

PROPOSED REVISIONS TO LOCAL BANKRUPTCY RULES AND FORMS

September 17, 2024

This document contains proposed revisions to the December 1, 2023, version of the Local Bankruptcy Rules (LBRs) for the District of Oregon and proposed revisions to various Local Bankruptcy Forms (LBFs). 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, 2024, to be considered. After reviewing any comments, the court will post the final revised rules and forms which will take effect on December 1, 2024, unless otherwise noted.

PROPOSED LOCAL BANKRUPTCY RULES REVISIONS	3
Rule 1001-1. Local Rules—Title, Numbering Sequence, Scope, & Effective Date.	3
Rule 1007-2. Mailing—List or Matrix.....	3
Rule 1009-1. Amendment—Voluntary Petition, Lists, or Schedules.....	3
Rule 1016-1. Death of a Debtor or Party.	4
Rule 2002-1. Notices to Creditors and Other Interested Parties.	5
Rule 3007-1. Claim—Objection.	5
Rule 3019-1. Chapter 11—Plan or Disclosure Statement Amendment.	6
Rule 5078-1. Copy—Document.	6
Rule 7001-1. Adversary Proceedings—General.	7
Rule 7004-1. Service of Process.	7
Rule 9001-1. Rules of Construction & Definitions.	8
Rule 9009-1. Forms—Local (LBF) & Official (OF).....	8
Rule 9010-1. Attorney—Notice of Appearance; Withdrawal.	9
Rule 9017-1. Exhibits and Equipment; Use of Electronically Recorded Testimony.	10
Rule 9018-1. Documents Filed Under Seal or Submitted Unfiled for Review in Chambers. ..	10
Rule 9021-1. Order or Judgment—Entry of; Costs.	10

PROPOSED LOCAL BANKRUPTCY FORM REVISIONS 12

LBF 717, *Motion to Avoid Judicial Lien on Real Property Pursuant to 11 U.S.C. § 522(f)(1)(A)* 12

LBF 717.07, *Order Avoiding Judicial Lien Pursuant to 11 U.S.C. § 522(f)(1)(A)* 13

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* 13

LBF 1190, *Notice of Order Confirming Chapter 11 Plan and Compensation Applications* 14

LBF 1300.224, *Chapter 13 Plan*..... 15

LBF 1305, *Chapter 13 Debtor's Attorney's Compensation Disclosure and Application* 22

LBF 1365, *Notice of Motion and Chapter 12 or Chapter 13 Debtor's Motion for Allowance of and Future Payment on Untimely Filed Claims* 23

[new] LBF ADV-A, *Statement re Party's Address*..... 24

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 take effect on December 1, 202~~3~~4.

[...]

Comment. Revision updates the effective date for the 2024 rules.

Rule 1007-2. Mailing—List or Matrix.

[...]

- ~~(b) Chapter 11. The debtor must attach a certificate of service to the initial list of creditors filed under FRBP 1007(d) certifying the debtor separately provided the UST with:~~

~~(1) A copy of the list.~~

~~(2) A self-adhesive label with the name and service address for each of the following: the debtor (or party designated to perform the debtor's duties), any joint debtor, any debtor's attorney, and each creditor on the list.~~

- (be) Amendment.** LBR 1009-1 applies.

Comment. The United States trustee is provided with the 20 Largest Creditors through CM/ECF and has informed the Local Bankruptcy Rules and Forms Committee that it does not use the self-adhesive labels required by this rule.

Rule 1009-1. Amendment—Voluntary Petition, Lists, or Schedules.

- (a) Amendment to a Voluntary Petition.** An amendment to a voluntary petition must be filed with a certificate of service stating that the notice required by FRBP 1009(a) was served on the trustee and any entity that may be affected by the amendment. If the notice was given other than by serving the amended petition itself, the notice must be attached to the certificate of service.

(b) Amendment to a List or Schedule of Creditors, Equity Security Holders, Codebtors, or Other Interested Entities. An amendment to a list or schedule of creditors, equity security holders, codebtors, or other interested entities must be filed under LBF 728.

Comment. If adopted, new rule LBR 1009-1(a) will require that an amended petition be filed along with a certification that the notice required by FRBP 1009(a) has been given.

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

- (a)** In the event of the death of an individual debtor or party in an open case, a joint debtor or ~~counsel attorney~~ for the decedent must file a notice of the death as soon as practicable, and include a redacted copy of the death certificate, if available. Any ~~party in~~ interested person, including the personal representative of the decedent's estate, may file a notice of death. In a case under chapter 11, 12, or 13, the decedent's case may be dismissed after notice and an opportunity for a hearing unless an interested ~~party person~~ files a motion to continue the case, supported by a declaration, seeking appropriate findings under FRBP 1016 and any appropriate waiver of ~~other requirements applicable to~~ the decedent's obligations, ~~including~~ to file LBF 525 (1) the domestic support obligation certificate required by § 1328(a) and (2) proof of completion of the financial-management course required by § 1328(g). If the movant requests a waiver of the requirement to file LBF 525, the movant must either file an LBF 525 signed by the movant or other person providing the information for that form or the portion of that information known to the signer, or the movant must state in the declaration that, after making reasonable inquiry, the movant lacks that information and does not know that any other person, including any surviving spouse, former spouse, or adult child of the decedent, has that information.
- (b)** The declaration required by (a) must discuss how plan payments will be made and how parties will be affected by allowing the case to proceed.
- (bc)** 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 any probate proceeding.

Comment. FRBP 1016's requirement that a nondismissed, postmortem chapter 13 case "be concluded in the same manner, so far as possible, as though the death ... had not occurred" is furthered by allowing a § 1328(a) certificate to be filed by someone with personal knowledge. The proposed revisions account for the rare circumstance where the person requesting the waiver does not have personal knowledge sufficient to complete the LBF 525 in lieu of the decedent.

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

[...]

(g) Change of Mailing Address, and Returned Document.

[...]

- (2) **Returned Document.** The clerk must use the address of debtor’s attorney; or of a pro se self-represented debtor’s, ~~address~~ as the return address ~~of record~~ on a notice the clerk sends, ~~to help ensure mailing accuracy~~, unless documents from different cases are sent in a single envelope. Except as provided in (f), the debtor must file LBF 101C, LBF 101D, or the BNC Bypass Notice to correct any address errors regarding entities that were listed on the mailing list. The clerk will ~~not~~ neither maintain a permanent record of; nor retain; a document returned to the clerk.

[...]

Comment. The district court recently replaced all instances of the term “*pro se*” with “self-represented” in its local rules. Making the same change to the LBRs keeps the bankruptcy court’s rules in closer stylistic conformance with the district court’s rules. See also the proposal below to remove the definition of “*pro se*” from [LBR 9001-1](#), which is the only other place in the LBRs the term is used. Other changes are stylistic.

Rule 3007-1. Claim—Objection.

[...]

(b) ~~Chapter 11.~~

- (1) **Timing of Objections and Effect on Confirmation in a Chapter 11 Case.** A claim objection filed more than seven days after service of notice of the initial disclosure statement hearing does not affect the amount of the claim for the purpose of voting on, objecting to, determining creditor acceptance of, or otherwise determining whether to confirm, the plan to which the notice referred or any amendments to the plan.
- ~~(2) **Prefiling Conference Certification.** In a chapter 11 case, the signature on a claim objection certifies that one of the LBR 7007-1(a)(1) statements is true (but no description is required); LBR 7007-1(a)(2) applies.~~

Comment. Conferral requirements are appropriate when it is more likely than not that conferral will obviate the need for the motion. Although this may be the case for many motions during the pendency of a contested matter (particularly ones relating to discovery or briefing deadlines), it will rarely be the case for a claim objection or other document initiating a contested matter.

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

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

Comment. In chapter 11 subchapter V cases confirmed under § 1191(b), plans can be modified “if circumstances warrant” anytime within 3 years or up to 5 years. This is unlike regular chapter 11 cases, or subchapter V cases confirmed consensually under 1191(a), where modification can only happen before substantial consummation.

Section 1193(b) and (c) and FRBP 3019(c) govern plan modification after confirmation of subchapter V cases. FRBP 3019(c), in turn, points to FRBP 3019(b). And FRBP 3019(b) says, in part, that “the clerk, or some other person as the court may direct, shall give the debtor, the trustee, and all creditors not less than 21 days' notice by mail of the time fixed to file objections and, if an objection is filed, the hearing to consider the proposed modification, unless the court orders otherwise with respect to creditors who are not affected by the proposed modification.”

The proposed revision puts the noticing responsibility on the party requesting modification.

Rule 5078-1. Copy—Document.

- (a) **General.** A conventional, certified, or exemplified paper copy of an electronically filed document may be obtained at the clerk’s office. An appropriately sized ~~SASE self-addressed, stamped envelope~~ must accompany each request unless the requesting party picks up the document at the clerk’s office no later than 4:00 p.m. on the business day after it is prepared.
- (b) **Conformed Copy.** The entity filing a paper document may request a conformed copy of that document by simultaneously providing the clerk: (1) a copy of the document; (2) a declaration that the copy is identical to the filed document; and (3) a ~~SASE self-addressed, stamped envelope~~. A declaration may be a separate document or a signed notation on the first page of the copy.

Comment. See the comment under the [LBR 9001-1](#) proposal below.

Rule 7001-1. Adversary Proceedings—General.

[...]

(c) Documents.

[...]

- (2) Cover Sheet on Paper.** ~~To file an adversary proceeding, or a stipulated judgment if no complaint has been filed, a party filing on paper must file an adversary proceeding cover sheet (on OF 1040) with the complaint or proposed judgment. An adversary proceeding cover sheet on OF 1040 must be filed on paper with a complaint, stipulated judgment in lieu of a complaint, or notice of removal filed on paper.~~

[...]

Comment. LBR 7001-1(c)(2) requires that a paper cover sheet accompany the paper filing of a complaint or stipulated judgment in lieu of a complaint. A filed notice of removal has the effect of initiating an adversary proceeding, but the rules do not now require that a party removing on paper file a cover sheet, although the same need for information exists for an adversary proceeding commenced by removal as it does for one commenced by complaint.

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.

[...]

- (c)** On the day of the first filing by a party in an adversary proceeding, the party must also file an LBF ADV-A. If the party's address changes, the party must file an updated LBF ADV-A.

[...]

Comment. The purpose of the proposed new rule and associated new form, [LBF ADV-A](#), is to solicit an adversary proceeding party's address from the party. If the proposal is adopted, a new

CM/ECF event will be created for e-filing the new form: *AP > Notices/Miscellaneous > Statement re Party's Address [Requires LBF ADV-A - 12/1/24]*.

Rule 9001-1. Rules of Construction & Definitions.

[...]

~~(y) “Pro se” means a party not represented by an attorney of record.~~

(zy) “Request,” when used in reference to a request for the court to take some action, means a requirement to file a formal motion.

~~(aa) “SASE” means an adequately sized, self-addressed, envelope bearing adequate postage for return to the addressee. Submission of self-adhesive labels is not acceptable.~~

(bz) “UST” means the United States trustee.

Comment. See the [LBR 2002-1\(g\)\(2\)](#) proposal for the removal of definition of “*pro se*.”

As for the removal of current subsection (aa), the term “self-addressed, stamped envelope” is not complex enough to warrant an acronym with corresponding definition. In addition to the removal of this definition, the acronym would be replaced with the spelled-out term in all instances it appears in the rules: LBRs [5078-1](#), [9009-1\(a\)](#), [9017-1\(e\)](#), and [9018-1\(a\)](#).

Rule 9009-1. Forms—Local (LBF) & Official (OF).

(a) **Availability.** The LBFs and OFs (forms) are available on the court’s website at www.orb.uscourts.gov. In response to a written request at a clerk’s office location, accompanied by a 9"x 12" ~~SASE self-addressed stamped envelope bearing that includes~~ sufficient first-class postage to mail a two-pound package if the request is mailed, the clerk will provide, without cost, one master copy of all LBFs required for use. A request of the clerk’s office must be accompanied by a written certification that the requestor does not have access to the Internet.

(b) **Applicable Version.** When ~~an LBF or OF form is filed, it~~ must be on the most current version available at the time of filing. If a trustee is specifically identified in an LBF’s preprinted text as the filer, the trustee must use that LBF and, if applicable, lodge any proposed order on the corresponding LBF.

(c) **Preparation.** If an ~~LBF or OF form~~ is prepared ~~on a form~~ other than using the one form available on the court’s website, the document must be identical in both format and text ~~(i.e., a “mirror” image)~~ to the most current version of the ~~LBF or OF form~~ available on the applicable court’s website that is applicable at the time when the form is filed. ~~The clerk need not serve any document or notice that cannot readily and legibly be converted into PDF format.~~ In completing a form, the filer may add language that changes the effect of the form text, but the addition must be conspicuous, such as by making it in bold or underlined typeface, by using highlighting or an alternate color, or by adding pages to the form. A form may not be altered except as permitted by this rule.

(d) **Contents; Instructions; Certifications.** A form must contain all information and attach all documents called for by the form. The filer must comply with all the form’s instructions and ensure that all statements in a form’s certifications are true.

Comment. In addition to stylistic changes, the bases for the proposed revisions are as follows—

- Subsection (c):

FRBP 9009 includes a requirement that OFs not be altered, but there is no analogous requirement in the local rules for LBFs. The proposed new language would limit alterations while allowing for some flexibility provided that any changes are conspicuous.

Removal of “(i.e., a ‘mirror’ image)” is not intended to relax requirements that the format and text of forms created by filers be identical to those available on court websites.

- Subsection (d):

Currently, there is no express requirement, either in individual forms or in an LBR, that required LBFs be completed and that embedded certifications be not only made but be true.

Rule 9010-1. Attorney—Notice of Appearance; Withdrawal.

[...]

(c) **Representation of an Organization.** An organization, other than a corporate standing or panel trustee, must be represented by an attorney except to ~~prepare and~~ file a proof of claim or file a document electronically via ePOC or the “Creditor Claimant” menu in ECF. In this subdivision, “organization” includes a corporation, partnership, association, trust, limited liability company, limited liability partnership, conservator, guardian, and any other entity that is not an individual.

Comment. Unrepresented organizations may file a variety of documents through ePOC or, upon approval from one of the court’s CM/ECF registrars, the “Creditor Claimant” menu in CM/ECF.

Rule 9017-1. Exhibits and Equipment; Use of Electronically Recorded Testimony.

[...]

- (e) **Return or Disposal of Exhibits upon Finality.** Thirty days after a matter is no longer subject to appellate review, the party that offered an exhibit may have it returned without order upon a written request stating that no appeal is pending and the case or proceeding is final. The requestor must furnish the clerk with a **SASE self-addressed, stamped envelope** or make other appropriate arrangements for delivery of the exhibit. If a party does not request that an exhibit be returned within 60 days after a matter is no longer subject to appellate review, the clerk may destroy or otherwise dispose of it without further notice.

Comment. See the comment under the [LBR 9001-1](#) proposal.

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

- (a) **General.** The court will seal only an entire document; it will not seal parts of a document. Documents permitted to be filed on paper will be scanned, entered into ECF, and then promptly destroyed unless filed with a **SASE self-addressed, stamped envelope** for return to the filer after entry.

[...]

Comment. See the comment under the [LBR 9001-1](#) proposal.

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

[...]

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

[...]

- (4) **Form.**

(A) **General.** [...] A proposed order or judgment must:

(viii) Include the following after the three-pound (###) symbols:

[...]

(II) A list of names and addresses of all contesting parties who are not, and whose attorneys are not, ECF Participants or a statement that there are no such parties.

[...]

Comment. If adopted, this rule as revised would require a proposed order or judgment to include, in the absence of a list of contesting parties who are not ECF Participants, a statement that there are no contesting parties who are not ECF Participants.

PROPOSED LOCAL BANKRUPTCY FORM REVISIONS

LBF 717, Motion to Avoid Judicial Lien on Real Property Pursuant to 11 U.S.C. § 522(f)(1)(A)

Notice to lienholder: _____ [*enter name of lienholder*]

If you oppose the proposed course of action or 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 [*enter name, address, and phone number of movant or movant's attorney*]:

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

If the court sets a hearing, you will receive a separate notice listing the hearing date, time, and other relevant information.

[...]

1. Name and Federal Rule of Bankruptcy Procedure 7004 service address of lienholder whose lien is to be avoided:

[...]

10. Debtor is therefore entitled to avoid the lien referenced in paragraph 2 above [*check one*]—

in full so that it no longer remains a lien against debtor's interest in the real property, ~~or~~

in the amount of \$ _____ so that it remains a lien against debtor's interest in the real property in the amount of \$ _____.

[...]

Comment.

- Notice section

This revision accounts for situations in which the movant is an ECF Participant and therefore will receive service via notice of electronic filing.

- ¶ 1

“Federal Rule of Bankruptcy Procedure 7004 service” added to make clear what type of address must be included in the form.

- ¶ 10

§ 522(f) permits avoidance of certain judgment liens “on an interest of the debtor in property.” If property is owned by the debtor and a nondebtor (or a debtor in a different case not subject to the avoidance motion), and a judgment is against both owners, then the debtor’s avoidance is properly not of the entire lien, but only of the lien on the debtor’s interest in the property.

This revision and the [LBF 717.07](#) revision are intended to clarify that avoidance is only of the lien against the debtor’s interest in the property.

LBF 717.07, Order Avoiding Judicial Lien Pursuant to 11 U.S.C. § 522(f)(1)(A)

[...]

is avoided and no longer a lien against debtor’s interest in the property. ~~or~~

is partially avoided and remains a lien against debtor’s interest in the property for \$ _____.

[...]

Comment. See the comment for the ¶ 10 revision under the [LBF 717](#) proposal.

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

[...]

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.~~

[check this box if movant is chapter 7 trustee] under FRBP 7004 on debtor, U.S. trustee, each named lienholder at the address listed above, the creditors' committee chairperson (if any), and their attorneys.

[check this box if movant is not chapter 7 trustee] under FRBP 7004 on 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 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.

[...]

Comment. Notice of the filing of LBF 760.5 must be (1) served on the parties listed in FRBP 6004 using FRBP 7004 service and (2) served pursuant to FRBP 2002(a)(2) on the debtor, the trustee, all creditors, and indenture trustees. Per LBR 2002-1(a)(2), the court will effectuate the FRBP 2002 service on behalf of a chapter 7 trustee, but the trustee is responsible for the FRBP 6004 aspect of the service. Other parties are responsible for service under both rules.

This division of service duties is already addressed in the current certificate of service, and the purpose of the proposed changes is merely to add clarity.

LBF 1190, Notice of Order Confirming Chapter 11 Plan and Compensation Applications

1. The court entered an order on as ECF No. _____ confirming a chapter 11 plan of reorganization. The order is enclosed.

If the plan was proposed by debtor, the debtor's address and taxpayer ID# (last 4 digits) are: _____

2. The entity who has the primary responsibility for performing the plan [enter name, role in case, and, if not debtor, service address]:

23. Unless a written objection, setting forth specific grounds for objections, is filed with the clerk at 1050 SW 6th Ave. #700, Portland, OR 97204 or 405 E 8th Ave. #2600, Eugene OR 97401, within 21 days of this notice's service date in paragraph 3, the court will consider the following applications for compensation or administrative expenses, if any, without further notice: [...]

34. [...]

Comment. As revised, LBF 1190 will act as a quick reference point for any party seeking to ascertain the identity of the entity who has the primary responsibility for performing the plan. The proposed revision to paragraph 1 is the replacement of fillable blank lines with a fillable text box.

LBF 1300.224, Chapter 13 Plan

NOTICE: Your rights may be affected; all parties (including debtor and creditors) are bound to the terms of a confirmed plan. Creditors' claims may be modified or eliminated. The plan imposes obligations and duties on ~~the~~ debtor and other parties. You should read ~~these papers~~ this plan carefully and discuss ~~them~~ it with your attorney. If you do not have ~~one~~ an attorney, you may wish to consult one.

If you oppose the plan treatment of your claim or any provision of this ~~chapter 13~~ plan, you must file an objection. **Failure of a creditor to file a written objection to this plan will constitute acceptance of the plan, and the bankruptcy court may confirm the plan without hearing or further notice.** Objections must be filed within 14 days after the conclusion of the meeting of creditors, unless otherwise ordered by the court; for an amended plan, the deadline is in the attached notice of amendment. If there are any additional plan provisions or provisions that alter the language of paragraphs 1–14, they must be ~~in~~ added below starting with paragraphs 15.

1. **Plan Motions.** This plan includes the following items ~~(and does not include items not selected)~~:

[...]

2. **Applicable Commitment Period.** The applicable commitment period of this plan is check one 36 ~~or~~ 60 months. Debtor must make plan payments for that period unless debtor first pays 100% of all allowed claims with appropriate interest.

If the ~~eat~~ period is 36 months, the plan payments may continue for a longer period, not to exceed 60 months, as necessary to complete required payments to creditors. The approximate length of time it will take debtor to complete the plan is ____ months; ~~e~~ Cause to extend longer than 36 months is as follows:

3. **Payments to the Trustee.** ~~Debtor must pay to the trustee:~~

(a) Debtor must pay to the trustee a monthly payment of \$ _____

(b) Debtor must pay to the trustee all non-exempt proceeds from avoided transfers, including those from transfers avoided by the trustee;

(c) ~~w~~With respect to tax years _____, debtor must pay to the trustee ~~[(mark check only one)]~~

~~upon receipt~~, net tax refunds attributable to those tax years upon receipt.

no portion of net tax refunds attributable to those tax years.

Net tax refunds are those tax refunds not otherwise provided for in the plan, less (1) tax paid by debtor for a deficiency shown on any tax return for that same tax year or tax paid by setoff by a tax agency for a postpetition tax year; (2) any earned income tax credit; (3) if checked, child tax credits; and (4) if checked, _____.

(d) Debtor must pay to the trustee a lump sum payment of \$ _____ on or before _____; ~~and~~

(e) Debtor must pay to the trustee _____.

4. **Trustee Disbursements and Treatment of Claims.** Before confirmation, ~~T~~the trustee must commence ~~prepetition~~ disbursements required by paragraph 4(b)(3), unless a nonstandard provision of this plan expressly provides otherwise (see paragraph 14); upon confirmation ~~of this plan~~, the trustee must commence other 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:

[...]

- (b) **Treatment of Secured Claims.** Second, to secured creditors as provided in (1) and (2) below. The terms of debtor’s prepetition agreement with each secured creditor will continue to apply, except as otherwise provided in this plan or in the confirmation order.

The value of collateral for secured claims is fixed at the values stated in (1) and (2) only if there is a check in the box “Includes” in paragraph 1 for “Motion to Value Collateral” and the plan is served on the secured creditor as required under FRBP 7004 or the allowed amount of the secured claim is fixed by consent of the secured creditor. Secured creditors retain their liens in accordance with 11 U.S.C. § 1325(a)(5)(B)(i), and the creditors must release the liens when retention ends under that section.

- (1) **Cure of Default and Claim Modification.** Debtor must cure the default and maintain the contractual installment payments (as provided in paragraph 7) on a secured claim listed below in the “Estimated Arrearage if Curing” column. The amount listed in that column is an estimate; the creditor’s allowed claim will control. A claim listed in the “Collateral Value if Not Paying in Full” column is an allowed secured claim only to the extent of the value listed, and, pursuant to § 506(a), debtor **MOVES moves** the court for an order fixing the value of the collateral in the listed amount.

- (2) **Secured Claim Modification Not Expressly Authorized by the Code.** Treatment of secured claims under this subparagraph (2) may include modification of a claim secured by a purchase-money security interest in either (a) a motor vehicle acquired for personal use by ~~the~~ debtor within 910 days before the petition date or (b) any other personal property collateral acquired within 1 year before the petition date. A secured claim treated in this subparagraph is limited to the amount listed in the “Amount of Claim as Modified (Value of Collateral)” column. Debtor **MOVES moves** the court for an order fixing the value of the collateral in the amount listed below. **Debtor proposes that the creditors listed accept, either expressly or impliedly, the following treatment, which might not be able to be approved absent consent of creditor. Failure of a creditor to**

file a written objection to confirmation of this plan before confirmation will constitute acceptance of the plan.

[...]

- (3) **Adequate Protection.** Unless a nonstandard provision of this plan expressly provides otherwise (see paragraph 14), Ppayments must be disbursed by the trustee before confirmation, as adequate protection, from funds on hand with the trustee in the payment amounts specified in theis plan for personal-property-secured creditors whose claims are secured by personal property. If this case is dismissed before confirmation, debtor waives the right to require the trustee to return any funds previously paid to those secured creditors and the trustee's commissions thereon. Adequate-protection Ppayments by the trustee before confirmation will be deducted from the amount of the allowed secured claim. Unless ~~the~~ concerned a creditor receiving adequate-protection payments is ~~fully-secured or~~ over-secured under § 506 or fully secured under the unnumbered paragraph after § 1325(a)(9), no interest will accrue or may be paid from the petition date to the confirmation date unless otherwise specifically provided for in the payment provisions set forth above.
- (4) **Surrender of Collateral.** Debtor must surrender any collateral not addressed by the terms of this plan no later than the confirmation date to the following [~~(state creditor name followed by description of collateral to be surrendered, and, if debtor does not have possession of the collateral, so state)~~]:

With respect to the claims secured by the collateral listed in this subparagraph (4), debtor moves that the stay of § 362(a) be terminated as to the collateral only and that the stay of § 1301 be terminated.

- (c) **Debtor's attorney compensation 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 been paid as of the date

the attorney's compensation disclosure and application ~~Chapter 13 Debtor's Attorney's Compensation Disclosure and Application~~ on LBF 1305 was filed, leaving \$ _____ unpaid.

[...]

(d) **Domestic Support.** Fourth, to allowed unsecured domestic support obligations under § 507(a)(1), ~~and~~ These claims must be paid in full.

(e) **Administrative Expenses.** Fifth, to allowed administrative expenses under § 507(a)(2), ~~and~~ These claims must be paid in full.

(f) **Priority Claims.** Sixth, to allowed priority claims in the order stated in § 507(a)(3)-(10), ~~and~~ These claims must be paid in full.

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

~~(1) Creditors will receive a~~ 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 f~~ Full payment of their claims. All allowed unsecured claims will receive interest of _____ % per year from date of the filing of the petition.

(h) **Best Interest of Creditors.** The ~~"best interest of creditors" number~~ amount that must be paid under section § 1325(a)(4) is \$ _____, ~~and N~~ot less than that amount must be ~~distributed~~ disbursed to unsecured priority and nonpriority creditors. The amount of allowed priority claims will reduce the amount distributed to allowed unsecured nonpriority creditors.

(i) ~~Unsecured Claim Interest. All allowed unsecured claims will receive interest of _____ % from the time of confirmation.~~ Section 1305 Claims. Unless a nonstandard provision of this plan expressly provides otherwise (see paragraph 14), claims filed under section 1305 will not be paid.

(j) **Untimely Claims Disallowed.** Subject to the provisions of § 502(b)(9), untimely claims, other than those secured claims for which the treatment is specified in paragraph 4(b) above, are disallowed without the need for objection.

5. **Executory Contracts and Leases.** ~~The d~~ebtor **ASSUMES** assumes the following executory contracts and leases:

[...]

Executory contracts or leases not specifically listed above are rejected. Any allowed claim arising from rejection will be treated under paragraph 4(g). Debtor will pay all assumed executory contracts and leases directly, including amounts required to cure. Debtor must surrender any property covered by rejected executory contracts or leases to the affected creditor no later than confirmation. Debtor ~~MOVES~~ moves that the stay of § 362(a) be terminated as to all property covered by rejected executory contracts and leases and that the stay of § 1301 be terminated.

6. **Section 522 Lien Avoidance.** Debtor ~~MOVES~~ moves, pursuant to § 522(f)(1), to avoid the judicial liens or non-purchase-money security interests of the following creditors because they impair an exemption of ~~the~~ debtor:

The order of confirmation will avoid the liens listed above and claims of the lienholders will be treated in paragraph 4(g).

7. **Direct Payments.** Debtor must pay directly to each of the following creditors the regular payment that comes due after the petition date [~~(state creditor name followed by collateral description)~~]:

[...]

9. **Debtor Reporting Requirements.** Unless waived by the trustee in writing, if debtor's actual or projected gross annual income exceeds by more than 10% the gross income projected by debtor in the most recently filed Schedule I, debtor must report that change to the trustee immediately, upon ~~receipt of notice~~ learning of the change, ~~to the trustee if actual or projected gross annual income exceeds by more than 10% the gross income projected by debtor in the most recently filed Schedule I~~. Unless listed in the schedules, debtor must report immediately to the trustee any right of debtor to a distribution or right to distribution of funds or other property, including bonuses and inheritances, worth more than \$2,500.

[...]

11. **Vesting of Estate Property; Limitations on Postconfirmation Property Use.** ~~Scheduled property of the estate will vest in debtor upon confirmation, subject to the terms of this paragraph. Except for regular monthly income, any right of debtor to a distribution of funds or other property exceeding a value of \$2,500 must be held by debtor and not used without the trustee's permission or a court order. Debtor must not buy, sell, use, lease (other than a lease of real property in which the debtor will reside), encumber, or otherwise dispose of any interest in: (a) real property; or (b) personal property worth more than \$10,000 out of the ordinary course of business without notice (given per FRBP 2002 as if the interest were~~

~~property of the estate) to all creditors and the trustee, with an opportunity for hearing, unless the property is acquired through the use of credit with the trustee's written consent.~~

- (a) Scheduled estate property will vest in debtor on confirmation of this plan. Estate property that is not scheduled as of confirmation will remain estate property.
- (b) This subparagraph applies to debtor property and property debtor acquires after the petition date and before discharge. Debtor must not buy, sell, use, lease, encumber, or otherwise dispose of any interest in real or noncash personal property worth \$10,000 or more out of the ordinary course of business unless (i) the trustee provides written consent, (ii) debtor obtains a court order using LBF 1301 or LBF 1302, as applicable, (iii) debtor is leasing, as lessee, real property where debtor will reside, or (iv) a nonstandard provision of this plan expressly provides otherwise (see paragraph 14).
- (c) Except for regular monthly income from any source (including wages, salaries, income from the operation of a business, or Social Security payments), any postpetition distribution of funds to debtor, including any employment bonus, of \$2,500 or more must be held by debtor and not used unless (i) the trustee provides written consent, (ii) debtor moves for authorization of the use, serves the motion on the trustee, and obtains an order granting the motion, or (iii) a nonstandard provision of this plan expressly provides otherwise (see paragraph 14).
- (d) Estate property that is not scheduled as of confirmation of this plan may be used only in accordance with §§ 363 and 1303.

[...]

13. **Reservation of Rights and Powers.** Except as expressly set forth in this plan or the confirmation order, neither this plan nor the confirmation order affects any right or power of debtor or the trustee, including debtor's rights under § 1302 and rights of the trustee or any trustee's assignee under ~~11 U.S.C.~~ chapter 5.

[...]

Comment. Aside from the revisions in paragraphs 4 and 11, the proposed changes are non-substantive and meant only to increase readability or bring the form in line with current court formatting standards.

- ¶ 4(b)(3):

This is a response to *Evans v. McCallister (In re Evans)*. The plan is the debtor's voluntary proposal, and debtor can be presumed to agree to comply with the terms proposed pre-confirmation, including the provision for the trustee to make pre-confirmation adequate protection payments.

Including the waiver should help protect the trustee from claims to return the funds to debtor if the case is dismissed (if the funds have already been disbursed to the secured creditor) and provide for the trustee to retain his commission on those payments.

Of course, if any debtor does not want these payments to be made, the debtor may propose a non-standard provision to the plan. And, if debtor proposes a nonstandard provision without adequate protection, the trustee presumably won't make the adequate protection payments, and then the lender can take whatever action it deems appropriate, including a motion for adequate protection or for relief from stay.

- ¶ 4(g):

See the ¶ 4(i) comment below.

- ¶ 4(h):

The additional language is intended to satisfy § 1325(a)(4) and provide for interest to unsecured creditors in solvent estates.

- ¶ 4(i):

The content of current (i) has been moved to (g), revised to start from petition filing rather than confirmation, and revised to expressly state that the interest is per annum. The new language is intended to provide direction regarding whether and how § 1305 tax claims will be paid.

- ¶ 11:

Revisions add clarity and directions to use LBF 1301, *Notice of Motion and Motion to Buy, Sell, or Encumber Interest in Property in a Chapter 13 Case*, or LBF 1302, *Notice of Motion and Motion by Chapter 13 Debtor to Use, Lease, or Dispose of Interest in Property*, where appropriate.

LBF 1305, Chapter 13 Debtor's Attorney's Compensation Disclosure and Application

[...]

3. Payments [complete every blank]

[...]

6. Applicant authorizes the trustee to disburse all compensation and expense reimbursement to applicant in the amounts allowed by the court by mailing payments to the address listed

in applicant's service address below unless an alternate name or mailing address is provided here:

67. On _____, applicant served this document on debtor.

[...]

Instructions

[...]

If applicant has a separate agreement to perform legal services to debtor in related matters such as adversary proceedings or appeals, applicant must use only Schedule 3 for the complete disclosure of all agreements.

Comment. New paragraph 6 specifies where payments should be sent. The other revisions are intended help filers successfully complete the form.

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

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. this motion was served on all creditors or, per Local Bankruptcy Rule (LBR) 2002-1(j), if the applicable time period described in FRBP 2002(h) has passed, only on each entity that is listed in FRBP 2002(h).~~

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 movant.

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

Comment. As allowance of a late-filed claim would only affect other claimants or potential claimants, this revision to the certificate of service authorizes use of the “limited” service list under Federal Rule of Bankruptcy Procedure 2002(h) to limit service to the debtor; the trustee; all indenture trustees; creditors that hold claims for which proofs of claim have been filed; and creditors, if any, that are still permitted to file claims because an extension was granted under Rule 3002(c)(1) or (c)(2).

[new] LBF ADV-A, *Statement re Party’s Address*

If the party is represented by an attorney who is not an ECF participant, the name and preferred service address of the attorney are:

The party’s address is [*do not use attorney’s address here*]:

This address is the party’s—

- Office.
- Home, dwelling house, or place of abode.
- Other: _____.

Date	Signature	OSB#, if attorney
------	-----------	-------------------

Comment. Because the entire form would be new, the form is presented in a clean format. See comment under the [LBR 7004-1](#) proposal for more information.