

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON**

In Re:

GENERAL ORDER NO. 98-1

SETTING DEPOSITIONS AND 2004 EXAMINATIONS;
SURPLUS ASSET NOTICES; PRO SE DEBTOR REAF-
FIRMATION AGREEMENT PROCEDURES; SUMMONS
PREPARATION; EXPEDITED HEARINGS; AND
SECURED CREDITOR ATTORNEYS' FEE CLAIMS

IT IS ORDERED THAT:

1. Effective March 1, 1998, for all cases, the title of LBR 2004-1. is amended to read "RULE 2004-1. DEPOSITIONS & EXAMINATIONS; RECORD OF EXAMINATIONS; SETTING PROCEDURES", and the text of such LBR is amended to read as follows:

A. GENERAL

The clerk shall neither provide nor store electronic tape recordings of any FRBP 2004 examinations. Court facilities may not be used for such examinations. A copy of any transcript prepared from an FRBP 2004 examination shall be filed with the clerk.

B. SETTING PROCEDURES

1. Preliminary Contact. Prior to setting a deposition or requesting an ex parte order for a 2004 examination, the attorney setting such deposition or examination shall first confer, or make a good faith attempt to confer, with adverse counsel to set a mutually agreeable date.

2. Order. Any proposed order for a 2004 examination or a deposition presented to the court shall have attached to it either: (a) a certification that the attorney presenting the order has conferred with opposing counsel and obtained agreement on the date for the examination or deposition, or (b) a certification describing the steps taken in a good

faith attempt to confer with opposing counsel about a mutually agreeable date.

3. Minimum Notice. Except for good cause shown or unless the parties otherwise agree, such examinations or depositions shall be set on no less than 10 days' notice to the affected parties.

2. LBR 3001-1.A.1.d. is amended to read as follows:

If the trustee concludes a case has surplus assets, the trustee may file a motion for authorization to send notice of such surplus to creditors who have not filed a claim. The court may then, for cause shown in an individual case, authorize the clerk to send a surplus asset notice in that case. If such notice is authorized, and is sent after the filing deadline for tardy claims set forth in LBR 3001-1.A.1.c., the deadline for filing tardy claims shall become that set in the notice.

3. Effective for all cases filed by individuals on and after March 1, 1998, LBR 4008-1.A. is amended to read as follows:

A debtor wishing to reaffirm a debt pursuant to 524(c) shall, in lieu of a motion, timely file a written reaffirmation agreement no later than 60 days following the first date set for the 341(a) meeting of creditors. LBF #718 shall be attached as a coversheet to each reaffirmation agreement filed with the court if the debtor is not represented by an attorney. Failure to attach LBF #718, and all required documents, shall be grounds for the court's refusal to approve any reaffirmation agreement.

In Chapter 7 cases reaffirmation agreements must be filed no later than 60 days following the first date set for the 341(a) meeting of creditors. If no written reaffirmation agreement is timely filed, accompanied by LBF #718 if the debtor is not represented by an attorney, the court will enter the debtor's discharge and may promptly close the case. If a reaffirmation agreement is timely filed, the court will proceed pursuant to LBR 4008-1.B.

4. Since the court will create LBFs #300, #300.1 and #700.2, LBR 7001-1.B.1.b. is amended to read as follows:

The plaintiff filing a complaint shall also submit a SASE for the clerk to return a Summons to such plaintiff for service pursuant to FRBP 7004.

5. LBRs 7001-1.D. and 9013-1.E. are amended to read as follows:

Any party requesting an expedited hearing shall attach each of the following to such written request:

1. An explanation of the reasons it is necessary;
2. An original proof of service showing that the request was served by either hand-delivery or facsimile contemporaneously with the filing of the request and as provided in FRBPs 7004 and 7005; and
3. A certification that either: (a) the attorney presenting the request has conferred with opposing counsel and obtained agreement as to the need for an expedited hearing, or (b) describes the steps taken in a good faith attempt to confer with opposing counsel as to the need for an expedited hearing.

6. Paragraphs 4(b)(1)(B) and (C) of General Order No. 97-1 are amended to read as follows:

(B) Postpetition and Preconfirmation. Either: (1) include those fees and costs in the initial proof of claim filed in the case, or (2) within 30 days after entry of the confirmation order, file and serve LBF #302 and a supplemental amended proof of claim which adds the fees and costs. The portion of the claim attributable to fees and costs incurred postpetition and preconfirmation shall be identified.

(C) Postconfirmation. At least 90 days prior to the date the debtor is scheduled to make the final plan payment, file and service LBF #302 and an amended or supplemental amended proof of claim which adds the claim for any fees and costs incurred postconfirmation which have not been included in a previously filed proof of claim.

DATED: JANUARY 28, 1998

/s/
Polly S. Higdon
Chief Bankruptcy Judge