

# PROPOSED REVISIONS TO LOCAL BANKRUPTCY RULES AND FORMS

October 1, 2021

This document contains proposed revisions to the December 1, 2020, version of the Local Bankruptcy Rules for the District of Oregon and proposed revisions to various Local Bankruptcy Forms. Some of the proposed revisions were recommended to the court by the Oregon State Bar Debtor-Creditor Section Local Bankruptcy Rules and Forms Committee. Comments intended to explain the proposals follow each proposed change.

Text proposed to be added is double-underlined, and text proposed 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](mailto:LBRcomments@orb.uscourts.gov). Any comments must be received on or before October 31, 2021 to be considered. After reviewing any comments, the court will post the final revised rules and forms which will take effect on December 1, 2021, unless otherwise noted.

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## PROPOSED LOCAL BANKRUPTCY RULES REVISIONS

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### Rule 1006-1. Fees—General.

- (a) **Installment Payment Request.** A debtor must file LBF 110 (or OF 103A) to request authority to pay the petition filing fee in installments.
- ~~(b) **Payment Required when Filing a Petition.** A debtor must tender not less than the amount specified on the current version of LBF 110.~~
- ~~(b)(e) **Dishonored Check.** If a check or draft is returned for nonsufficient funds or another valid reason, the clerk may thereafter require that fee payments on behalf of a party be made in a form other than personal check.~~
- ~~(c)(d) **Erroneous Payment of Fee or Charge.** An entity making any payment with respect to a filing fee, or other fee or charge, must ensure the fee is due and not overpaid or paid more than once. The clerk may retain any excess payment.~~
- ~~(d)(e) **Child Support Creditor Exemption From Certain Filing Fees.** OF 2810 must be filed.~~

**Comment.** Subsection (b) is proposed for removal because it is inconsistent with Federal Rule of Bankruptcy Procedure (FRBP) 1006(b)(1) (“A voluntary petition by an individual shall be accepted for filing, regardless of whether any portion of the filing fee is paid, if accompanied by the debtor's signed application [to pay in installments].”).

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### Rule 1016-1. Death of a Debtor or Party.

[...]

- (b) In the event of the death of an individual debtor in an open case, a surviving debtor or personal representative must file a notice of the initiation of ~~a~~ any probate proceeding.

**Comment.** This proposed revision is intended to make it clear that the court does not impose a requirement to initiate a probate proceeding upon the death of a debtor.

## Rule 1017-2. Dismissal—Case.

(a) **Motion to Dismiss.** Unless filed by a debtor that has a statutory right to dismiss the case, a motion must be served on the debtor and any creditors' committee. The motion must set forth the terms of any agreement concerning the dismissal.

~~(b) — Motion to Dismiss by Debtor in Chapter 12 or 13 Case.~~

~~(1) If a chapter 12 case or a chapter 13 case has not been converted, the motion will ordinarily be granted without notice unless an objection is filed within seven days after the filing of the motion.~~

~~(2) A debtor moving under (1) above may request expedited relief. If the debtor requests expedited relief, the court will promptly consider the motion.~~

**(be) Chapter 7 or 13—Motion to Vacate Dismissal.** The motion must be filed on LBF 1367.92 and signed by the debtor.

**Comment.** Rule 1017-2(b) was added effective December 1, 2018 consistent with then-applicable law that there was an implied “bad faith or abuse of process” section to Section 1307(b). *In re Rosson*, 545 F.3d 764 (9th Cir. 2008). On September 1, 2021, the Ninth Circuit held that “*Rosson* has been effectively overruled by *Law* and is no longer binding precedent . . . .” *Nichols v. Marana Stockyard & Livestock Market*, No. 20-60043 (9th Cir. Sept. 1, 2021) at 12. The Ninth Circuit concluded that Section 1307(b) “confers upon the debtor an absolute right to dismiss a Chapter 13 bankruptcy case, subject to the single exception noted expressly in the statute itself.” *Id.* at 16. With this change in applicable law, it is appropriate to reverse the 2018 changes and revert to the prior local bankruptcy rule.

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## Rule 1019-1. Conversion—Procedure After. ~~{Reserved}~~

[LBR 2002-1\(a\)\(1\) applies.](#)

### Cross-references:

- Compensation and Expenses – LBR 2016-1.
- Final Report/Account – LBR 2015-1.
- Meeting of Creditors – LBR 2003-1.

**Comment.** This proposal relates to designation of clerk noticing duties updates—see also proposed revisions to [LBR 2002-1](#), [LBR 3015-2](#), [LBR 3019-1](#), [LBR 7005-1](#), and [LBR 9021-1](#).

A principle behind the Uniform Numbering System for Local Bankruptcy Rules is that a practitioner shouldn't need to study a specific LBR except to learn about local regulation of matters

governed by the corresponding FRBP. The proposed new rule corresponds with FRBP 1019(6) and lets practitioners know that LBR 2002-1(a)(1) applies to such matters.

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**Rule 2002-1. Notices to Creditors and Other Interested Parties.**

**(a) Entity Responsible for Giving Notice.**

- (1) General.** The clerk may direct an entity to serve any ~~required~~ notice that an FRBP requires be given by the clerk or some other person as the court may direct.
- (2) Chapter 7.** The entity ~~requesting relief~~, other than a trustee, proposing an action of which must serve all notices ~~is~~ required ~~under by~~ FRBP 2002(a)(2)-(4) must give the notice. An entity ~~requesting relief~~ giving a notice required by FRBP 2002(a)(6) must do so under LBR 2016-1.
- (3) Chapter 11.**
  - (A) General.** The entity ~~requesting relief must serve all~~ making a request for relief or proposing an action of which notice is required by notices except for one under FRBP 2002 must give the notice, unless the notice is required by FRBP 2002(a)(1), (a)(7), (d)(1), (f)(1), (f)(2) or (f)(6).
  - (B) Plan or Amended Plan.** The proponent must ~~serve~~ give a notice required by:
    - (i) FRBP 2002(b)(1) or (d)(5), together with the documents required by FRBP 3017(a), using the notice of hearing on proposed disclosure statement prepared by the court.
    - (ii) FRBP 2002(a)(5), (b)(2), (d)(6), or (d)(7), together with the documents required by FRBP 3017(d), using the order approving disclosure statement prepared by the court.
    - (iii) FRBP 2002(a)(6) for a final compensation application timely filed under LBR 2016-1(c)(2)(C).
- (4) Chapter 12.** The entity ~~requesting relief~~ making a request for relief or proposing an action must serve all of which notices ~~is~~ required ~~by FRBP 2002 must give the notice, except for one under~~ unless the notice is required by FRBP 2002(a)(1), (a)(7), (f)(1), (f)(2), (f)(3), (f)(5) or (f)(6).

- (5) **Chapter 13.** The entity ~~requesting relief~~ making a request for relief or proposing an action of which ~~must serve a~~ notice is required by FRBP 2002(a)(2), ~~or~~ (a)(3), or (a)(6) must give the notice.
- (6) **Chapter 15.** A foreign representative filing a petition for recognition must serve the notice required under FRBP 2002(q)(1) and any notice required by FRBP 2002(q)(2).

**Comment.** “Relief” is granted by a court order. Many of the common notices required by FRBP 2002 are negative notices, which do not by themselves request a court order. If an objection is made, the court will grant relief by sustaining or overruling the objection, but the entity proposing the action does not request relief unless and until an objection is made to the notice. This proposal adds “or proposing an action” to address this gap. Adding a delegation of FRBP 2002(a)(6) noticing duty in LBR 2002-1(a)(5) conforms with the court’s current practice.

See also proposed revisions to [LBR 1019-1](#), [LBR 3015-2](#), [LBR 3019-1](#), [LBR 7005-1](#), and [LBR 9021-1](#).

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### **Rule 2003-1. Meeting of Creditors.**

[...]

- (b) **Attendance.** The debtor and debtor’s attorney must attend and complete the meeting. The debtor’s attorney may arrange for another attorney to attend in ~~his or her~~ the attorney’s place without a formal substitution of attorney. The debtor’s failure to complete the meeting of creditors is a ground for dismissal of the case.

[...]

**Comment.** Language used in the rules of construction regarding gender may be interpreted as discriminatory. See also the related [LBR 9001-1 proposal](#) below.

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### **Rule 2015-1. Trustee—Reports, Accounts, Notices, & Destruction of Records.**

- (b) **Chapter 11.** [...]

- (2) **Final Account.**

- (A) **General.**

(i) In a case other than one in which the plan has been confirmed under § 1191(b), the following entity must complete and file LBF 1195 no later than 120 days after entry of a plan confirmation order: (i) a trustee or other agent, other than the plan proponent, an agent appointed under the plan to serve after confirmation; or, (ii) if no agent is appointed, the proponent. If LBF 1195 is not filed by that deadline, that entity must file a status report no later than 120 days after entry of the confirmation order and every 180 days thereafter until application for a case-closing order.

(ii) In a case in which the plan has been confirmed under § 1191(b), the trustee must file a status report no later than 120 days after entry of the confirmation order and every 180 days thereafter until the discharge of the trustee.

**Comment.** Quarterly U.S. trustee fees do not apply in chapter 11 subchapter V cases. For cases with plans confirmed under § 1191(b), this means there is no reason for the case to be closed before the debtor is ready to move for discharge and, thus, no reason for an application for final decree to be submitted shortly after confirmation. See also the proposed revisions to [LBF 1191.5](#) which add an application for final decree to the subchapter V motion for discharge.

Cases confirmed under § 1191(a) are likewise exempt from quarterly U.S. trustee fees, but discharge typically occurs upon confirmation in these cases. Thus, there is no reason to keep these cases open making application for a final decree shortly after confirmation appropriate.

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#### **Rule 2016-1. Compensation for Services Rendered & Reimbursement of Expenses.**

[...]

**(e) Chapter 13 Debtor's Attorney.**

**(1) Chapter 13 Debtor's Attorney's Compensation Disclosure and Application on LBF 1305. General. A disclosure of compensation, any employment agreement, and an initial application for compensation must be filed on LBF 1305 no later than 14 days after the first date set for the meeting of creditors. Any amended disclosure must be filed on LBF 1305 no later than 7 days before the confirmation hearing.**

**(A) An attorney representing a chapter 13 debtor in or in connection with the chapter 13 case must file an LBF 1305 no later than 14 days after the later of the petition date or the date the attorney first provides services—unless**

the attorney is not required by § 329(a) to make a disclosure or by FRBP 2016(b) to make a statement.

(B) An attorney whose LBF 1305 is due more than seven days before the final confirmation hearing must file any required amended LBF 1305 no later than seven days before the final plan-confirmation hearing.

**(2) Chapter 13 Debtor's Attorney's Schedule 2.(b) Itemization on LBF 1306. ~~Post Confirmation Supplemental Compensation Application.~~**

(A) If the attorney selects LBF 1305 Schedule 2.(b) and (i) the LBF 1305 estimate, before credit for payments, exceeds \$3,450 or (ii) the actual value of services rendered and reimbursable expenses incurred by the attorney through 14 days before the final confirmation hearing exceeds \$3,450, the attorney must complete and file a Chapter 13 Debtor's Attorney's Schedule 2.(b) Itemization on LBF 1306 no later than seven days before the final confirmation hearing. Any Chapter 13 Debtor's Attorney's Supplemental-Compensation Application on LBF 1307 by an attorney who has not timely filed an LBF 1306 may not include any amount by which the total amount of fees and expenses incurred through 14 days before the final confirmation hearing exceeds the amount of compensation and expense reimbursement allowed in the confirmation order.

(B) Plan confirmation after the filing of an LBF 1306 does not constitute allowance of fees and expenses exceeding the amounts allowed in the confirmation order. Allowance of any excess will be considered in connection with the first LBF 1307.

**(3) Chapter 13 Debtor's Supplemental-Compensation Application on LBF 1307.**

(A) No LBF 1307 may be filed (i) if Schedule 1 was selected on LBF 1305, (ii) to request fees and expenses less than \$500 on a nonfinal LBF 1307, (iii) sooner than six months after the last to be filed of the LBF 1305 and any prior LBF 1307, (iv) after filing a final LBF 1307, or (v) after ~~If permitted under the LBF 1305 filed in the case, the application must be filed on LBF 1307 no later than~~ 28 days after service of the trustee's notice of plan completion.

(B) If Schedule 2.(b) was selected—and even if an LBF 1306 was filed—the first LBF 1307 must include an itemized statement of all services rendered and expenses incurred in contemplation of or in connection with the case, both before and after the petition date, and it must reflect the paid amounts listed in the LBF 1305 and amounts allowed in the confirmation order.



(C) The presumptively reasonable compensation for preparation of each LBF 1307 is \$100.

(D) If allowance of the compensation requested in an LBF 1307 will require a plan modification, the debtor must, within 28 days after allowance of this LBF 1307, file either a Notice of Postconfirmation Amendment of Plan on LBF 1355.10 and a proposed amended plan on the appropriate LBF or a statement why none has been filed.

[...]

**(h) Secured Creditor Expenses.** In this subdivision the term “expense” includes the costs of insurance, taxes paid, attorney fees, appraisal fees, and inspection fees.

**(1) Chapter 7 or 11.**

**(A) General.**

[...]

**(ii) Declaration of Professional.** A proof of claim filed for postpetition expenses that includes a claim for compensation of professional services must also include a declaration from the professional that contains the following five points of information and representations:

(I)(4) ~~The declarant requests allowance of compensation for:~~  
~~P~~professional ~~S~~services of \$\_\_\_\_; and ~~E~~expenses of \$\_\_\_\_; for a ~~T~~total of \$\_\_\_\_. Expenses claimed were actually charged to the declarant.

(II)(2) [Rate based on hourly charge] The rate of compensation, number of hours, and requested fee for each person included in this application are summarized as follows:

<u>Timekeeper</u> <u>(names and initials)</u>	<u>Title</u>	<u>Hourly</u> <u>Rate</u>	<u>Number</u> <u>Of Hours</u>	<u>Requested</u> <u>Fee</u>
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[Rate not based on hourly charge] The fees for services were calculated as follows: ~~(Describe)~~. Services were provided by the following: ~~(Identify by name)~~.

(III)(3) The declarant has not shared or agreed to share any compensation received or to be received for services

rendered in connection with this case, except with a regular member, partner, or associate of declarant's firm.

~~(IV)(4)~~ A description of the timekeeper's services and expenses is included and incorporated into the declaration.

~~(V)(5)~~ The declarant requests: a. A total of \$ \_\_\_\_\_ for expenses that fall within the limits of LBR 2016-1(b) (no itemization required); ~~AND~~ b. Other ~~(describe each in detail)~~:

[...]

**Comment.** The proposed changes to subsection (e) correspond to proposed revisions to [LBF 1305](#), [LBF 1306](#), and [LBF 1307](#). See those proposals for more information.

Proposed changes to subsection (h) are stylistic only and primarily entail changing the fourth-level subsections numbering from Hindu-Arabic numerals to upper-case Roman numerals to match formatting in the rest of the rules.

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#### **Rule 3015-2. Chapter 12 or 13—Plan Amendment.**

- (a) **General.** Any proposed amendment must be: [...]
- (3) Signed and dated ~~with the date signed~~ by the ~~debtor~~ proponent of the amendment or ~~debtor's proponent's~~ attorney.
- (b) **Preconfirmation.** If a proposed amendment is filed 28 days or more before a confirmation hearing, the ~~debtor~~ proponent of the amendment must attach the amended plan to LBF 1355.05 and serve it under that form. An amended plan may not be filed fewer than 28 days before the then-pending confirmation hearing.
- (c) **Postconfirmation.**
- (1) The ~~debtor~~ proponent of the amendment must use the same version of the local form plan as the prior confirmed plan and attach a proposed amendment to LBF 1355.10.
- (2) The proponent must give the notice required by FRBP 3015(h).

**Comment.** This proposal relates to designation of clerk noticing duties updates—see also proposed revisions to [LBR 1019-1](#), [LBR 2002-1](#), [LBR 3019-1](#), [LBR 7005-1](#), and [LBR 9021-1](#).

Adding a delegation of FRBP 3015(h) noticing duty in this rule conforms with the court’s current practice. Other changes are to account for the rare but permissible situation in which the proponent of the amendment is not the debtor.

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**Rule 3019-1. Chapter 11—Plan or Disclosure Statement Amendment.**

**(a)** A proposed amended plan or disclosure statement must be:

**(1a)** Entitled a “(insert First, Second, etc.) Amended Plan or Disclosure Statement.”

**(2b)** Preceded by a separate document containing the old and new language set out separately in different forms (e.g., by striking through deleted language and highlighting new language, or bracketing deleted language and underlining new language).

**(3e)** Complete, including each proposed amendment.

**(4d)** Signed and dated.

**(b)** LBR 2002-1(a)(1) applies to a request under FRBP 3019(b) to modify a confirmed plan in an individual chapter 11 case.

**Comment.** This proposal relates to designation of clerk noticing duties updates—see also proposed revisions to [LBR 1019-1](#), [LBR 2002-1](#), [LBR 3015-2](#), [LBR 7005-1](#), and [LBR 9021-1](#).

A principle behind the Uniform Numbering System for Local Bankruptcy Rules is that a practitioner shouldn’t need to study a specific LBR except to learn about local regulation of matters governed by the corresponding FRBP. The proposed new rule corresponds with FRBP 3019(b) and lets practitioners know that LBR 2002-1(a)(1) applies to such matters.

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**Rule 3020-1. Chapter 11—Confirmation; Report of Administrative Expenses & Confirmation Order.**

[...]

**(b) Confirmation Order.**

**(1) General.** A proposed confirmation order must ~~be:~~

- (A) ~~Be P~~prepared by the plan’s proponent.
  - (B) ~~Specify~~Specify as to the amount of unpaid fees due to the clerk and require payment no later than 14 days after the order is entered.
  - (C) ~~Be L~~lodged no later than seven days after the final confirmation hearing.
  - (D) In a subchapter V case, identify the subsection of § 1191 under which the plan will be confirmed in both the caption and body.
- (2) **Notice of Confirmation.** No less than 30 days, nor more than 45 days, after entry of a confirmation order, the proponent must prepare and file a notice on LBF 1190.

**Comment.** The subsection under which a plan in a subchapter V case is confirmed greatly affects how the case proceeds, including affecting when discharge occurs and whether services of the trustee are terminated upon confirmation. Given the importance of the confirmation subsection, it will aid the court and parties alike to have this information clearly available in the caption and the body of the confirmation orders.

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**Rule 4001-1. Relief From Automatic Stay; Use of Cash Collateral; Obtaining Credit; Agreements; Rental Cure Deposits.**

~~(a) Chapter 7 Nonjudicial Relief from Automatic Stay.~~

- ~~(1) Request. An entity claiming an interest in property of the estate or property in the possession of the debtor or trustee may request nonjudicial relief from the automatic stay of § 362(a) under LBF 715.~~
- ~~(2) Objection. An objection must not be filed with the court. An objection to a request, unless made at the meeting of creditors, must be in writing and contemporaneously delivered to only the debtor, the trustee, and the entity requesting relief. If the trustee receives a timely objection, the trustee must not grant nonjudicial relief unless the objection is withdrawn in writing.~~
- ~~(3) Granting and Effect of Nonjudicial Relief. If permitted under LBF 715, the trustee may grant nonjudicial relief from stay by executing LBF 750. A grant of nonjudicial relief constitutes termination of the stay of an act against the subject property. An LBF 750 need not be filed to become effective. The trustee will not be deemed to have abandoned or waived any interest or other rights in the property by executing LBF 750. Any nonexempt equity in the property remains property of the estate, and any exempt equity remains property of the debtor.~~

**~~(b)~~(a) Motion for Relief From Debtor or Codebtor Stay.**

[...]

**~~(e)~~(d) Debtor’s Consent to Relief From Stay re Property to be Surrendered.** Marking the “Property Will be Surrendered” box on a debtor’s chapter 7 statement of intention form (LBF 521.05) as to any property constitutes the debtor’s consent to relief from the automatic stay with regard to that property. Relief from stay will be effective at the earliest of the following: (1) the granting of ~~judicial or nonjudicial~~ relief from stay, (2) physical surrender of the property by the debtor, or (3) expiration of the time deadlines in § 521.

**Comment.** The proposal is to eliminate the nonjudicial relief from stay process. In addition to removing it from the rules as shown above, this proposal would also entail the retirements of LBF 715 and LBF 750 and removing the reference thereto from LBF 521.05.

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**Rule 4008-2. Voluntary Modification of Debt Secured by Debtor’s Residence in Chapter 7 and Chapter 13 Cases.**

**(a) Chapter 7 Cases.** A mortgage creditor may negotiate a modification of its secured claim with the debtor and the debtor’s attorney at any time during the pendency of a ~~C~~chapter 7 case. A modification is voluntary on the part of the secured creditor and the debtor and is subject to procedures set forth in LBF 751.7. The court will not consider a mortgage creditor’s contact with the debtor or the debtor’s attorney and any negotiation ~~or to~~ implementation of a modification, by themselves, to violate the automatic stay of ~~11 U.S.C.~~ § 362 or the discharge injunction of § 524. No modification can become effective until the trustee abandons the encumbered real property.

[...]

**Comment.** A chapter 7 residential-mortgage modification after abandonment of the residence does not violate the discharge injunction. *In re McCulloch*, No. 10-34946-elp7 (May 6, 2013) (Perris, Bankr. J.) (authorizing, without analysis, pursuit of a refinance of mortgage under HARP, and ordering that it would not be a discharge violation). Court approval of an act that would violate the discharge injunction is ineffective to prevent the act from violating the discharge injunction. At best, we can issue declaratory relief that an act is not a discharge-injunction violation. Current LBR 4008-2(a), applicable to chapter 7 cases, effectively makes a categorical holding that negotiation and effectuation of a loan modification do not violate the automatic stay. The stay, of course, doesn’t apply to nonstate property after discharge, but in theory negotiation or effectuation of a modification could be a discharge-injunction violation.

The proposed change and corresponding changes to [LBF 751.7](#) obviates motions for approval of loan modifications, essentially determining by rule that postdischarge negotiation and effectuation of a loan modification is not a discharge violation.

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### Rule 7005-1. Service & Certificate of Service

#### (a) Service Requirements

- (1) A document served on an entity must also be served on an attorney of record for the entity.
- (2) When service of a document prepared and filed by an entity is required, the service must be made contemporaneously with the act of filing.
- (3) When the court delivers a notice to serve a document to an entity, service must be made under the notice.

~~(4) — LBR 2002-1 applies.~~

**Comment.** This proposal relates to designation of clerk noticing duties updates—see also proposed revisions to [LBR 1019-1](#), [LBR 2002-1](#), [LBR 3015-2](#), [LBR 3019-1](#), and [LBR 9021-1](#).

FRBP 7005 regulates service of motions within an adversary proceeding. There is no overlap between the regulation of notices required by FRBP 2002 and that of motions in an adversary proceeding.

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### Rule 9001-1. Rules of Construction & Definitions.

Titles and headings are part of the LBRs. A word or phrase not otherwise defined in an LBR or LBF has the meaning and construction assigned to it in the Code or an FRBP unless the specific definitions below or the context require otherwise. All singular words include the plural, ~~and any reference to one gender includes both genders~~. A list of items after a colon will generally be read to be joined by an “and.” However, if the colon follows the word “either,” the list will be read to be joined by an “or.” The following definitions apply in these LBRs and to all LBFs:

**Comment.** Language used in the rules of construction regarding gender may be interpreted as discriminatory. See also the related [LBR 2003-1\(b\) proposal](#) above.

**Rule 9021-1. Order or Judgment—Entry of; Costs.**

**(b) Lodging of Proposed Order or Judgment.**

- (1) When Permitted.** A proposed order or judgment may be lodged when it is appropriate for the court to sign it.

[...]

- (C)** The proponent must lodge an order concurrently with the motion or application if—

- (i)** the order is combined with the motion or application in a single LBF;
- (ii)** the proponent seeks entry of the order without notice and a hearing pursuant to LBR 9013-1(b)(2)(F); ~~or~~
- (iii)** the motion or application contains a certification that it is stipulated, agreed, or unopposed; or

**(iv)** the motion is for entry of default in an adversary proceeding.

- (D)** An order or judgment that is stipulated, agreed, or unopposed may be lodged at any time.

- (2) Orders Not to be Lodged.** No party need lodge a proposed order of the types listed in LBR 9021.

[...]

~~**(5) Service.** The court may delegate to the party lodging a proposed order or judgment, or such other party specifically designated by the court, the clerk's obligation under FRBP 9022(a) to serve an order or judgment to the contesting parties immediately after entry of the order or judgment.~~

**Comment.** The proposed addition of subsection (b)(1)(C)(iv) is intended to make it clear that default orders and judgments may be permissibly lodged concurrently with motions.

The proposed removal of subsection (b)(5) relates to designation of clerk noticing duties updates—see also proposed revisions to [LBR 1019-1](#), [LBR 2002-1](#), [LBR 3015-2](#), [LBR 3019-1](#), [LBR 7005-1](#).

FRBP 9022(a) requires the clerk to give notice of an order or judgment to the contesting parties. Unlike FRBP 2002(a), FRBP 9022(a) does not authorize the court to direct someone other than the clerk to give that notice.



## PROPOSED LOCAL BANKRUPTCY FORM (LBF) REVISIONS

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### LBF ADV, Procedures Re: Filing an Adversary Proceeding Complaint.

#### What ~~You Need the Plaintiff~~ Needs to File

1. A complaint (see below) or stipulated judgment
2. An Adversary Cover Sheet if filed on paper
3. A filing fee for each complaint ~~(unless the plaintiff is:~~
  - a debtor not acting as a debtor in possession, ~~or~~
  - a child-support creditor or representative ~~that~~who has filed Procedural Official Form #B 2810). ~~If the plaintiff is~~
  - ~~the trustee or~~ a debtor in possession, who certifies that there are insufficient funds in the estate to pay the filing fee (the fee must be paid only by the estate, to the extent that there is an estate. If filing on paper, make check payable to "Clerk, U.S. Bankruptcy Court." later if funds are available)

Current fees are found at <https://www.orb.uscourts.gov/court-fees>. Any check or money order for the filing fee must be payable to "Clerk, U.S. Bankruptcy Court."

- ~~1. [Only if filed on paper] An original of the Adversary Cover Sheet completely filled out and signed. A blank Cover Sheet will be furnished upon request.~~
- ~~2. Complaint or stipulated judgment without a complaint.~~
- ~~3-4. [If filed by a ~~non-governmental~~nongovernmental corporation that is not the debtor] Corporate Ownership Statement, a corporate ownership statement per Federal Rule of Bankruptcy Procedure (FRBP) 7007.1.~~

#### Complaint

~~Make sure the heading is correct. For example, a "Complaint to Deny Discharge" (i.e., of all debts) is different from a "Complaint to Except Debt from Discharge" (i.e., of a single debt).~~

The complaint must allege state the applicable section(s) sections of the Bankruptcy Code upon which the complaint is based and comply with FRBP 7008 and Local Bankruptcy Rule ~~(LBR)~~ 7008-1. The heading and caption must be formatted as follows:

~~Sample Caption Format:~~

In re

\_\_\_\_\_  
Debtor(s)

\_\_\_\_\_  
Plaintiff(s)

v.

\_\_\_\_\_  
Defendant(s)

Case No. \_\_\_\_\_

Adv. Proc. No. \_\_\_\_\_

~~{TITLE}~~

~~{COMPLAINT~~

[A jury trial demand, if any, must be shown here.]

When filing the complaint in paper, leave the Adv. Proc. No. blank. The clerk will assign a number, which will appear on the summons. This number, as well as the bankruptcy case number with which the adversary proceeding number is associated, must be listed on all documents filed in the adversary proceeding.

### Summons

The court will issue ~~an original a~~ summons. ~~If you electronically file to the plaintiff.~~

The court will mail the summons to the plaintiff for service on the defendants unless the complaint using is electronically filed in CM/ECF, you in which case the plaintiff will receive the summons via a Notice of Electronic Filing (NEF); otherwise, the court will mail it to you for service. You will need to make a. A copy must be made for each party to be served.

### Service of the Summons (See FRBP 7004)

Within 7 days after the issuance of the summons, ~~you the plaintiff~~ must serve a copy of the summons and complaint on ~~the all defendants and, if the debtor is a~~ defendant(s) and ~~any defendant's is represented by an~~ attorney. ~~in the bankruptcy case, the debtor's attorney.~~ If the 7-day deadline is not met, ~~you the plaintiff~~ must file a request for ~~alias a replacement~~ summons.

Service by mail may be made within the ~~U.S.~~ United States by first-class mail, postage prepaid. In some ~~cases situations~~, certified mail is required. See FRBP 7004(h). ~~The Certificate The plaintiff must then file a certificate of service (Local Bankruptcy Form (LBF) 305) with the court. The certificate~~ must:

- (1) be ~~fully completed signed~~ by the person who ~~mailed served~~ the documents;
- (2) ~~indicate show~~ the exact name and title of each ~~party to person on~~ whom the documents were ~~mailed; served~~.

- (3) show compliance with FRBP 7004;
- (4) be attached to the ~~original~~ summons, ~~or linked to it if filed electronically~~; and
- (5) be ~~immediately promptly~~ filed with the clerk.

### Questions?

~~Please call the case administrator in Portland (503-326-1500) or Eugene (541-431-4000) or write to: Clerk, U.S. Bankruptcy Court, 1050 SW 6th Ave. #700, Portland OR 97204 or 405 E 8th Ave. #2600, Eugene OR 97401. Service of the summons and complaint is governed by FRBP 7004. This rule specifies what type of service is required based on the identity and location of the defendant being served.~~

**Comment.** In addition to intending to add clarity and readability, the proposed revisions correct two errors in the “Service of the Summons” section of the current form:

- 1) The first sentence suggests service on defendants’ attorneys is mandatory although it is only mandatory for debtor defendants (FRBP 7004(g)).
- 2) The fourth numbered requirement states that the certificate of service may be “linked to [the summons] if filed electronically” which is neither technically possible in CM/ECF nor a permissible alternative to including a copy of the summons with the certificate of service.

---

**LBF 525, Debtor’s Certification Regarding Payment of Domestic Support Obligations in a Chapter 12/ or 13 Case and Statement re 11 U.S.C. § 522(q)(1) Applicability ~~[NOTE: DO NOT FILE UNTIL Court Notifies You To Do So].~~**

~~The undersigned debtor(s) certify under penalty of perjury that:~~

1. (Check **ONE**):
  - a. ~~Since the filing of this case I/we have not been required by judicial or administrative order or by statute to pay any domestic support obligations as defined in 11 USC § 101, and that no such obligations were due as of the date of the filing of the petition. I owed no domestic support obligation when I filed my bankruptcy petition, and I have not been required to pay any such obligation since then.~~
  - b. ~~I/We have paid all domestic support obligations as defined in 11 USC § 101 to the obligee that are or were due on or before the date of this certification (with the exception of any amounts due before the petition was filed to the extent that such amount was provided for in the Chapter 12 or 13 Plan, or not required to be paid under § 1222(a) or § 1322(a)). I am or have been required to pay a domestic support obligation. I have paid all such amounts that my plan required me to pay. I have~~

also paid all such amounts that became due between the filing of my bankruptcy petition and today.

c. Debtor is not an individual.

2. ~~There I [ ] IS have [ ] IS have not NOT (check ONE) a pending proceeding in which debtor(s) may be found guilty of a felony or liable for a debt of a kind described in 11 USC § 522(q)(1) claimed an exemption in property pursuant to § 522(b)(3) and state or local law that (1) I or a dependent of mine uses as a residence, claims as a homestead, or acquired as a burial plot, as specified in § 522(p)(1) and (2) exceeds in aggregate value the amount specified in § 522(q)(1).~~

[...]

If ~~point paragraph~~ 1.b. above was marked, I certify that on \_\_\_\_\_ ~~a copy of~~ this document was served on the ~~obligee (i.e., person to whom such the~~ payments were due); and on any agency collecting ~~such the~~ payments ~~for the obligee~~.

[...]

**Comment.** The proposed changes to the first section are meant to revise the language such that the form better tracks the relevant code sections (11 U.S.C. §§ 1228(a), 1328(a)).

The proposed change to the second section revises the language to focus on exemptions rather than the types of felonies or felony proceedings listed in 11 U.S.C. §522(q) because a pending proceeding in which debtor(s) may be found guilty of a felony or liable for a debt of a kind described in § 522(q)(1) does not, in itself, prevent discharge. See also proposed revisions to [LBF 1191.3](#).

---

**LBF 720.80, Chapter 7/13 Motion for Relief From Debtor/Co-Debtor.**

[...]

2. **Relief from Stay Should be Granted Because:** *(Check all that apply) (to be completed by movant)*

- ~~Lack of adequate protection because of failure to make sufficient adequate protection payments and lack of a sufficient equity cushion.~~
- Lack of insurance on collateral.
- No equity in the collateral and the property is not necessary for an effective reorganization.

- Failure of debtor to make Chapter 13 plan payments to the trustee.
- Failure of debtor to make direct payments required by Chapter 13 plan.
- Other (describe):

[...]

**Comment.** Reasons for striking are as follows:

1. The language proposed for striking suggests that lack of adequate protection can be demonstrated by lack of equity and “the failure to make sufficient adequate protection payments.” Under *United Sav. v. Timbers of Inwood Forest*, 484 U.S. 365 (1988), an undersecured creditor whose collateral is not depreciating is not entitled to adequate protection, at least due solely to the passage of time (i.e., interest accrual) and this checkbox option implicitly invites movants to rely solely on a legally insufficient ground for stay relief.
2. 11 U.S.C. § 362(d)(1) requires stay relief for “cause, including lack of adequate protection.” In a chapter 7 case, or in a preconfirmation chapter 11, 12, or 13 case, cause is most often demonstrated by lack of adequate protection, which in turn is demonstrated by lack of equity or lack of insurance. Payment defaults are necessary, but not sufficient, to constitute cause before confirmation. After confirmation, default under a plan is cause for relief, independent of any lack of adequate protection.
3. Implicitly, the fifth line in paragraph 2 (“Failure of debtor to make direct payments required by Chapter 13 plan.”), includes the allegation that the payment failure is cause under §362(d)(1). It obviates the need for the current first line.
4. The remaining lines in paragraph 2 enable a movant to efficiently identify legally sufficient grounds for stay relief. Those grounds are lack of insurance, lack of equity and necessity to an effective reorganization, failure to make plan payments to the trustee or directly to the creditor, and “other.”

---

### **LBF 751.7, Procedures re: Mortgage Modification.**

The court has adopted the following procedures to facilitate negotiation of a mortgage loan modification concerning a debtor’s residence in a chapter 7 bankruptcy case.

1. **Negotiations.** Under Local Bankruptcy Rule (LBR) 4008-2, ~~provides that~~ at any time during ~~the pendency of~~ a chapter 7 case, the debtor and a mortgage creditor may negotiate an agreement to modify the terms of the ~~underlying~~ loan agreement. A creditor’s contact with the debtor and/or debtor’s attorney to seek, negotiate, and implement a modification

of the debt will ~~not~~ constitute neither a violation of the automatic stay of 11 U.S.C. § 362 nor a violation of the discharge injunction of § 524. ~~However, But~~ no agreement can become effective unless and until the trustee abandons the property. Negotiations with represented debtors must be with debtor's counsel, who may consent to the creditor communicating directly with the debtor.

2. **Notice.** To implement LBR 4008-2, the Notice of Chapter 7 Bankruptcy Case sent to parties and creditors in a chapter 7 case contains the following provision:

Notice Re: Abandonment of Debtor's Residence (Real Property)

At least 5 days prior to the date of the meeting of creditors, any party in interest who objects to abandonment of the debtors' residence (real property) must file with the Court a written objection and serve a copy on the debtors and debtors' attorney. If no timely objection is filed, the trustee can abandon the property at or after the meeting of creditors upon request of the debtors or mortgage creditor without any further notice requirement. Mortgage creditors are authorized to negotiate a loan modification with a debtor either before or after the meeting of creditors, but any modification reached cannot become effective until the property is abandoned. Mortgage creditors may use the procedure outlined in Local Bankruptcy Form (LBF) 751.7, available at <https://www.orb.uscourts.gov>, to obtain such abandonment. A creditor's contact with the debtors and/or debtors' attorney to ~~effect negotiate or implement~~ a modification will not be considered a violation of either the automatic stay of 11 U.S.C. § 362 or the discharge injunction of § 524. Negotiations with represented debtors must be with debtors' counsel who may consent to the creditor communicating directly with the debtor.

[...]

**Comment.** This proposal relates to the proposed revisions to [LBR 4008-2](#). See the comment of that proposal for more information.

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#### **LBF 753.40, Notice of Intent to Compensate Professional.**

[...]

On \_\_\_\_\_, I served the interim report and this notice on the debtor(s), any trustee, U.S. ~~F~~Trustee, all creditors if required by FRBP 2002(a)(6) ~~(or if original time to file claims has expired, only on creditors who filed claims)~~, and their attorneys; and I served ~~the~~ any ~~A~~application(s) for ~~I~~interim ~~C~~ompensation on the debtor(s), any creditor's committee, and their attorneys. A list of the names, addresses, and methods for service on all parties served using paper is attached. The notice served on creditors did not include the attachment, but any creditor may obtain a copy of the attachment upon request.

**Comment.** This proposal relates to similar proposed revisions to the certificates of service in [LBF 1214](#) and [LBF 1355.10](#).

The parenthetical is removed because, since the repeal of LBR 2002-1(j),<sup>1</sup> limiting service to only creditors that have filed claims after the original time to file claims has expired is no longer proper unless authorized by direction of the court in individual cases (FRBP 2002(h)).

The proposal also includes the addition of a reminder that LBR 7005-1(b)(2) requires filers to attach a list of all parties served in paper (applicable outside adversary proceedings via LBR 9013-1(b)(1)). Other changes are stylistic.

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**LBF 753.58, Application to Employ Collection Agency, and Order Thereon; Notice of Intent to Compensate Collection Agency.**

[...]

**IT IS ORDERED, AND NOTICE IS GIVEN**, that employment of the above-named collection agency is authorized, and the trustee is authorized to compensate the collection agency within the above terms without further notice or court order ~~after the agency files an appropriate report~~, unless, within 23 days of the date in the “FILED” stamp on page 1, an interested party:

[...]

**Comment.** The language proposed for striking is inconsistent with paragraph 5 of the form which calls for submission of reports to the trustee rather than having the reports filed with the court.

---

**LBF 1191.3, Individual Debtor’s Motion for Entry of Discharge; and Statement re 11 U.S.C. §522(q)(1) Applicability.**

[...]

- The value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on ~~such~~ the claim if the estate of the debtor(s)

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<sup>1</sup> “(j) **Chapter 7, 12 or 13 Case—Limited Notice.** Unless provided otherwise in an FRBP or LBR, after the deadline for filing each type of claim has expired, a party required to serve notice need do so only on the debtor, a creditor that filed a proof of claim, and an entity that filed a request to receive a copy of all notices.” Removed for the 12/1/20 rules.

had been liquidated under chapter 7 on ~~such that~~ date. Modification of the plan under 11 U.S.C. § 1127 is not practicable. because:

[...]

2. ~~There debtor (check one): \_\_ is has \_\_ is has not a pending proceeding in which the debtor(s) may be found guilty of a felony or liable for a debt of a kind described in 11 U.S.C. § 522(q)(1) claimed an exemption in property pursuant to 11 U.S.C. § 522(b)(3) and state or local law (1) that I or a dependent of mine uses as a residence, claims as a homestead, or acquired as a burial plot, as specified in § 522(p)(1), and (2) that exceeds in aggregate value the amount specified in § 522(q)(1).~~

[...]

**Comment.** Like the proposed revisions to [LBF 525](#) regarding 11 U.S.C. § 522(q)(1), this proposal revises the language to focus on exemptions rather than the types of felonies or felony proceedings listed in § 522(q) because a pending proceeding in which debtor(s) may be found guilty of a felony or liable for a debt of a kind described in § 522(q)(1) does not, in itself, prevent discharge. The other proposed revisions are stylistic.

---

**LBF 1191.5, Chapter 11 Subchapter V Debtor’s Motion for Entry of Discharge and  
Application for Final Decree and Closing Order.**

Each undersigned debtor moves the court for entry of a discharge in this case pursuant to 11 U.S.C. § 1192, applies for entry of a final decree and closing order pursuant to Federal Rule of Bankruptcy Procedure 3022, and certifies under penalty of perjury that:

1. The debtor has completed all payments due within the first three years of the plan or any later period fixed by the court for entry of discharge.
- ~~2. Per Federal Rule of Bankruptcy Procedure 1007(b)(7), the debtor (check one):  
 has completed an instructional course concerning personal financial management and has separately filed the certification pertaining thereto.  
 is not required to complete an instructional course concerning personal financial management.~~
2. On \_\_\_\_\_, the court entered an order confirming the chapter 11 plan.
3. The percentage of unsecured creditors’ claims that will be paid over the life of the plan is \_\_\_\_\_%. (Enter "N/A" if percentage amount is not determinable at this time.)



4. All objections to claims have been resolved.
5. The plan has been substantially consummated.
6. The estate has been fully administered.

[...]

**Comment.** This proposal adds an application for final decree and closing order to the subchapter V motion for discharge form. It relates to the [LBR 2015-1](#) proposal under which cases with plans confirmed under § 1191(b) are exempted from the requirement to file an application for final decree on LBF 1195 120 days after confirmation. Because the U.S. trustee quarterly fees are inapplicable in subchapter V cases, application for the final decree required by FRBP 3022 should be submitted in conjunction with the motion for discharge.

Proposed new paragraphs 2-6 are copied from the current application for final decree form, [LBF 1195](#). The paragraphs of that form proposed for deletion in the proposal below are likewise not proposed for addition here.

Current paragraph 2 is proposed for removal as unnecessary because:

- Discharge under § 1192 is dependent on confirmation under § 1191(b).
- Under § 1181(c), § 1141(d) does not apply to cases confirmed under § 1191(b) (with one irrelevant exception).
- FRBP 1007(b)(7) is the source of the filing of financial management certificate requirement and states, “(B) An individual debtor in a chapter 11 case shall file the statement if § 1141(d)(3) applies.”
- Because this form is only for discharges under § 1192, § 1141(d)(3) will never apply and, in turn, neither will the FRBP 1007(b)(7) requirement to file a financial management certification.

---

**LBF 1195, Final Account and Application for **Entry of** Final Decree and Closing Order.**

The undersigned files this final account and represents that:

1. On \_\_\_\_\_, the court entered an order confirming the chapter 11 plan.
2. The percentage of unsecured creditors’ claims that will be paid over the life of the plan is \_\_\_\_\_%. *(Enter "N/A" if percentage amount is not determinable at this time.)*

~~3. All administrative claims and expenses have been paid in full, or appropriate arrangements have been made for full payment.~~

~~4. All secured claims provided for in the plan have been paid or will be satisfied as provided in the confirmation order.~~

35. All objections to claims have been resolved.

46. The plan has been substantially consummated, ~~and application is made for entry of a final decree and closing order pursuant to Federal Rule of Bankruptcy Procedure 3022.~~

5. The estate has been fully administered.

The undersigned applies for a final decree and closing order pursuant to Federal Rule of Bankruptcy Procedure 3022.

[...]

**Comment.** “The estate has been fully administered” is proposed for addition because an estate being “fully administered” is a prerequisite for closing pursuant to 11 U.S.C. § 350 and FRBP 3022. Current paragraphs 3 and 4 are proposed for deletion as extraneous.

---

**LBF 1214, Application for Chapter 12 Initial or Supplemental/Additional Compensation of Attorney for Debtor.**

[...]

On \_\_\_\_\_, copies of this Application, all attachments thereto, and the required ~~N~~notice of ~~A~~application ~~{(prepared on Local Bankruptcy Form ~~#-1214.5})}~~ were served on the debtor(s), trustee, and U.S. ~~T~~trustee; and a separate copy of only the ~~N~~notice was served on all creditors if required by FRBP 2002(a)(6) ~~(or if original time to file claims has expired, only on creditors who filed claims and entities that filed a request to receive all case notices).~~ A list of the names, addresses, and methods for service on all parties served using paper is attached. The notice served on creditors did not include the attachment, but any creditor may obtain a copy of the attachment upon request.~~

**Comment.** This proposal relates to similar proposed revisions to the certificates of service in [LBF 753.40](#) and [LBF 1355.10](#).

The parenthetical is removed because, since the repeal of LBR 2002-1(j),<sup>2</sup> limiting service to only creditors that have filed claims after the original time to file claims has expired is no longer proper unless authorized by direction of the court in individual cases (FRBP 2002(h)).

The proposal also includes the addition of a reminder that LBR 7005-1(b)(2) requires filers to attach a list of all parties served in paper (applicable outside adversary proceedings via LBR 9013-1(b)(1)). Other changes are stylistic.

---

**LBF 1300.1721, Chapter 13 Plan.**

[...]

4. **Trustee Disbursements and Treatment of Claims.** The trustee must commence prepetition disbursements required by paragraph 4(b)(3); upon confirmation of this plan, the trustee must commence disbursements in accordance with this plan. The trustee must not make any disbursement under this paragraph except on account of an allowed claim or allowed administrative expense. Should the trustee not have sufficient funds in trust to pay fully the disbursements listed below, disbursements of available funds must be made pro rata. The trustee must disburse all funds in the following amounts and order:

[...]

- (c) **Debtor's ~~A~~ttorney ~~C~~ompensation and expense reimbursement.** *[If this plan is filed as a postconfirmation amendment of plan, leave this part 4.(c) entirely blank; any postconfirmation compensation and expense reimbursement will be addressed by application under LBF 1307.]* Third, to debtor's attorney fees of \$ \_\_\_\_\_ and expenses of \$ \_\_\_\_\_, of which \$ \_\_\_\_\_ ~~had~~s been paid as of the date the attorney's Chapter 13 Debtor's Attorney's Compensation Disclosure and Application on LBF 1305 was filed, leaving \$ \_\_\_\_\_ unpaid. ~~Upon application, the court may award not more than \$500 in addition to the above amount without further notice at the time of confirmation.~~

~~Debtor's~~ The attorney [check one]  may  may not apply for supplemental compensation and expense reimbursement.

---

<sup>2</sup>“(j) **Chapter 7, 12 or 13 Case—Limited Notice.** Unless provided otherwise in an FRBP or LBR, after the deadline for filing each type of claim has expired, a party required to serve notice need do so only on the debtor, a creditor that filed a proof of claim, and an entity that filed a request to receive a copy of all notices.” Removed for the 12/1/20 rules.

Debtor moves for modification of the automatic stay of § 362(a) to permit the attorney to offset the amount allowed to the attorney, to the extent it accrued before the petition date, against the amount that had been paid before the petition date.

The Attorney will be paid as follows ~~[(check only one)]~~:

- All allowed attorney fees and expenses, including supplemental compensation, will be paid from all available funds after the trustee makes any disbursements under paragraph 4(a) and any fixed monthly payments in paragraph 4(b).
- Other: \_\_\_\_\_.

[...]

(g) **Unsecured Claims.** Seventh, to allowed nonpriority unsecured claims, the amounts required by § 1325(b)(1). [*Mark only one*]

- (1) Creditors will receive approximately \_\_\_\_\_% of their claims. Payment of any dividend will depend on the amounts of allowed secured, priority (including costs of administration and the debtor's attorney fees), and nonpriority unsecured claims.
- (2) Creditors will receive ~~a minimum~~ \_\_\_\_\_% full payment of their claims.

8. **Use of Credit.** Debtor may not obtain credit or incur ~~credit or~~ debt obligations during the life of the plan ~~without the trustee's written consent unless made necessary by emergency or incurred in and out of~~ the ordinary course of debtor's business unless the trustee gives written consent, the obtaining of the credit or incurring of the debt is made necessary by emergency, or debtor gives notice to all creditors and the trustee and an opportunity for hearing as if the credit or debt were to be incurred by the trustee.

**Comment.** The proposed changes to section 4(c) of the form relate to the proposed revisions to [LBR 2016-1\(e\)](#), [LBF 1305](#), [LBF 1306](#), and [LBF 1307](#). See those proposals and attached Summary of 2021 Court Rules and Forms Committee proposed changes to chapter 13 compensation LBRs and LBFs for more information.

The other changes are proposed to add clarity.

If the court decides to move forward with these changes, the revised form will be published with a new number, LBF 1300.21. Both versions of the current form will remain on the website as LBF 1300.17 to be used for filing amendments to plans filed on the current forms.

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**LBF 1305, ~~[Only for Chapter 13 Cases]~~ Debtor's Attorney's ~~Disclosure of Compensation Disclosure and Any Employment Agreement, and Application for Compensation Under 11-USC §329 and FRBP 2016(b).~~**

Because the proposed changes are too extensive for a redline version to be helpful for review, a clean revised version is included [below](#).

**Comment.** This proposal corresponds to proposed revisions to [LBR 2016-1\(e\)](#), [LBF 1306](#), and [LBF 1307](#). Notes on the proposed revisions to this form:

- The form provides the information that—
  - constitutes the disclosures required by 11 U.S.C. § 329(a) and FRBP 2016(b) and the application required by FRBP 2016(a) and
  - enables the court to determine under § 330(a)(4)(B) that the proposed compensation is reasonable.
- If no written agreement is attached, the lawyer must explain why none is required by section 528(a)(1). LBF 1305 ¶ 2.
- Additional detail about fee payments is required, including separate statements of the amount received by the lawyer, including the petition filing fee, whether or not held in trust, and any amount received after the petition date.
- The deadline for filing the form is changed from 14 days after the first date set for the meeting of creditors to 14 days after the later of the petition date or the date the attorney first provides services. FRBP 2016(b); LBR 2016-1(e)(1)(A).
- Any amended LBF 1305 is due seven days before the final plan-confirmation hearing, unless the original was due seven or fewer days before that hearing. LBR 2016-1(e)(1)(B).
- The Schedule 1 flat fee limit, currently \$4,570, includes any out-of-pocket costs. LBF 1305 ¶ 4.a.i.
- The net amount of unpaid compensation must be stated. LBF 1305 ¶¶ 4.a.ii., 4.b.ii, ,4.c.ii.
- A lawyer selecting Schedule 2(b), a fixed fee through confirmation and the initial audit of claims, must also state the terms on which the lawyer will perform other services (presumably hourly). LBF 1305 ¶ 4.b.iii.
- A lawyer selecting Schedule 2.(b) with an estimated fee, before credit for payments, exceeding \$3,450 is reminded to timely file LBF 1306.

**LBF 1306, Chapter 13 Debtor's Attorney's Schedule 2.(b) Fee and Expense Itemization Through \_\_\_\_\_; Request for Approval of Attorney Fees.**

Because the proposed changes are too extensive for a redline version to be helpful for review, a clean revised version is included [below](#).

**Comment.** This proposal corresponds to proposed revisions to [LBR 2016-1\(e\)](#), [LBF 1305](#), and [LBF 1307](#). Notes on the proposed revisions to this form:

- The form gives the trustee and the court additional information about attorney fees to improve the accuracy of the feasibility analysis required by section 1325(a)(6).
  - Its filing does not constitute approval of fees that are covered by the LBF 1306 but were described in the LBF 1305. LBR 2016-1(e)(2)(B).
  - That is because the additional amount would not yet have been noticed under FRBP 2002(a)(6), which is required, at least if the additional amount exceeds \$1,000.
- The form must be filed if the lawyer elects Schedule 2.(b) on LBF 1305 and either—
  - the estimated fee, before credit for payments, exceeds \$3,450 or
  - the actual value of services rendered through 14 days before the final confirmation hearing exceeds \$3,450. LBR 2016-1(e)(2)(A).
- The form must be filed no later than seven days before the final confirmation hearing. LBR 2016-1(e)(1)(B).
- Filing the form late or not at will result in forfeiture of any amount by which the actual fees and expenses incurred through 14 days before the final hearing exceeds the estimate in the LBF 1305. LBR 2016-1(e)(2)(A).

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**LBF 1307, ~~{Only for Chapter 13 Cases} Application by Debtor's Attorney's for Supplemental Compensation Application; and Order and Notice Thereon.~~**

Because the proposed changes are too extensive for a redline version to be helpful for review, a clean revised version is included [below](#).

**Comment.** This proposal corresponds to proposed revisions to [LBR 2016-1\(e\)](#), [LBF 1305](#), and [LBF 1306](#). Notes on the proposed revisions to this form:

- The form may not be filed at all if—
  - the lawyer selected Schedule 1 (flat fee),
  - the application is not final and is for less than \$600, or

- the applicant has filed a prior LBF 1307 denominated as “final.”
- Furthermore, the form may not be filed before six months has expired since the last to be filed of the LBF 1305 and any prior LBF 1307. Nor may it be filed after 28 days after service of the trustee’s notice of plan confirmation. LBR 2016-1(e)(3)(A).
- If the lawyer selected Schedule 2.(b) in LBF 1305, the first LBF 1307 must account for all services rendered and expenses incurred, even before the petition date, in preparation for or in connection with the case and all fees reflected in the LBF 1305 as paid and amounts allowed in the OCP. LBR 2016-1(e)(3)(B); LBF 1307 ¶ 5.

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**LBF 1355.10, Notice of Postconfirmation Amendment of Plan.**

[...]

On \_\_\_\_\_, this notice and the amended plan described above were served on the debtor(s),<sup>3</sup> any debtor's attorney,<sup>3</sup> ~~the~~ trustee,<sup>3</sup> ~~the~~ U.S. Trustee,<sup>3</sup> and all creditors ~~(or if original time to file claims has expired, only on creditors who filed claims and entities that filed a request to receive all case notices)~~. A list of the names, addresses, and methods for service on all parties served using paper is attached. The notice served on creditors did not include the attachment, but any creditor may obtain a copy of the attachment upon request.

**Comment.** This proposal relates to similar proposed revisions to the certificates of service in [LBF 753.40](#) and [LBF 1214](#).

The parenthetical is removed because, since the repeal of LBR 2002-1(j),<sup>3</sup> limiting service to only creditors that have filed claims after the original time to file claims has expired is no longer proper unless authorized by direction of the court in individual cases (FRBP 2002(h)).

The proposal also includes the addition of a reminder that LBR 7005-1(b)(2) requires filers to attach a list of all parties served in paper (applicable outside adversary proceedings via LBR 9013-1(b)(1)). Other changes are stylistic.

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<sup>3</sup> “(j) **Chapter 7, 12 or 13 Case—Limited Notice.** Unless provided otherwise in an FRBP or LBR, after the deadline for filing each type of claim has expired, a party required to serve notice need do so only on the debtor, a creditor that filed a proof of claim, and an entity that filed a request to receive a copy of all notices.” Removed for the 12/1/20 rules.

**PROPOSED REVISED CHAPTER 13 DEBTOR'S ATTORNEY'S COMPENSATION  
LOCAL BANKRUPTCY FORMS**

**Proposed new LBF 1305**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF OREGON

In re

Case No. \_\_\_\_\_

Amended

Debtor(s)

**CHAPTER 13 DEBTOR'S ATTORNEY'S  
COMPENSATION DISCLOSURE AND  
APPLICATION**

1. This compensation disclosure and application is made by debtor's attorney (applicant). Applicant applies for allowance of the compensation and expense reimbursement described herein.
2. Agreement [*check one*]
  - A copy of the written agreement between debtor and applicant required by 11 U.S.C. § 528(a)(1) is attached.
  - No agreement is attached because \_\_\_\_\_.
3. Payments
  - a. As of the date of this LBF 1305, the amount that applicant has received as compensation for services rendered or to be rendered or expenses incurred or to be incurred in contemplation of or in connection with the case, including the petition filing fee, whether or not held in trust, is \$\_\_\_\_\_.
  - b. Any amount received after the petition date is \$\_\_\_\_\_.
  - c. Any source of payment to applicant other than debtor is:\_\_\_\_\_.
  - d. As of the date of this LBF 1305, the amount of expenses incurred in contemplation of or in connection with the case, including the petition filing fee, that applicant has paid, whether from applicant's funds or funds held in trust, is: \$\_\_\_\_\_.
4. Schedule [*select Schedule 1, 2.(a), 2.(b), or 3, and complete blanks*]
  - a.  **Schedule 1** (life-of-the-case fixed fee):



- i. Applicant has agreed to perform all legal services to debtor that are reasonably necessary in or in connection with this case for the entire life of the case, including contested-matter litigation, but excluding adversary proceedings and appeals, for the fixed fee of \$\_\_\_\_\_ [\$4,750 maximum] plus expenses of \$\_\_\_\_\_ [\$600 maximum], for a total of \$\_\_\_\_\_.
  - ii. The unpaid agreed fee and expense amount is \$\_\_\_\_\_ [total amount in paragraph 4.a.i less the amount in paragraph 3.a].
- b.  **Schedule 2.(a)** (fixed fee through confirmation and initial audit of claims):

- i. Applicant has agreed to perform all legal services to debtor that are reasonably necessary in or in connection with this case through confirmation of the plan and the initial audit of claims, including prepetition services in contemplation of the case, for the fixed total amount of \$\_\_\_\_\_ [\$3,450 maximum].
- ii. The unpaid portion of the agreed amount for services described in paragraph 4.b.i is \$\_\_\_\_\_ [amount in paragraph 4.b.i less the amount in paragraph 3.a].
- iii. Applicant has also agreed to perform all other legal services to debtor that are reasonably necessary in or in connection with this case on the terms set forth in the attached agreement or, if there is no written agreement, as follows:

- c.  **Schedule 2.(b)** (hourly; estimated amount through confirmation and initial audit of claims):

- i. Applicant has agreed to perform all legal services to debtor that are reasonably necessary for this case at hourly rates. The estimated total amount of compensation and expense reimbursement for all services through confirmation of the plan and the initial audit of claims, including prepetition services in contemplation of the case, is \$\_\_\_\_\_.
- ii. The unpaid estimated compensation and expenses is \$\_\_\_\_\_ [amount in paragraph 4.c.i less the amount in paragraph 3.a].
- iii. The agreement for compensation and expense reimbursement for all services and expenses in and in connection with this case is set forth in the attached agreement or, if there is no agreement, as follows:

d.  **Schedule 3** (other):

- i. Applicant has agreed to provide debtor with services in or in connection with this case on the terms set forth in the attached agreement or, if there is no written agreement, as follows:

- ii. If another attorney previously filed an LBF 1305 in this case selecting Schedule 1 or, if the other attorney did not complete services through plan confirmation and the initial audit of claims, Schedule 2(a), the following is a description of incomplete services, compensation paid by the trustee to the other attorney, and any agreement among the other attorney and the debtor regarding the other attorney's fees:

- 5. If applicant has previously shared any compensation or there exists any agreement or understanding between applicant and any other entity for the sharing of compensation received or to be received for services rendered in or in connection with this case, other than as a member or regular associate of a firm of attorneys, the details of the sharing or sharing agreement are as follows:

6. On \_\_\_\_\_, applicant served this document on debtor.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Type or Print Applicant's Name

\_\_\_\_\_  
OSB#

\_\_\_\_\_  
Applicant's Telephone Number

\_\_\_\_\_  
Applicant's Service Address

\_\_\_\_\_

### Instructions

See LBR 2016-1(e) regarding who must file LBF 1305 and when it and any amendment must be filed.

See instructions in LBF 1307, *Chapter 13 Debtor's Attorney's Supplemental-Compensation Application*, regarding required contemporaneous time records.

Paragraph 4.(c) of the chapter 13 plan on LBF 1300.17 must be completed consistently with this LBF 1305.

If applicant selects Schedule 2.(b) and the agreed estimated total compensation, before credit for payments, exceeds \$3,450, applicant must file a Chapter 13 Debtor's Attorney's Schedule 2.(b) Itemization on LBF 1306 no later than seven days before the final plan-confirmation hearing (see LBR 2016-1(e)(2)(A)).

**Proposed new LBF 1306**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF OREGON

In re

Case No. \_\_\_\_\_

Amended

Debtor(s)

**CHAPTER 13 DEBTOR'S ATTORNEY'S  
SCHEDULE 2.(b) ITEMIZATION**

1. This itemization is submitted by debtor's attorney (applicant). In applicant's Chapter 13 Debtor's Attorney's Compensation Disclosure and Application on LBF 1305, applicant stated that, as of the date the LBF 1305 was filed—
  - a. The amount that applicant had received as compensation for services rendered or to be rendered or expenses incurred or to be incurred in contemplation of or in connection with the case, including the petition filing fee, whether or not held in trust, was: \$ \_\_\_\_\_ (LBF 1305 item 3.a); and
  - b. The amount of expenses in contemplation of or in connection with the case, including for the petition filing fee, that applicant had paid, whether from applicant's funds or funds held in trust, was: \$ \_\_\_\_\_ (LBF 1305 item 3.d).
2. Applicant has attached contemporaneously prepared records of the services rendered to and expenses incurred on behalf of debtor in contemplation of or in connection with this case, both before and after the petition date, through \_\_\_\_\_, a date no earlier than 14 days before the final confirmation hearing. The value of those services is \$ \_\_\_\_\_, and the amount of those expenses is \$ \_\_\_\_\_, for a total of \$ \_\_\_\_\_.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Type or Print Applicant's Name

\_\_\_\_\_  
OSB#

\_\_\_\_\_  
Applicant's Telephone Number

\_\_\_\_\_  
Applicant's Service Address

## **Instructions**

If applicant selected Schedule 2.(b) in LBF 1305 and the agreed total amount of compensation and expense reimbursement for all services through confirmation of the plan and the initial audit of claims, before credit for payments, exceeds \$3,450, applicant must complete and file an LBF 1306 no later than seven days before the final plan-confirmation hearing (LBR 2016-1(e)(2)(A)).

Plan confirmation after the filing of LBF 1306 will not constitute allowance or determination of the reasonableness of any future request for allowance of the amount by which the unpaid fees and expenses in LBF 1306 exceed those in LBF 1305. The court will consider allowance of any excess in the first postconfirmation Chapter 13 Debtor's Attorney's Supplemental-Compensation Application on LBF 1307 (LBR 2016-1(e)(2)(B)).

**Proposed new LBF 1307**

[space for order signing language here]

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF OREGON

In re

Case No. \_\_\_\_\_

Amended

Debtor(s)

**CHAPTER 13 DEBTOR'S ATTORNEY'S  
SUPPLEMENTAL-COMPENSATION  
APPLICATION; AND ORDER AND NOTICE  
THEREON**

1. This application is made by debtor's attorney (applicant).
2. In applicant's Chapter 13 Debtor's Attorney's Compensation Disclosure and Application on LBF 1305, applicant selected [*check one*]:
  - Schedule 2.(a)
  - Schedule 2.(b)
  - Schedule 3.
3. This application [*check one*]  is  is not applicant's final application in this case.
4. Applicant has previously been allowed compensation and expense reimbursement in the plan-confirmation order and any prior LBF 1307s in the total amount of \$\_\_\_\_.
5. Applicant applies for supplemental allowance of compensation and expense reimbursement totaling \$\_\_\_\_ for the period \_\_\_\_ through\_\_\_\_. An itemized statement of services rendered and expenses incurred for the period of this application is attached. If this application is granted, the total amount allowed will be \$\_\_\_\_. If this application is final, it includes \$\_\_\_\_ in anticipated additional fees to complete the case.
6. Allowance of this application will [*mark all that apply*]—
  - not affect the distribution to creditors.
  - delay the distribution to creditors by approximately \_\_\_\_ months.
  - reduce the estimated distribution to general unsecured creditors from \_\_\_\_% to \_\_\_\_%

require that the debtor pay more by making additional or increased plan payments sufficient to pay the additional fees and expenses.

not change the length of the plan, which is estimated to be \_\_\_ months.

change the estimated length of the plan from \_\_\_ months to \_\_\_ months.

other: \_\_\_\_\_.

8. If applicant has previously shared any compensation or there exists any agreement or understanding between applicant and any other entity for the sharing of compensation received or to be received for services rendered in or in connection with this case, other than as a member or regular associate of a firm of attorneys, the details of the sharing or sharing agreement, other than those disclosed in LBF 1305 or a prior LBF 1307, are as follows:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Type or Print Applicant's Name OSB#

\_\_\_\_\_  
Applicant's Telephone Number

\_\_\_\_\_  
Applicant's Service Address

## CERTIFICATE OF SERVICE

I certify that on \_\_\_\_\_, a copy of this application and order thereon (without attachments) and any Notice of Hearing prepared by the court per the judge's order were served on the debtor and, if the total amount requested exceeds \$1,000, on all creditors. I have attached a clearly identified list of the names, addresses, and methods for service on all parties served using paper. The application served on creditors did not include the attachment, but any creditor may obtain a copy of the attachment upon request to applicant.

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Signature & Relation to Applicant

## INSTRUCTIONS

Do not serve this application until the judge has signed it at the top of the first page.

No application may be filed (a) if Schedule 1 was selected on LBF 1305, (b) to request fees and expenses less than \$500 on a nonfinal LBF 1307, (c) sooner than six months after the last to be filed of the LBF 1305 or the most recent prior LBF 1307, if any, (d) after filing a final LBF 1307, or (e) after 28 days after service of the trustee's notice of plan completion (LBR 2016-1(e)(3)(A)).

If Schedule 2.(b) was selected—and even if an LBF 1306 was filed—the first LBF 1307 must include an itemized statement of all services rendered and expenses incurred in contemplation of or in connection with the case, both before and after the petition date, and it must reflect the paid amounts listed in the LBF 1305 and amounts allowed in the confirmation order (LBR 2016-1(e)(3)(B)).