

ADDENDUM TO PROPOSED REVISIONS TO LOCAL BANKRUPTCY FORMS

This addendum supplements and modifies the Proposed Revisions to Local Bankruptcy Rules and Forms dated September 21, 2017. Public comments to both proposals are invited through October 23, 2017.

Text proposed to be added is double-underlined, and text proposed language to be deleted is ~~struck through~~.

Please [click here](#) to submit comments concerning the proposed revisions or e-mail comments to LBRcomments@orb.uscourts.gov.

LBF 760.5. Notice of Intent to Sell Real or Personal Property, Compensate Real Estate Brokers, and/or Pay any Secured Creditor's Fees and Costs; Motions for Authority to Sell Property Free and Clear of Liens; and Notice of Hearing

The clerk cannot ensure proper service of the notice, and therefore the certificate of service is proposed to be changed as follows:

17. ~~{Unless movant is a Ch. 7 trustee}~~I certify that on _____ a copy of this document was served, pursuant to FRBP 7004, on the debtor(s), trustee, if any, U.S. Trustee, each named lien holder at the address listed above, Creditors' Committee Chairperson, if any, and their respective attorneys; and that a copy was also ~~served~~ sent on that date, pursuant to FRBP 2002(a), ~~on~~ to all creditors and all parties, including those requesting special notice, as listed in the Court's records that were obtained on _____, a copy of which is attached to the original document filed with the Bankruptcy Court.

LBF 763. Objection to Claim and Order and Notice Thereon.

After publishing its original proposal for public comment, the court reconsidered the decision to require objecting parties to serve only insured depository institutions as required by FRBP 3007(a)(2)(A)(ii), effective December 1, 2017. The clerk cannot ensure proper service of the claim objection, and therefore objecting parties are responsible for doing so.

The attached LBF 763 shows the proposed revisions to the version of the form published on September 21, 2017 (not the version of the form currently in use).

Proposed Order Language re: LBF 763. Objection to Claim, and Order Thereon

In the "negative notice/no hearing set" option, the court proposes to remove the notice portion, as it is duplicative of language in the Notice of Objection to Claim, and change the service requirements. In the "deadline notice/hearing set" option, the court has also clarified the service requirements. The modifications are shown below.

[The italicized language is a short-hand description of the circumstances under which the language would be used and will not be included in the actual order.]

Negative Notice (No Hearing Set):

~~NOTICE IS GIVEN that the claimant has 35 days from the date in the 'FILED' stamp to file any response and serve a copy of it on the trustee/debtor in possession and any other objecting party at the service address below.~~

IT IS ORDERED that if no response or withdrawal of the objection is filed within 35 days from the date in the 'FILED' stamp ~~by the deadline set forth~~ above, the objection will be sustained without further order and the claim will be treated as provided in paragraph 3 below.

IT IS FURTHER ORDERED that, within 5 days of the 'FILED' date of this order, if certified mail is required for effective service, the objecting party must serve, as necessary, this objection with the Notice of Objection of Claim ~~send the signed order by certified mail~~ and file a separate certificate of service ~~within 5 days of the 'FILED' date of this order.~~

Deadline Notice (Hearing Set):

~~IT IS ORDERED AND~~ NOTICE IS GIVEN that a hearing ~~on the matter below will be~~ has been set by the court in ~~a the separate~~ Notice of Objection to Claim and Hearing Thereon. If no response or withdrawal of the objection is filed within 35 days from the date in the 'FILED' stamp above, the objection may be sustained without further notice.

IT IS ~~FURTHER~~ ORDERED that, within 5 days of the 'FILED' date of this order, if certified mail is required for effective service, the objecting party must serve, as necessary, this objection with the Notice of Objection to Claim and Hearing Thereon ~~send the signed order by certified mail~~ and file a separate certificate of service ~~within 5 days of the 'FILED' date of this order.~~

~~Any response must be filed within 35 days of the "FILED" date of this order. If no response or withdrawal of the objection is filed by that deadline, the objection may be sustained without further order and the claim may be treated as provided in paragraph 3 below.~~

NOCH, Notice of Objection to Claim

The court proposes to modify the language of the notice produced when a hearing is set on the claim objection to include the hearing information and clarify that a response must always be filed if the claimant wishes to resist the objection. The full notice is attached.

LBF 1300.17. Chapter 13 Plan.

The court received a comment regarding this sentence in Paragraph 4(b): “Each secured creditor will retain its liens until payment of its secured claim.”

The language in the current plan is as follows: “Secured creditors shall retain their liens until payment of the underlying debt, determined under nonbankruptcy law, or discharge under §1328(a), at which time the lien shall terminate and be released by the creditor.”

The court welcomes additional comments on this issue.

LBF 1305. [Only For Chapter 13 Cases] Debtor's Attorney's Disclosure Of Compensation And Any Employment Agreement, And Application For Compensation, Under 11 USC §329 And FRBP 2016(b)

The court previously published a proposed new local bankruptcy form, LBF 1306, but did not provide a mechanism for requiring its use. The attached revision to LBF 1305 accomplishes this purpose.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re)
) Case No. _____
)
)
)
) **OBJECTION TO CLAIM, AND**
) **ORDER ~~AND NOTICE~~ THEREON**
Debtor(s))

1. The undersigned objects to Claim No. _____, filed in the amount of \$ _____ by:

Claimant's name: _____

Proof of Claim Notice Address:

FRBP 7004(h) Service Address, if applicable (objecting party must serve)
--

~~[Note: The clerk will send this objection to the claimant at the proof of claim notice address and, if applicable, to the addresses required under FRBP 3007(a)(2)(A)(i).]~~

2. The undersigned objects to such claim on the ground(s) it (check all applicable sections):

Duplicates Claim No. _____ filed by _____.

Fails to assert grounds for priority.

Was not filed on behalf of a real party in interest (e.g., does not include a copy of the assignment(s) upon which it is based).

Appears to include interest or charges accrued after the filing.

Appears that value of collateral exceeds debt.

Arrearage asserted is incorrect.

The creditor filed a secured claim, but neither: (a) specified that any portion of the claim should be treated as unsecured nor (b) requested a hearing to determine the value of their collateral, and therefore the trustee objects to any portion of the claim being treated as unsecured.

The creditor filed a claim for taxes assessed against real or personal property of the debtor(s). The undersigned represents that the interest of the estate in the real or personal property against which the above taxes were assessed has no value in that the estate has no equity or interest in such property, and so under the provisions of 11 U.S.C. §502(b) no order can be made for payment of such taxes.

Proof of claim does not include documentation required by FRBP 3001(c) and (d) (e.g., a copy of the note, or documents establishing secured status).

Other:

3. The undersigned recommends said claim be (check applicable box(es)):

Disallowed in full.

(If objection is based on failure to provide documentation) Disallowed for distribution: If an amended claim including the required documentation is not filed within 30 days of the filed date noted above, no distribution on account of the claim will be made by the trustee or debtor.

Allowed as a SECURED claim for \$_____; a PRIORITY UNSECURED claim for \$_____; AND a NONPRIORITY UNSECURED claim for \$_____.
[You must fill in each blank even if it is \$0.]

(If amount of arrearage is contested) The amount of the arrearage is \$_____.

4. **THE UNDERSIGNED CERTIFIES THAT:**

- a. The undersigned will make any required ~~additional~~ service of this objection and file a separate certificate of service.
- b. If this objection is filed in a chapter 11 case, the undersigned has complied with LBR 3007-1(b)(2) (requiring prefiling conferral).

- c. A copy of any Withdrawal of this Objection will be served on all parties that were served a copy of this Objection (i.e., the U.S. Trustee, any trustee, debtor(s), the creditor at the address shown above, and their respective attorneys; and, if the creditor is a federal agency, on the U.S. Attorney for the District of Oregon and the U.S. Attorney General).

DATE: _____
Objecting Party Signature AND Relation to Case

Objecting Party Name AND Service Address (Type or Print)

Objecting Party Phone Number

(If Debtor is Objecting Party) Debtor's Address AND Taxpayer I.D.#(s)
(last 4 digits)

763 (12/1/17)

**UNITED STATES BANKRUPTCY COURT
District of Oregon**

In re)	
John Doe)	Case No. xx-xxxxx-xxx7
Jane Doe)	
)	NOTICE OF OBJECTION TO CLAIM
Debtor(s))	

An objection to your claim in this bankruptcy case has been filed and is enclosed with this notice.

Your claim may be reduced, modified, or eliminated. You should read these papers carefully and discuss them with your attorney, if you have one.

A hearing on the objection to claim, at which testimony will not be received, will be held:

Date: _____ **Time:** _____ **Location:** _____

If you do not want the court to eliminate or change your claim, then you or your attorney must:

1. ~~If required by the order at the top of the claim objection, p~~Prepare a written response to the objection, explaining your position, and file it with the court at the address below. The objection must be filed within 35 days of the "FILED" date on the objection to claim.

If the 5-digit portion of the Case No. begins with "3" or "4", file your response at 1001 SW 5th Ave. #700, Portland OR 97204.

If the 5-digit portion of the Case No. begins with "6" or "7", file your response at 405 E 8th Ave #2600, Eugene OR 97401.

You must also send a copy of your response to the objecting party at the address or addresses listed at the bottom of the claim objection.

2. Appear at the hearing at the date, time, and location specified in the enclosed notice of hearing.

If you or your attorney do not take these steps, the court may decide that you do not oppose the objection to your claim, and may reduce or eliminate your claim.

Clerk, U.S. Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re) Case No. _____
)
) [ONLY FOR CHAPTER 13 CASES]
) DEBTOR'S ATTORNEY'S DISCLOSURE
) OF COMPENSATION AND ANY
) EMPLOYMENT AGREEMENT, AND
) APPLICATION FOR COMPENSATION,
Debtor(s)) UNDER 11 USC §329 AND FRBP 2016(b)

Debtor's attorney discloses compensation paid or to be paid in the above referenced case. Debtor and debtor's attorney have agreed to attorney compensation, and have have not entered into an employment agreement. **A copy of the employment agreement, if any, is attached hereto.**

The applicable schedule for the fee agreement between debtor and debtor's attorney is indicated below. If Schedule 1 or Schedule 2 is selected, debtor(s), acting by and through the undersigned counsel, apply to the court for an order authorizing the compensation specified therein.

- SCHEDULE 1:** The total fee request is \$ _____ (\$4,750 maximum). This amount represents all fees for the entire life of the case except for appeals or any adversary proceeding. Debtor has agreed to pay fees of
- \$ _____ (\$4,750 maximum) and expenses of \$ _____ for a total of \$ _____. Debtor (specify) _____ has paid \$ _____, leaving \$ _____ to be paid through the plan.

- SCHEDULE 2:** Regarding all services rendered through confirmation of the plan plus the initial audit of claims, debtor and debtor's attorney have agreed upon:
- (a) a flat fee (i.e., requiring no itemization) of \$ _____ (\$3,450 maximum). Debtor and debtor's attorney have agreed that post-confirmation services (after the initial audit of claims) will be charged as specified in the attached agreement or, if there is no written agreement, as follows:

- (b) an estimated total fee of \$ _____ and expenses of \$ _____. Time records must be kept for all work performed both "pre" and "post" petition. Such records may be requested by the court at any time, and must show the time and rate applied to each service rendered. If the estimated fee exceeds \$3,450, an itemized statement showing the time and hourly rate applied to each service rendered, attached to LBF 1306, must be filed with the court not less than one week prior to the final confirmation hearing.

Debtor (specify) _____ has paid \$ _____, leaving \$ _____ to be paid through the plan.

SCHEDULE 3: [COMPLETE ONLY IF CURRENT ATTORNEY WAS RETAINED AFTER CONFIRMATION OF A PLAN.] Debtor and debtor's attorney have agreed to fee arrangements as follows:

Debtor (specify) _____ has paid \$ _____, leaving
\$ _____ to be paid through the plan.

[If the services specified in a previously submitted Schedule 1 or Schedule 2 (through confirmation and the initial audit of claims) were not completed] The debtor, the debtor's former attorney, and the debtor's current attorney have agreed to the following with respect to the former attorney's fees and will apply for any necessary court order for approval:

IMPORTANT:

1. No additional compensation requests will be granted if SCHEDULE 1 is selected, or after a final application is filed if SCHEDULE 2 or SCHEDULE 3 is selected.
2. Supplemental applications for compensation: (a) may only be filed if SCHEDULE 2 or SCHEDULE 3 is selected; (b) will not be considered unless the application is clearly marked as a final compensation application, or unless the supplemental compensation requested is more than \$500 and at least 6 months have expired since the filing of the case or since the filing of any earlier application; and (c) must be filed using LBF #1307, including an itemization of all services previously performed for which no previous itemization and application has been filed.

I certify there is no agreement to share compensation with any other person, except with a regular member, partner, or associate of my attorney firm, except as follows (provide details):

I further certify that on _____ a copy of this document was served on the debtor(s) and trustee.

DATED:

Debtor's Attorney