

Notice

Invitation for Public Comment Proposed Amendments to Uniform Local Rules

United States Bankruptcy Courts Northern and Southern Districts of Mississippi

The United States Bankruptcy Judges for the Northern and Southern Districts of Mississippi propose to adopt amendments to the Courts' Uniform Local Bankruptcy Rules to become effective December 1, 2018. The proposed amendments to the Uniform Local Bankruptcy Rules were developed in accordance with the requirements of Rule 9029, *Federal Rules of Bankruptcy Procedure*.

View/Download Proposed Local Rule Amendments:

The proposed amendments and the current version of the Courts' Uniform Local Rules may be viewed or downloaded from the Courts' websites. You may also view the proposed amendments at either office during regular business hours (Mon-Fri 8 a.m. to 5 p.m.).

United States Bankruptcy Court
Southern District of Mississippi
www.mssb.uscourts.gov

United States Bankruptcy Court
Northern District of Mississippi
www.msnb.uscourts.gov

Public Comment Invited:

The public comment period is **September 17, 2018 – October 17, 2018**.

Written comments may be submitted by email or to one of the mailing addresses listed below.

Submit comments by email to: msnb_courtmail@msnb.uscourts.gov

Alternatively, comments may be mailed to either:

Danny L. Miller, Clerk
United States Bankruptcy Court
Southern District of Mississippi
Thad Cochran U.S. Courthouse
501 E. Court Street, Suite 2.300
P.O. Box 2448
Jackson, MS 39225-2448

Shallanda J. Clay, Clerk
United States Bankruptcy Court
Northern District of Mississippi
Thad Cochran U. S. Courthouse
703 Highway 145 North
Aberdeen, MS 39730



**Proposed Amendment to Uniform Local Rules
For the United States Bankruptcy Courts
Northern and Southern Districts of Mississippi
Effective December 1, 2018**

Proposed Amendment to Local Rule 3015-1

Rule 3015-1. Filing, Objection to Confirmation, Effect of Confirmation, and Modification of a Plan in a Chapter 12 or a Chapter 13 Case.

(d) Notice

In all chapter 13 cases, the attorney for the debtor (or the debtor) shall serve a copy of the plan and a notice on the trustee, the United States Trustee, and all creditors **no later than 7 days after the filing of the Notice of Chapter 13 Bankruptcy Case (Official Form 309I) or the filing of the plan, whichever is later.** ~~when the plan is filed with the court.~~ The notice shall include the objection deadline as announced in the Notice of Chapter 13 Bankruptcy Case (Official Form 309I). The notice shall substantially comply with the format prescribed by the Clerk and made available on the Court's website. If a chapter 13 plan includes a Motion for Valuation of Collateral pursuant to Fed. R. Bankr. P. 3012 or a Motion to Avoid Lien pursuant to Fed. R. Bankr. P. 4003, the attorney for the debtor (or the debtor) shall serve a copy of the plan and a notice on affected creditors in the manner provided by Fed. R. Bankr. P. 7004 for service of a summons and complaint. The attorney for the debtor (or the debtor) shall file the notice and a certificate of service with the court that includes a copy of the plan and a record of the parties served.

(g) Effect of Confirmation

(1) Order Confirming Chapter 13 Plan.

A proposed order confirming chapter 13 plan shall be submitted by the chapter 13 trustee using the local form authorized by the judges of the Northern and Southern Districts of Mississippi. The local form is included as Appendix B to these Uniform Local Bankruptcy Rules.

From time to time, the judges of the Northern and Southern Districts may change the format or make typographical corrections to the local form order confirming chapter 13 plan. Any such non-substantive changes will be reported to registered attorney filers via email. If the judges seek to make substantive changes to the local form order confirming chapter 13 plan, such proposed changes will be advertised for public comment and submitted to the Fifth Circuit Judicial Council for final approval as an amendment to the local rules.

(h) ~~(g)~~ Modification of plan after confirmation.

(1) Requirement for amended Schedules I and J.

If a debtor in a chapter 12 or a chapter 13 case files a request to modify a confirmed plan pursuant to sections 1229 or 1329 based in whole or in part upon a change in the amount of the debtor's income or expenses, the debtor shall file amended Schedules I and J evidencing such change in financial circumstances contemporaneously with the Notice of Modification.

(2) Secured claims timely filed after plan confirmation.

If a proof of claim, which claims a security interest in the property of the debtor, is timely filed after confirmation of the plan, but is not provided for in the plan, the claim can only be paid through the confirmed plan following a request for modification and order, as provided for in Fed. R. Bankr. P. 3015(h).~~(g)~~ Nothing contained herein shall control the treatment of the claim in the confirmed plan.

PROPOSED
DRAFT

Appendix B

UNITED STATES BANKRUPTCY COURT
_____ DISTRICT OF MISSISSIPPI

In re:

[NAME OF DEBTOR],

Case No.: [XX-XXXXX-XXX]

DEBTOR.

Chapter 13

ORDER CONFIRMING CHAPTER 13 PLAN

The debtor's plan was filed on _____ (date), and amended/modified by subsequent order(s) of the court, if any. The plan was transmitted to creditors pursuant to Bankruptcy Rule 3015. The court finds that the plan meets the requirements of 11 U.S.C. § 1325.

IT IS ORDERED THAT:

1. The debtor's chapter 13 plan attached hereto is confirmed.
2. The following motions are granted (*if any*):
 - a. Motion for valuation of security, payment of fully secured claims, and modification of undersecured claims made under Rule 3012 (§ 3.2 of the plan);
 - b. Motion to avoid lien pursuant to Section 522 (§ 3.4 of the plan).
3. The stay under Section 362(a) is terminated as to the collateral only and the stay under Section 1301 is terminated in all respects regarding collateral listed in Section 3.5 of the plan (*if any*).
4. All property shall remain property of the estate and shall vest in the debtor only upon entry of discharge. The debtor shall be responsible for the preservation and protection of all property of the estate not transferred to the trustee.
5. The debtor's attorney is awarded a fee in the amount of \$ _____, of which \$ amount left owed is due and payable from the estate.

##END OF ORDER##

Approved:

Attorney for the Debtor

Submitted by:

[Attorney Name and Bar No.]

[Address]

[Telephone No.] and [Email address]

**Proposed Amendment to Uniform Local Rules
For the United States Bankruptcy Courts
Northern and Southern Districts of Mississippi
Effective December 1, 2018**

Proposed Amendment to Local Rule 9010-1

Rule 9010-1. Representations and Appearances; Powers of Attorney.

(b) Notice of appearance.

(1) *Pro hac vice*.

A non-resident attorney who is not a member of the Mississippi Bar and is not authorized to practice before the Mississippi Supreme Court and is not admitted to practice in the United States District Courts for the Northern or Southern Districts of Mississippi may apply to be admitted *pro hac vice* by comity to practice in a particular civil action in the court upon compliance with the following conditions:

(A) File certificate.

The applicant must submit with the motion for *pro hac vice* admission a certificate from the United States District Court or the highest state court of the applicant's jurisdiction, showing that the applicant is duly authorized to practice in and is in good standing with that court.

(B) Associate Association and duties of local counsel.

The applicant must associate a member of the bar of the court in the particular bankruptcy case for which the applicant seeks admission. The initial motion shall be filed by an attorney admitted to practice before the court. Local counsel associated with an attorney admitted *pro hac vice* must comply with the Association and Duties of a Resident Attorney provision (L. U. Civ. R. 83.1(d)(3)) of the Local Uniform Civil Rules of the United States District Courts for the Northern District and the Southern District of Mississippi.

(C) Certification of familiarity with local rules.

The applicant must certify that the applicant has read and is familiar with the *Uniform Local Rules of the United States Bankruptcy Courts for the Northern and Southern Districts of Mississippi*.

(2) Exceptions to requirement of *pro hac vice* admission.

(A) For attorneys.

An attorney is not required to be admitted *pro hac vice* in order to:

- (i) File an entry or notice of appearance

An attorney may file an entry of appearance or notice of appearance and request for service without being admitted *pro hac vice* and such an attorney will be added to the mailing list to receive such notices and must receive copies of all documents required to be served on all creditors and parties in interest pursuant to Fed. R. Bankr. P. 2002, unless otherwise ordered by the court. Any entry of appearance or notice of appearance filed with the clerk must be served upon the debtor, the trustee, the United States Trustee, and any entity having previously filed a notice or entry of appearance.

- (ii) File a proof of claim
- (iii) Attend the section 341 meeting of creditors; and
- (iv) File a ballot in a chapter 11 case.

(B) Pro se Individuals.

An individual may represent himself or herself in any bankruptcy case.

(C) Corporations or other business entities.

A corporation, partnership, trust, or other business entity, other than a sole proprietorship, may appear and act without counsel in a case or proceeding before this court only for the following purposes:

- (i) File a proof of claim;
- (ii) Attend the section 341 meeting of creditors;
- (iii) File a ballot in a chapter 11 case; or
- (iv) File a reaffirmation agreement.

For all other purposes, such entity may appear and act only through an attorney.

(D) Government attorneys.

Any attorney not admitted in the bankruptcy court or district court but who is admitted and is in good standing in another United States District Court may appear representing the United States (or any department, agency, or employee thereof) or any state, county or municipality (or any department, agency, political subdivision or employee thereof) may appear and participate in particular cases, actions or proceedings before the court on behalf of such entity in the attorney's official capacity, and any attorney so appearing is subject to all of the rules of the court.

(E) Child support creditors or their representatives.

Child support creditors or their representatives shall be permitted to appear and intervene without charge, and without meeting any special local court rule requirement for attorney appearances, in any bankruptcy case or proceeding in any bankruptcy court or district court of the United States if such creditors or representatives file a form in such court that contains information detailing the child support debt, its status, and other characteristic

(3) Filing of pleadings.

When a party appears by attorney, every pleading or paper filed on behalf of the represented party shall be signed by at least one attorney of record in the case, which may include any attorney admitted *pro hac vice*.

(4) Access to Case Management – Electronic Case Filing System.

(A) Suspension of Access – Lack of Authorization to Appear.

The clerk may suspend access to the CM/ECF system upon receipt of notification that an attorney is not authorized to appear or act in this court. The clerk may give notice to parties in affected cases when an attorney's access to the system has been suspended.

If such attorney or other registered user subsequently becomes qualified to appear in this court, such party may be required to reapply by registering as a CM/ECF user under Miss. Bankr. L.R. 5005-1. Such registration by an attorney will require a certification that such attorney is in good standing with the state bar and this court.

(B) Cross-Certification.

The clerk may establish procedures for cross-certifying attorneys from other jurisdictions for the use of and access to the Case Management – Electronic Case Filing (CM-ECF) system for any case in which such attorneys are appearing.

(5) Substitution; withdrawal.

(A) Substitution.

If a party in an adversary proceeding or a debtor in any case wishes to substitute attorneys, a substitution of counsel document signed by the original attorney, if available, and the substituted attorney shall be filed. If a trustee, debtor or official committee wishes to substitute attorneys or any other professional whose employment was subject to approval by the court, a motion for retention of the new professional must also be filed.

(B) Withdrawal.

When an attorney enters an appearance in a bankruptcy case or an adversary proceeding, the attorney shall remain as counsel of record until released by order of the court. An attorney may be released only on motion duly noticed to all parties, including the client, together with a proposed order authorizing counsel's withdrawal. The Notice to one's client shall be by first class mail addressed to the client's last known address.

(C) Service.

Substitutions and motions for withdrawal under this local rule shall be served as follows:

- (i) in an adversary proceeding, on all parties to the proceeding; and
- (ii) in a bankruptcy case, on the debtor, the United States Trustee, the case trustee and all affected parties, unless otherwise ordered by the court.

(D) Effect of failure to comply.

Until an Order is entered allowing the substitution or withdrawal under sections (a) or (b) above, the original attorney remains the client's attorney of record