

PROPOSED 2017 AMENDMENTS TO NEW MEXICO LOCAL BANKRUPTCY RULES

1005-1 Name of Non-Individual Debtor in Petition Caption. If the debtor is a corporation, limited liability company, or other registered organization as defined in NMSA §55-9-102(A)(69), the petition and caption shall include the debtor's current registered name, **and** jurisdiction, **and form** of organization (e.g. "XYZ, Inc., a New Mexico corporation"). If the debtor is not an individual or a registered organization, the petition and caption shall include the complete name of the debtor and, to the extent that the debtor exists under the laws of any jurisdiction, the jurisdiction and form of organization (e.g. "XYZ Partners, a New Mexico general partnership").

3015-2 **Chapter 13 Plan and Confirmation.**

(a) **Mandatory Form Chapter 13 Plan.** Chapter 13 debtors must use the form Chapter 13 plan adopted in this District. *Note: The mandatory form Chapter 13 Plan is NM LF 3015.1.*

(b) **Scheduling the Confirmation Hearing.** The chapter 13 plan confirmation hearing will be scheduled by the court.

(c) **Deadline to Object to the Plan.** Unless the court orders otherwise: 1) the deadline to object to chapter 13 plan confirmation shall be no fewer than five days before the confirmation hearing; and 2) the chapter 13 trustee and the United States trustee shall have an automatic extension of the time to object to confirmation of a plan until 14 days after conclusion of the first meeting of creditors or five days before a rescheduled confirmation hearing, whichever is earlier. Unless the court orders otherwise, the 28-day objection deadline in BR 2002(b) shall apply to all plans and any pre-confirmation plan modifications.

(d) **Service of Motions Included in Chapter 13 Plan.** If the plan includes a motion to which BR 9014 applies (e.g., a motion to avoid a judicial lien or to value collateral), the debtor must comply with the service requirements of BR 7004 and file a certificate specifying the method of service.

(e) **Notice of Confirmation Hearing.** If both a plan and a confirmation hearing notice are filed with the petition in accordance with the clerk's case opening instructions, the clerk will include a copy of the plan and hearing notice with the notice of the bankruptcy filing. In all other cases, the debtor shall serve on all creditors and other parties in interest a copy of the plan and the confirmation hearing notice, and shall file a certificate of service within three days thereafter. *Note: NM LF 3015-2(e)A and 3015-2(e)B were created by the clerk for compliance with this rule.*

(f) **Requirements for Confirmation.** The debtor shall appear in person at any final hearing on plan confirmation, absent exigent circumstances or court approval. The debtor's failure to attend the final confirmation hearing may be grounds to dismiss the case. The chapter 13 trustee is not required to approve any confirmation order until the debtor has filed a certification of compliance with Code § 1325(a)(8) and (a)(9). If the debtor is not required to pay a domestic support obligation, the certificate shall so state.

Rule 3021-1 Pre-Confirmation Adequate Protection Payments in a Chapter 13 Case

(a) Trustee to Function as Conduit. Adequate protection payments pursuant to 11 U.S.C. § 1326(a)(1)(C) are deemed a component of the plan payments to the trustee. The trustee will function as a conduit to a creditor for any adequate protection payments set forth in the plan.

(b) Payments by the Trustee. If provided in a proposed chapter 13 plan, the trustee may disburse pre-confirmation payments under § 1326(a)(1)(C) without a separate court order. The payments may be made monthly from available funds until entry of a confirmation order. Unless the court orders otherwise, the payment amounts will be calculated as set forth in the proposed chapter 13 plan. The trustee will be paid the applicable percentage fee established by the United States trustee for all such payments.

6004-1 Notice of Proposed Use, Sale, or Lease of Property. The moving party shall prepare and serve the notices required by BR 6004, unless the Court orders otherwise.

7016-1 Pretrial Matters

(a) Implied Consent. A party's failure to comply with BR 7008, BR 7012, or BR 9027 (requiring each party to state whether the party does or does not consent to the bankruptcy court entering final orders or judgment) constitutes implied consent.

(b) Pretrial Orders in Adversary Proceedings. Pretrial orders shall substantially conform to the form promulgated by the judge assigned to the adversary proceeding, **unless the Court orders otherwise**. Any party who does not cooperate in preparing the joint pretrial order in a timely manner may be subject to sanctions, including preclusion from calling witnesses or submitting exhibits at trial. The opposing party may file a motion seeking entry of a pretrial order in the form prepared by that party, setting forth the details of the other party's lack of cooperation.

9013-1 Motion Practice in Contested Matters-General

(e) Procedure If No Party Objects. If no objection is timely filed, the movant shall promptly submit to the court a proposed form of order, reciting the notice given, **specifying the method of service in compliance with BR 7004 if applicable (including to whose attention the motion and notice were mailed and whether service was made by certified mail, if BR 7004(b)(3) or (h) applies)**, and **reciting** the date of expiration of the time to object, in lieu of the default procedure set forth in BR 7055.