice By Electronic Transmission**~~

~~(a) **Written Request for Notice.** In all instances where notice is authorized to be given electronically under the Federal Rules of Bankruptcy Procedure, or by order of the court, notice may be given electronically provided the intended recipient of notice has filed with the clerk or served upon the party giving notice a written request for notice by electronic transmission that substantially complies with AK LBF 32.~~

~~(b) **Certificate of Service.** In instances where service is effected electronically, the noticing party must file the notice and an affidavit of service, consistent with the provisions of AK LBR 2002-1(e).~~

### **Rule 9075-1 Hearings; Trials**

(a) **Places of Holding Court.**

(1) The Bankruptcy Court is located in Anchorage. Hearings and trials are scheduled as needed in Anchorage, Fairbanks, Juneau, and Ketchikan.

(2) Satellite offices are maintained in the United States District Court Office of the Clerk in Fairbanks and Ketchikan. Operation of these satellite offices is subject to budgetary constraints that may require their closure without notice.

(b) **No Hearing Required.**

(1) Absent objection, an actual hearing is not required for any "notice and hearing" matter

except as otherwise required by the Bankruptcy Code or Federal Rules of Bankruptcy Procedure.

(2) Among the matters that require actual hearing are motions:

[A] to obtain conversion or dismissal of a case where the Code requires a hearing;

[B] objections to claims; and

[C] ~~motions~~ to sell free and clear of liens;

[D] approval of disclosure statements and confirmation of chapter 11 plans; and

[E] to use cash collateral.

(3) [A] The moving party must, *ex parte*—

(i) lodge a proposed order consistent with AK LBR 9021-1, and

(ii) file a certificate that no objections were made, conforming to AK LBF 4.

[B] If the court determines a hearing is necessary, the court will inform the moving party of the date of the hearing.

**(c) Hearings and Calendar Requests.**

(1) In a matter in which a hearing is required the moving party must request a hearing date from the court; in all other matters either party may request a hearing date be set.

[A] Hearing dates are obtained from the office of the judge by submitting a completed Bankruptcy Court Calendar Request Form (AK LBF 7) available from the clerk's office.

[B] *[Abrogated]*

[C] The matter may not be promptly scheduled unless a hearing date has been requested from the court in accordance with this paragraph.

(2) [A] Unless one of the parties files a calendar request or unless a hearing is required by a rule or order of the court, a matter is deemed submitted for the court's consideration seven (7) days after the time for filing objections has passed.

[B] Once a matter is deemed submitted, it is the responsibility of the moving party to submit a proposed order to the court, consistent with AK LBR 9021-1.

(3) [A] Unless otherwise provided by court order or rule, written notice of the hearing must be filed and served on the opposing party, trustee, debtor, or debtor's attorney no later than seven (7) days prior to the date of the hearing.

[B] The matter may not be heard, or may be decided adversely to the non-complying party if the notice is not filed and served.

(4) [A] Unless otherwise ordered by the court, in any matter requiring less than seven (7) days notice the initiating party must, in addition to written notice, give telephonic notice of the hearing on or before the same day as written notice is given, to the opposing party, debtor and trustee, or their attorneys, if they are represented.

[B] Telephonic notice is not required if the party upon whom it should otherwise be made has not provided and maintained a current telephone number in the appropriate manner in the official Bankruptcy Court file.

[C] An affidavit or declaration of telephonic notice must be filed with the court at the same time written notice of hearing is filed.

**(d) Nonappearance by Requesting Party.** Whenever a party who has requested a hearing does not appear in person or by attorney at the hearing, the court may award the opposing party attorney fees occasioned by the non-appearance. The court may authorize a party to appear in a manner other than in person.

**(e) Affidavits/Declarations, Witnesses, and Expected Testimony.**

(1) Unless otherwise ordered by the court, to the extent not earlier served and filed, not later than seven (7) days before the hearing, each party must comply with the requirements of Rule 26(a)(3), Federal Rules of Civil Procedure, and serve and file with the court:

[A] all affidavits or declarations under penalty of perjury upon which the propounding party intends to rely; and

[B] a listing of all exhibits intended to be introduced into evidence.



[C] Objections as provided in Rule 26(a)(3), Federal Rules of Civil Procedure must be served and filed not less than three (3) business days before the hearing.

(2) Service under this subsection must be made by personal delivery or by other means that ensures that the recipient thereof receives the materials on or before the due date.

(3) Unless otherwise agreed to by stipulation of the parties or order of the court, no affidavit or declaration under penalty of perjury will be admitted unless the affiant or declarant is made available for cross-examination by the opposing party.

**Rule 9076-1 Telephonic or Video Participation by Parties In Interest**

**(a) Telephonic Participation.** At least three (3) business days prior to a scheduled hearing or trial, a party wishing to appear telephonically should contact the in-court recording deputy clerk assigned to the presiding judge for the case.

**(b) Video Participation.** At least five (5) business days prior to a scheduled hearing or trial, a party wishing to appear via video should contact the in-court recording deputy clerk assigned to the presiding judge for the case.

**(c) Court's Discretion.** Telephonic or video participation is subject to the court's discretion and will generally be at the requesting party's expense.