# Uniform Local Rules

# United States Bankruptcy Courts

## Northern and Southern Districts of Mississippi

**Originally Adopted February 1, 2010**

**As Amended**
**December 1, 2014**

# Numbering System for Uniform Local Rules

In accordance with Federal Rule of Civil Procedure 83, Federal Bankruptcy Rule 9029, and the policies of the Judicial Conference of the United States, the Uniform Local Bankruptcy Rules for the Northern and Southern Districts of Mississippi are numbered consistent with related Federal Rules of Bankruptcy Procedure. The Uniform Local Rules reference only those Federal Rules of Bankruptcy Procedure for which a related local rule has been adopted.

**Uniform Local Rules**
**United States Bankruptcy Courts**
**Northern and Southern Districts of Mississippi**

**Table of Contents**


Order Adopting Uniform Local Bankruptcy Rules – United States Bankruptcy Courts for Northern and Southern Districts of Mississippi 6

Order Authorizing Bankruptcy Judge of Northern District of Mississippi to Develop Local Rules - United States District Court for the Northern District of Mississippi 7

Order Authorizing Bankruptcy Judges of Southern District of Mississippi to Develop Local Rules - United States District Court for the Southern District of Mississippi 8

Rule 1001-1. Scope of Rules and Forms; Short Title 10

Rule 1002-1. Commencement of Case 11

Rule 1009-1. Amendments of Voluntary Petitions, Lists, Schedules and Statements 11

Rule 1015-1. Consolidation or Joint Administration of Cases Pending in the Same Court 12

Rule 2002-1. Notices to Creditors, Equity Security Holders, United States, and United States Trustee 13

Rule 2003-1. Meeting of Creditors or Equity Security Holders 14

Rule 2004-1. Examination 15

Rule 2015-1. Duty to Keep Records, Make Reports, and Give Notice of Case 15

Rule 2016-1. Compensation for Services Rendered and Reimbursement of Expenses 16

Rule 3001-1. Proof of Claim 17

Rule 3002-1. Filing Proof of Claim or Interest 18

Rule 3003-1. Filing of Claim or Equity Security Interest in Chapter 9 Municipality or Chapter 11 Reorganization Case 18

Rule 3007-1. Objections to Claims 18

Rule 3015-1. Filing, Objection to Confirmation, and Modification of a Plan in a Chapter 12 Family Farmer's Debt Adjustment or a Chapter 13 Individual's Debt Adjustment Case 19

Rule 3018-1. Acceptance or Rejection of Plan in a Chapter 11 Reorganization 19

Rule 3022-1. Final Decree in Chapter 11 Reorganization Case 20

Rule 4001-1. Relief from Automatic Stay; Prohibiting or Conditioning the Use, Sale, or Lease of Property; Use of Cash Collateral; Obtaining Credit; Agreements 21

Rule 4002-1. Duties of Debtor 23

Rule 4003-1. Exemptions 25

Rule 4004-1. Grant or Denial of Discharge 26

Rule 4007-1. Determination of Dischargeability of a Debt 26

Rule 5001-1. Clerk's Office Location and Hours 27

Rule 5003-1. Records Kept By the Clerk 27

Rule 5005-1. Filing and Transmittal of Papers 28

Rule 5010-1. Reopening Cases 32

Rule 5011-1. Withdrawal of Reference and Abstention from Hearing or Proceeding 32

Rule 6007-1. Abandonment or Disposition of Property 34

Rule 7012-1. Defenses and Objections – When and How Presented – By Pleadings or Motion – Motion for Judgment on the Pleadings 35

Rule 7016-1. Pre-trial Procedure; Formulating Issues 35

Rule 7026-1. General Provisions Governing Discovery 36

Rule 7030-1. Depositions Upon Oral Examination 36

Rule 7033-1. Interrogatories to Parties 37

Rule 7037-1. Failure to Make Disclosure or Cooperate in Discovery; Sanctions 38

Rule 7055-1. Default – Procedure 38

Rule 7056-1. Summary Judgment – Form and substance of the motion 38

Rule 8001-1. Manner of Taking Appeal; Voluntary Dismissal; Certification to Court of Appeals 41

Rule 9004-1. General Requirements of Form 42

Rule 9010-1. Representations and Appearances; Powers of Attorney 42

Rule 9011-1. Signing of Papers; Representations to the Court; Sanctions; Verifications and Copies of Pages 45

Rule 9013-1. Motions: Form and Service 46

Rule 9014-1. Contested Matters 47

Rule 9015-1. Jury Trials 48

Rule 9017-1. Exhibits 48

Rule 9018-1. Secret, Confidential, Scandalous, or Defamatory Matters 49

Rule 9019-1. Compromise and Arbitration 49

**United States Bankruptcy Courts**
**Northern and Southern Districts of Mississippi**

Order Adopting Amended Uniform Local Bankruptcy Rules

The Bankruptcy Judges of the Northern and Southern Districts of Mississippi originally adopted Uniform Local Rules with an Effective Date of February 1, 2010.

Whereas the need for certain amendments to the Uniform Local Rules has arisen and after the opportunity for public review and comment, the Bankruptcy Judges of the Northern and Southern Districts of Mississippi do hereby adopt the attached Uniform Local Bankruptcy Rules, as amended, effective December 1, 2013.

This Order is entered pursuant to the following: 28 U.S.C. § 2071; Rule 9029, Federal Rules of Bankruptcy Procedure; the Order entered by the District Judges of the Northern District of Mississippi on July 26, 1988; the Order entered by the District Judges of the Southern District of Mississippi on August 5, 1988.

The Clerks of each Court shall cause certified copies of this Order and the attached Uniform Local Bankruptcy Rules to be placed upon the records of each Court and shall forward certified copies to the Director of the Administrative Office of the United States Courts and the Judicial Council of the Fifth Circuit.

This Order and the attached Uniform Local Bankruptcy Rules shall be printed and made available by the Clerks of each Bankruptcy Court to the members of the Bar and to the public.

ORDERED AND ADOPTED this the 12th day of November 2013.

Edward Ellington
United States Bankruptcy Judge

Neil P. Olack
United States Bankruptcy Judge

Katharine M. Samson
United States Bankruptcy Judge

Jason D. Woodard
United States Bankruptcy Judge

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF MISSISSIPPI

O R D E R

It is hereby ordered that, pursuant to Bankruptcy Rule 9029, the bankruptcy judges of this district are authorized, subject to the requirements of 83 FR Civ P, to make rules of practice and procedure not inconsistent with the Bankruptcy Rules.

SO ORDERED this the 5th day of August, 1988.

WILLIAM H. BARBOUR, JR.
UNITED STATES DISTRICT JUDGE

TOM S. LEE
UNITED STATES DISTRICT JUDGE

HENRY T. WINGATE
UNITED STATES DISTRICT JUDGE

WALTER J. GEX, III
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI

IN RE: ADOPTION OF UNIFORM LOCAL BANKRUPTCY RULES FOR THE UNITED STATES BANKRUPTCY COURTS IN THE NORTHERN AND SOUTHERN DISTRICTS OF MISSISSIPPI

ORDER

It is hereby ordered that pursuant to Rule 9029, Federal Rules of Bankruptcy Procedure, the bankruptcy judge of this district is hereby authorized, subject to the requirements of Rule 83, Federal Rules of Civil Procedure, to make local rules regarding bankruptcy practice and procedure, not inconsistent with the Federal Rules of Bankruptcy Procedure.

ORDERED and ADJUDGED this the 26th day of July, 1988.

Entered 8-2-88 at 2:45 P.M.
United States Bankruptcy Court
Northern District of Mississippi
Joseph E. Wroten, Clerk
By B Rackley D.C.

L. T. SENTER, JR., Chief Judge
UNITED STATES DISTRICT COURT

NEAL B. BIGGERS
UNITED STATES DISTRICT JUDGE

GLEN H. DAVIDSON
UNITED STATES DISTRICT JUDGE

# Uniform Local Bankruptcy Rules

## Part I

## Commencement of Case: Proceedings Relating to Petition and Order for Relief

### Rule 1001-1. Scope of Rules and Forms; Short Title

**(a)** These rules ("Local Rules") shall be known as the "Uniform Local Rules of the United States Bankruptcy Courts for the Northern and Southern Districts of Mississippi." The Local Rules may be cited as "Miss. Bankr. L.R. _____."

**(b)** These Local Rules govern proceedings in the United States Bankruptcy Courts for the Northern and Southern Districts of Mississippi in accordance with section 105(a) of the Bankruptcy Code[1] and Fed. R. Bankr. P. 9029. The application of these Local Rules may be modified by the court in any given case or proceeding in the interest of justice.

**(c)** These Local Rules, as originally adopted with an Effective Date of **February 1, 2010**, along with subsequent amendments approved by Orders of the bankruptcy judges ~~entered December 15, 2011~~, shall be effective as of January 1, 2014~~2~~.

**(d)** All prior local rules and all standing orders or general orders issued prior to ~~the Effective Date~~ February 1, 2010, by the United States Bankruptcy Courts for the Northern and Southern Districts of Mississippi shall be repealed. The repeal of any prior rule or order shall not affect any act done pursuant to or obviate any act required by any prior local rule or order. These Local Rules govern all cases filed on and after the Effective Date. They shall also apply to cases and proceedings pending on the Effective Date, except to the extent that the court finds they would not be feasible or would work an injustice.

**(e)** Nothing in these Local Rules precludes the bankruptcy courts from entering general standing orders or guidelines to supplement these Rules.

**(f)** The bankruptcy courts, by Standing Orders, may adopt Mississippi Local Rules Forms for stated purposes. Ordinarily, these Local Forms shall be used in their given format with only such minor alterations as necessary to accommodate other word processing and printing equipment.

**(g)** All attorneys practicing before the bankruptcy courts for the Northern and Southern Districts of Mississippi shall acquaint themselves with these Local Rules. Attorneys shall be subject to appropriate sanctions for failure to comply with these Local Rules, and nothing contained herein shall limit the authority of the bankruptcy courts to impose appropriate sanctions for failure to comply with these Local Rules, Bankruptcy Code, the Federal Rules of Bankruptcy Procedure or other applicable law.

[1] Unless otherwise noted, all references to the "Bankruptcy Code" or to "section ___" shall be references to Title 11 of the United States Code.

## Rule 1002-1. Commencement of Case

**(a) Petition**

**(1)** All petitions shall be filed in accordance with Fed. R. Bankr. P. 5005 and Miss. Bankr. L.R. 5005-1.

**(2)** Any Petitioner other than an unrepresented individual shall be represented by counsel.

## Rule 1009-1. Amendments of Voluntary Petitions, Lists, Schedules and Statements

**(a) General right to amend**

**(1)** If at any time after the clerk[2] issues notice of the meeting of creditors under section 341 in a case under any chapter under title 11, the debtor amends Schedule D, E or F and/or the creditor matrix to add any creditors, the following procedures shall apply:

**(A)** The debtor shall pay the prescribed filing fee;

**(B)** The debtor shall serve upon such additional creditors by first class mail:

**(i)** A copy of the first notice of meeting of creditors under section 341 with the debtor's full social security account number shown thereon;

**(ii)** A notice informing the creditors that they have 60 days within which to file a complaint objecting to discharge under section 727 or section 1141 or to the dischargeability of any debt under section 523(c); to file a motion objecting to discharge under section 727 or section 1328; or to file a motion to seek an extension of time for filing a complaint or motion objecting to discharge, unless a longer period of time is provided by Fed. R. Bankr. P. 4004, 4007 or 9006;

**(iii)** A notice informing the creditors that they have 21 days to request the United States Trustee[3] to schedule an adjourned section 341 meeting of creditors; and

[2] "Clerk" means the United States Bankruptcy Clerk for the appropriate district.

[3] "United States Trustee" means the appropriate person within the Office of the United States Trustee.

**(iv)** Notice of Additional Time to File Proof of Claim.

**(a)** In a case filed under Chapter 7, 12 or 13, the debtor shall serve upon such additional creditors by first class mail a notice informing the creditors of the creditor's right to file a proof of claim within 90 days from the date of the notice.

**(b)** In a case filed under Chapter 11, if the debtor or trustee in a chapter 11 case amends the debtor's schedules to change the amount, nature, classification, or characterization of a debt owing to a creditor after a bar date for the filing of proofs of claim has been set, the debtor or trustee shall serve notice of the amendment to the creditor within 14 days of its filing and shall serve notice of the creditor's right to file a proof of claim by the bar date or 30 days from the date of the notice, whichever is later. The debtor or trustee shall file a certificate of service of the notice with the clerk.

**(C)** The debtor shall file a certificate of service with the clerk and provide an amended creditor matrix to the clerk in such format as the clerk's office may direct.

## Rule 1015-1. Consolidation or Joint Administration of Cases Pending in the Same Court

**(b) Cases involving two or more related debtors**

A party in interest may file a motion seeking an order of joint administration after notice and opportunity for hearing, upon the filing of a motion for joint administration pursuant to Fed. R. Bankr. P. 1015, supported by an affidavit, declaration or verification, which establishes that the joint administration of two or more cases pending in the court under title 11 is warranted and will ease the administrative burden for the court and the parties. An order of joint administration entered in accordance with this local rule may be reconsidered upon motion of any party in interest at any time. An order of joint administration under this local rule is for procedural purposes only and shall not cause a substantive consolidation of the respective debtors' estates.

## Part II

## Officers and Administration; Notices; Meetings; Examinations; Elections; Attorneys and Accountants

### Rule 2002-1. Notices to Creditors, Equity Security Holders, United States, and United States Trustee

**(j) Notices to the United States**

In the event that the United States of America or any agency thereof is listed as a creditor, the debtor or debtor in possession, shall include on the master mailing list or matrix the name of the agency in care of the United States Attorney for the district in which the case is filed and also the name of the agency at its local field office address. This rule supplements, and in no way modifies, the notice requirements of Fed. R. Bankr. P. 2002(j).

**(m) Orders designating matter of notices**

Whenever a party requests the court to limit the number of persons or entities to whom notice is given for any particular matter, the following categories of persons or entities (without prohibiting noticing to other persons or entities) must be included in any such limited notice:

**(1)** All persons or entities constituting the creditors' committee or the equity security holders' committee, if any, in a chapter 11 case, or if there is no creditors' committee, all entities constituting the 20 largest unsecured creditors;

**(2)** All persons or entities noted on the docket (or otherwise reasonably ascertainable) as having entered their respective appearances by filing documents declaring their respective entries of appearance and/or requesting further noticing; provided however, the elimination of any such entities on account of their having been terminated as interested parties or otherwise having concluded their interest shall be left to the noticing entity, subject to due process considerations;

**(3)** All necessary or appropriate taxing authorities;

**(4)** The United States Trustee;

**(5)** The United States Attorney for the district in which the case is pending, if applicable;

**(6)** All attorneys identified on the docket (or otherwise reasonably ascertainable) as having participated in the case except any attorney or attorneys who shall have been permitted by the court to withdraw from representation or who, in the discretion of the noticing entity, shall no longer be a necessary notice subject to due process considerations; and

**(7)** The case trustee, if a trustee has been appointed.

## Rule 2003-1. Meeting of Creditors or Equity Security Holders

**(a) Date and place**

**(1) Appearance**

The appearance of the debtor and the debtor's attorney at the section 341(a) meeting is mandatory, unless waived as set forth in subsection (3) below. Failure of the debtor and the debtor's attorney to attend this meeting may result in the dismissal of the bankruptcy case or the imposition of sanctions (including the assessment of the expenses and attorney's fees of creditors attending the meeting as noticed), or both, but such dismissal or sanctions shall be granted by the court only after notice and a hearing.

**(2) Rescheduling section 341 meeting**

Rescheduling of the section 341 meeting shall be for good cause shown. Any request made prior to the scheduled section 341(a) meeting to reschedule the section 341(a) meeting shall be submitted to the United States Trustee (or, to the case trustee if such authority has been delegated by the United States Trustee) in Chapter 7, 12, or 13 cases and to the United States Trustee in all other cases, and such request shall be made at least seven (7) days prior to the scheduled section 341 meeting, except in emergency or extraordinary circumstances. If this request is denied by the case trustee or United States Trustee (as appropriate), a motion to reschedule the section 341 meeting may be made to the court. In the event the section 341 meeting is rescheduled, the requesting party shall be responsible for notifying all creditors of the date of the rescheduled section 341(a) meeting, and failure to so notify creditors may result in the imposition of appropriate sanctions.

**(3) Waiver of appearance**

Upon written motion, the court, after notice and hearing, for cause shown, may waive the appearance of the debtor at the section 341(a) meeting of creditors. Waivers may be granted where a debtor is physically unable to appear at the original or rescheduled section 341(a) meeting of creditors or is unable to appear because of a mental incapacity. A motion to waive appearance shall be filed at least seven (7) days prior to the initial meeting of creditors or any rescheduled meeting of creditors and served on the interim trustee or the case trustee, as appropriate, the United States Trustee and all creditors.

## Rule 2004-1. Examination

**(a) Examination on motion**

**(1) Good faith duty to confer**

Counsel for the parties and any unrepresented individuals shall have a duty to make a good faith effort to resolve by agreement, among themselves, any disputes with regard to an examination and production of documents under Fed. R. Bankr. P. 2004, including its scheduling, its scope, its length and the production of documents. Any objection to an order for a Rule 2004 examination, a motion to enforce compliance with such an order or with a subpoena under Fed. R. Bankr. P. 9016 or a motion seeking to modify, limit or quash such an order shall be accompanied by a statement certifying that counsel for the moving or objecting party or the unrepresented individual have conferred or made a good faith effort to confer in an attempt to resolve the controversy by agreement, but that such efforts were not successful.

**(2) Examination by notice**

Examination and production of documents pursuant to Fed. R. Bankr. P. 2004 may be initiated by notice, if the entity to be examined consents. The notice shall specify the scope of the examination and the date, time and place of the examination; describe any documents to be produced; and shall be served upon the debtor, the debtor's attorney, the chapter 7, 11, 12 or 13 trustee as appropriate, the United States Trustee, and the entity to be examined. The notice must be filed and served no later than 14 days before the date set for the examination.

## Rule 2015-1. Duty to Keep Records, Make Reports, and Give Notice of Case

**(b) Chapter 12 trustee and debtor in possession**

In a Chapter 12 case, the debtor in possession or the trustee shall file a Monthly Operating Report in the form prescribed by the United States Trustee. The Monthly Operating Report shall be filed on or before the 20th day of each month following the month the subject of the report until a plan is confirmed, or the case is converted or dismissed. A signed copy of the Monthly Operating Report shall be furnished to the United States Trustee.

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

**(b) Disclosure of compensation paid or promised to attorney for debtor**

If the statement required under Fed. R. Bankr. P. 2016(b) is not timely filed, the case shall be subject to dismissal. At the meeting of creditors required by section 341, the officer conducting the meeting shall review the statement of disclosure of compensation to verify that it complies with Fed. R. Bankr. P. 2016(b). If the statement fails to comply with the rule, the presiding officer may promptly file a motion to show cause why the case should not be dismissed.

**(d) Compensation of Chapter 13 debtor's attorneys**

**(1)** In chapter 13 cases filed after the Effective Date of these rules, the court, by separate standing order, which may be amended from time to time, may set a cap on the amount of fees that generally will be approved ex parte without the need for notice and a hearing.

**(2)** The fee approved by the court will be on the basis that the scope of representation by the attorney includes both pre-confirmation and post-confirmation representation of the debtor, except for representation in any adversary proceeding. Once an attorney sets a fee and files a petition for the debtor, the attorney is expected to represent the debtor conscientiously on all matters within the scope of the representation until the debtor is granted or denied a discharge or the case is dismissed. No additional fee shall be sought from the debtor or accepted by the attorney without prior court approval.

**(3)** In larger business cases or in cases involving an inordinate amount of time or representation in an adversary proceeding, the court will consider a request for attorney's fees in excess of the previously approved amount.

## Part III

## Claims and Distribution to Creditors and Equity Interest Holders; Plans

### Rule 3001-1. Proof of Claim

**(a) Form and content**

A creditor asserting a secured claim shall submit, as an attachment, proof that the asserted security interest has been perfected in accordance with applicable law.

**(e) Transferred claim**

**(2) Transfer of claim other than for security after proof filed**

Any assignment or other evidence of a transfer of claim filed after the proof of claim has been filed shall include the claim number of the claim to be transferred. In chapter 11 cases, any assignment or other evidence of a transfer of a claim filed where no proof of claim has been filed shall include reference to the scheduled claim, including the classification and amount.

**(6) Notice not required**

Where evidence of full or partial transfer of a claim is filed which contains the signatures of both the transferor and transferee and such evidence of transfer is filed pursuant to Fed. R. Bankr. P. 3001(e)(4) and in accordance with the Local Rules, the clerk shall not provide notice of the filing of evidence of the transfer and no objection deadline for the transfer of the claim shall be established. The transferor shall be deemed to have waived any objection to the transfer, and the claim shall be noted as having been transferred in the records of the court.

**(7) Order not required**

Where notice is required, absent any timely filed objection to the notice of transfer served by the clerk, the claim, without any further order of the court, shall be noted as having been transferred in the records of the court.

## Rule 3002-1. Filing Proof of Claim or Interest

**(c) Time for filing**

As provided in Miss. Bankr. L.R. 1009-1(a)(1)(B)(iv)(a), in a case filed under Chapter 7, 12 or 13, where the debtor amends Schedule D, E or F and/or the creditor matrix to add any creditors, the debtor shall serve upon such additional creditors by first class mail a notice informing the creditors of the creditor's right to file a proof of claim within 90 days from the date of the notice.

## Rule 3003-1. Filing of Claim or Equity Security Interest in Chapter 9 Municipality or Chapter 11 Reorganization Cases

**(c) Filing proof of claim**

**(3) Time for filing**

**(i)** Unless otherwise ordered by the court, all persons and entities that assert a claim, as defined in section 101(5) against the debtor which arose on or prior to the filing of the Chapter 11 petition shall file a proof of such claim on or before the date that is 120 days after the date of the order for relief, except that proofs of claim filed by governmental units must be filed on or before the date that is 180 days after the date of the order for relief.

**(ii)** As provided in Rule 1009-1(a)(1)(B)(iv)(b), in a case filed under Chapter 11, if the debtor or trustee in a chapter 11 case amends the debtor's schedules to change the amount, nature, classification, or characterization of a debt owing to a creditor after a bar date has been set, the debtor or trustee shall serve notice of the amendment to the creditor within 14 days of its filing and shall serve notice of the creditor's right to file a proof of claim by the bar date or 30 days from the date of the notice, whichever is later.

## Rule 3007-1. Objections to Claims

**(a) Objections to Claims**

**(1) Minimum information for objection to claims; requirements**

An objection to a claim shall include, at a minimum, the following information:

**(A)** the name of claimant;

**(B)** the claim number as indicated on the claims docket maintained by the clerk;

**(C)** the claim amount;

**(D)** the basis for the objection; and

**(E)** the amount of the claim, if any, to which there is no objection.

**(2) Notice; hearing**

Objections to claims are contested matters and may be considered after notice and a hearing as provided by Miss. Bankr. L.R. 9013-1(d). The movant shall mail or otherwise deliver a ~~A~~ copy of the objection with notice of the hearing thereon ~~shall be mailed or otherwise delivered~~ to the claimant, the debtor or debtor in possession, and the trustee at least 30 days prior to the hearing as required by Fed. R. Bankr. P. 3007. If a timely response to a claims objection is filed, a hearing on the claims objection will be conducted in accordance with Fed. R. Bankr. P. 3007.

## Rule 3015-1. Filing, Objection to Confirmation, and Modification of a Plan in a Chapter 12 Family Farmer's Debt Adjustment or a Chapter 13 Individual's Debt Adjustment Case

**(b) Chapter 13 Plan**

All chapter 13 plans filed by or on or behalf of the debtor shall be typewritten.

**(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(g). Nothing contained herein shall control the treatment of the claim in the confirmed plan.

## Rule 3018-1. Acceptance or Rejection of Plan in a Chapter 11 Reorganization

**(a) Voting**

Unless provided otherwise by order of the Court, no ballots shall be filed with the Clerk of Court. The notice, which is required by Fed. R. Bankr. P. 3017(d), shall direct that all ballots be submitted to the plan proponent, or designated agent, at a specified mailing address.

**(b) Ballot Summary and Certification**

For all hearings on confirmation of a Chapter 11 plan, the plan proponent must prepare a written *Ballot Summary and Certification* in substantially the same format as prescribed by the Clerk and made available on the Court's website. At least three days prior to the confirmation hearing, the plan proponent or its designated agent shall file with the Court the *Ballot Summary and Certification* and, unless the Court orders otherwise, attach copies of all ballots thereto.

## Rule 3022-1. Final Decree in Chapter 11 Reorganization Case

**(a) Closing of chapter 11 cases**

**(1) Motion**

Upon written motion, a party in interest may seek the entry of a final decree to close a chapter 11 case at any time after the confirmed plan has been entered provided that all required fees due under 28 U.S.C. §1930 have been paid. Such motion shall include a proposed final order closing the lead case and any jointly administered cases and shall identify the case name and the case number of all cases to be closed under the order.

**(2) Service**

A motion for the entry of a final order closing the Chapter 11 case shall be served upon the debtor, the trustee, if any, the United States Trustee, all official committees and all creditors who have filed a request for notice under Fed. R. Bankr. P.s 2002 and 9010.

**(3) Final Report**

The debtor (or trustee, if any) shall file a final report and account in the form prescribed by the United States Trustee on or before fourteen (14) days prior to the hearing on any motion to close the case.

## Part IV

## The Debtor: Duties and Benefits

### Rule 4001-1. Relief from Automatic Stay; Prohibiting or Conditioning the Use, Sale, or Lease of Property; Use of Cash Collateral; Obtaining Credit; Agreements

**(a) Relief from stay; prohibiting or conditioning the use, sale, or lease of property**

**(1) Motion**

**(A) Service**

A motion pursuant to section 362(d) and Fed. R. Bankr. P. 4001(a)(1) seeking relief from the automatic stay shall be served in the manner provided for by Fed. R. Bankr. P.s 9014 and 7004. Additionally, unless otherwise ordered by the court, such motion shall be served on any entity having a known lien on the subject property (excluding ad valorem taxing authorities) or that will be affected by the relief requested in the motion; on the United States Trustee; on the case trustee; on any chapter 11 creditors' committee (or its agent); on the creditors listed pursuant to Fed. R. Bankr. P. 1007(d) (only in the absence of duly appointed creditors' committees); and on any person or entity who has filed a request for the receipt of all notices in the case or proceeding and who has served such requests on the trustee or debtor in possession.

**(B) Supporting documentation**

When a motion seeking relief from the automatic stay is filed, the moving party shall include in the motion and/or attach to the motion the following:

**(i)** A description of the subject property;

**(ii)** A complete and legible copy of movant's security agreements and security instruments which establish a valid lien encumbering the subject property;

**(iii)** The value of the subject property and the basis of the valuation; and,

**(iv)** The amount of the outstanding indebtedness secured by each lien encumbering the subject property as reflected by the schedules of the debtor(s) or such other amount as may be known by the movant.

**(C) Initial 4001-1 conference**

The attorneys for movant or any objecting parties shall confer with respect to the issues raised by the motion in advance of the hearing for the purpose of determining whether a consensual order may be entered and/or for the purpose of stipulating to relevant facts, such as the value of the property and the extent and validity of any security instrument.

**(D) Agreed order**

**(i)** If the moving creditor, the debtor(s) and the trustee agree as to the relief to be granted and if relief from the automatic stay as well as abandonment is not contested, an agreed order signed by the debtor(s) or the attorney for the debtor(s), the trustee and the moving creditor shall be submitted to the court for consideration no later than 14 days after the date scheduled for hearing on the subject motion. Parties to whom the order or judgment has been submitted shall promptly sign it or promptly contact the party who drafted it to express any objection to the form of the proposed order or judgment. The parties shall attempt to resolve any differences in the form of the order or judgment before submitting competing orders or judgments to the court.

**(ii)** As provided by Fed. R. Bankr. P. 4001(d)(4), the court may direct that the procedures prescribed by Fed. R. Bankr. P. 4001(d)(1)-(3) shall not apply and the agreement may be approved without further notice if the court determines that a motion made pursuant to Fed. R. Bankr. P. 4001(a)-(c) was sufficient to afford reasonable notice of the material provisions of the agreement and an opportunity for a hearing; otherwise, notice of the proposed agreed order shall be given to the appropriate creditors and parties in interest.

**(E) Order Affecting Real Property**

Any Order affecting real property shall either incorporate the legal description of the real property in the body of the order itself, or attach a legal description of the real property as an exhibit to the order.

**(3) Waiver or Reduction of Stay of Order**

Any proposed order granting relief from the automatic stay may not waive or reduce the 14-day stay unless the motion for relief from the automatic stay specifically states the basis for the waiver or reduction, although the moving creditor, debtor(s), and the trustee may agree to waive or reduce the 14-day stay. The Court may require that a hearing be held on a request for a waiver or reduction of the 14-day stay.

**(e) Procedure Regarding Motion to Extend the Automatic Stay Pursuant to Section 362(c)(3)(B)**

**(1)** Any party in interest seeking a continuation of the automatic stay pursuant to 11 U.S.C. §362(c)(3)(B), shall file, in accordance with Fed. R. Bankr. P. 9013, a motion and proposed order. The movant shall state whether continuation of the automatic stay is sought with respect to all creditors or, if less than all creditors, shall specify the creditor(s) with respect to whom the continuation of the automatic stay is sought. The movant also shall set forth facts to establish that the filing of the present bankruptcy case was in good faith.

**(2)** For a motion to continue the automatic stay filed on or within 14 days of the date of filing the petition, the court shall set a hearing date no later than 30 days after the filing of the petition. For a motion to continue the automatic stay filed more than 14 days after the date of the filing of the petition, the court shall set a hearing date with not less than 14 days notice. The mere filing of the motion will not extend the automatic stay beyond the 30th day after the filing of the petition. If the hearing date is more than 30 days after the date of the filing of the petition, it is incumbent on the debtor or other party in interest to seek an injunction (through the filing of a complaint and motion for a Temporary Restraining Order) to stop any creditor/lienholder collection efforts which may be scheduled to occur after the 30th day following the filing of the petition, but before the hearing on the motion to continue the automatic stay.

**(3)** A party in interest opposing a motion for continuation of the automatic stay must file a response to the motion. The opponent shall state specifically why the motion should not be granted or state any conditions or limitations that should be imposed upon granting a continuance of the stay.

**(4)** In the absence of a timely filed response, the Court may allow the motion seeking a continuance of the automatic stay without a hearing.

## Rule 4002-1. Duties of Debtor

**(a) Duties prior to filing petition and schedules**

Prior to filing the petition, schedules and statement of financial affairs, the attorney for the debtor shall review the petition, schedules and statement of financial affairs to determine that:

**(1)** The current official form has been used;

**(2)** The petition, schedules and statement of financial affairs have been completed and all information provided by the debtor has been accurately listed;

**(3)** A statutory citation is stated for all state and federal exemptions claimed;

**(4)** The debtor and the debtor's attorney have signed the petition at all appropriate places and the debtor has signed the schedules and the statement of financial affairs at all appropriate places; and

**(5)** A notice of alternative chapters under which an individual debtor(s) may proceed has been properly executed by the debtor(s) and filed with the bankruptcy petition in all individual cases.

**(b) Duties after filing petition and schedules**

**(1)** After filing the petition, the attorney shall fully cooperate with the trustee in the performance of the trustee's duties and shall keep the trustee advised of all matters pertinent to the Debtor and the administration of the estate.

**(2)** If the debtor operates a business, the attorney shall assist the trustee in obtaining all business records, ledgers, journals and cancelled checks of the debtor, all keys to the debtor's business, insurance policies, leases and contracts of the debtor. At the request of the trustee, such items shall be delivered by the debtor to the trustee.

**(3)** The attorney shall determine whether the debtor wishes to retain any assets subject to a security interest or lien, and, if so, shall contact each such creditor to determine the fair value of the collateral and whether the creditor desires for the debtor to redeem the collateral or to reaffirm the indebtedness secured by the collateral. The attorney shall determine whether such collateral is exempt property; whether there is any equity in the property for the debtor's estate; whether the property is redeemable under section 722 and whether a reaffirmation is in the best interest of the debtor.

**(4)** The attorney shall appear at all meetings of creditors, prepared to inform the trustee and/or the presiding officer of any agreements to redeem personal property between the creditors and the debtor.

**(5)** At the time of the filing of the petition, the attorney shall notify the United States Trustee if the estate of the debtor contains assets that need to be preserved or protected.

**(c) Debtor's duty to provide personal identification upon excused absence from section 341 meeting**.

When a debtor seeks to obtain an excused absence from attending the first meeting of creditors, the debtor shall file a motion to be excused from attending the section 341 meeting. In addition, the debtor shall provide to the case trustee the personal identification required by Fed. R. Bankr. P. 4002(b)(1)(A) and (B), but to avoid that personal identification becoming a public record in connection with the seeking of an excused absence of the debtor from attending a section 341

meeting, in lieu of bringing the specified personal identification to the meeting of creditors, the debtor or the attorney for the debtor shall provide to the case trustee under sealed cover: (i) a picture identification issued by a governmental unit or some other personal identifying information that establishes the debtor's identity; (ii) evidence of social security number(s) or a written statement that such documentation does not exist; or (iii) such other personal identification as may be required by the United States Trustee or the case trustee. The debtor's motion shall affirmatively state that this personal identification has been served on the case trustee.

## Rule 4003-1. Exemptions

**(a) Claim of exemptions - Amendment to claim of exemptions**

Any amendment to a claim of exemptions pursuant to Fed. R. Bankr. P. 1009 and 4003 shall be filed and served by the debtor on the trustee, the United States Trustee, and all creditors, together with a notice of amendment which states a party in interest may file an objection to the list of property claimed as exempt within the later of (i) 30 days after the meeting of creditors held under section 341(a) is concluded or (ii) 30 days after any amendment to the list or supplemental schedules is filed. The debtor also shall file a certificate of service reflecting that the amendment and notice of amendment were duly served.

**(b) Objecting to a claim of exemptions – Automatic extension of time to file objections to claim of exemptions in event of amendment to schedules to add a creditor**

Unless the court orders otherwise, if the schedules are amended to add a creditor, and the amendment is filed and served either (i) fewer than 30 days prior to the expiration of the time set forth in Fed. R. Bankr. P. 4003(b) for the filing of objections to the list of property claimed as exempt, or (ii) at any time after such filing deadline, the added creditor shall have 30 days from the date of service of the amendment to file an objection to the list of property claimed as exempt. The debtor shall give notice to any added creditor of the objection period provided herein and shall file with the clerk a certificate of service reflecting that such notice was duly given.

## Rule 4004-1. Grant or Denial of Discharge

**(b) Extension of time**

Unless the court orders otherwise, if the schedules are amended to add a creditor, and the amendment is filed and served either (i) less than 60 days prior to the expiration of the time set forth in Fed. R. Bankr. P. 4004(a) for the filing of a complaint or motion objecting to discharge, or (ii) at any time after such filing deadline, the added creditor shall have 60 days from the date of service of the amendment to file the complaint or motion objecting to discharge. Such circumstances shall be deemed to be "cause" for an extension and no motion to extend shall be necessary.

## Rule 4007-1. Determination of Dischargeability of a Debt

**(b)Time for commencing proceeding other than under § 523(c) of the Code - Automatic extension of time to file complaint to determine dischargeability of a debt in event of amendment**

Unless the court orders otherwise, if the schedules are amended to add a creditor, and the amendment is filed and served either (i) less than 60 days prior to the expiration of the time set forth in Fed. R. Bankr. P. 4007 for the filing of a complaint to obtain a determination of the dischargeability of any debt, or (ii) at any time after such filing deadline, the deadline for the filing of a complaint with respect to a claim of such creditor shall be 60 days from the date of service of the amendment upon such creditor. Such circumstances shall be deemed to be "cause" for an extension and no motion to extend shall be necessary.

## Part V

## Courts and Clerks

### Rule 5001-1. Clerk's Office Location and Hours

**(d) General information**

General information regarding the bankruptcy courts and the clerks' offices may be found:

**(1)** for the Northern District of Mississippi at www.msnb.uscourts.gov

**(2)** for the Southern District of Mississippi at www.mssb.uscourts.gov

**(e) Communications with clerk's office personnel**

The clerk and the employees of the clerk's office are not permitted to interpret the rules of procedure or to give legal advice. The clerk and the clerk's employees are not responsible for information respecting the rules or law. Though not required to do so, the clerk and the clerk's employees may make an inquiry to a party or counsel with respect to the content, completeness, accuracy or other attribute of an electronic filing. A clerk's response to an inquiry, a clerk's inquiry, or the absence of a clerk's inquiry shall have no legal effect on any party and cannot be cited for any purpose.

**(f) Form of payment**

Documents filed electronically require payment on-line by credit card at the time of filing or as otherwise directed by the Administrative Procedures For Electronic Case Filing established and maintained by the respective clerks. Fees due otherwise are payable by check, money order, cash or pre-approved credit card. Checks or credit cards of the debtor will not be accepted. Checks and money orders shall be made payable to "Clerk, United States Bankruptcy Court" and shall be in the exact amount of said fee or charge. A separate check shall be submitted for each item being filed. Any person or entity presenting a check or credit/debit card which is subsequently dishonored or has payment stopped thereon may be denied, at the discretion of the clerk, the privilege of presenting checks and/or debit/credit cards in the future.

### Rule 5003-1. Records Kept By the Clerk

**(f) Other books and records of the clerk**

The clerk is authorized to change the form of the mailing list to meet requirements of any automated case management system hereafter employed by the clerk. The clerk shall give appropriate notice to the bar of any such change in form.

## Rule 5005-1. Filing and Transmittal of Papers

**(a) Filing**

**(1) Place of Filing**

The clerk shall not refuse to accept for filing any petition or other paper presented for the purpose of filing solely because it is not presented in proper form as required by the Federal Rules of Bankruptcy Procedure or these local rules. The clerk may refuse to accept for filing any Hazardous Paper or Thing as provided in Miss. Bankr. L.R. 5005-1(2)(K), which shall be deemed a reason other than improper form.

**(2) Filing by electronic means**

**(A) Mandatory electronic filing**

The courts for the Northern and Southern Districts have designated all cases to be assigned to the Case Management/Electronic Case Files ("CM/ECF") system. Attorneys who practice in these courts shall register as CM/ECF users. This includes attorneys admitted to the bar of the courts through regular admission or through *pro hac vice* motion, as well as those attorneys authorized to represent the United States without being admitted to the bar of these courts. United States Trustees, private trustees and others as the courts deem appropriate should also register as CM/ECF users. Registration forms and requirements for CM/ECF are available on the respective courts' websites at the following addresses:

Northern District: http://www.msnb.uscourts.gov

Southern District: http://www.mssb.uscourts.gov

All documents submitted in all cases and proceedings shall be filed electronically, and signed or verified by electronic means, in compliance with the Administrative Procedures For Electronic Case Filing established and maintained by the respective courts. The clerk's offices for the Northern and Southern Districts shall make available the most current version of their Administrative Procedures for Electronic Case Filing on the respective court's website.

Registration as an attorney, private trustee, or United States Trustee CM/ECF user constitutes consent to receive electronic service or notice of documents filed in the CM/ECF system, except with regard to service of a summons and complaint under Fed. R. Bankr. P. 7004 for adversary proceedings. The Notice of Electronic Filing that is automatically generated by the CM/ECF system will constitute service or notice on registered attorney, private trustee, or United States Trustee CM/ECF users. All other parties must be provided service or notice of any pleading or other document electronically filed in accordance with *Federal Rules of Bankruptcy Procedure* and these *Uniform Local Rules*.

**(B) Exceptions from mandatory electronic filing**

Unless the petition or other paper presented to the clerk for filing may be refused by the clerk as provided in Miss. Bankr. L.R. 5005-1(2)(K), ~~A~~an unrepresented individual may file pleadings and documents on paper. In addition, a limited or temporary exception may be allowed on an emergency basis when a registered CM/ECF user is unable to access the system via the internet due to technical failures. The courts may establish other exceptions as deemed appropriate. The Administrative Procedures for Electronic Case Filing for each court should be consulted to determine if and when an exception may be available and the procedure for invoking it.

**(C) Electronic files and duty to confirm**

Unless the petition or other paper presented to the clerk for filing may be refused by the clerk as provided in Miss. Bankr. L.R. 5005-1(2)(K), ~~A~~any document submitted to the clerk in a paper format shall be converted into an electronic format prior to docketing. It is the duty of the filing party to confirm that such document has been accurately submitted into the court's electronic file. The filing party may confirm such submission by viewing the docket for the case on the monitors provided in the office of the clerk during normal business hours. If no challenge regarding the presentation of the document in the court's electronic file is communicated to the clerk within 14 days of the date of docketing, then the document as docketed is conclusively confirmed as the document submitted, unless otherwise ordered by the court.

**(D) Content of pleadings/orders**

**(i) Motion**

Every motion filed shall have as an attachment a proposed order granting the motion.

**(ii) Responsive pleadings**

Responsive pleadings shall sufficiently identify the underlying motion as well as the docket number of the underlying pleading as shown on the court's official docket entry, i.e., Motion of [name of party] to Lift Stay (Dkt. #23).

**(iii) Proposed orders**

Proposed orders shall sufficiently identify the underlying motion as provided by Miss. Bankr. L.R. 9004-1(b).

**(E) Form of judgments/orders**

Judgments and orders submitted must (1) be on a separate electronic page or sheet of paper; (2) have the caption of the case, and where applicable, the style of the adversary proceeding; (3) include in the title of the judgment or order the name and description of the motion; and (4) the docket number of the underlying pleading as shown on the court's official docket entry, i.e., Order Granting Motion of [name of party] to Lift Stay (Dkt. #23).

**(F) Facsimile Documents**

Documents may not be transmitted by facsimile directly to the clerk's office for filing unless specifically authorized by a judge, the clerk, or the judge's or clerk's designee.

**(G) Filing papers - size of papers**

All papers filed with the clerk must be electronically sized to 8 ½ by 11 inches. To the extent possible, all attachments to papers shall be electronically sized to 8 ½ by 11 inches. All papers shall be clearly legible in a font size no smaller than 12 point, without defacing erasures or interlineations, and must be double-spaced, except that quotations, footnotes and legal descriptions may be single-spaced. Additionally, lengthy disclosure statements and plans in Chapter 11 cases may be single-spaced.

**(H) Identification**

**(i) Counsel identification**

On every pleading and other paper filed with the clerk and on every proposed order or judgment submitted to the court, the attorney shall include the following information: the attorney's name, complete address (including street address and, if applicable, post office box number), telephone number, e-mail address, and Mississippi Bar number (if the attorney is a member of the Mississippi Bar), and, if not, the state and bar number, if any, of the bar in which the attorney is a member and regularly practices.

**(ii) Unrepresented individual identification**

Every pleading and other paper filed with the clerk by an unrepresented individual, and every proposed order or judgment submitted to the court by an unrepresented individual shall include the following information: the individual's complete name, complete address (including street address and, if applicable, post office box number), telephone number and email address, if applicable.

**(I) Titles on papers**

All pleadings, motions, and other papers presented to the clerk for filing must bear clear designations of their content. When a document contains multiple contents (e.g., an answer to a complaint and a counterclaim or crossclaim or a motion and a supporting brief or memorandum), all matters contained in the document must be included in the caption on the first page of the document, except that, if the document contains a Certificate of Service with regard to the document, the Certificate of Service shall not be included in the caption.

**(J) Emergency matters**

A party filing a pleading or motion that requires immediate judicial attention shall contact the courtroom deputy of the bankruptcy judge to whom the matter is assigned for direction.

**(K) Hazardous Papers or Things**

No person or party may file or present to the Court (including Judges, the Clerk, the United States Trustee, or any other Court agency) any Hazardous Paper or Thing without prior leave of court.

(i) "Hazardous Paper or Thing" Defined

For purposes of this rule "Hazardous Paper or Thing" includes, but is not limited to, papers or items that are smeared with or contain blood, blood residue, hair, food, feces, urine, or other body fluids, human or animal tissue or infectious material, or contain narcotics, controlled substances, firearms, ammunition, explosives, poisons, dangerous chemicals, or any other substance which may constitute a health hazard.

(ii) Return or Destruction of Hazardous Paper or Thing

Any Hazardous Paper or Thing submitted without prior leave of court will not be handled by court personnel and will either be returned to the filer unsolicited or destroyed without prior notice to the filer at the discretion of the clerk or judge.

(iii) Log of Hazardous Papers or Things

The clerk shall maintain a log of Hazardous Paper of Things that are returned to the filer undocketed or destroyed. The log shall include the case number and style, if any, the name of the party submitting the Hazardous Paper or Thing, a brief description of the paper or thing, and the justification for returning or disposing of the paper or thing. The clerk shall notify the judge assigned to the case of actions taken by the clerk.

## Rule 5010-1. Reopening Cases

**(a) Contents of motion**

A motion to reopen a case pursuant to Fed. R. Bankr. P. 5010 shall be in writing. In a chapter 7, 12, or 13 case, the motion to reopen also must state whether the movant believes that a trustee is necessary to protect the interests of creditors and the debtor or to insure efficient administration of the estate.

**(b) Service**

A motion to reopen a case pursuant to Fed. R. Bankr. P. 5010 shall be served upon the debtor, if applicable, the case trustee, any affected party and the United States Trustee.

**(c) Hearing**

Whether the court conducts a hearing or provides notice and a hearing to any creditors or parties in interest other than those parties specified in Miss. Bankr. L.R. 5010-1(b) prior to acting on a motion to reopen a case is within its discretion.

**(d)** Upon the filing of a motion to reopen a case pursuant to Fed. R. Bankr. P. 5010 for the purpose of filing the debtor's post-petition financial management certification and for the entry of discharge, the movant shall provide notice regarding the 21 day objection period to all parties listed on the most recent CM/ECF creditor mailing matrix.

## Rule 5011-1. Withdrawal of Reference and Abstention from Hearing or Proceeding

**(a) Withdrawal of reference**

**(1) By party**

A motion to withdraw the reference and any responses thereto shall be filed under the style and number of the bankruptcy case or adversary proceeding in which reference is sought to be withdrawn and shall be filed with the clerk of the bankruptcy court and be accompanied by the prescribed filing fee.

**(2) By bankruptcy judge**

A request by a bankruptcy judge for withdrawal of the reference of a case or a proceeding automatically referred to the bankruptcy court may be made sua sponte at any time.

**(3) Contents of motion**

A motion to withdraw the reference shall conspicuously state on the face of the motion, "RELIEF IS SOUGHT FROM A UNITED STATES DISTRICT JUDGE," and shall refer to and comply with 28 U.S.C. §157(d) and Fed. R. Bankr. P. 5011(a). The motion

shall list all pleadings which may be relevant to the disposition of the motion, including docket entry numbers.

**(4) Response**

Any response or objection to a motion for withdrawal of the reference shall be filed within 14 days of the date of service of such motion.

**(5) Transmittal to the district court**

After the expiration of the 14-day response period established by Miss. Bankr. L.R. 5011-1(a)(4), the clerk shall promptly transmit the motion, any responses and attached exhibits to the clerk of the district court.

## Part VI

## Collection and Liquidation of the Estate

### Rule 6007-1. Abandonment or Disposition of Property

**(a) Notice of proposed abandonment or disposition; objections; hearing**

**(1) No asset notice**

In a chapter 7 case in which a Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors, & Deadlines (i.e., the 341 notice) containing language advising parties not to file a proof of claim is issued, and is not superseded by a Notice to File Proof of Claim, the trustee or debtor is relieved of the requirement of giving notice of abandonment or disposition of property under Fed. R. Bankr. P. 6007(a).

**(2) Property value**

The trustee or debtor is relieved of the notice requirement imposed by Fed. R. Bankr. P. 6007(a), when the proposed abandonment relates to scheduled property which the trustee determines is burdensome to the estate or is of inconsequential value to the estate.

**(b) Motion by party in interest**

An abandonment of property, by itself, does not affect the automatic stay. Therefore, when a motion which includes a request to have the trustee abandon the property from the estate pursuant to section 554(b) is filed, the moving party ordinarily should also seek relief from the automatic stay pursuant to section 362(d). If relief from the automatic stay is sought, the moving party shall comply with the requirements of Miss. Bankr. L.R. 4001-1(a)(1)(B).

**(c) Agreed orders**

If the creditor, the debtor(s) and the trustee agree as to relief from the automatic stay as well as abandonment, then the submission of an agreed order shall be governed by Fed. R. Bankr. P. 4001(d) and Miss. Bankr. L.R. 4001-1(a)(1)(D).

## Part VII

## Adversary Proceedings

### Rule 7012-1. Defenses and Objections – When and How Presented – By Pleadings or Motion – Motion for Judgment on the Pleadings

The procedures set forth in Miss. Bankr. L.R. 7056-1 for filing or responding to a motion for summary judgment shall also be applicable to a motion to dismiss.

### Rule 7016-1. Pre-trial Procedure; Formulating Issues

**(a) Case management, status and scheduling conferences in chapter 11 cases**

The court on its own motion or on the motion or request of a party in interest may conduct case management, status and scheduling conferences at such times during a case as will further the expeditious and economical resolution of the case. At the conclusion of each such conference, the court may enter case management, scheduling or pre-trial orders as may be required. Such orders may establish notice requirements, set dates on which motions and proceedings will be heard, establish procedures (including briefing schedules) and address such other matters as may be appropriate. This rule shall be applicable in matters contemplated under Fed. R. Bankr. P. 9014.

**(b) Pre-trial conference**

A pre-trial conference may be held if ordered by the court.

**(1) Request for a pre-trial conference**

Any party may request that a pre-trial conference be held following the completion of discovery, as provided in the scheduling order, by filing a motion with the clerk.

**(2) Failure to appear at pre-trial conference or to cooperate**

Unless otherwise permitted by the court under Miss. Bankr. L.R. 7016-1(c), all counsel who will conduct the trial are required to appear before the court for the pre-trial conference. Should an attorney for a party fail to appear or to cooperate in the preparation of the pre-trial order, the court, in its discretion, may impose sanctions, such as costs and fines. The court, nevertheless, may hold a pre-trial hearing and enter an appropriate judgment or order.

**(3) Attorney conference prior to pre-trial conference**

Before the pre-trial conference, attorneys for all of the parties and any unrepresented individual shall confer and cooperate to permit each party to pre-mark all exhibits and to prepare a proposed pre-trial order for the court, unless a pretrial order is waived by the court.

**(4) Pre-trial order**

The parties shall comply with the requirements and procedures established by each judge with respect to the preparation, execution, submission and service of any pretrial order.

**(c) Telephonic Fed. R. Civ. P. 16 scheduling conference or pre-trial conference**

For cause shown, and at least 2 days before the time scheduled for a scheduling conference or pre-trial conference, any party to the conference may request that the conference be conducted by telephone or that the party be permitted to participate by telephone. Such request may be made by telephone to the courtroom deputy and shall be communicated contemporaneously to other counsel known to be involved in the hearing or conference. Any party objecting to the request shall promptly advise the court and other counsel.

## Rule 7026-1. General Provisions Governing Discovery

**(a) Responses to discovery requests**

When answering interrogatories, requests for production, and requests for admission, the replying party shall, as part of the answer, set forth immediately preceding the answer the question or request to which such answer is given. Failure to comply with this subdivision may result in the imposition of sanctions upon motion by the party propounding the discovery.

**(b) Service and non-filing of discovery**

Except as provided in subdivision (c) of this rule, unless the court orders otherwise, transcripts of depositions, exhibits to depositions, interrogatories, answers to interrogatories, document requests, responses to document requests, requests for admissions, and responses to requests for admissions shall not be filed with the clerk.

**(c) Filing of discovery needed for trial or dispositive motion on appeal**

When discovery or disclosure material not on file with the clerk is needed for a trial, a dispositive motion, or an appeal, the necessary portion of that material may be filed with the clerk.

## Rule 7030-1. Depositions Upon Oral Examination

**(a) Who may attend deposition**

A deposition may be attended only by (i) the deponent, (ii) counsel for any party to the adversary proceeding and members and employees of their firms, (iii) a party who is a natural person, (iv) an officer or employee of a party who is not a natural person designated as its representative by its counsel, (v) counsel for the deponent, (vi) any consultant or expert designated by counsel for any party, (vii) the United States Trustee, (viii) counsel for any trustee, (ix) counsel for the

debtor, (x) counsel for any official committee and (xi) counsel for any party providing postpetition financing to the debtor under sections 363 or 364.

**(b) Order of confidentiality**

If a confidentiality order has been entered, any person who is not authorized under the order to have access to documents or information designated confidential shall be excluded from a deposition upon request by the party who is seeking to maintain confidentiality while a deponent is being examined about any confidential document or information.

**(c) Confidentiality of documents**

If any documents are deemed confidential by the producing party and the parties have not been able to agree on an appropriate protective order, until a protective order is in effect, disclosure should be limited to members and employees of the firm of trial counsel who have entered an appearance, and, where appropriate, have been admitted *pro hac vice*. Such persons are under an obligation to keep such documents confidential and to use them only for purposes of litigating the case.

**(d) Reasonable notice of deposition**

Unless otherwise ordered by the court, "reasonable notice" for the taking of depositions under Fed. R. Civ. P. 30(b)(1) shall not be less than 14 days. This rule does not abrogate any requirement contained within Fed. R. Bankr. P. 9016 or Fed. R. Civ. P. 45(c)(2)(B).

## Rule 7033-1. Interrogatories to Parties

**(a) Number of interrogatories**

Interrogatories propounded by any party to another party shall be limited to 1 set of questions, not to exceed 30 in number, except by order of the court for good cause shown. In computation of the number of questions propounded, each subpart of a question shall be counted as a question.

**(b) Inspection of documents**

If a party elects to produce business records pursuant to Fed. R. Civ. P. 33(d) and Fed. R. Bankr. P. 7033 in lieu of answering the interrogatory, unless the court orders otherwise, the documents may be produced or made available for inspection and copying within 14 days after service of the answers to interrogatories or on a date agreed upon by the parties.

## Rule 7037-1. Failure to Make Disclosure or Cooperate in Discovery; Sanctions

**(a) Duty to confer; certificate of good faith**

Prior to service of a motion to compel discovery for whatever reason, all counsel shall be under a duty to confer in good faith to determine to what extent discovery disputes can be resolved before presenting the issue to the bankruptcy judge. No such motion shall be heard by the bankruptcy judge unless counsel for the moving party shall incorporate in the motion a certificate that counsel has conferred in good faith with opposing counsel in an effort to resolve the dispute and has been unable to do so.

**(b) Motions raising issues concerning discovery - requirements**

Motions raising issues concerning discovery, in accordance with Fed. R. Civ. P. 33, 34, 36 and 37, as adopted by Fed. R. Bankr. P. 7033, 7034, 7036 and 7037, shall quote verbatim each interrogatory, request for production or request for admission to which the motion is addressed, and shall state (i) the specific objection, (ii) the grounds assigned for the objection (if not apparent from the objection itself), and (iii) the reasons assigned as supporting the motion, and shall be written in immediate succession to one another. Such objections and grounds shall be addressed to the specific interrogatory, request for production or request for admission and may not be general in nature.

## Rule 7055-1. Default - Procedure

Pursuant to Fed. R. Bankr. P. 7055 and Fed. R. Civ. P. 55, if a party is entitled to a default judgment, the party must file with the clerk the following: an Application to Clerk for Entry of Default and Supporting Affidavit (including proof of service of process), an Entry of Default, a Request for Court's Entry of Default Judgment, and a proposed Default Judgment to be entered by the court.

## Rule 7056-1. Summary Judgment – Form and substance of the motion

Any motion for summary judgment must comply with the following requirements. Any motion that does not comply may be denied immediately without requiring a response from the non-moving party.

**(1) If movant has the burden of proof on the issue upon which summary judgment is sought**

**(A) Movant shall:**

**(i)** List and separately number each material fact in the prima facie claim or affirmative defense upon which summary judgment is sought, with the

understanding that if the court finds a genuine issue as to any one of the facts listed, summary judgment will be denied.

**(ii)** For each material fact listed, cite the factual authority. (E.g., "Paragraph 3 of Complaint, admitted in Defendant's Answer," "page 12 of John Doe's Deposition," "Defendant's Request for Admission No.4, admitted," "Paragraph 5 of Affidavit of John Doe.")

**(iii)** Attach as exhibits to the motion the factual authorities relied upon for establishment of the material facts. (E.g., Supporting Affidavit, extracts of depositions or Requests for Admission, etc. Do not attach entire depositions or pleadings, just the pertinent portions relied upon.)

**(B) Respondent shall:**

**(i)** List any material facts recited by the movant about which the respondent contends there is a genuine issue of fact and cite and attach the factual authorities that create the issue of fact.

**(ii)** Cite any additional material facts (a) that the respondent contends are part of movant's prima facie case, but were not included in movant's list of the facts constituting the prima facie case, and (b) which the respondent contends established. For each such fact either (a) cite and attach any factual authorities which the respondent contends creates a genuine issue as to that fact or (b) assert that the movant has the burden of persuasion on that fact and has no evidence to support the fact.

**(iii)** To the extent a respondent relies on any affirmative matter upon which it has the burden of persuasion to counter the motion for summary judgment, then the respondent must follow the procedures set forth in Paragraphs (1)(A)(i)-(iii) above.

**(2) If movant does not have the burden of persuasion on the issue upon which summary judgment is sought**

**(A) Movant shall:**

**(i)** List the material facts that the movant contends constitute the non-moving party's prima facie case.

**(ii)** Designate which facts in the non-moving party's prima facie case the movant contends do not exist and (a) cite and attach the factual authorities the movant contends establish the non-existence of each designated fact and/or (b) assert that there is no evidence to support the existence of the designated fact.

**(B) Respondent shall:**

For each material fact designated by the movant as being part of the respondent's prima facie case and claimed by the movant that there is evidence of its non-existence and/or no evidence of its existence, the respondent shall either (a) cite and attach any factual authorities supporting the existence of the fact or (b) deny that the respondent has the burden of persuasion to establish this fact as part of the respondent's prima facie case.

**(3) Briefs**

**(A)** Each motion for summary judgment must be accompanied by a memorandum brief.

(**B)** The respondent shall file its response and memorandum brief within 21 days of service of the motion for summary judgment and supporting memorandum.

**(C)** The movant may file a reply within 14 days after the response is served.

## Part VIII

## Appeals to District Court

### Rule 8001-1. Manner of Taking Appeal; Voluntary Dismissal; Certification to Court of Appeals

**(a) Appeal as of right; how taken**

**(1)** Simultaneously with the filing of any notice of appeal or notice of cross-appeal, with respect to an appeal in which any official committee in the bankruptcy case from which such appeal originated is not a named party to the appeal, the party filing such notice of appeal or notice of cross-appeal shall serve a copy of such notice on counsel to any such official committee and shall file with the notice of appeal or notice of cross-appeal a certificate of service.

**(2)** Any official committee wishing to be placed on the service list for any appeal for the purpose of receiving notices and copies of papers served shall, within 21 days of service of the notice of appeal or the notice of cross-appeal, file with the bankruptcy clerk a request for notice. Such notice shall become part of the record for the appeal to be transmitted to the clerk of the district court by the clerk of the bankruptcy court.

**(3)** Nothing contained herein shall affect or in any way determine any official committee's right to intervene in any appeal or cross-appeal or its obligation to seek leave to intervene in any appeal or cross-appeal if such official committee is not a named party to such appeal or cross-appeal.

## Part IX

## General Provisions

### Rule 9004-1. General Requirements of Form

**(b) Caption**

All documents filed with the clerk that relate to a document previously filed and docketed shall sufficiently identify the related document and state its docket number, if available. The form of the reference to the docket number of the related document shall be "(Dkt. # ____)."

### 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 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.

**(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 characteristics.

**(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.

## Rule 9011-1. Signing of Papers; Representations to the Court; Sanctions; Verifications and Copies of Pages

**(a) Signature**

**(1)** All filed pleadings signed by an attorney shall contain the attorney information required by Miss. Bankr. L.R. 5005-1(a)(2)(H). All documents filed and signed by an unrepresented individual shall contain the party's name, complete address (including street address and, if applicable, post office box number), telephone number, and, if available, e-mail address. Furthermore, every attorney, as well as every litigant proceeding without legal counsel, has a continuing obligation to notify the clerk of any changes of address and contact information.

**(2)** The filing of any document by using a login and password issued by the clerk shall constitute the attorney's signature for purposes of signing the document under Fed. R. Bankr. P. 9011(a) and any other applicable authority relating to signatures. The attorney's name under whose login and password the document is submitted must be displayed as an image of a signature or by an "/s/" and typed in the space where the signature would otherwise appear (e.g., /s/ Jane Doe). No person shall knowingly use or cause another person to use the password of an attorney unless such a person is duly authorized to do so by the attorney.

## Rule 9013-1. Motions: Form and Service

**(a) Rule or statutory basis**

Each motion shall specify the rules and statutory provisions upon which it is predicated.

**(b) Service of motions and responses; limited notice**

**(1)** When a motion or response is filed, at a minimum, the following persons or entities listed in section (2)(B) below shall be served unless otherwise specifically provided by the Federal Rules of Bankruptcy Procedure, these Local Rules, or by order of the court.

**(2)** When limited notice is allowed by the Federal Rules of Bankruptcy Procedure or these Local Rules, it shall be in accordance with Miss. Bankr. L.R. 2002-1(m).

**(A)** In a chapter 7 case, notice shall be given to the debtor, the trustee, the United States Trustee, any court-approved committees, the counsel for each of the foregoing entities, and any other entities affected by the relief requested.

**(B)** In a chapter 11 case, to the extent limited notice is permitted under the Bankruptcy Rules, notice shall be given to the debtor, any court-approved committee, the twenty largest unsecured creditors if no official committee of unsecured creditors has been appointed, any chapter 11 trustee, the counsel for each of the foregoing entities, all parties who have filed a notice of entry of appearance, the United States Trustee, and any other entities affected by the relief requested.

**(C)** In a chapter 12 or 13 case, notice shall be given to the debtor, debtor's counsel, the chapter 12 or 13 trustee, the United States Trustee and any other entities affected by the relief requested.

**(D)** Whenever a pleading governed by Miss. Bankr. L.R. 9013-1 is to be served on the United States, or an officer or agency thereof, the service provisions of Fed. R. Bankr. P. 7004(b)(4)-(b)(5) apply.

**(c) Objections**

Except for motions made in open court, any objection to a motion shall be made in writing and conform to Miss. Bankr. L.R. 9004-1(b), be filed pursuant to Miss. Bankr. L.R. 5005-1(a)(2)(D) and be served as provided in Miss. Bankr. L.R. 9013-1(b)(1).

**(d) Failure to file responsive pleading**

If a response is not timely filed, the court may enter an order granting the relief requested prior to hearing and may remove the motion or application from the court calendar unless leave to file a late response is granted.

**(e) Submitting of order or judgment**

After hearings held in the court, the prevailing party shall submit an order or judgment, consistent with the court's ruling, within 14 days of the hearing or such other time as the court may direct, for the court's approval and entry. For settlement announcements prior to a scheduled hearing date, the related order or judgment shall be submitted within 14 days after the scheduled hearing date or such other time as the court may direct. Except as otherwise directed by the court, prior to submitting the order or judgment to the court, the prevailing party shall submit to all parties appearing at the hearing who filed responsive pleadings related to the subject of the motion or hearing the order for their signature indicating approval as to form. Parties to whom the order or judgment has been submitted shall promptly sign it or promptly contact the party who drafted it to express any objection to the form of the proposed order or judgment. The parties shall attempt to resolve any differences in the form of the order or judgment before submitting competing orders or judgments to the court.

**(f) Expedited or emergency matters**

**(1) Motion for expedited or emergency hearing**

A request for hearing on an expedited or emergency basis shall be made by contacting the courtroom deputy, stating the reason the matter should be considered on an expedited or emergency basis. Counsel for the movant shall immediately thereafter notify counsel for the respondent of the emergency hearing setting. "Expedited basis" or "emergency basis" is defined as any hearing within 14 days of the filing of the motion on which the emergency hearing is requested.

**(2) Response to expedited or emergency matters**

A response to a motion or application set on an expedited or emergency basis and/or seeking expedited or emergency hearing may be filed until and including the date of the hearing, unless otherwise ordered by the court. The respondent must serve the response on the opposing counsel as soon as possible by facsimile and/or email and must file the original response with the court in accordance with Miss. Bankr. L.R. 9013-1(c).

## Rule 9014-1. Contested Matters

**(a) Motion**

If a matter requires a hearing, notice of the setting shall be accomplished by the clerk, unless otherwise directed by the court.

**(c) Application of Part VII rules**

The court may order Miss. Bankr. L.R. 7016-1 to apply to contested matters. Unless ordered otherwise, to the extent that Part VII of the Federal Rules of Bankruptcy Procedure are

applicable to contested matters pursuant to the Fed. R. Bankr. P. 9014(c), the corresponding Mississippi Bankruptcy Local Rules for Part VII shall apply to contested matters.

## Rule 9015-1. Jury Trials

**(c) Withdrawal of the reference in the event of non-consent**

To the extent a bankruptcy court has been authorized by the district court to conduct jury trials, if the bankruptcy court grants the jury demand under Fed. R. Bankr. P. 9015(a) and a party has refused consent to the bankruptcy court's conduct of the jury trial, then any party may file a motion to withdraw the reference with the district court within 14 days of the entry of an order granting the jury demand in accordance with Miss. Bankr. L.R. 5011-1, attaching a copy of the bankruptcy court's order and a copy of the party's refusal to consent. If no party timely files such a motion to withdraw the reference, the bankruptcy court will strike the jury demand.

**(d) Application of the district court local rules relating to jury trials**

To the extent the right for a bankruptcy court to conduct jury trials has been authorized by the district court, all rules relating to the conduct of a jury trial in the district court shall apply to the conduct of such trials in bankruptcy court.

## Rule 9017-1. Exhibits

**(a) Custody and Disposition of Exhibits**

All exhibits, including models, diagrams, or other material items, filed in a proceeding must be physically removed by the parties who filed them, in the event no appeal is perfected, within sixty days from the date of final disposition of the case by this court, or, in the event an appeal is perfected and thereafter disposed of, within thirty days after receipt of the judgment, other process, or certificate disclosing disposition of the case by that court. In the event the exhibits are not removed from the custody of the clerk within the required time, the clerk may destroy or otherwise dispose of the exhibits.

**(b) Custody of Sensitive Exhibits**

Sensitive exhibits include, but are not necessarily limited to, drugs, weapons, currency, pornography, and items of high monetary value. Sensitive exhibits offered or received in evidence will be maintained in the custody of the clerk of court during the hours in which the court is in session. At the conclusion of each daily proceeding and at the noon recess, the clerk will return all sensitive exhibits to the offering counsel or party, who must then be responsible for maintaining custody and the integrity of such exhibits until the next session of court, at which time they must be returned to the clerk, unless otherwise ordered by the court. Following the return of a verdict in a jury case, or the entry of a final order in a non-jury case, sensitive exhibits will be handled or disposed of in the same manner as other exhibits under this rule.

## Rule 9018-1. Secret, Confidential, Scandalous, or Defamatory Matters

**(a)** Documents or proceedings may be sealed only by order of the court.

**(b)** Documents shall be maintained under seal according to such procedures as may be directed by the clerk.

**(c)** The order sealing the document or proceedings shall identify who shall have access to sealed documents and terms and conditions of the maintenance and the ultimate disposition of same.

**(d)** The order sealing the documents shall provide for the duration the documents are to be sealed. If no duration is stated, or if no ultimate disposition is provided in the sealing order, any court records and documents filed under seal shall be returned to the party who placed the records or documents under seal, or if no such party is available, such documents and records shall be maintained under seal for ten years after closing of the bankruptcy case, after which time such records, unless released by an order of the court prior to that time, may be destroyed.

## Rule 9019-1. Compromise and Arbitration

**Introduction and Purpose.** Alternate dispute resolution ("ADR") has the potential to provide a variety of benefits, including greater satisfaction of the parties, innovative methods of resolving disputes, and greater efficiency in achieving settlements.

These rules, modeled largely after the ADR provisions in the Local Rules of the United States District Courts for the Northern and Southern Districts of Mississippi, are designed to provide access to modern ADR settlement techniques and to encourage mutually satisfactory resolutions of disputes in all stages of litigation.

The bankruptcy courts have determined that mediation is the alternative dispute resolution process that best serves the needs of litigants and their attorneys in the timely and efficient resolution of cases. However, nothing in these rules shall prevent the parties from voluntarily engaging in other forms of ADR, such as arbitration, early neutral evaluation, mini-trial, or other appropriate ADR processes.

**(a) Definition**

Mediation is a process in which impartial and neutral persons assist parties in reaching agreed settlements. Mediators facilitate communications between the parties and assist them in their negotiations. When appropriate, mediators may also offer objective evaluations of cases and may make settlement recommendations.

**(b) Cases appropriate for referral to mediation**

The determination of whether a matter should be referred for mediation is addressed to the sound discretion of the judicial officer assigned to the case.

**(c) Referral procedure**

**(1)** A bankruptcy judge may refer a case to mediation on the judge's own motion. If the court determines that a case is appropriate for referral to mediation, the court shall enter an order directing the parties to schedule and complete a mediation conference as set forth in these rules within such time frame as the court may specify. Within 14 days of the entry of the order of referral, a party may file a written objection to the referral order, stating concisely the reasons the case should not be referred for mediation. The objection shall be served on all parties. The court may rule on any objection without a hearing or, in its discretion, may conduct a hearing either in person or by telephone.

**(2)** A party may request that a case be referred to mediation. The request shall be made by motion addressed to the bankruptcy judge assigned to the case.

**(3)** The order of referral shall state a time period within which the mediation shall be completed.

**(4)** A court may not order a case to mediation more than one time except upon a showing of exceptional circumstances or upon the request of all parties.

**(5)** Upon the court's entry of an order referring the case to mediation, and upon all objections having been disposed of by the court, the parties shall have a period of 21 days from the date of entry of the court's final order to schedule the mediation. If the parties are unable to schedule the mediation within the twenty-one day period or to agree on a date and/or a mediator, the court shall assign a mediator and shall order the date, time, and place for the mediation, which shall be binding on the parties.

**(d) Pre-mediation documents**

**(1)** The mediator may submit to the parties a list of required pre-mediation documents and agreements at least 14 days prior to the scheduled date for mediation. All objections to pre-mediation documents shall be addressed to the mediator not less than 7 days prior to the scheduled date and a mediation agreement shall be entered prior to commencement of mediation.

**(2)** If pre-mediation documents are not furnished within 7 days of the scheduled mediation, any party and/or the mediator may apply to the court, which shall determine the disputed terms and conditions of the mediation.

**(3)** Failure to reasonably agree to the pre-mediation agreements and/or to timely raise objections to pre-mediation agreement which delays or encumbers the mediation process will be considered a failure to comply with the order of referral and the mediator and/or parties shall report such failure to the court. The court may enter such orders as it deems appropriate.

**(e) Authority to settle**

**(1) Appearance at mediation**

Counsel, including lead trial counsel, for all parties must appear at the mediation unless otherwise ordered by the court.

**(2) Attendance of parties**

All unrepresented individual parties must appear in person at the mediation unless excused in advance by the court. Representatives of corporate parties, organizations, insurance carriers (if applicable) or other entities must also appear at the mediation or be available by telephone, as the mediator or the court may direct, throughout the entire mediation. Office closings and time zone differences do not excuse a company representative from continued participation in mediation under this rule. Each party representative participating in the mediation must have full authority to settle the case.

**(f) Sanctions**

If a party, or party representative, or attorney fails to appear or be available as provided by these rules at a scheduled mediation, or if a party, or party representative, or attorney is substantially unprepared to participate in the mediation, or if a party, party representative, or attorney fails to participate in good faith during a mediation session, a judge, upon motion or upon the judge's own initiative, may impose appropriate sanctions, including attorneys' fees and reasonable expenses incurred.

**(g) Standards for Neutrals**

**(1) Qualifications and training**

Neutrals shall have such experience and training as the parties may agree or the court may determine are appropriate to help the parties resolve the dispute over which the neutral will mediate.

**(2) Oath of neutrals**

Every neutral serving under these rules shall execute and file with the clerk the oath or affirmation prescribed by 28 U.S.C. §453 upon qualification and confirmation of appointment.

**(3) Immunity**

Neutrals or others authorized to serve in a specific case are performing quasi-judicial functions and are entitled to the immunities and protections that the law accords to persons serving in such capacity.

**(4) Codes of ethics and standards of conduct**

Any neutral serving under these rules shall be subject to all codes of ethics and standards of conduct set by statute, by the Judicial Conference of the United States, and by other

professional organizations to which the neutral may belong and or that may be approved or adopted by the court.

**(h) Selection of neutrals**

**(1) Parties to confer**

Unless otherwise ordered, the parties must confer in good faith and attempt to agree on a neutral. Before nominating a neutral, the parties must have confirmed the neutral's availability and willingness to serve within the time frame proposed.

**(2) Appointment of the neutral when parties agree**

If the parties agree on a neutral and confirm the neutral's availability, the parties must identify the nominee in the proposed order submitted to the court and provide the court with the following information:

**(A)** the name, address and telephone number and, if applicable, the e-mail address of the mediator;

**(B)** briefly describe the training, experience or other qualifications of the mediator;

**(C)** state the rate of compensation of the mediator;

**(D)** state that the mediator and the parties have agreed upon the selection and rate of compensation;

**(E)** state whether any portion of the mediator's fees will be paid from property of the bankruptcy estate, and, if so, the extent of the payment; and

**(F)** state the estimated time period within which the mediation will be held.

**(3) Ruling on appointment of mediator**

**(A) No hearing required**

The bankruptcy judge shall rule on the selection of the mediator without a hearing, and absent substantial countervailing considerations, the bankruptcy judge will appoint the neutral whom the parties have jointly nominated and who is willing to serve.

**(B) Findings required if any compensation is paid by bankruptcy estate**

In the event any of the compensation of the mediator is to be paid by the estate, the court also shall consider and approve the rate of compensation of the mediator and the allocation of costs between or among the parties in the order appointing the mediator.

**(4) Appointment of a neutral when parties disagree**

If the parties cannot agree on a neutral, they shall so advise the court. Upon being so advised, the bankruptcy judge, at his or her discretion, may select a neutral and enter an order of referral to mediation and establish such parameters and guidelines for the mediation as are appropriate under the circumstances of the case.

**(5) Documents provided by the court to the neutral**

Promptly after the neutral is designated, the court shall provide the neutral with a copy of the order of referral.

**(6) Disqualification of neutrals**

No person may serve as a neutral in a mediation in violation of:

**(A)** the standards set forth in 28 U.S.C. § 455;

**(B)** any applicable standard of professional responsibility or rule of professional conduct;

**(C)** any additional standards adopted by the court; or

**(D)** the neutral discovers a circumstance requiring disqualification and immediately submits to the parties and to the court a written notice of recusal.

**(E)** The parties may not waive a basis for disqualification described in 28 U.S.C. § 455(b).

**(7) Proposed order of referral**

**(A) Submission to court**

If the parties recommend mediation, counsel must prepare a proposed order of referral for submission to the court.

**(B) Contents of proposed order**

The proposed order of referral must:

**(i)** state that mediation is appropriate for the case;

**(ii)** identify by name the available neutral whom the parties nominate to mediate the case;

**(iii)** specify the time frame within which the parties propose that the mediation will be completed and the date by which the neutral must file written confirmation of that completion; and

**(iv)** suggest and explain any modifications or additions to the case management and scheduling order that would be advisable because of the reference to mediation.

**(8) Neutral's post-mediation report to court**

Within 14 days of the completion of a mediation conducted pursuant to this rule, the neutral shall advise the bankruptcy judge in writing whether the case was resolved by mediation.

**(i) Confidentiality of proceedings**

**(1) General rule of confidentiality**

Except as otherwise provided in these rules or required by law, all communications made in connection with mediation proceedings under these rules shall be confidential. Mediation-related communications shall not be subject to disclosure and may not be used as evidence against any participant in any judicial or administrative proceeding.

**(2) No compelled disclosure**

A party, a party's attorney, a party's representative, and the neutral may not be compelled to testify in any proceedings related to matters occurring during a mediation under these rules. A party, a party's attorney, a party's representative, and the neutral may not be subject to process requiring disclosure of confidential information or data related to a mediation conducted under these rules.

**(3) Limitations on communications with court**

A person participating in a mediation under these rules may not be compelled to disclose to the court any communication made, position taken, or opinion formed by any party or neutral in connection with mediation proceedings.

**(4) Exception to the general rule of confidentiality**

The only event that may make it appropriate for either the neutral or either of the parties to disclose a confidential communication arising from proceedings governed by these rules is a finding by the court that such testimony or other disclosure is necessary to:

**(A)** prevent a manifest injustice;

**(B)** help establish a violation of law; or,

**(C)** prevent harm to the public health or safety.

**(5) Compensation of neutrals**

**(A) In general**

Unless otherwise established by statute, directed by the court, or unless proceeding pro bono, neutrals may charge reasonable fees and charges for services and expenses.

**(B) Allocation of costs**

Unless otherwise agreed to by the parties in writing or ordered by the court, the costs of the neutral's services shall be paid in equal shares by the parties.

**(C) Payment of costs**

The parties shall pay the neutral within 30 days from the receipt of the statement from the neutral. Except when excused by these rules or by order of the court, the failure of a party to pay that party's share of a neutral's fee within the required time may result in the imposition of sanctions.