

PROPOSED REVISIONS TO LOCAL BANKRUPTCY RULES AND FORMS

September 20, 2023

This document contains proposed revisions to the December 1, 2022, 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](#) and select “Local Rules and Forms Comments” from the “Category” dropdown list to submit comments concerning the proposed revisions, or e-mail comments to LBRcomments@orb.uscourts.gov. Any comments must be received on or before October 20, 2023, to be considered. After reviewing any comments, the court will post the final revised rules and forms which will take effect on December 1, 2023, unless otherwise noted.

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PROPOSED LOCAL BANKRUPTCY RULES REVISIONS

Rule 1001-1. Local Rules—Title, Numbering Sequence, Scope, & Effective Date.

[...]

- (d) **Effective Date.** These LBRs supersede all prior LBRs and general orders of the court pertaining to local rules, and ~~govern all matters pertaining to bankruptcy cases pending in this court under any chapter of the Code on and after take effect on~~ December 1, 2023, ~~and all related adversary proceedings.~~

[...]

Comment. In addition to updating the effective date for the 2023 rules, the proposed revisions are intended to (1) limit the language regarding the superseding of general orders to those orders that pertain to local rules and (2) eliminate the unnecessary delineation of what cases the rules cover.

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

[...]

- (b) **Notice of Intent to Take Proposed Action.**

[...]

- (2) **Shortened Notice Period or Limited Notice.** LBR 9013-1(b)(3) applies to a notice governed by FRBP 2002. ~~To request a shortening of the notice period for any notice of intent or motion, a filer must:~~

~~(A) before filing the notice of intent or motion, submit a separate motion to shorten time and attach the notice of intent or motion containing the proposed notice period as an exhibit;~~

~~(B) immediately submit a proposed order granting the motion to shorten time; and~~

~~(C) if the motion to shorten time is granted, reference the order shortening time in the notice period of the notice of intent or motion.~~

[...]

- (j) **Limited Notice to Creditors Whose Claims are Filed.** ~~To the extent permitted by FRBP 2002(h) and an LBF, a notice required by FRBP 2002(a) may be mailed to the entities listed in FRBP 2002(h) in lieu of those listed in FRBP 2002(a). If an LBF allows for limited notice under this rule, the court directs that notice may be limited to each entity listed in FRBP 2002(h) if the applicable time period described in FRBP 2002(h) has passed.~~

Comment. Subsection (b) revisions

Under this proposal, some of current LBR 2002-1(b)(2) would be moved to LBR 9013-1(b)(3). This is because time-shortening is more common for motions initiating contested matters (such as a chapter 13 debtor’s motion for authority to refinance a mortgage or sell property) than to a notice of intent governed by FRBP 2002. See also the proposal for new rule [LBR 9006-1](#) and proposed revisions to [LBR 9013-1\(b\)](#) below.

Subsection (j) revisions:

These revisions are intended to clarify the court’s position regarding limited notice under FRBP 2002(h). The proposal also includes the following revisions—or substantially similar revisions—to certificate of service language in the pertinent forms, LBFs 753.40, 1214, 1214.5, 1307, and 1355.10:

“[Serving party certifies the document was] served on the debtor, any debtor's attorney, the trustee, the U.S. trustee, and all creditors (or, per LBR 2002-1(j), if the applicable time period described in FRBP 2002(h) applies has passed, only on each entity that is listed in FRBP 2002(h)).”

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

[...]

(b) Chapter 11.

- (1) **Monthly Financial Report.** ~~For each month or portion thereof after the order for relief, t~~The DIP, or, if the debtor is not in possession, the trustee ~~if one has been appointed~~, must file a the financial report required by FRBP 2015(a)(3) in the form prescribed by the UST each month. ~~Each month’s report must be filed no later than by~~ the 21st day of the next month. ~~The filing of a full, complete, and accurate report in the form designated by the UST constitutes compliance with FRBP 2015(a).~~
- (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 who has the primary responsibility for performing the plan must complete and file an LBF 1195 final account and application for final decree and closing order ~~no later than 120 days after entry of a plan confirmation order: (I) an agent appointed the entity appointed under the plan to serve after confirmation or, (II) if no agent is appointed, the proponent.~~ If an LBF 1195 is not filed ~~by that deadline~~ within 120 days after confirmation, ~~that~~ entity must file a status report no later than 120 days after entry of the confirmation order and every 180 days thereafter until the LBF 1195 application for a case closing order is filed. The status report must explain why the LBF 1195 has not yet been filed and what needs to occur before it will be filed, and the report must estimate when it will be filed.
- (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. The status report must explain why the trustee has not yet been discharged and what needs to occur before the trustee will be discharged and estimate when the trustee will be discharged.

- (B) **Upon Order of Confirmation, Conversion, Transfer, or Dismissal.** ~~A court-appointed trustee must file~~ The chapter 11 trustee must file an LBF 1198 final account re confirmed, converted, dismissed, or transferred case no later than 35 days after entry of the order.

[...]

Comment. The revisions to (b)(1) are intended to clarify FRBP 2015 reporting requirements as to the identity of the reporter and the type of reports required.

The sentences added to (b)(2)(A)(i) and (ii) clarify what is expected in the status reports those provisions require. The (b)(2)(A)(i) report is required because the LBF 1195 final account and application for final decree and closing order, required of the plan agent or proponent, hasn't yet been filed, and the (b)(2)(A)(ii) report is required because the subchapter V trustee in a case with a plan confirmed under § 1191(b) hasn't yet been discharged. In both cases, the amended rule will require that the status report explain why the event (final report or trustee discharge) hasn't happened yet, what needs to occur for it to happen, and when it's estimated to happen.

LBF 1198, required by (b)(2)(B), provides information from an actual chapter 11 trustee—not a DIP—about the chapter 11 case after a plan is confirmed or the case is converted to another chapter, dismissed, or transferred to another district. The phrase “court-appointed” will be deleted because the bankruptcy court doesn’t appoint a trustee; it just orders the appointment of a trustee. The addition of the entire title of LBF 1198, which includes “chapter 11 trustee’s” will clarify that the report isn’t required of a DIP.

Rule 3001-1. Claims—General.

[...]

(c) Chapter 12 or 13.

[...]

- (2) Motion by Debtor for Payment of Untimely Filed Claim.** A debtor seeking to have a claim filed by the debtor on behalf of a creditor treated as timely must file a motion on LBF 1365.

[...]

Comment. See the comment under the [LBF 1365](#) proposal below.

Rule 3015-1. Chapter 12 or 13—Plan & Payments.

- (a) Chapter 12.** A plan must be filed on LBF 1200.05.

(b) Chapter 13.

[...]

- (8) ~~Postconfirmation~~ Motions for Approval to Buy, Sell, Encumber Interests, Use, Lease, or Dispose of Interest in Property.**

(A) Debtor Motions. ~~After confirmation, Unless included in the plan,~~ any motions by chapter 13 debtors for approval to buy, sell, or encumber interests in property (including by refinancing a lien or modifying a loan) must be filed on LBF 1301, and any motions by chapter 13 debtors for approval to use, lease, or dispose of an interest in property must be filed on

LBF 1302. Proposed orders on these motions must be lodged on LBF 1301.5 and LBF 1302.5, respectively.

(B) Creditor Motions. Motions by creditors for approval of loan modifications must be filed on LBF 1301, and proposed orders thereon must be lodged on LBF 1301.5.

Comment. The purposes of these revisions are (1) to expand the requirement for debtors to use the forms from post-confirmation motions to any motion not included in the plan and (2) to require use of the forms for creditor motions for approval of loan modifications. See also proposed revisions to [LBF 1301](#) and [LBF 1301.5](#) below.

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

[...]

- (b) **Preconfirmation.** ~~If a proposed amendment is filed 28 days or more before a confirmation hearing, the proponent must attach the amended plan to LBF 1355.05 and serve it under that form.~~ Any amended plan may not must be filed fewer than at least 28 days before the then-pending confirmation hearing, and the proponent must attach the amended plan to LBF 1355.05 and serve it under that form.

Comment. This revision is intended to increase the clarity of the rule.

Rule 5005-4. Electronic Filing.

- (a) **Administrative Procedures.** The *Administrative Procedures for ~~the~~ Electronically Filing Case Documents File System* (Administrative Procedures) (LBF 125) governs ECF and its use, ~~and govern in the event of a conflict between the Administrative Procedures and an LBR, LBF, or GO. Each provision and procedure in the most current version of the Administrative Procedures available when a document is filed applies to filing the document.~~

[...]

Comment. The revisions to the first sentence (1) update the rule to accurately state the title of the procedures and (2) remove the language indicating that the procedures control in any conflict with the rules. The second sentence is proposed for deletion as unnecessary. See also proposed revisions to [LBF 125](#) below.

[New] Rule 7004-1. Service of Process.

- (a)** This rule and LBR 7005-1 apply to service under FRBP 7004 of a complaint in an adversary proceeding or of a document initiating a contested matter.
- (b)** If service is made other than by mailing or delivery to an individual party, the certificate—and the address to which any service is made by mailing—must state the relationship of the recipient to the party served. For example, if service on a corporation is made by mailing to a registered agent, the address of the recipient must include the words “Registered Agent,” as well as the party’s name and the registered agent’s name and mailing address. A certificate of service may be made on LBF 305.

- Cross-reference: Service & Certificate of Service – LBR 7005-1.

Comment. Proposal is for a new rule, LBR 7004-1, and relates to the proposed revisions to LBRs [7005-1](#) and [9013-1](#) below. Because the entire rule would be new, the proposal is not presented in redline format.

The local bankruptcy rules uniform numbering system includes Rule 7004-1, “Service of Process.” A reader looking for an LBR addressing proof of service in an adversary proceeding may look for a 7004-1.

Current 7005-1(a)(1) would be deleted under this proposal with the necessary content being moved to subsection (a) of this new rule.

Subsection (b) is new and would require that a mailing to an FRBP 7004(b)(3) representative of a party, such as an officer or registered agent, specify the representative type.

Existing LBR 7005-1 corresponds numerically with FRBP 7005, which incorporates FRCP 5, which addresses “subsequent” service—service within a pending adversary proceeding or contested matter. Nonetheless, the 7005-1 mechanics of proving service are appropriate to both initiating (7004) and subsequent (5) service.

The replacement in current 7005-1(a)(2) of “contemporaneously” with directions to serve on the day the document is filed would reflect that the rules do not require that each certificate of service be part of a motion, and, if the certificate is a separate document, it physically can’t be filed simultaneously with the motion.

LBR 9013-1(a)(2) would apply new 7004-1, as well as 7005-1, to contested matters. The other changes to LBR 9013-1(a)(2) are stylistic.

Rule 7005-1. Service & Certificate of Service.

(a) This rule applies to service under FRBPs 7004 and 7005.

(ab) **Service Requirements.**

~~**(1)** A document served under FRBP 7004 must also be served on any attorney of record for the party served.~~

~~**(21)** When service of a document prepared and filed by an entity is required by FRCP 5(b), the service must be made ~~contemporaneously with the act of filing on the day the document is filed.~~~~

~~**(32)** When the court delivers a notice to serve a document to an entity, service must be made under the notice.~~

(bc) **Certificate of Service.**

(1) General. A certificate of service must be incorporated in, attached to, or accompany, each filed document or group of documents when service of the document or documents using paper is required. If a period of time in which a response will be timely begins to run on the service date, the certificate of service itself must be served with the document to which it refers unless the service date is clearly set out in the document.

(2) Content. A certificate of service ~~described in (1)~~ must include a clearly identified list of the names, addresses, and methods for service on all parties served using paper.

Cross-reference: Service of Process—LBR 7004-1.

Comment. See comment under the [LBR 7004-1](#) proposal above.

~~Rule 7008-1. Consent to Entry of Final Orders or Judgment—Complaint.~~

~~A complaint, counterclaim, cross claim, or third party complaint must state whether the pleader consents to the judge's entry of final orders or judgment. The pleader's failure to timely make that statement waives any objection to the judge's entry of final orders or judgment.~~

Comment. This proposal from the Oregon State Bar Debtor-Creditor Section Local Bankruptcy Rules and Forms Committee is to remove this rule because it is duplicative of FRBP 7008.

~~**Rule 7012-1. Consent to Entry of Final Orders or Judgment—Responsive Pleading.**~~

~~A responsive pleading must state whether the pleader consents to the judge’s entry of final orders or judgment. The responsive pleader’s failure to timely make that statement waives any objection to the judge’s entry of final orders or judgment.~~

Comment. This proposal from the Oregon State Bar Debtor-Creditor Section Local Bankruptcy Rules and Forms Committee is to remove this rule because it is duplicative of FRBP 7012.

[New] Rule 9006-1. Time Periods.

- (a) **Request for Extension of a Time Limit or Continuance of Evidentiary Hearing.** A request for extension of a time limit or for continuance of any evidentiary hearing must be by motion supported by a certification demonstrating good cause, appropriate use of prior time, and that the continuance is being requested at the earliest time practical. The motion must state the number of prior continuances, that the moving party has consulted with the opposing counsel regarding the request, and whether the opposing counsel consents or objects to the requested continuance. This subdivision applies even if all parties stipulate to the continuance.
- (b) **Request for Continuance of Nonevidentiary Hearing.**
- (1) A request must state each affected party’s response to the request or attempts that have been made to gain each party’s consent.
 - (2) If the continuance request is granted, the movant must serve notice of the date, time, and location of the continued hearing on all affected parties and file a certification of that service within two business days after receiving the information from the court.

Cross-references:

- Shortened Notice Period or Limited Notice – LBR 2002-1(b)(2).
- Shortened Notice Period or Limited Notice – LBR 9013-1(b)(3).

Comment. Proposal is for a new rule, LBR 9006-1, consisting of the text that would be moved from previous [LBR 9011-1\(b\)](#). Because the entire rule would be new, the proposal is not presented in redline format.

LBR 9011-1(b) prescribes procedures for requesting postponement of a hearing. It applies to any litigant requesting a postponement, whether or not they are represented by a lawyer. It may not occur to a nonlawyer to look in a rule dealing with attorney duties for rules covering hearings.

~~Rule 9011-1. Attorney—Duties.~~

~~(a) **Notice of Settlement.** A movant or plaintiff must promptly inform the court when a contested matter or adversary proceeding is settled.~~

~~(b) **Request for Extension or Continuance.**~~

~~(1) **Evidentiary Hearing.** A request for extension of a time limit or for continuance of any evidentiary hearing must be by motion supported by a certification demonstrating good cause, appropriate use of prior time, and that the continuance is being requested at the earliest time practical. The motion must state the number of prior continuances, that the moving party has consulted with the opposing counsel regarding the request, and whether the opposing counsel consents or objects to the requested continuance. This subdivision applies even if all parties stipulate to the continuance.~~

~~(2) **Nonevidentiary Hearing or Conference.**~~

~~(A) A request must state each affected party's response to the request or attempts that have been made to gain each party's consent.~~

~~(B) If the continuance request is granted, the movant must serve notice of the date, time, and location of the continued hearing on all affected parties, and file a certification of that service within two business days after receiving the information from the court.~~

~~(c) **Reminders to the Court of Matter Under Advisement for More Than 60 Days.**~~

~~(1) **Initial Reminder.** In the event a judge has under advisement any matter, including a motion or decision in a bench trial, more than 60 days, each party affected by the matter must send the judge a letter particularly describing the matter and stating the date the matter was taken under advisement.~~

~~(2) — Continuing Reminders. If a matter remains under advisement for more than 105 days, each affected party must send a letter similar to the one required in (1) to the judge and to the chief judge of the court promptly, and at intervals of 45 days thereafter.~~

Comment. Proposal is to remove this rule entirely.

Subsection (a) removal: See comment under the [LBR 9019-1](#) proposal for information regarding moving the content of subsection (a) to new subsection (e)(2) of LBR 9019-1.

Subsection (b) removal: See comment under the [LBR 9006-1](#) proposal for information regarding moving the content of subsection (b) to new rule LBR 9006-1.

Subsection (c) removal:

Removal of subsection (c) was proposed by the Oregon State Bar Debtor-Creditor Section Local Bankruptcy Rules and Forms Committee.

The rule relating to reminders to the court for matters under advisement appears to have started (or at least been formalized) in G.O. 96-2. The rule was moved to LBR 9011-1(c) in the August 8, 2008, revision with minor stylistic revisions. The reminder rule was modelled on District Court Local Rule (“LR”) 83-13. Subsequently, the District Court limited LR 83-13 on March 1, 2012, and completely eliminated it effective December 1, 2020, and the bar committee believes its elimination should be mirrored in the LBRs.

First, matters under advisement are tracked through CM/ECF and reports of outstanding matters are routinely distributed, including to the chief judge; as a result, the reminder rule duplicates information already available to the court. Second, the reminder rule is often overlooked by counsel; few attorneys incorporate docketing the timelines following a matter being “under advisement.” Third, the reminder rule puts attorneys in a bad situation: one of the attorneys in the case must prepare and send correspondence to the judge (who, in an under advisement matter, is likely determining a complicated or close issue) that, in essence, states “you’re taking too long.” Fourth, the reminder rule requires the involvement of an additional judge (the chief judge); this has implications for availability of settlement judges, the independence of individual judges, and the role of the chief judge in the underlying case. In terms of benefit to the parties and counsel, the rule likewise serves no purpose as the court rarely, if ever, responds to the reminder letters; rather, the court decides the matter under advisement when appropriate.

The removal of this subsection is not intended to indicate that parties and counsel may not freely contact chambers to inquire as to the status of a matter under advisement at any time.

Rule 9013-1. Motion Practice—Contested Matters.

(a) Adversary Proceeding LBRs Applicable to Contested Matters.

[...]

(2) ~~Certificate of Service.~~ LBRs 7004-1 and 7005-1 apply.

[...]

(b) Notice and Service of Motion.

(1) **Title.** Each motion that is not prepared on an LBF must include in the title ~~on the first page~~ of the document the names of the parties, if any, against whom the motion requests specific relief. If there is insufficient room to include the names of all those parties in the title ~~on the first page~~, the first page title must refer to the location in the document where their names appear.

(2) **Notice of Motion.** Each motion must include a notice of motion unless (A) the motion is filed using an LBF or OF, (B) another LBR directs otherwise, (C) the motion seeks to convert or dismiss a bankruptcy case unless filed by a chapter 13 trustee, (D) the motion is filed under FRBP 3002.1, (E) the motion is unopposed, joint, or stipulated, (F) the motion seeks relief that the court can grant without notice and a hearing (for example, a motion to extend or shorten time or for FRBP 2004 examination), or (G) the motion requests expedited consideration. The notice must precede the substantive motion and must be in substantially the following form:

Notice. If you oppose the relief sought in this motion, you must file a written objection with the bankruptcy court no later than [insert number of days in objection period, excluding any additional time provided by FRBP 9006 (see LBR 9013-1(c)(1)(A))] days after the date listed in the certificate of service below. If you do not file an objection, the court may grant the motion without further notice. Your objection must set forth the specific grounds for objection and your relation to the case. The objection must be received by the clerk of court at ~~[insert the address for the office in Portland or Eugene, whichever is administering the case]~~ 1050 SW 6th Ave #700, Portland, OR 97204 or 405 E 8th Ave #2600, Eugene, OR 97401 by the deadline specified above. [Include the following sentence only if motion is not filed by an ECF Participant] You must also serve the objection on [insert name, address, and phone number of movant] within that same time.

(3) **Shortened Notice Period or Limited Notice.** ~~LBR 2002-1(b)(2) applies. To request a shortened notice period for, or limitation of the entities who must receive, any notice governed by FRBP 2002 or any motion, a filer must—~~

- (A) before filing the notice or motion, file a separate motion to shorten time or limit notice and attach as an exhibit the proposed notice or motion;
- (B) for a motion in a pending adversary proceeding or contested matter, state whether the requested time-shortening or notice-limiting is opposed by any other party;
- (C) for a motion that will initiate a contested matter, state whether the requested time-shortening or notice-limiting is opposed by any standing or other appointed trustee, any appointed committee of creditors or equity security holders, or the UST;
- (D) lodge a proposed order granting the motion to shorten time or limit notice; and
- (E) if the motion to shorten time or limit notice is granted, refer to the order shortening time or limiting notice in the notice of intent or motion.
- (4) **Motion for Emergency Order.** If moving for entry of an emergency order, the movant must immediately notify the chambers of the presiding judge after filing the emergency matter.

Comment. Subsection (a)(2): See comment under the [LBR 7004-1](#) proposal above.

Subsection (b)(1):

These revisions are intended to clarify the court's policy with respect to where the target's name must appear. The language proposed to be stricken is helpful only in the unusual circumstance in which a motion's title can't fit on the motion's first page. And if that circumstance were to occur, the purpose of the rule—to allow a target easily to determine that it is, in fact, a target—wouldn't be served by requiring the target to read the body of the motion to determine that its targets are named elsewhere.

Subsection (b)(2): Objections may be filed in either office.

Subsection (b)(3):

Under this proposal, provisions related to shortened or limited notice have been moved from LBR 2002-1(b) to this subsection. Furthermore, new subsection (b)(3)(B) will require a statement regarding the trustee's position. If there's an official committee, as in some chapter 11 cases, the position of the committee would also have to be stated. See also comment under the [LBR 2002-1](#) proposal above.

Subsection (b)(4): The direction to contact chambers if moving for entry of an emergency order is currently in LBF 125, but it is more appropriate for the local rules. See also the [LBF 125](#) proposal below.

Rule 9018-1. Documents Filed Under Seal or Submitted Unfiled for Review in Chambers.

[...]

- (b) **Sealed Documents.** A motion to seal a filed document must address the application of FRBP 9018. A document must not be filed under seal or submitted to the clerk for filing under seal until an order has been entered allowing the sealing. A proposed order must state the names of all individuals authorized to view the document without prior written approval.

[...]

Comment. The purpose of this revision is to make it clear that the application of FRBP 9018 must be addressed in any motion to seal a filed document. Parties often confuse grounds for a protective order, which regulates disclosure of unfiled documents, with grounds for sealing.

Rule 9019-1. Settlement & Compromise.

[...]

- (e) **Notice of Settlement.**

- (1) If a trustee is a party to the settlement, the trustee must use the appropriate LBF if one is available.
- (2) A movant or plaintiff must promptly inform the court when a contested matter or adversary proceeding is settled.

[...]

Comment. Proposal is to move the content of [LBR 9011-1\(a\)](#) to LBR 9019-1 as new subsection (e)(2). Current LBR 9011-1(a) applies to movants and plaintiffs in general rather than to attorneys specifically, making it a bad fit for the “Attorney—Duties” rule, and rules regarding notice of settlement are a more intuitive fit as part of the “Settlement & Compromise” rule.

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

[...]

Cross-references:

[...]

~~● Reminders to the Court of Matter Under Advisement for More Than 60 Days
LBR 9011-1(e).~~

Comment. Proposed for removal in conjunction with the [LBR 9011-1](#) proposal above.

PROPOSED LOCAL BANKRUPTCY FORM (LBF) REVISIONS

LBF 101C, Change of Address for a Creditor

Instructions: This form may be filed by either a creditor or the debtor to change a creditor's address. If the debtor files this form and the creditor has filed a proof of claim with a different address than the new address listed below, the court will send notices to both the address listed on the proof of claim and the new address listed below.

Address changes for debtors must be filed on [Local Bankruptcy Form \(LBF\) 101D](#). Other parties may file an address change ~~by letter~~, which must include the case number, debtor's name, date, and the filer's signature.

A debtor who wishes to add a new creditor to ~~theis~~ case —or to add a previously missing address for a listed creditor— must file ~~Local Bankruptcy Form (LBF) 728~~ and pay the required filing fee.

[...]

Comment. In addition to stylistic changes, these revisions are proposed in accordance with the court's policy that adding an address for a creditor for whom no address had been provided with initial filings constitutes adding a new creditor because notice cannot be given with a name only. See also revisions to [LBF 728](#).

LBF 125, Administrative Procedures for Electronically Filing Case Documents

Introduction

These procedures apply to the electronic filing of documents in the court's Electronic Case File (ECF) system. They ~~augment and~~ are to be used in conjunction with each applicable Local Bankruptcy Rule (LBR) and Local Bankruptcy Form (LBF) adopted by this court, ~~and control in case of any conflict~~.

For the purposes of ECF and these procedures, the term "file" and all derivations thereof shall apply to all documents submitted to the court for any purpose.

See also LBR 5005-4.

ECF Registration

1. Participants

- A. Each attorney admitted to practice in this court and currently in good standing, and trustees and creditors, shall be eligible to request a login for the ECF system to permit the person to participate in the electronic filing and service of documents in accordance with these procedures.
 - B. Other parties may also be eligible to request a login for possible ECF participation upon approval of the chief bankruptcy judge.
2. Registration Requests
- A. To request a login, each applicant for ECF participation must obtain a PACER account and then register through PACER for the appropriate type of user access.
 - B. Activation
 - i. The clerk's office will review e-filing registrations.
 - ii. ~~Upon activation, an email will automatically be sent to the participant person who made the request upon activation of the login or rejection of the request.~~
 - C. See the contact lists for the Eugene and Portland offices on the court's website for court staff to contact with questions about ECF registration and training.
3. It is the participant's responsibility to keep their e-mail address up to date.
4. To withdraw ECF registration, submit a deactivation request through PACER.~~Withdrawal~~
- ~~A. A registered participant may request to withdraw from participation in ECF by filing a written request including the specific reasons therefor.~~
 - ~~B. If approved by the court, the clerk's office will withdraw the registered participant from ECF and deactivate the participant's login.~~
- ~~5. Suspension~~
- ~~A. After notice and such opportunity for hearing as is appropriate, the court may suspend a participant from the ECF system for cause. This suspension shall be effective upon the entry of the court's order.~~
 - ~~B. On entry of a suspension order, the clerk's office will withdraw the registered participant from ECF and deactivate the participant's login.~~

Filing of Documents

- 5. General
 - A. Portable Document Format ("PDF")

- i. Each document must be submitted in PDF format ~~except as otherwise provided in an LBR and these Administrative Procedures.~~
 - ii. Per LBR 9001-1(~~ffx~~), a PDF filed via ECF may not be created by scanning a paper document—even if the scanning process produces it in a text-searchable format—unless the original document could not be electronically created by, or a version electronically created by a third party could not be accessed by, the party filer.
 - iii. Before filing, a scanned document must be verified as legible.
- B. No text or formatting provided by the court in an LBF may be altered in any way.
- C. Embedded fonts are recommended within a PDF document. Supported fonts include, but are not limited to:
- Courier (Regular, Bold, Oblique, and Bold Oblique)
 - Helvetica (Regular, Bold, Oblique, and Bold Oblique)
 - Arial (Regular, Bold, Italic, and Bold Italic)
 - Times (Regular, Bold, Italic, and Bold Italic)
 - Times New Roman (Regular, Bold, Italic, and Bold Italic)
 - ~~Symbol ZapfDingbats~~
- D. ~~Documents to be Filed Conventionally on Paper. Exception to Electronic Filing Requirement for Residential Rental Cure~~
- ~~Unless specifically authorized by the court, the following documents must be filed conventionally on paper: Petition/Order Re: Unclaimed Funds (LBR #391) and any debtor's petition submitted with a rent deposit for cure per §362(l)(1). Per LBR 4001-1(d), any debtor's petition submitted with a rent deposit for cure per § 362(l)(1) must be filed on paper.~~
- E. Irrelevant Documents
- Participants must not file irrelevant documents (for example, blank notice of hearing forms attached to another form such as a motion).
- F. Documents to be Filed Under Seal
- i. Participant must electronically file a motion to file documents under seal before filing documents under seal.
 - ii. If a motion to file under seal is granted, use the designated ECF menu item (that is, Sealed Document) to file the documents under seal.
- G. Adversary Proceeding Cover Sheet

An adversary proceeding cover sheet should not be filed with an electronically filed complaint ~~per LBR 7001-1(b)(2). However, the cover sheet may be used within the filer's office as a data entry aid.~~

6. Exhibits & Attachments

A. Pleadings

All documents that form part of an electronically filed pleading (responses filed together with a notice of hearing, exhibits, etc.) shall be filed as a single document, under one docket entry, except to comply with maximum file size requirements or if otherwise instructed by the court.

B. Trial Lists, Exhibits, and Memoranda

All witness lists, exhibit lists, exhibits, and trial memoranda must be electronically filed using ECF.

7. Orders & Judgments

A. All proposed orders and judgments, unless otherwise provided, must be submitted electronically.

B. An application or motion must be entered on the docket prior to submitting the order/judgment electronically unless the order or judgment is stipulated.

C. Do not lodge a proposed order or judgment unless it is timely to do so (see LBR 9021-1(b)).

D. All orders/judgments submitted electronically must conform to the formatting requirements of LBR 9021-1(b)(54).

~~E.—When a participant seeks the entry of an emergency order, such as an order shortening time or order to show cause through the ECF system, the participant must immediately notify the chambers of the presiding judge after filing the expedited matter.~~

~~F.—An electronically filed stipulated order or judgment that is being submitted in an attempt to delay or stop the automatic and immediate entry of an imminent court order upon the expiration of pending deadlines for such entry must comply with the requirements set forth in LBR 9021-1(b)(4)(C)(ii).~~

Electronic Documents Filed in Error

8. Once a document is electronically entered into the ECF system, it becomes part of the permanent case record (see LBR 5005-4).

9. A document incorrectly filed in a case may be a result of a number of things such as attaching the wrong PDF file to a docket entry, selecting the wrong document type from the menu, or entering the wrong case number, and not catching the error before the transaction is completed.
10. Correcting Errors
 - A. Immediately call the court after an error is discovered and have the case number and the document name/number for which the correction is being requested.
 - B. Do not refile documents unless it was initially filed in the wrong case or are advised to do so by the court.
 - C. ECF will not permit participants to make changes to the document or docket entry once the transaction has been accepted. If appropriate, the court will make an entry indicating a document was filed in error.

Data Required to be Entered into ECF by Participant

11. The participant that files a document is solely responsible for the entry and accuracy of any data on that document that is also required to be entered in ECF. The clerk may not compare data provided on an electronically filed document with data from that document which is required to be entered into ECF by the filer.
12. A participant that enters data into ECF incorrectly must ~~promptly correct the error~~ notify the court and take all steps necessary to notify interested parties of ~~this action~~ the error (e.g. for example, if hearing information in a notice was incorrect, notify recipients of the notice to inform them of the error ~~serve and refile the petition using the Amended Petition event if the case was opened, but all other names used by the debtor that were listed on the petition were not entered into ECF when the case was filed~~).

Comment. The redline changes above do not mark all proposed format changes, numbering changes, or technical language revisions; redlining all changes would make the proposal less readable. Furthermore, they omit the proposed removal of the “RECORD OF CHANGES” section of the current form which the court believes is unnecessary.

The redline changes do include the following--

- Introduction: Revised in conjunction with proposed revisions to [LBR 5005-4](#) such that the procedures don’t purport to control in case of conflict with the rules or general orders.
- ¶ 2.B.ii: Revised to include possibility of rejection of request and take out the unnecessary word “automatically.”
- ¶ 2.C.: Proposed new section with links to contact information on the court’s website.

- ¶ 4: Updated to reflect current best practice.
- ¶ 5: Suspension language proposed for removal as unnecessary.
- ¶ 5.A.i: The phrase “except as otherwise provided in an LBR and these Administrative Procedures” proposed for removal because neither the rules nor these procedures provide otherwise.
- ¶ 5.A.ii: Subsection corrected.
- ¶ 5.C: “Dingbats” removed because it is a subset of symbols in Word, not a font.
- ¶ 5.D: Revised to include a citation to the exception rather than general rule—especially since there is already an in-form citation to LBR 5005-4 and LBR 4001-1(d) also refers to LBR 5005-4.
- ¶ 5.G: Citation removed because the rule states that coversheets are required for paper-filed adversary proceedings complaints, but it is silent regarding coversheets for e-filed adversary proceeding complaints.
- ¶ 7.E: Under this proposal, directions regarding emergency orders would be moved to the rules at [LBR 9013-1\(b\)\(4\)](#).
- ¶ 7.F: Proposed for removal as duplicative of the rules.
- ¶ 12: Directions to “promptly correct the error” replaced with “notify the court” to be consistent with preceding paragraphs.

LBR 728, Notice of Debtor’s Amendment of Mailing List or Schedules D, ~~E, F~~, E/F, G, or H

1. **Notice**

The debtor has filed the attached amended mailing list or schedules.

If you are being added as a creditor to the mailing list or schedules and the deadlines to file a proof of claim or complaint under 11 U.S.C. § 523(c) or § 727 have passed, a discharge granted to the debtor may not discharge the debt owed to you.

If you are a creditor being deleted from the mailing list or schedules—

- You may not receive any further notices, and

- If this is a chapter 9 or 11 case, a proof of claim must be filed by the later of (a) 30 days from the service date of this notice or (b) the latest time fixed by the court.

You should contact your attorney with any questions.

12. Filing Instructions for Debtor(s)

A. File this form to

- add or delete creditors from the mailing list ~~and/or Official Forms (OF)~~ Schedules D, ~~E, F,~~ E/F, G or H,
- add addresses for creditors that were missing from the mailing list or Schedules D, E/F, G, or H filed with the petition, or
- change the amount or classification of a debt listed on Schedules D, ~~E, F~~ and/or E/F.

Payment of aAn amendment filing fee is required.

B. Adding or deleting creditors:

- If filing in paper, include a creditor mailing list with only the new or deleted creditors listed in the format ~~set forth on~~ required by Local Bankruptcy Form (LBF) 104. Be sure to label each set of changes with (i.e., “Add” or “Delete,” ~~etc.~~).
- If e-filing via ECF, enter the names and addresses of creditors being added or deleted, and use the appropriate ECF event to amend schedules or mailing lists. But, if more than two are being deleted, include a creditor mailing list with only the deleted creditors listed in the format required by LBF 104 rather than entering the deleted creditors’ names in the event.

C. If amending Schedules D, ~~E, F,~~ E/F, G, or H, label ~~them~~ amended schedules as “Supplemental,” ~~and~~ include only the new information, and file them with this notice.

D. ~~If a~~A amending Schedules D, ~~E, F~~ or E/F,

- Individual debtors must file the amended schedules with OF 106Sum, ~~for individual debtors, or~~
- Other debtors must file the amended schedules with OF 206Sum ~~for non-individual debtors.~~

E. If the case is closed, file a separate motion to reopen with the applicable filing fee.

- F. To file an address change for a previously listed creditor, use LBF 101C instead of this form.

23. Service Instructions for Debtor(s)

- A. When adding creditors, serve each new creditor with this notice, and a copy of any of the following documents that have already been filed in this case:

1. The notice of meeting of creditors (~~i.e., also called~~ notice of bankruptcy case) that includes all 9 digits of any ~~S~~social ~~S~~ecurity ~~N~~umber (SSN) or ~~I~~ndividual ~~T~~axpayer ~~I~~dentification ~~N~~umber (ITIN).
2. Each applicable amended schedule.
- ~~3. When the time for filing a timely proof of claim or complaint under 11 U.S.C. § 523(e) or § 727 has expired, a separate notification that adding the creditor may not result in discharge of the debt. You must create this notification.~~
- ~~43. If this is a Chapter 7 case, or 11: Any order fixing time for filing a proof of claim form.~~
- ~~54. If this is a Chapter 9, 11, 12, or 13 case:~~
 - ~~If the plan has not yet been confirmed, T~~he notice of any pending confirmation hearing, all related documents sent with that notice and, in a chapter 13 case, the most recent proposed plan; or
 - ~~If the plan has been confirmed, T~~he most recent confirmation order ~~and~~, the most recent confirmed plan, ~~and, if a confirmed chapter 11 plan, the approved disclosure statement.~~
- ~~65. If this is a Chapter 11, 12 or 13 case, Any notice of modification of plan, including attachments, if the deadline time for objection has not expired passed.~~
- ~~76. If this is a Chapter 9 or 11 case:~~
 - The names and addresses of the chairperson and any attorney for each official committee of creditors or equity security holders ~~and~~.
 - The notice of any pending hearing on a disclosure statement, with attachments.

- B. When deleting creditors, changing a creditor status (~~e.g. for example, non~~undisputed to disputed), or reducing a creditor's claim, serve each affected creditor with this notice, ~~and~~ the applicable amended schedule(s), ~~and the following:~~

~~1. A notice to each deleted creditor that:~~

- ~~• the creditor is being deleted and will not receive any further notices; and~~
- ~~• if time has been fixed to file a proof of claim, the creditor should contact the creditor's attorney with any claims questions.~~

~~2. Chapter 9 or 11: A notice to each affected creditor that a proof of claim must be filed by the later of (a) 30 days from the service date of this notice, or (b) the latest time fixed by the court.~~

3. Certificate of Compliance

The undersigned debtor or debtor's attorney certifies that: ~~(A)~~ all applicable requirements above have been completed; and ~~(B)~~ the attachments are true and correct or were individually verified by the debtor~~(s)~~.

Dated: _____

Signature

Type or Print Signer's Name and Phone No.

Debtor's Address & Taxpayer ID#(s) (last 4 digits)

Comment. In addition to stylistic changes, the proposed revisions:

1. Add a notice section (new ¶ 1). The current form directs debtors to prepare and attach separate notices containing certain information. As revised, the content of the anticipated separate notices has been moved to the new notice section of the form itself.
2. Add instructions for debtors to use the form to add addresses for creditors for whom an address was not included with the creditor mailing list or schedules (second bullet point of new ¶ 2.A). See also the [LBF 101C](#) proposal above.
3. Add instructions for ECF users regarding adding or deleting creditors. The current version of the form does not direct ECF participants to attach updated matrices if deleting creditors from mailing lists which is necessary for court staff to identify which creditors need to be deleted.
4. Remove “or 11” from new ¶ 3.A.3 because there will almost never be an order fixing time for filing a proof of claim in a chapter 11 case in this district.

5. Remove “and, if a confirmed chapter 11 plan, the approved disclosure statement” from the second bullet point of renumbered ¶ 3.A.4. If a creditor is added in a chapter 11 case after plan confirmation, no purpose is served by sending the creditor the disclosure statement in addition to the plan and confirmation order.

LBF 752, Trustee’s Objection to Claimed Exemptions

Notice to Debtor

The trustee in this bankruptcy case, _____, has filed this objection to your claimed exemptions.

Your exemptions may be disallowed. You should read these papers carefully and discuss them with your attorney if you have one.

If you do not want the court to disallow your exemptions, then, within 14 days from the service date below, you or your attorney must do one of the following:

1. Obtain a written withdrawal of the objection by the trustee. To obtain a withdrawal, you may need to provide the trustee with any documentation supporting your exemption that was not included when you filed your exemption with the court. You should send this documentation to the trustee at the service address listed at the bottom of the objection. The written withdrawal of the objection must be filed with the court within 14 days of the service date below.
2. Prepare a written response to the objection explaining your position, and file both the written response and a certificate showing a copy of the response has been served on the trustee at the service address listed at the bottom of the objection with the clerk at 1050 SW 6th Ave #700, Portland, OR 97204 or 405 E 8th Ave #2600, Eugene, OR 97401. If you mail your response to the court for filing, you must mail it early enough so that the court will receive it within 14 days of the service date below.

If you or your attorney do not take one of these steps within 14 days of the service date below, the court may decide that you do not oppose the objection and disallow your exemption without further notice or a hearing.

Objection to Exemption

1. The undersigned trustee objects to the debtor’s claim of exemption in Schedule C (ECF No. []) in the following property under the provisions of 11 U.S.C. § 522(l) and Federal Rule of Bankruptcy Procedure (FRBP) 4003:

2. The trustee objects to the above exemption for the following reasons [*check all applicable reasons*]:

Value of the asset exceeds amount of available exemption.

Exemption does not apply to the asset.

(In a joint case) The debtor claiming the exemption does not have an interest in the asset.

Claimed exemptions include both federal and state exemptions.

Other:

3. The undersigned moves that the exemption be [*check applicable boxes*]:

Disallowed in full.

Allowed in the amount of \$_____.

Other:

Date: _____ Signature: _____

Name: _____

Service Address: _____

Phone #: _____

Email Address: _____

Certificate of Service

I certify that on _____ (service date) this objection was delivered or mailed pursuant to FRBP 4003(b)(2) to the debtor and debtor's attorney and to any person filing the list of exempt property and that person's attorney. The names, addresses, and methods used for service are as follows [*attach additional page if necessary*]:

Printed Name

Signature

Comment. Because the changes are extensive enough that a redline version will likely not be helpful for review, the form is presented in a clean format. The purpose of this proposal is to split LBF 752.20 into separate objection form (this LBF 752) and a form for proposed orders on objection ([LBF 752.5](#) below). The separated forms provide options for objection resolution beyond “disallowed” as well as common bases for objections. Because this motion form, LBF 752, will no longer be an order, service of the motion must be effectuated by the movant.

LBF 752.5, Order on Trustee’s Objection to Claimed Exemptions

Based on the trustee’s objection to claimed exemptions (ECF No. _____), IT IS ORDERED that the claim of exemption in the property described in the objection be disallowed or allowed as follows:

- Disallowed in full.
- Allowed in the amount of \$ _____.
- Other:

###

Comment. See comment under the [LBF 752](#) proposal above.

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

NOTICE IS GIVEN that _____ (movant), the _____ [enter movant’s role in the case (for example, debtor, or trustee, etc.)], intends to sell the property described below and moves for authority to sell the property free and clear of liens under 11 U.S.C. § 363(f) and the guidelines set forth in Local Bankruptcy Form (LBF) 363, Procedures re: Motions for Sale of All or Substantially All Assets. The mMovant's name, address, and phone number are:

The holders of liens of which the movant requests the property be sold free and clear are [list lienholders]:

If you wish to object to any aspect of the sale or fees disclosed in paragraph 7 or 15, you must:

1. Attend the hearing set in paragraph ~~163~~ below; and
2. Within 21 days after ~~the later of the date next to the signature below or~~ the service date in paragraph 17 below, file with the clerk at 1050 SW 6th Ave. #700, Portland OR 97204 or 405 E 8th Ave. #2600, Eugene OR 97401:
 - a. a written objection stating the specific facts upon which the objection is based, and
 - b. a certificate of service of the objection on the movant.

~~163.~~ A hearing on the motion and any objections to the sale or fees, ~~at which witnesses may not testify~~ which

is [check this box only if directed to do so by the court]

is not

an evidentiary hearing at which witnesses may testify, is scheduled as follows:

Date: _____ Time: _____

Location: Courtroom # _____, _____

Telephone Hearing [See [Local Bankruptcy Form \(LBF\) 888](#), *Telephone Hearing Requirements*.]

Call In Number: (888) 684-8852

Access Code: 5870400 for Judge David W. Hercher (dwh)

1238244 for Judge Peter C. McKittrick (pcm)

4950985 for Judge Teresa H. Pearson (thp)

3388495 for Judge Thomas M. Renn (tmr)

Video Hearing. To connect, see www.orb.uscourts.gov/video-hearings.

If no timely objection is filed, an order may be lodged and the hearing may be canceled ~~and an order—submitted~~. Parties are encouraged to check the hearing calendar at <https://www.orb.uscourts.gov> after the objection deadline has passed.

MOTION

~~This document constitutes the notice required by Local Bankruptcy Rule (LBR) 2002-1. All sections must be completed. The movant moves for authority to sell the property free and clear of liens under § 363(f) as follows—~~

1. The specific subsections of ~~11 U.S.C.~~ § 363(f) movant relies on for authority to sell the property free and clear of liens are [specify for each lienholder]:

2. Buyer's name & and relation or other connection to debtor:

3. General description of the property [*if real property, state street address here*—~~Also~~ and attach legal description as an exhibit to the notice filed with the court]:

4. A copy of the full property description or inventory may be examined or obtained at:

5. The property may be previewed at [*include time and place*]:

6. Other parties to the transaction and their relationship to the debtor are:

7. The gross sale price is: \$ _____.

All liens on the property total \$ _____, of which movant believes a total of \$ _____ need not be paid as secured claims (because the lien is invalid, avoidable, etc., the lienholder consents to less than full payment, or part or all of the underlying debt is not allowable).

Secured creditor~~(s)~~ also seek~~(s)~~ reimbursement of \$ _____ for fees and costs.

Total sales costs will be: \$ _____.

All tax consequences have been considered, and it presently appears that the sale will result in net proceeds to the estate after payment of valid liens, fees, costs, and taxes of approximately: \$ _____.

8. The sale is is not [*mark one*] of substantially all of the debtor's assets. Terms and conditions of sale:

9. Competing bids must be submitted to the movant no later than _____ and must exceed the above offer by at least _____ and be on the same or more favorable terms to the estate.

10. Summary of all available information regarding valuation, including any independent appraisals:

11. If paragraph 7 indicates little or no equity for the estate, the reason for the sale is:

and expenses and taxes resulting from the sale will be paid as follows:

12. (Chapter 11 cases only) The reason for proposing the sale before confirmation of a plan of reorganization is:

13. The following information relates to lien ~~holders~~ on the property (~~who~~ which are listed in priority order):

Name	Service Address [See Federal Rule of Bankruptcy Procedure (FRBP) 7004]	Approx. Lien Amount	Indicate Treatment at Closing (Fully Paid, Partially Paid, or Not Paid.)

Of the liens listed in this paragraph designated to be fully paid, movant does not request that the sale be free and clear but moves for authority to pay them in full.

14. Any liens not fully paid at closing will attach to the sale proceeds in the ~~same order of~~ priority they attach to the property. Any proceeds remaining after paying liens, expenses, taxes, commissions, fees, costs, or other charges as provided in this motion, must be held in trust until the court orders payment.

15. (If real property) The court appointed real estate broker, _____ will be paid _____.

16. If this is a chapter 11 case, this motion complies with the guidelines set forth in LBF 363, Procedures re: Motions for Sale of All or Substantially All Assets.

17. I certify that on _____ this document was served, under FRBP 7004, on the debtor, trustee (if any), U.S. Trustee, each named lienholder at the address listed above, the creditors' committee chairperson (if any), and their attorneys; and (unless movant is a chapter 7 trustee) that it was also sent on that date, pursuant to FRBP 2002(a), to all creditors and all parties as listed in the court's records that were obtained on _____, a copy of which is attached to the document filed with the court.

18. For further information, contact:

Date

Signature & Relation to Movant

(If debtor is movant) Debtor's Address & Last 4 Digits of Taxpayer ID#

Comment. Aside from stylistic and technical changes, the purposes of the proposed revisions are as follows:

- ¶ 2: Revised to make clear that this paragraph is not limited to familial relationships.
- ¶ 3: Hearing notice paragraph moved to notice section and revised to include option for evidentiary hearing.
- ¶ 13: Revised to address the current form's potential ambiguity regarding whether the motion seeks to sell the property free and clear of liens that the movant proposes be paid in full at closing. This is particularly an issue with real-property taxes, for which the movant almost never will have a basis, or a preference, not to pay the claim in full at closing. Clarifying that the motion does not seek to sell free of a lien relieves the movant of the need to serve the motion on the lienholder and relieves the lienholder of the need to consider whether to object if there's a disagreement on the stated lien amount or a concern about delaying payment to it until after closing, as is required by ¶ 14.

**LBF 761, Motion ~~and Notice of Intent~~ to Settle and Compromise Adversary Proceeding,
and Order Thereon**

The undersigned trustee, _____, moves to settle and compromise the above adversary proceeding upon the following terms:

The facts and law supporting approval of the settlement are:

###

[...]

Comment. Proposal is to add space to describe the legal basis for the motion. See also the [LBF 761.2](#) proposal below.

LBF 761.2, Motion ~~and Notice of Intent~~ to Settle and Compromise, and Order Thereon

The undersigned trustee, _____, moves to settle and compromise the following described dispute upon the following terms:

The facts and law supporting approval of the settlement are:

###

[...]

Comment. Proposal is to add space to describe the legal basis for the motion. See also the [LBF 761](#) proposal above.

LBF 762, Notice of Motion and ~~Trustee's~~ Motion for Authority to Assume Unexpired Lease or Executory Contract

Notice of Motion

If you oppose the relief sought in this motion, you must file a written objection with the bankruptcy court no later than 14 days after the date listed in the certificate of service below. If you do not file an objection, the court may grant the motion without further notice. Your objection must set forth the specific grounds for objection and your relation to the case. The objection must be received by the clerk of court at 1050 SW 6th Ave #700, Portland, OR 97204 or 405 E 8th Ave #2600, Eugene, OR 97401 by the deadline specified above or it may not be considered.

[*Check one*]:

Within that same time, you must also serve the objection on [*insert name, address, and phone number of movant*]:

You need not serve the objection because the movant’s counsel is an ECF participant and will receive notice electronically.

Motion

1. The trustee, _____, moves the court for authority to assume executory contract or unexpired lease pursuant to 11 U.S.C. § 365(a) and Federal Rule of Bankruptcy Procedure (FRBP) 6006 as set forth below.
2. Description of contract or lease:
3. The facts and law supporting the trustee’s authority to assume executory contract or unexpired lease are:

Trustee’s or Trustee’s Attorney’s Signature OSB#, if attorney

Address

Phone #

Certificate of Service

I certify that on _____, copies of this motion and all attachments thereto were served on the debtor and all parties to the contract or lease. The following is a list of the names, FRBP 7004 service addresses, and methods for service on all parties served using paper:

Signature OSB#, if attorney

Comment. Because the changes are extensive enough that a redline version will likely not be helpful for review, the form is presented in a clean format. The purpose of this proposal is to split LBF 762 into separate motion form (this LBF 762) and a form for proposed order on objection ([LBF 762.5](#) below). Because this motion form, LBF 762, will no longer be an order, service of the motion must be effectuated by the movant.

[new] LBF 762.5, Order on ~~Trustee's~~ Motion for Authority to Assume Unexpired Lease or Executory Contract

This matter having come before the court on the *Notice of Motion and Trustee's Motion for Authority to Assume Unexpired Lease or Executory Contract* (ECF No. _____), and the court finding good cause,

IT IS ORDERED that:

- The trustee is authorized to assume the executory contract or unexpired lease in accordance with the terms set forth in the motion.

- The trustee is authorized to assume the executory contract or unexpired lease in accordance with the terms set forth in the motion, but with the following modifications:

- The motion is denied.

###

Comment. See proposal under [LBF 762](#) above.

LBF 762.2 765, Notice of Motion and Motion for Authority to Reject and Abandon Unexpired Lease or Executory Contract, ~~and Order and Notice Thereon~~

Notice of Motion

If you oppose the relief sought in this motion, you must file a written objection with the bankruptcy court no later than 14 days after the date listed in the certificate of service below. If you do not file an objection, the court may grant the motion without further notice. Your objection must set forth the specific grounds for objection and your relation to the case. The objection must be received by the clerk of court at 1050 SW 6th Ave #700, Portland, OR 97204 or 405 E 8th Ave #2600, Eugene, OR 97401 by the deadline specified above or it may not be considered.

[*Check one*]:

- Within that same time, you must also serve the objection on [*insert name, address, and phone number of movant*]:

You need not serve the objection because the movant's counsel is an ECF participant and will receive notice electronically.

Motion

1. The trustee or debtor in possession, _____, moves the court for authority to reject an unexpired lease or executory contract pursuant to 11 U.S.C. § 365(a) and Federal Rule of Bankruptcy Procedure (FRBP) 6006 as set forth below.

2. Description of contract or lease:

3. The facts and law supporting the movant's authority to reject the unexpired lease or executory contract:

Movant's or Movant's Attorney's Signature OSB#, if attorney

Address and, if Movant is the Debtor, Last 4 Digits of Debtor's Taxpayer ID#

Phone #

Certificate of Service

I certify that on _____, copies of this motion and all attachments thereto were served on the debtor and all parties to the contract or lease. The following is a list of the names, FRBP 7004 service addresses, and methods for service on all parties served using paper:

Signature OSB#, if attorney

Comment. Because the changes are extensive enough that a redline version will likely not be helpful for review, the form is presented in a clean format.

The primary purpose of this proposal is to split LBF 762.2 into a separate motion form and order form. Under the proposal, will be renumbered as LBF 765 (motion) and [LBF 765.5](#) (order) in an attempt at keeping numbering formatting consistent with “.5” being added to LBF numbers for orders. Because this motion form, LBF 765, will no longer be an order, service of the motion must be effectuated by the movant.

In addition to splitting the form, the proposal includes the following changes:

- Opens the form up for use by debtors in possession (the current form is worded such that it is for trustee use only).
- Removes “and abandon” and code and rule references applicable only to abandonment from the title and body of the motion. A contract or lease is a relationship between the contracting parties. The contract or lease is not itself property. A trustee can reject an executory contract or unexpired lease in order to insulate the estate from administrative-expense liability under the contract or lease. Separately, a trustee can abandon property if the property is burdensome or of inconsequential value or benefit to the estate. Abandonment transfers title to the property from the estate back to the debtor. If it turns out that a rejected executory contract or unexpired lease in fact was beneficial to the estate, rejection doesn’t affect the estate’s right to receive that benefit. But if the estate has abandoned the contract or lease, the right to receive that benefit becomes property of the debtor. If abandonment is sought, there are two other trustee forms that may be used: LBF 751, *Notice of Intent to Abandon*, and LBF 751.2, *Notice of Offer to Sell, and of Alternative Intent to Abandon*.

[new] LBF 765.5, Order on Motion for Authority to Reject Unexpired Lease or Executory Contract

This matter having come before the court on the *Notice of Motion and Motion for Authority to Reject Unexpired Lease or Executory Contract* (ECF No. _____), and the court finding good cause therefore,

IT IS ORDERED that:

The motion is granted.

The motion is denied.

###

Comment. See comment under the [LBF 765](#) proposal above.

**LBF 1124, Notice of Motion for Relief From Automatic Stay in a Chapter 11/12 Case and
Notice of Hearing Thereon**

[...]

5. If you file a timely response, a hearing on the motion, ~~at which witnesses may not testify,~~
which

is [check this box only if directed to do so by the court]

is not

an evidentiary hearing at which witnesses may testify, will be held as follows:

[...]

Comment. Form as revised will include option for evidentiary hearing.

**LBF 1301, Notice of Motion and ~~Chapter 13 Debtor's~~ Motion to Buy, Sell, or Encumber
Interest in Property in a Chapter 13 Case**

Notice

1. YOU ARE NOTIFIED that the motion below was filed by ~~the debtor~~ _____ [enter
name of movant], who is _____ [enter role in case] in the case, to
[check all that apply]:

Buy property

Sell property

Encumber property (including refinance of property and loan modification)

[...]

6. For further information, contact [enter name and contact information of ~~debtor~~movant's
attorney, or, if no ~~debtor~~movant's attorney, ~~debtor~~movant]:

Date

Signature & Relation to Movant

~~Debtor~~Movant's Address & and, if movant is debtor, Last 4 Digits of
Taxpayer ID#

Motion

[...]

5. **Motion to Approve Encumbrance of Property** (including refinance of property and loan modification). ~~Debtor~~Movant hereby moves for the authority for debtor to encumber the property described in paragraph 1 of this motion. In support of this motion, ~~debtor~~movant provides the following information—

Encumbrance type: New Loan Refinance Loan Modification

Name of lender:

Relationship of lender to debtor:

Principal amount of loan: \$

Interest rate:

Loan term/maturity date:

Payment amount and terms [*for example, monthly, interest only with balloon or fully amortizing, payable only after prior debt*]:

Closing costs:

Lien position [*senior lien, second position lien, etc.*]:

Amount of cash debtor will receive from refinance: \$0 \$

Use of any cash debtor receives:

If this is a refinance or loan modification, explain how the new terms compare with the prior terms:

Points and Authorities

[Movant must complete this entire section]

6. **Basis for Relief.** ~~Debtor~~Movant asserts that the court should grant the relief requested because:

7. **Chapter 13 Trustee Position on this Motion.** ~~Debtor~~Movant or ~~debtor~~movant's counsel has conferred with the chapter 13 trustee, and the trustee:

Consents to this motion

Opposes this motion

Takes no position on this motion

Other:

8. **Plan**

a. Does the chapter 13 plan contemplate the relief requested herein? Yes No

b. Effect of Requested Relief on Plan or Plan Payments [*check all that apply*]:

Satisfies an arrearage or other secured debt being paid in the plan. ~~Debtor~~Movant anticipates debtor will have an increased ~~or~~ a reduced housing expense of \$_____ compared to the amount listed in the most recently filed Schedule J.

Net proceeds will be used to complete debtor's obligations under the plan.

Net proceeds will be used to pay all creditors in full.

Other:

9. **Exhibits**

In support of this motion, ~~debtor~~movant hereby attaches the following exhibits [*for example, purchase and sale agreement, note, deed of trust, preliminary title report, estimated closing statement*]:

None

Exhibits:

Exhibit Number <i>[for example, Exhibit B]</i>	Exhibit Description <i>[for example, purchase and sale agreement, note, deed of trust, preliminary title report, estimated closing statement]</i>

10. Declarations

In support of this motion, ~~debtor~~movant hereby attaches the following declarations:

None

Declarant names:

Date

Signature & Relation to Movant

~~Debtor~~Movant's Address & and, if Movant is Debtor, Last 4 Digits of Taxpayer ID#

Comment. Form as revised would be required for creditors as well as debtors. See also the comment under [LBR 3015-1](#).

Additionally, "Net proceeds will be used to complete debtor's obligations under the plan" in paragraph 8.b. of the motion section has been separated from the preceding paragraph to be a separate option. Other changes are stylistic.

LBF 1301.5, Order on Motion ~~by Chapter 13 Debtor~~ to Buy, Sell, or Encumber Interest in Property in a Chapter 13 Case

This matter having come before the court on the *Notice of Motion and Motion ~~by Chapter 13 Debtor~~ to Buy, Sell, or Encumber Interest in Property in a Chapter 13 Case* (ECF No. _____), and the court finding good cause,

IT IS ORDERED that the motion is:

Granted. The debtor is authorized to buy, sell, or encumber (including refinance of property and loan modifications) its interest in the following property, including street address and legal description if real property:

in accordance with the terms set forth in the motion.

Granted. The debtor is authorized to buy, sell, or encumber (including refinance of property and loan modifications) its interest in the following property, including street address and legal description if real property:

in accordance with the terms set forth in the motion, but with the following modifications:

Denied

###

Comment. See the comment under [LBR 3015-1](#).

LBF 1350.05, Order Confirming Plan and Resolving Motions

[...]

The debtor's plan having been provided to creditors and the Court having found that it complies with 11 USC § 1325, now, therefore IT IS ORDERED:

1. The debtor's plan dated _____, as modified by any amendment shown in ¶ ~~11~~12, is confirmed.

2. The terms of this order are subject to any objection filed within ~~15~~21 days by [list, alphabetically and one per line, the name and a service address for any creditor whose address is not listed in paragraphs 6, 8, or 12];

23. The debtor shall [...]

~~56~~. The value of collateral securing debts due holders of secured claims is fixed at the values stated in the plan or the modifications in ¶~~44~~12 below, only if a valuation motion(s) was included in the plan and served as required under FRBP 7004, or the allowed amount of the secured claim was fixed by consent of the concerned secured creditor. In all other circumstances, the value of such collateral, if contested, shall be established through the claims process or otherwise, as provided in title 11 or the FRBP. Executory contracts and unexpired leases are assumed or rejected as provided in the plan or the modifications in ¶~~44~~12 below. [...]

~~44~~12. The debtor moves to amend the plan by interlineation as follows, which amendments are allowed and become part of the confirmed plan [Note: List, alphabetically and one per line, the name and a service address for any creditor whose address is not listed in ¶~~56~~. For changes to plan language, but not added language, set out the old and new language in different forms, for example by striking through deleted language and underlining new language.]

~~42~~13. Creditors with prepetition claims excepted from the debtor(s)' discharge are enjoined from initiating any collection actions against the debtor(s) until this case is closed, dismissed, or converted to another chapter under title 11, unless they obtain relief from this order.

~~13. — The terms of this order are subject to any objection filed within 15 days by [Note: Listed alphabetically, and only one per line, include the name and a service address for any creditor whose address is not listed in ¶¶ 5, 7 or 11]:~~

14. The trustee is authorized to commence disbursements in accordance with the plan.

[...]

Comment. Proposal is to (1) move current ¶ 13 to the first page of the form and renumber as ¶ 2 in order to better provide notice to creditors who may object to the terms of the order and (2) change the objection period in new ¶ 2 from 15 to 21 days to match the period on the other forms for orders confirming chapter 13 plans. See also proposed revisions to [LBFs 1350.21 and 1350.17](#) below.

LBFs 1350.21 & 1350.17, Order Confirming Plan and Resolving Motions

[...]

The debtor's plan having been provided to creditors and the court having found that it complies with 11 U.S.C. § 1325, now, therefore **IT IS ORDERED:**

1. Debtor's plan (~~Docket #~~ ECF No. _____) is confirmed, and all relief requested in the plan is granted. All references to the plan are to the plan as modified by any amendment shown in paragraph ~~4~~5 below.

2. The terms of this order are subject to any objection filed within 21 days by [list, alphabetically and one per line, each creditor's name and service address]:

23. Pursuant to 11 U.S.C. § 522(f)(1), the following liens are avoided [list alphabetically, and only one per line, including each creditor's name, service address, and lien type (for example, judicial lien or non-purchase money security interest)]:

34. Per the filed *Chapter 13 Debtor's Attorney's Compensation Disclosure and Application* ([Local Bankruptcy Form \(LBF\) 1305](#)) and, if applicable, the *Chapter 13 Debtor's Attorney's Schedule 2.(b) Itemization* ([LBF 1306](#)), compensation to debtor's counsel of attorney fees of \$ _____ and expenses of \$ _____, of which \$ _____ has been paid, leaving \$ _____ to be paid as funds become available per plan paragraph 4(c).

45. Debtor has moved to amend the plan by interlineation as follows, which amendments are allowed and become part of the confirmed plan [for changes to plan language, but not added language, set out the old and new language in different forms, for example by striking through deleted language and underlining new language]:

~~5. The terms of this order are subject to any objection filed within 21 days by [list alphabetically, and only one per line, including each creditor's name, service address]:~~

6. Additional provisions, if any:

[...]

Comment. Because LBF 1350.21 and LBF 1350.17 are nearly identical, only revisions to LBF 1350.21 are shown above. Proposal is to move current ¶ 5 to the first page of the form and renumber as ¶ 2 in order to better provide notice to creditors who may object to the terms of the order. See also proposed revisions to [LBF 1350.05](#) above.

LBF 1365, Notice of Motion and Chapter 12 or Chapter 13 Debtor’s Motion for Allowance and Future Payment on Untimely Filed Claims

Notice of Motion

If you oppose the relief sought in this motion, you must file a written objection with the bankruptcy court no later than 14 days after the date listed in the certificate of service below. If you do not file an objection, the court may grant the motion without further notice. Your objection must set forth the specific grounds for objection and your relation to the case. The objection must be received by the clerk of court at 1050 SW 6th Ave #700, Portland, OR 97204 or 405 E 8th Ave #2600, Eugene, OR 97401 by the deadline specified above or it may not be considered.

[*Check one*]:

Within that same time, you must also serve the objection on [*insert name, address, and phone number of movant*]:

You need not serve the objection because the movant’s counsel is an ECF participant and will receive notice electronically.

Motion

1. The debtor moves the court for an order allowing and providing for future payments on the untimely claims filed by the debtor on behalf of the following creditors with the status (priority, secured, or unsecured) and amount shown as if such claims were timely filed:

<u>Creditor Name and Service Address</u>	<u>Status</u>	<u>Amount</u>
--	---------------	---------------

Any creditor listed above that does not timely object to this motion may have its claim allowed and will share in payments as provided in the debtor’s plan for that type of claim as if such claim had been timely filed. If the debtor completes the plan or seeks a hardship discharge, the debtor may contend that any balance owing upon the claim will be discharged.

2. The debtor's failure to timely file claims for the above creditors was due to the following excusable neglect [*see Federal Rules of Bankruptcy Procedure 3004 and 9006(b)(1)*]:
3. Allowance and future payment of the claims as if such claims were timely filed will benefit the debtor, for any listed creditor who was scheduled in time to file a claim before expiration of the bar date, as follows [*if applicable, explain each separately*]:

4. Allowance and future payment of the claims as if such claims were timely filed will affect general unsecured creditors (other than those creditors listed in paragraph 1) as follows *[choose one option]*:

The plan provides that general unsecured creditors will receive a fixed percentage on their claims. Dividends payable on allowed unsecured claims will not be affected by this motion.

The plan provides that debtor must make plan payments for a fixed period of time. Allowance of this motion and future payment of the additional claims as if they were timely filed will result in a reduction of the dividend paid to other general unsecured creditors.

Other:

Signature

OSB#, if attorney

Debtor's address and last four digits of taxpayer ID#

Phone #

Certificate of Service

I certify that on _____

(1) copies of (a) this motion, (b) the notice of any pending confirmation hearing plus all documents required to be attached thereto indicating any proposed plan under consideration, (c) the latest, if any, confirmed or approved plan and the order confirming that plan, (d) any pending notice of modification of plan and all required attachments thereto, and (e) the applicable proof of claim were served on each creditor listed in paragraph 1 above;

(2) copies of (a) this motion and (b) all applicable proofs of claim were served on the trustee; and,

(3) if any creditor listed was not scheduled prior to the first date set for the confirmation hearing, a copy of this motion was served on all creditors.

The following is a list of the names, service addresses, and methods for service on all parties served using paper:

Signature

OSB#, if attorney

Comment. Because the changes are extensive enough that a redline version will likely not be helpful for review, the proposal is presented in a clean, revised format. The purpose of this proposal is two-fold: (1) make it clear that the court accepts late-filed claims filed by the debtor on behalf of a creditor (as opposed to late claims filed directly by creditors) and (2) uncouple the motion from the order in LBF 1365.5.

- Acceptance of late-filed claims

Occasionally, debtors move to allow late-filed claims filed by creditors, or creditors file motions to allow late-filed claims. The court cannot allow a late-filed claim filed by a creditor, but it can allow a late-filed claim filed by a debtor on behalf of a creditor if this was a result of the debtor's excusable neglect. *Gardenhire v. Internal Revenue Service (In re Gardenhire)*, 209 F.3d 1145 (9th Cir. 2000); *In re Martin*, 2011 WL 1102758 (Bankr. D. Idaho 2011). See also [LBR 3001-1](#) proposal above.

- Uncoupling of motion and order

The proposal is to split current LBF 1365 into this proposed motion form and [LBF 1365.5](#) below for proposed orders. Because this motion form will no longer be an order, service of the motion must be effectuated by the movant.

[new] LBF 1365.5, Order on Chapter 12 or Chapter 13 Debtor's Motion for Allowance and Future Payment on Untimely Filed Claims

This matter having come before the court on the *Notice of Motion and Chapter 12 or Chapter 13 Debtor's Motion for Allowance and Future Payment on Untimely Filed Claims* (ECF No. _____), and the court finding good cause,

IT IS ORDERED that:

The claims listed in the motion are allowed as if such claims were timely filed.

The following claims listed in the motion will be treated in the following manner:

The motion is denied.

###

Comment. See the comment under the [LBF 1365](#) proposal above.

LBF 1367.92, Debtor's Motion to Reopen Chapter 7 or 13 Case and, if Applicable, to Vacate Dismissal

[...]

Note that the court will not reopen (a) a case in which a discharge has been entered to accept or act upon a reaffirmation agreement ~~without a motion explaining why court action is necessary~~ or (b) a no-asset case in order to add a creditor.

[...]

Comment. Per *In re Uzcanga-Ramirez*, Case No. 22-31705-pcm7, the court won't reopen to act upon a reaffirmation agreement after discharge.

LBF 1378, Notice of Motion and Motion for Hardship Discharge; and Statement re: Applicability of 11 U.S.C. § 522(q)(1) Applicability; and Fixing Times for Filing Objections, Complaints, and Motions; and Order and Notice Thereon

Notice of Motion

If you oppose the relief sought in this motion, you must file a written objection with the bankruptcy court no later than 14 days after the date listed in the certificate of service below. If you do not file an objection, the court may grant the motion without further notice. Your objection must set forth the specific grounds for objection and your relation to the case. The objection must be received by the clerk of court at 1050 SW 6th Ave #700, Portland, OR 97204 or 405 E 8th Ave #2600, Eugene, OR 97401 by the deadline specified above or it may not be considered.

[*Check one*]:

Within that same time, you must also serve the objection on [*insert name, address, and phone number of movant*]:

You need not serve the objection because the movant's counsel is an ECF participant and will receive notice electronically.

Comment. Because the changes are extensive enough that a redline version will likely not be helpful for review, the body of the form (as opposed to the title) is presented in a clean, revised format. The purpose of this proposal is twofold:

1. Update the 522(q) statement along the same lines that LBF 525 and LBF 1191.3 were updated for the 2021 rule and forms update cycle and
2. Separate the motion and order components of the form—orders on these motions will be generated by the court, and so no LBF for proposed orders accompanies this proposal. Because this motion form will no longer be an order, service of the motion must be effectuated by the movant.