

## **BANKRUPTCY RULE 1001-1**

### **SCOPE OF RULES**

(A) **AUTHORITY AND CITATION**

These rules are adopted pursuant to Rule 9029 of the Federal Rules of Bankruptcy Procedure and General Orders of the United States District Court for the District of North Dakota to govern the local practice and procedures before the United States Bankruptcy Court for the District of North Dakota. These rules may be amended or supplemented by additional orders as the court deems necessary. Unless otherwise specified, all statutory references are to Title 11 of the United States Code.

(B) **APPLICATION**

These rules will apply to all cases and proceedings in the United States Bankruptcy Court for the District of North Dakota. The failure of a party to comply with these rules may result in a ruling adverse to that party or the imposition of appropriate sanctions.

(C) **EFFECTIVE DATE**

These rules are effective \_\_\_\_\_ and supersede all rules or General Orders issued by the Bankruptcy Court prior to this date, except the General Order entered on January 22, 2016, adopting interim rule 1007-I.

(D) **DISTRICT COURT RULES**

Certain provisions of the Local Rules of the United States District Court, District of North Dakota, are incorporated in the Bankruptcy Local Rules. Additional District Court Local Rules may be applied in particular cases at the discretion of the bankruptcy judge.

(E) **ELECTRONIC CASE FILES (ECF)**

The clerk of court maintains operating guidelines in an ECF User's Manual. The manual contains local forms, guidelines and instructions incidental to these rules.

(F) **WEBSITE**

The clerk of court maintains rules, procedures, manuals and local forms on the court's website at [www.ndb.uscourts.gov](http://www.ndb.uscourts.gov).

## **BANKRUPTCY RULE 1002-1**

### **NONELECTRONIC FILING**

#### **(A) PETITIONS**

Nonelectronic filers must file their original bankruptcy petitions with the clerk of court. The petitions must substantially conform to the Official Bankruptcy Forms.

#### **(B) MAILING LIST**

Nonelectronically filed cases must include a master address mailing list with the name and address of each creditor and interested party and. The debtor must file the list with the bankruptcy petition. The court provides guidance on the preparation of the mailing list on its website.

#### **(C) TRANSMISSION OF DOCUMENT BY FACSIMILE OR EMAIL**

Filing papers by facsimile or email is not permitted except in limited emergency situations and only after court authorization.

## **BANKRUPTCY RULE 1009-1**

### **AMENDMENTS TO VOLUNTARY PETITIONS, LISTS, SCHEDULES AND STATEMENTS**

#### **(A) PROCEDURE**

A debtor must file amendments to voluntary petitions, lists, schedules and statements consistent with guidelines in the ECF User's Manual. An Amendment Cover Sheet must accompany all amendments.

#### **(B) SERVICE AND NOTICE**

A debtor must file and serve amendments to schedules and statements on creditor(s) to whom the debt is owed, the trustee and United States Trustee in time to comply with applicable provisions of 11 U.S.C. § 523(a)(3) with a notice that must include:

- (1) for each affected person or entity, the name and address, amount owed and date debtor incurred the debt;
- (2) the name and address of debtor's counsel and the trustee;
- (3) the deadline for filing proofs of claim, or a statement clarifying that no deadline has been set or that it is a no-asset case and proofs of claim need not be filed, or if the deadline has passed or will pass within 30 days of the amendment, a statement

providing that the creditor has 30 days after service of the notice to file a proof of claim; and

- (4) the deadline to file complaints seeking an exception to discharge and/or denial of discharge. If the deadline has passed or will pass within 30 days, the notice must provide that the creditor has 30 days after service of the notice to file a complaint.

A debtor must also serve omitted creditors with the Notice of Bankruptcy Case. Do not include the Notice of Bankruptcy Case with electronically filed documents.

Amended mailing lists must only list additional creditors.

See Local Form - Notice to Creditor(s) of Amended Schedule(s).

(C) **AMENDMENTS TO SCHEDULE C, EXEMPT PROPERTY**

Any amendment to Schedule C must restate in full all claimed exemptions. A debtor must identify all changes to an amended Schedule C on the amended schedule. If the debtor fails to meet either of these requirements, the debtor will be deemed to have failed to meet the notice requirement for amended schedules under Fed. R. Bankr. P. 1009.

**BANKRUPTCY RULE 1015-1**

**JOINT ADMINISTRATION**

When a debtor and his/her spouse file a single petition in a joint case, the bankruptcy estates will be jointly administered without further court order unless the trustee or other interested party files an objection to joint administration within 14 days after the conclusion of the first meeting of creditors. Pursuant to section 302, a joint case may only be commenced by the filing of a single petition that includes both debtors. A petition filed by an individual debtor may not be amended at a later time to add a spouse as a debtor.

## BANKRUPTCY RULE 2002-1

### NOTICES

- (A) The proponent of any motion, application, plan or other request for relief must serve the pleading and notice as provided in the Federal Rules of Bankruptcy Procedure and Local Rules as summarized in the Notice and Service Requirements list, available on the court's website. The clerk of court is authorized to modify this list as necessary to conform to the Federal Rules of Bankruptcy Procedure and the Bankruptcy Code.
- (B) If these rules or the Federal Rules of Bankruptcy Procedure do not provide a specific notice period, the proponent of a motion, application or other request for relief must provide a 14-day notice.
- (C) Notice of motions in adversary proceedings must be provided consistent with D.N.D. Bankr. L.R. 7007-1(C).
- (D) Debtor must serve the order confirming a Chapter 11, 12 or 13 plan on all creditors and interested parties.
- (E) The court may rule on the following applications and motions upon filing without a hearing or an opportunity to respond:
  - (1) application for installment payments;
  - (2) application for waiver of filing fee;
  - (3) a debtor's motion to delay discharge;
  - (4) a debtor's motion to extend time to file schedules, statements or a plan;
  - (5) stipulated application for wage assignment;
  - (6) motion to appear pro hac vice;
  - (7) motion to expedite hearing;
  - (8) motion to limit notice;
  - (9) motion to reopen case (main case or adversary proceeding)\*;
  - (10) motion to dismiss duplicate case;
  - (11) motion to reduce time;
  - (12) motion to strike/redact personal identifiers;

- (13) motion to continue hearing/trial;
- (14) motion to seal;
- (15) motion for telephonic hearing or video conference;
- (16) motion to discontinue wage assignment;
- (17) motion for cure order (movant must properly serve the motion to dismiss);
- (18) motion to cancel pretrial conference, trial and/or contested matter.

\* See D.N.D. Bankr. L.R. 5010-1 requiring a two-step process: a motion to reopen the case, which does not require a notice period, and an application or motion with notice seeking the relief requested.

## **BANKRUPTCY RULE 2004-1**

### **AUTHORITY TO CONDUCT 2004 EXAMINATION**

A party seeking to conduct an examination within the scope of Federal Rule of Bankruptcy Procedure 2004 is excused from filing a motion under Rule 2004(a) and may examine the debtor or any entity and/or to compel the production of documents or electronically stored information (ESI) at the examination without a court order, if the party meets the requirements of this rule.

#### **(A) MANNER OF SETTING EXAMINATIONS**

Examinations may be scheduled by filing a Notice of Rule 2004 Examination, which includes the date, time, place and reason for the examination, and serving the notice on the trustee, the debtor, the debtor's attorney and the party to be examined, and, if applicable, a subpoena.

#### **(B) CONSULTATIONS REQUIRED**

Before filing a Notice of Rule 2004 Examination, counsel for the moving party or parties must confer with counsel for the proposed examinee, or with the proposed examinee if unrepresented, to arrange a mutually agreeable date, place and time for the examination.

#### **(C) REASONABLE NOTICE**

The attendance of the examinee and the production of documents or ESI may not be required less than 14 days after actual delivery of the notice, except by agreement of the parties or order of the court.

(D) MOTION FOR PROTECTIVE ORDER

Prior to the date of the proposed examination, an interested party may file a motion for protective order stating the reasons for prohibiting, limiting or rescheduling the examination, and the examination will be stayed until the court rules on the motion.

(E) SUBPOENA

A subpoena is not necessary to compel attendance of, or production of documents or ESI from, the debtor at an examination of the debtor. A subpoena is necessary to compel the attendance of, or production of documents or ESI by, a witness other than the debtor.

(F) METHOD OF RECORDING

The notice or subpoena must indicate the method of recording the examination.

**BANKRUPTCY RULE 2016-1**

**COMPENSATION FOR LEGAL FEES AND EXPENSES  
SOUGHT BY DEBTOR'S ATTORNEY IN CHAPTER 13 CASES**

(A) LEGAL FEES - SIMPLIFIED APPLICATION

An attorney who represents a debtor, whether joint or individual, in a Chapter 13 case is excused from the compensation application requirements of Fed. R. Bankr. P. 2016(a) and the notice requirement of Fed. R. Bankr. P. 2002(a)(6) if the attorney's claim for compensation does not exceed a presumptively reasonable fee of \$4,000. This fee will be presumed to compensate a debtor's attorney for a level of service to the debtor that, at a minimum, must include the services listed in paragraph (1).

(1) The presumptively reasonable fee includes, at a minimum, the following services:

(a) Prepetition

1. Meeting with the debtor to discuss and analyze the debtor's situation, goals and objectives and to recommend a solution.
2. Counseling the debtor regarding the advisability of filing bankruptcy (as well as non-bankruptcy options) and answering the debtor's questions.
3. Explaining the terms of representation, filing fees and plan payment requirements.
4. Performing due diligence tasks, such as obtaining the debtor's credit report, checking the national PACER database to confirm whether the debtor has previously filed a bankruptcy case and verifying ownership of vehicles, real property and other assets.
5. Consulting and communicating with the debtor to gather information

and to inform the debtor of his/her responsibilities.

6. Timely preparing, revising and finalizing the debtor's petition, plan, statements, schedules and other forms and documents necessary for prosecuting the debtor's bankruptcy case.
7. Advising the debtor of the requirements to obtain prepetition credit counseling, to maintain appropriate insurance and to file all income and other tax returns.
8. Advising the debtor about the steps necessary to obtain a discharge, including filing a statement regarding domestic support obligations and completing a financial management course.
9. Reviewing the completed petition, plan, statements and schedules with the debtor and ensuring the debtor signs them.

(b) Postpetition and Preconfirmation

1. Advising the debtor of the requirement to attend the meeting of creditors, ensuring the debtor is prepared for the meeting and notifying the debtor of the date, time and place of the meeting. In the case of a joint filing, notifying both spouses that they must appear at the meeting.
2. Providing legal representation to the debtor at the meeting of creditors and attending the confirmation hearing, if necessary.
3. Ensuring bank statements and income and tax records are timely submitted to the trustee.
4. Initiating and responding to correspondence and calls to and from the trustee, the United States Trustee, creditors and other interested parties as necessary for the timely administration of the debtor's case.
5. Timely responding to objections to plan confirmation and, when necessary, preparing, filing and serving an amended plan.
6. Corresponding with the debtor and creditors to ensure compliance with section 362 (automatic stay) as it pertains to wage garnishments, levied accounts, foreclosures or any other matter.
7. Monitoring all incoming Case Management/Electronic Case Files (CM/ECF) case information.
8. Timely preparing, filing and serving any necessary amended statements and schedules and any change of address in accordance with information provided by the debtor.

(c) Postconfirmation

1. Evaluating proofs of claim, determining the necessity of objecting to filed claims and advising the debtor accordingly.
2. Responding to the debtor's questions throughout the term of the plan or until either the case is dismissed, or the court has authorized the debtor's attorney to withdraw from representation.
3. Assisting the debtor with the steps necessary to obtain a discharge,

including filing a statement regarding domestic support obligations and completing a financial management course.

4. Monitoring all incoming CM/ECF case information.

(2) The presumptively reasonable fee does not include the following services:

(a) Representing the debtor in adversary matters, Rule 2004 examinations or postconfirmation hearings.

(b) Preparing the following motions:

1. to buy or sell real or personal property and/or to incur debt;
2. objecting to improper or invalid proofs of claim;
3. to avoid a lien;
4. to modify a confirmed Chapter 13 plan;
5. to approve settlements;
6. to deem a mortgage current;
7. to approve sales or refinancing;
8. to substitute collateral;
9. for hardship discharge; and
10. for early termination of the plan.

(c) Responding to motions:

1. for relief from stay or for a valuation of property; and
2. to dismiss (postconfirmation).

**(B) LEGAL FEES - SIMPLIFIED APPLICATION - POSTCONFIRMATION SERVICES NOT INCLUDED IN THE PRESUMPTIVELY REASONABLE FEE**

In a Chapter 13 case, an attorney who represents a debtor after confirmation in the following matters may request an order awarding compensation by simplified application, and the court may issue the requested order without a hearing, if the sum of the requested compensation does not exceed \$1,000 per application:

1. resolving motion(s) for relief from stay;
2. resolving motion(s) to dismiss;
3. filing motion(s) for sale of real estate;
4. filing motion(s) objecting to claims;
5. assisting the debtor in preparing and submitting required disclosures under 11 U.S.C. § 521(f)(4);
6. assisting the debtor in responding to requests for information made in connection with an audit conducted pursuant to 28 U.S.C. § 586(f); and
7. filing motion(s) for hardship discharge.



An attorney who represents a debtor after confirmation of a plan in serving and filing a modified plan may request an order awarding compensation and/or reimbursement of expenses by simplified application if the amount of the requested compensation does not exceed \$1,500 per application. The simplified application need not comply with Fed. R. Bankr. P. 2016 and must substantially conform to Local Form 2016-1. An attorney who complies with this subsection need not provide notice of his/her Simplified Application. The court may enter an order granting the simplified application without a hearing.

(C) OBJECTION TO FEES

The Simplified Application process described in subsections (A) and (B) above does not limit the trustee, United States Trustee, creditors or any interested party from questioning the reasonableness of an attorney's fees requested on a Simplified Application. This rule also does not limit the court's discretion to review the amount of fees paid to or agreed to be paid to a debtor's attorney or to enter appropriate orders allowing, disallowing or reducing attorney's fees or expenses. If an objection is raised, the attorney may be required to submit an application for compensation and an itemization of fees and costs that satisfy the requirements of § 330 and Fed. R. Bankr. P. 2016.

(D) LEGAL FEES - STANDARD APPLICATION REQUIRED

Employing the simplified fee application process described in subsections (A) and (B) is optional. An attorney who declines to accept the presumptively reasonable fee for the minimum services listed may submit an application that conforms to the requirements in section 330 and Fed. R. Bankr. P. 2016(a) and 2002(a)(6).

An attorney who elects to accept the presumptively reasonable fee for the tasks listed in subsections (A) or (B) may apply for additional compensation for tasks that exceed the scope of those subsections. This application must conform to the requirements in section 330 and Fed. R. Bankr. P. 2016(a) and 2002(a)(6). The application for additional compensation for tasks or expenses exceeding the scope need not include an itemization of tasks or fees that fall within the presumptively reasonable fee under subsections (A) or (B), unless specifically requested by the court.

Debtor's attorney may file a standard application before or after confirmation of a Chapter 13 plan.

(E) LEGAL COSTS AND EXPENSES

An attorney who represents a debtor in a Chapter 13 case may apply for actual costs and expenses incurred, including photocopies, PACER fees, postage, long distance telephone charges, due diligence fees, credit counseling costs and mileage, on the simplified application form or the standard application form.

## **BANKRUPTCY RULE 2016-2**

### **COMPENSATION OF BANKRUPTCY PETITION PREPARERS**

#### **(A) DISCLOSURE**

A bankruptcy petition preparer must complete, sign and file with the petition the Bankruptcy Petition Preparer's Notice, Declaration and Signature (Official Form 119) and the Disclosure of Compensation of Bankruptcy Petition Preparer (Director's Form 2800).

#### **(B) COMPENSATION**

- (1) A bankruptcy petition preparer's compensation in a Chapter 7 or Chapter 13 case is limited to \$90, unless additional compensation is authorized.
- (2) Any bankruptcy petition preparer paid more than \$90 in any individual case must file a motion for an order authorizing such fee.
- (3) Any bankruptcy petition preparer who is paid more than \$90 without court approval or who fails to comply with any requirements of the Bankruptcy Code or national or local rules, including but not limited to section 110, is subject to sanctions, including disgorgement of compensation, under section 110.

## **BANKRUPTCY RULE 3003-1**

### **DEADLINE TO FILE PROOF OF CLAIM IN CHAPTER 11 CASES**

Unless otherwise ordered in a Chapter 11 case or provided in the Fed. R. Bankr. P., the last day to timely file a proof of claim or interest is 70 days after the order for relief. The clerk of court will give notice of this deadline in the Notice of Bankruptcy Case.

## **BANKRUPTCY RULE 3011-1**

### **PAYMENT OF UNCLAIMED FUNDS**

A claimant may seek payment of unclaimed funds by following these guidelines:

- (A) The claimant must file a motion and notice for payment of funds, including proof of the right to the funds, and a certificate of service showing service on the United States Attorney.
- (B) Examples of the type of information required to prove a claimant's right to payment:
  - (1) Owners of record (the person shown in the court's record)
    - (a) a notarized signature of the claimant;
    - (b) the name, address and telephone number of the claimant; and

- (c) the social security number (last 4 digits) or tax identification number of the claimant.
- (2) Successor claimants
  - (a) Successor businesses
    - 1. proof of identify of the owner of record;
    - 2. a notarized power of attorney signed by an officer of the successor business;
    - 3. a statement of the signing officer's authority; and
    - 4. documentation establishing chain of ownership from the original business claimant.
  - (b) Transferred claims
    - 1. proof of identify of the owner of record;
    - 2. proof of identify of the successor claimant; and
    - 3. documentation evidencing the transfer of claim.
  - (c) Decedent's estate (administrator, executor, representative)
    - 1. proof of identify of the owner of record;
    - 2. proof of personal identity of the estate administrator; and
    - 3. certified copies of probate documents establishing the representative's right to act on behalf of the decedent's estate.
- (3) Claimant representatives (i.e., funds locators)
  - (a) proof of identify of the owner of record;
  - (b) a notarized, original power of attorney signed by the claimant on whose behalf the representative is acting;
  - (c) proof of identify of the representative; and
  - (d) documentation sufficient to establish the claimant's entitlement to the funds.
- (C) If no objections are received within 14 days after service of the motion and notice, an order may be entered granting the requested payment of funds.

Additional guidance on payment of unclaimed funds is available in the ECF User's Manual.

## **BANKRUPTCY RULE 3015-1**

### **CHAPTER 13 PLAN FORM**

This court adopted a local Chapter 13 plan form. All Chapter 13 debtors must use the mandatory Chapter 13 plan form for original and amended or modified plans. The Chapter 13 plan form may be amended from time to time. You may find the Chapter 13 plan form on the court's website at [www.ndb.uscourts.gov](http://www.ndb.uscourts.gov).

## **BANKRUPTCY RULE 3015-2**

### **CONFIRMATION OF CHAPTER 12 AND 13 PLAN**

The court may confirm a properly noticed Chapter 12 or 13 plan without a hearing if there are no timely filed objections or if all objections are withdrawn.

## **BANKRUPTCY RULE 3015-3**

### **CHAPTER 12 AND 13 PLAN MODIFICATIONS**

A motion to modify a plan must include a summary of the modifications to the plan. A debtor must file the entire plan as modified.

## **BANKRUPTCY RULE 3020-1**

### **CONFIRMATION OF CHAPTER 11 PLAN**

The court may confirm a properly served Chapter 11 plan without a hearing if there are no timely filed objections or if all objections are withdrawn.

## **BANKRUPTCY RULE 4001-1**

### **DEPOSIT OF RENT AND TRANSMITTAL OF RENT TO LESSOR**

- (A) Any deposit of rent made by or on behalf of a debtor, pursuant to section 362(l)(1)(B), must be in the form of a certified check or money order payable to the order of the lessor and delivered to the clerk of court upon filing of the petition and certification made under section 362(l)(1)(A). See Official Form 101A Initial Statement About an Eviction Judgment Against You and Official Form 101B Statement About Payment of an Eviction Judgment Against You.
- (B) The debtor must file a copy of the judgment of eviction with the petition.
- (C) Upon receipt of the certified check or money order and a copy of the judgment of eviction, the clerk of court must transmit the certified check or money order to the lessor by certified mail/return receipt requested to the address listed on the petition.

## **BANKRUPTCY RULE 4001-2**

### **MOTIONS FOR RELIEF FROM STAY TO ENFORCE A DEBT SECURED BY PROPERTY OF THE ESTATE**

#### **(A) REQUIRED INFORMATION**

In all motions under section 362 seeking relief from the automatic stay to enforce a debt secured by property of the estate, the moving party must provide the following information:

- (1) evidence that the moving party has standing to bring the motion, including, at a minimum:
  - (a) a copy of the note;
  - (b) a copy of the mortgage or security agreement;
  - (c) evidence of perfection; and
  - (d) evidence that the moving party holds the right to enforce the security interest and bring the motion, e.g., the moving party is the original mortgagee or a valid transferee;
- (2) a description of the property;
- (3) the moving party's estimated current market value of the property; and
- (4) a loan history indicating the dates and sums of missed payments and all advances made to or charges of any kind made against the debtor beginning on the date of the default applicable to this motion and ending on the date the motion is verified. The loan history for a mortgage on an individual's principal residence must substantially conform to Local Form Loan History

(B) **AGREEMENTS REGARDING RELIEF FROM STAY MOTIONS**

If the parties reach an agreement allowing a debtor additional time to cure a default on a promissory note, mortgage or security agreement, the parties must use the following noncompliance procedure:

- (1) In the event the debtor fails to comply with the terms and conditions in the agreement, the moving party must provide written notice to the debtor and debtor's counsel of the default.
- (2) Parties will agree to a deadline for the debtor to cure the default.
- (3) If the debtor fails to timely cure the default, the moving party may file an affidavit of noncompliance.

As provided in Fed. R. Bankr. P. 4001(d)(4), a stipulation arising from a contested motion made pursuant to Fed. R. Bankr. P. 4001(a), (b) or (c) may be approved without further notice if notice of the original motion was provided in compliance with D.N.D. Bankr. L.R. 2002-1.

**BANKRUPTCY RULE 4004-1**

**DISCHARGE UNDER CHAPTERS 11, 12 AND 13**

(A) **CHAPTER 11**

Upon completion of all applicable payments under the plan in an individual Chapter 11 case, the debtor must file a motion for discharge that complies with 11 U.S.C. section 1141(d)(5).

(B) **CHAPTERS 12 AND 13**

- (1) To be eligible for a discharge under Chapter 12 or 13, a debtor must file a certification regarding domestic support obligations and section 522(q). See Local Form -Chapter 12 and 13 Debtor's Certifications Regarding Domestic Support Obligations and Section 522(q). In joint cases, each debtor is required to file a separate certification.

The certification must be filed:

- (a) no earlier than six months prior to completion of plan payments; or
  - (b) upon the filing of a motion for entry of hardship discharge under section 1228(b) or section 1328(b).
- (2) Upon completion of all applicable payments under the plan in a Chapter 12 or 13 case, the trustee will file a text entry only event "Plan Payments Complete," unless the court granted the debtor a hardship discharge under section 1228(b) or section 1328(b).

**BANKRUPTCY RULE 4008-1**  
**REAFFIRMATION AGREEMENTS**

All reaffirmation agreements filed with the court must substantially conform to Director's Form 2400A/B ALT Reaffirmation Documents and be accompanied by the Cover Sheet for Reaffirmation Agreement (Official Form 427).

**BANKRUPTCY RULE 5001-1**  
**TELEPHONIC HEARINGS**

(A) **REQUESTS TO APPEAR BY TELEPHONE**

Interested parties in any case or proceeding may, upon reasonable advance notice (generally not less than 48 hours), file a motion requesting that a hearing be held by telephone conference or requesting to appear by telephone at a scheduled hearing. The court will consider potential savings in travel time and expenses in determining whether a telephonic hearing is appropriate.

(B) **ARRANGEMENTS FOR TELEPHONIC APPEARANCES**

The court will send interested parties instructions for participating in conference calls.

(C) **A PARTY APPEARING IN HEARINGS BY TELEPHONE MAY NOT OFFER EVIDENCE OR CROSS-EXAMINE WITNESSES**

Absent extraordinary circumstances, the court will not permit a party to offer testimony, exhibits or other evidence or to cross-examine witnesses via telephone conference. The court will allow counsel who appear by telephone to offer argument. If any party seeks to offer evidence or cross-examine witnesses, the party must arrange for counsel to appear in person or via video conference.

## **BANKRUPTCY RULE 5001-2**

### **VIDEO CONFERENCES**

(A) LOCATION

The court will provide notice of the place and time for all hearings held by video conference.

(B) REQUESTS FOR VIDEO CONFERENCES

Interested parties in any case or proceeding may, upon reasonable advance notice (generally not less than 48 hours), file a motion requesting that a hearing be held by video conference or requesting to appear by video conference at a scheduled hearing. The court will consider potential savings in travel time and expenses in determining whether a hearing by video conference is appropriate. If the court grants the motion, counsel must make arrangements with the court to secure video conference service and to test the video conference service in advance of the hearing from the remote site. Arrangements and testing should occur generally not less than 48 hours in advance of the hearing, 72 hours preferred.

(C) EVIDENCE OFFERED AT VIDEO CONFERENCES

Parties may offer testimony and/or exhibits at any video conference. Counsel must either file the exhibits or mail, facsimile or email copies of the exhibits to the clerk of court and all parties in sufficient time for them to arrive at least one business day prior to the hearing. Guidance on submitting exhibits by facsimile or email is prescribed by the clerk of court.

(D) DECORUM

Rule 1.6, D.N.D. Gen. L.R., applies to all video conference proceedings. Parties appearing by video conference should enter the video conference room quietly, sit in chairs located around the perimeter of the room and wait silently until the court calls their cases. When called, parties should sit in a location where they can view the video screen and the court can see the parties and their attorneys.



## **BANKRUPTCY RULE 5001-3**

### **DIVISIONS AND CITIES WHERE COURT IS HELD**

The state of North Dakota is one judicial district. The city where hearings and trials are held and the counties in each division are as follows:

- (1) Southwestern Division, Bismarck, North Dakota: Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Kidder, Logan, McIntosh, McLean, Mercer, Morton, Oliver, Sioux, Slope and Stark;
- (2) Northeastern Division, Grand Forks, North Dakota: Benson, Cavalier, Grand Forks, Nelson, Pembina, Ramsey, Rolette, Traill, Towner and Walsh;
- (3) Southeastern Division, Fargo, North Dakota: Barnes, Cass, Dickey, Eddy, Foster, Griggs, LaMoure, Ransom, Richland, Sargent, Steele and Stutsman;
- (4) Northwestern Division, Minot, North Dakota: Bottineau, Burke, Divide, McHenry, McKenzie, Mountrail, Pierce, Renville, Sheridan, Ward, Wells and Williams.

## **BANKRUPTCY RULE 5005-1**

### **ELECTRONIC FILING**

The CM/ECF electronic case file constitutes the official case file. Except as specified in D.N.D. Bankr. L.R. 9010-2(C), any document filed by an attorney, United States Trustee or case trustee (registered user) must be filed electronically using the court's CM/ECF system. Guidance on electronic filing is available in the ECF User's Manual.

#### **(A) CM/ECF REGISTRATION**

By registering with CM/ECF, the registered user waives the right to receive notice and service by first class mail and consents to receive notice electronically, except service of a summons and complaint under Fed. R. Bankr. P. 7004. The registered user also consents to receive electronic notice of entry of a judgment or order in lieu of notice as required by Fed. R. Bankr. P. 9022 and Fed. R. Civ. P. 5(b). Registration guidance is available in the ECF User's Manual.

#### **(B) SIGNATURE**

An attorney's use of the login and password issued for CM/ECF, together with the name on the signature block or the name on the signature block on documents filed using court-approved modules that interface with the CM/ECF system, constitutes the signature of the attorney and client(s) for all purposes, including Fed. R. Bankr. P. 9011.

(C) VERIFICATION

By filing a document electronically, an attorney affirms that all petitions, lists, schedules, statements and amendments are verified under Fed. R. Bankr. P. 1008 and 9011.

(D) FILING DEADLINES

A document filed electronically is deemed filed at the date and time stated on the Notice of Electronic Filing. Electronically filed pleadings must be filed before midnight central standard time on the due date to be considered timely filed unless the court specifically requires an earlier filing time.

(E) SERVICE

Electronic transmission of a document or order to the CM/ECF system together with the Notice of Electronic Filing automatically generated by the court's CM/ECF system constitutes filing, service and proof of service of the filed document or order on registered users for all purposes of the Federal Rules of Bankruptcy Procedure and the rules of this court, except as required by Fed. R. Bankr. P. 7004. Parties who are not electronic filers must be provided notice or service of any pleading or other document electronically filed in accordance with the Federal Rules of Bankruptcy Procedure and the local rules, except when a debtor or a party consents to electronic notification. Proof of service must be filed when serving nonelectronic filing parties.

(F) REQUIRED FEES

Electronic filers must pay any incurred filing fees, including installment payments, through the CM/ECF system.

**BANKRUPTCY RULE 5005-2**

**DOCUMENTS FILED IN CLOSED CASES**

Unless directed by the court, no action will be taken on documents received in a closed case. Electronic filers will receive an electronic notice that no action will be taken. Documents submitted nonelectronically will be returned to the filing party unfiled.

## **BANKRUPTCY RULE 5005-3**

### **SEALED DOCUMENTS**

#### **(A) ELECTRONIC FILERS**

Guidance on the electronic filing of sealed documents is available in the ECF User's Manual.

#### **(B) NONELECTRONIC FILERS**

A party seeking to file a document under seal must submit a motion, a supporting memorandum, a proposed order and the document the party seeks to seal. The motion must contain the phrase "Motion to Seal" in the caption. A party seeking to seal a document that has previously been filed must submit a motion, a supporting memorandum and a proposed order. The motion must contain the phrase "Motion to Seal" in the caption. Any document under seal will be sealed in its entirety. Portions of a document may not be sealed, but a party may file redacted documents.

## **BANKRUPTCY RULE 5010-1**

### **REOPENING CASES**

A motion to reopen a closed case must state specific facts and reasons showing cause for reopening the case. The motion must be served on the former trustee in the case and the United States Trustee. There is no notice period for a motion to reopen. See D.N.D. Bankr. L.R. 2002-1.

If the court grants the motion to reopen, the moving party must then file and serve an application or motion with a notice to interested parties requesting the relief sought. The notice period for an application or motion seeking relief after a case is reopened is 14 days, except when the debtor seeks to amend schedules to add an omitted creditor or to modify a claim under D.N.D. Bankr. L.R. 1009-1.

For example, if a debtor seeks to reopen a case to file a financial management certificate or a certification of domestic support obligations, the debtor must file a motion to reopen. If the motion is granted, the debtor may then file the certificate and a motion seeking entry of discharge with a 14-day notice to interested parties.

## **BANKRUPTCY RULE 5071-1**

### **CONTINUANCES**

A party seeking a continuance of any bankruptcy matter must file a motion as soon as the party knows of the grounds for a continuance. The court will grant a continuance only upon a showing of cause.

If a continuance is granted, the moving party is responsible for sending notice to interested parties. If a continuance is granted within 24 hours of the scheduled bankruptcy matter or adversary proceeding, the moving party must provide notice by direct communication as well as electronic filing. If one of the parties is pro se, the moving party must provide notice of the continuance by direct communication if a continuance is granted within 48 hours of the scheduled hearing.

All requests to continue a meeting of creditors under section 341 must be directed to the United States Trustee or the trustee assigned to the case.

## **BANKRUPTCY RULE 5072-1**

### **DECORUM**

Rule 1.6, D.N.D. Gen. L.R., applies.

## **BANKRUPTCY RULE 7007-1**

### **MOTIONS IN ADVERSARY CASES**

#### **(A) DISPOSITIVE MOTIONS**

A dispositive motion is one in which the moving party seeks dispositive relief, whether partial or complete, under Fed. R. Civ. P. 12 or 56. Upon serving and filing a dispositive motion, the moving party must contemporaneously serve and file a memorandum in support of the motion not to exceed 40 pages, of which no more than 25 pages may be argument. The adverse party has 21 days after service of the memorandum in support of the motion to serve and file a response subject to the same page limitations. The moving party has 14 days to serve and file a reply not to exceed 10 pages.

DISPOSITIVE MOTION DEADLINES & PAGE LIMITS		
	DAYS	PAGES
Memorandum in Support of Motion		40
Response	21	40
Reply	14	10

(B) NON-DISPOSITIVE MOTIONS

A non-dispositive motion is any motion filed in an adversary proceeding other than the dispositive motions described in D.N.D. Bankr. L.R. 7007-1(A) or listed on the Notice and Service Requirements list. Upon serving and filing a non-dispositive motion, the moving party must contemporaneously serve and file a memorandum in support of the motion not to exceed 20 pages. The adverse party has 14 days after service of a memorandum in support of the motion to serve and file a response not to exceed 20 pages. The moving party has 7 days to serve and file a reply not to exceed 7 pages.

NON-DISPOSITIVE MOTION DEADLINES & PAGE LIMITS		
	DAYS	PAGES
Memorandum in Support of Motion		20
Response	14	20
Reply	7	7

(C) NOTICE OF MOTIONS

The notice must include the number of days an interested party has to respond.

(D) REQUESTS FOR ADDITIONAL FILINGS OR TO EXCEED PAGE LIMITATIONS

Parties must serve and file a motion seeking leave of court to submit any additional filings or filings that exceed the page limitations. Leave of court will be granted only upon a showing of good cause. A memorandum in support of a motion for leave of court to submit an additional filing or to submit a filing that exceeds the page limitation is not required but, if filed, may not exceed 2 pages in length.

(E) MOTIONS FOR ORAL ARGUMENT

The court may order oral argument on its own or upon motion of either party. A memorandum in support of the motion for oral argument is not required but, if filed, may not exceed 2 pages in length.

(F) FAILURE TO FILE A RESPONSE

An adverse party's failure to serve and file a response to a motion may be deemed an admission that the motion is well taken.

(G) STIPULATIONS AND SETTLEMENT AGREEMENTS

All stipulations and settlement agreements must be in writing and signed by the parties. All stipulations and settlement agreements resolving adversary proceedings must be accompanied by a motion or made part of the record in open court. No stipulation or settlement agreement will be effective unless approved by the court. Motions must be accompanied by a proposed order.

In cases in which the trustee is not a party, the moving party must serve a 21-day notice of the motion to approve a stipulation or settlement agreement on all parties appearing in the adversary proceeding, the trustee and the United States Trustee.

In cases in which the trustee is a party, the trustee must file a motion to approve a stipulation or settlement agreement in the adversary action and in the main case. Notice must be provided as required under Fed. R. Bankr. P. 9019, 2002 or other applicable law.

**BANKRUPTCY RULE 7016-1**

**ALTERNATIVE DISPUTE RESOLUTION**

(A) AUTHORIZATION

- (1) The district court authorizes the use of Alternative Dispute Resolution in civil cases, including adversary proceedings in bankruptcy, pursuant to 28 U.S.C. § 651. See Rule 16.2, D.N.D. Civ. L.R.
- (2) The primary form of ADR offered by the district court and bankruptcy court is mediation in the form of court-sponsored settlement conferences held by judicial officers. The court will not offer arbitration as a court-sponsored ADR process, but in appropriate cases, with the consent of the parties, the court will facilitate other forms of ADR, such as early neutral evaluation. The court also encourages, but does not require, private ADR as an alternative to court-sponsored ADR.

(B) CONFIDENTIALITY OF MEDIATION PROCEEDINGS

Confidentiality is necessary to the mediation process, and mediations are confidential under these rules and to the fullest extent permissible under otherwise applicable law. Unless all parties to the mediation expressly waive confidentiality, the provisions of this local rule apply to mediations occurring in cases, contested matters and adversary proceedings pending before the court. These provisions also apply to mediations ordered or referred by the court. Except as may be otherwise ordered by the court, the following provisions apply to any mediation under these rules:

- (1) To the fullest extent applicable, Rule 408 of the Federal Rules of Evidence (and any applicable federal or state statute, rule, common law or judicial precedent relating to the protection of settlement communications) applies to the mediation and any communications with the mediator related to the mediation. In addition to the limitations on admissibility of evidence under Rule 408, no person may rely on or introduce as evidence in connection with any arbitral, judicial or other proceeding, including any hearing held by this court in connection with the referred matter, whether oral or written;
  - a. views expressed or suggestions made by a party regarding a possible settlement of the dispute, including whether another party had or had not indicated a willingness to accept a proposal for settlement;
  - b. proposals made or views expressed by the mediator; or
  - c. admissions made by a party in the course of the mediation.
- (2) Subject to subparagraph (4), the mediator and the participants in mediation are prohibited from divulging, outside of the mediation, any oral or written information disclosed by the parties or witnesses to or in the presence of the mediator, or between the parties during any mediation.
- (3) Subject to subparagraph (4), any submission of information or documents to the mediator prepared by or on behalf of any participant in mediation and intended to be confidential is not subject to disclosure, even if the submission is shared with other mediation participants.
- (4) Information, facts or documents otherwise discoverable or admissible in evidence do not become exempt from discovery or inadmissible merely by being disclosed or otherwise used in the mediation or in any submission to the mediator.

- (5) The mediator may not be compelled to disclose to the court or to any person outside the mediation any records, reports, summaries, notes, communications, submissions, recommendations, or other documents received or prepared by or for the mediator while serving in a mediator capacity. The mediator may not testify or be compelled to testify regarding the mediation in connection with any arbitral, judicial or other proceeding. The mediator is not a necessary party in any proceeding relating to the mediation. Nothing contained in this paragraph prevents the mediator from reporting the status, but not the substance, of the mediation effort to the court in writing.
- (6) For the avoidance of doubt, nothing in this local rule is intended to or will modify any rights or obligations in connection with confidential information or information potentially subject to protection under 11 U.S.C. § 107.
- (7) Notwithstanding Rule 502 of the Federal Rules of Evidence, a party's disclosure of privileged information to the mediator does not waive or otherwise adversely affect the privileged nature of the information.

## **BANKRUPTCY RULE 7026-1**

### **DISCOVERY**

#### **(A) DISCOVERY**

Except for subsection (d)(1), Fed. R. Civ. P. 26 applies in adversary proceedings unless otherwise ordered.

The court will enter an order setting a scheduling conference as necessary. Following the scheduling conference or under circumstances the court deems appropriate, the court will enter an order setting discovery deadlines and describing trial procedures. Parties may commence discovery from any source prior to the issuance of the scheduling order. Initial disclosure obligations are imposed immediately.

Discovery materials may not be filed unless relevant to a discovery-related motion or otherwise directed by the court.

#### **(B) DISCOVERY MOTIONS**

- (1) The parties may not file a discovery motion (e.g., a motion to compel discovery, motion for sanctions, or motion for protective order) until the parties have conferred, either in person or by telephone, for the purpose of making a reasonable, good faith effort to resolve the dispute without involving the court. A written demand for relief without more is not sufficient; the moving party must make a reasonable effort to confer, and the opposing party must make a reasonable effort to participate.



- (2) In addition to the obligation to confer, the parties must not file a discovery motion until the parties have participated in a telephone conference with the bankruptcy judge, unless otherwise ordered by the court.
- (3) A party's failure to comply with the requirements of this rule may result in sanctions, including a summary grant or denial of the discovery motion, an award of costs and reasonable attorney's fees or other penalty.

### **BANKRUPTCY RULE 7067-1**

#### **DEPOSIT AND WITHDRAWAL OF FUNDS WITH THE COURT**

Rule 1.10, D.N.D. Gen. L.R., applies.

### **BANKRUPTCY RULE 9006-1**

#### **EXPEDITED MATTERS**

Any party seeking an expedited hearing or reduced notice period must list the grounds of the motion and recommend a hearing date or notice period. A motion seeking a notice period of less than seven days will be denied absent extraordinary circumstances.

### **BANKRUPTCY RULE 9010-1**

#### **STUDENT PRACTICE RULE**

Rule 1.4, D.N.D. Gen. L.R., applies.

### **BANKRUPTCY RULE 9010-2**

#### **ATTORNEYS**

##### **(A) ADMISSION TO PRACTICE**

The bar of this court consists of those attorneys who are admitted to practice and who remain in good standing before the United States District Court for the District of North Dakota. Except to the extent modified by this rule, the standards and requirements of D.N.D. Gen. L.R. 1.3 apply.

(B) PRO HAC VICE ADMISSION

- (1) An attorney, including any attorney representing the United States or any federal agency, who is not admitted to practice before the United States District Court for the District of North Dakota may be admitted to practice in a particular bankruptcy case or proceeding pro hac vice by filing a motion with this court seeking admission pro hac vice. Guidance on pro hac vice admission is located in the ECF User's Manual.

The filing of a motion to appear pro hac vice is deemed consent to submit to the jurisdiction of the court in matters of discipline and an agreement to comply with the local rules. In addition, the attorney must pay the admission fee listed on the court's fee schedule. Any attorney representing the United States or any federal agency is exempt from the payment of admission fees. Admission to appear pro hac vice is for the limited purposes of a particular case.

(C) CM/ECF ACCESS WITHOUT ADMISSION

- (1) An attorney may obtain access to CM/ECF for purposes of monitoring a specific case. Procedures for this limited access are located on the court's website at [www.ndb.uscourts.gov](http://www.ndb.uscourts.gov).
- (2) Attorney admission requirements of this local rule do not apply to attorneys who file documents by using court-approved modules that interface with the CM/ECF system.

(D) SUBSTITUTION AND WITHDRAWAL

Rule 1.3(F), D.N.D. Gen. L.R., applies. Guidance on withdrawal or substitution of attorneys is available in the ECF User's Manual.

(E) APPEARANCE WITHOUT AN ATTORNEY

An entity that is not an individual, including a corporation, partnership or trust, may not file a petition for relief or participate as a debtor, creditor or interested party in any proceeding involving presentation of evidence or argument to the court without an attorney. This rule does not prohibit an authorized representative of a corporation, partnership or trust from appearing at a meeting of creditors, filing a claim, voting on a Chapter 11 plan or voting to elect a trustee without an attorney.

(F) FORMER LAW CLERKS AND EXTERNS

An attorney who has been a law clerk or extern to a judge may not work on a case that was pending before the judge during the clerkship or externship. Breach of this rule may disqualify the attorney and the firm. The employer must implement procedures to ensure the attorney does not work on cases pending during the clerkship or externship. For one year after a clerk or extern leaves the judge's employ, the clerk or extern may not work on any newly filed case assigned to the judge.

## **BANKRUPTCY RULE 9013-1**

### **MOTIONS, APPLICATIONS OR OTHER REQUESTED RELIEF: RESPONSE TIME**

- (A) For those motions, applications or requests governed by Fed. R. Bankr. P. 9013, interested parties have 14 days to file a response to the pleading. Motions that fall within the scope of this rule include, but are not limited to, a debtor's motion to dismiss a Chapter 12 or Chapter 13 case, applications seeking to employ professionals and motions for stay pending appeal.
- (B) An adverse party's failure to serve and file a response to a motion may be deemed an admission that the motion is well taken.
- (C) All hearings are evidentiary unless, upon the court's initiative or the written request of a party, the court schedules a preliminary hearing to address scheduling, discovery or other matters.
- (D) Parties must disclose witness lists and exhibits not later than two business days before the hearing on a contested matter.

## **BANKRUPTCY RULE 9014-1**

### **CONTESTED MATTERS**

- (A) All hearings are evidentiary unless, upon the court's initiative or the written request of a party, the court schedules a preliminary hearing to address scheduling, discovery or other matters.
- (B) Parties must disclose witness lists and exhibits not later than two business days before the hearing on a contested matter.
- (C) Parties must not file discovery materials or responses to a Fed. R. Bank. P. 2004 subpoena unless relevant to a discovery-related motion, subpoena or otherwise directed by the court.
- (D) Rule 12(c), Fed. R. Civ. P., applies in contested matters. A party opposing a motion for judgment on the pleadings has 21 days to file an objection.
- (E) An adverse party's failure to serve and file a response to a motion may be deemed an admission that the motion is well taken.
- (F) All stipulations or settlement agreements addressing substantive rights, interests or claims must be in writing, signed by the parties and accompanied by a motion or made part of the record in open court. No stipulation or settlement agreement is effective unless approved by the court. Stipulations and settlement agreements must be accompanied by a proposed order.

Notice of a motion seeking approval of a stipulation or settlement agreement must be given as required in Fed. R. Bankr. P. 2002(a)(3), except as provided in Fed. R. Bankr. P. 4001(d)(4). Specifically, a settlement agreement arising from a contested motion made pursuant to Fed. R. Bankr. P. 4001(a), (b) or (c) may be approved without further notice, if notice of the original motion was provided in compliance with D.N.D Bankr. L.R. 2002-1.

## **BANKRUPTCY RULE 9015-1**

### **JURY TRIALS**

Rule 47.1, D.N.D. Civ. L.R., applies.

## **BANKRUPTCY RULE 9015-2**

### **JURY INSTRUCTIONS**

Rule 51.1, D.N.D. Civ. L.R., applies.

## **BANKRUPTCY RULE 9017-1**

### **EXHIBITS**

#### **(A) MARKING EXHIBITS**

Unless the parties elect to submit their exhibits electronically, parties must complete the physical marking and numbering of all papers and objects that may be introduced as exhibits prior to proceedings before the court. Counsel must mark a copy, rather than an original document, unless there is good cause for offering an original record. Original documents offered must be noted accordingly. Upon request, a party must make the original version of the exhibits available for inspection by other parties.

Exhibits are to be marked with an exhibit sticker using the following protocol:

- (1) Trustee is assigned numbers 1-99. Example: Trustee-1 or T-1, Trustee-2 or T-2, etc.
- (2) Debtor is assigned numbers 101-199. Example: Debtor-101 or D-101, Debtor-102 or D-102, etc.
- (3) Creditors may begin with number 201. If there is more than one creditor involved in a hearing or trial, one creditor is assigned 201-299, the next creditor is assigned 301-399, etc. Creditors must use an acronym or word that easily identifies the litigant. Ex: USA-201 or IRS-201, Bank-301 or US Bank-301, Smith-401, ABC Co-501.

- (4) United States Trustee's exhibits must be marked alphabetically. Example: UST-A, UST-B, etc.

If exhibits exceed 99 for one or more parties, the parties must agree on a division of numbers or letters, and the exhibit labels must clearly identify the party offering the exhibit.

(B) CUSTODY AND RETURN OF EXHIBITS

Except as noted below, the clerk of court will retain custody of exhibits offered in evidence, unless the court orders otherwise. Original exhibits will be returned to the party who produced them 30 days after the disposition of the matter, trial or mandate following an appeal. Exhibits that are copies will be destroyed 30 days after the disposition of the matter, trial or mandate following an appeal. Parties who receive returned original exhibits must execute a receipt prepared by the clerk of court. Exhibits offered at a hearing or trial will not be included in the electronic case file absent court order.

Exhibits of unusual bulk or weight will remain in the custody of the party producing them. Parties who retain custody of exhibits of unusual bulk or weight must permit their inspection by any party upon reasonable request. The custodial party also bears responsibility for the safekeeping of the exhibits for the duration of the proceedings before the court and subsequent proceedings and must transport the exhibits to the appellate court or panel, if necessary.

(C) RESERVATION OF THE POWER TO RULE

Nothing contained within this rule prevents the court from a specific ruling it might deem advisable with respect to any exhibit. A party's request regarding custody and handling of exhibits will be addressed prior to the trial or hearing.

## **BANKRUPTCY RULE 9022-1**

### **ENTRY OF ORDERS**

All signed orders, decrees and judgments will be filed electronically by the court. Any order or other court-issued document filed electronically without the original signature of a judge or clerk of court has the same force and effect as if the judge or clerk of court had signed a paper copy of the order. Orders may also be issued as "text-only" entries on the docket without an attached document.

The electronic filing of all orders, decrees, judgments and proceedings of the court constitutes entry on the docket kept by the clerk of court under Fed. R. Bankr. P. 5003 and 9021 and notice of entry under Fed. R. Bankr. P. 9022. The clerk of court, or some other person as directed by the court, must give notice to interested parties who have not consented to electronic service.