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U.S. DISTRICT COURT

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

DISTRICT OF IDAHO  
JERRY L. CLAPP, CLERK

In re:

*General order #47*

LOCAL RULES OF THE  
U.S. BANKRUPTCY COURT

ORDER ADOPTING LOCAL  
RULES OF PRACTICE

The U.S. Bankruptcy Court Advisory Committee on Local Rules for the District of Idaho having recommended that the U.S. District Court adopt the attached Local Bankruptcy Rules as local rules of U.S. Bankruptcy Court; and

The Bankruptcy Judge of the U.S. Bankruptcy Court for the District of Idaho having recommended the adoption of the attached Local Bankruptcy Rules; and

The Court having reviewed the proposed Local Bankruptcy Rules and having found that these rules are not inconsistent with Title 11 of the United States Code or the Bankruptcy Rules;

IT IS HEREBY ORDERED THAT the attached Local Bankruptcy Rules are adopted as local rules of this Court effective the first day of December, 1987, and the same shall serve as the local rules of practice for the U.S. Bankruptcy Court for the District of Idaho from and after that date.

DATED: *November 4, 1987.*

*Marion J. Callister*  
MARION J. CALLISTER, Chief  
United States District Judge

*Harold L. Ryan*  
HAROLD L. RYAN  
United States District Judge

CLERK'S CERTIFICATE OF MAILING

I certify that a copy of the attached document was mailed to the following named persons:

Judge Alfred C. Hagan, Bankruptcy Court  
Judge Harold L. Ryan  
Judge Fred M. Taylor  
Magistrate Mikel H. Williams

DATED this 4th day of November, 1987.

JERRY L. CLAPP, Clerk

By: J.M. Loxa

**LOCAL BANKRUPTCY RULES**

**DISTRICT OF IDAHO**

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## LOCAL BANKRUPTCY RULE 101

### SCOPE, APPLICABILITY AND PROMULGATION OF LOCAL RULES

(a) **Scope.** These Local Bankruptcy Rules govern practice and procedure in the United States Bankruptcy Court for the District of Idaho. A Judge, sua sponte or on the motion of any party, may for cause shown dispense with any of these Local Rules in a particular case or proceeding. These Rules shall be cited as "LBR \_\_\_\_." The term "Judge," as used in these rules, includes a U.S. Bankruptcy Judge, a U.S. District Judge, or any other judicial officer to which a bankruptcy case or proceeding has been referred.

(b) **Applicability.** Unless otherwise indicated, each of these Local Rules applies to cases commenced under Chapters 7, 9, 11, 12 and 13 of the Bankruptcy Code.

(c) **Promulgation.** Promulgation of local rules shall be made by the Chief Bankruptcy Judge in accord with Bankruptcy Rule 9029, and shall be made with the advice of the United States Bankruptcy Court Advisory Committee on Local Rules unless the Chief Bankruptcy Judge determines cause exists for emergency promulgation.

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#### Related Authority:

28 U.S.C. §§ 151, 154  
Bankruptcy Rule 9029

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#### Advisory Committee Notes:

The Local Rules have been promulgated to address certain areas where the Bankruptcy Code and Bankruptcy Rules are vague or incomplete, or where experience has dictated a need for further clarification or modification of practice in this District. The Local Bankruptcy Rules are based upon prior local rules, the local rules of other Districts, and the efforts of the Court and practitioners to improve the quality and efficiency of bankruptcy practice.

The United States Bankruptcy Court Advisory Committee on Local Rules was formed by Order entered on July 29, 1985, by the United States District Chief Judge, with the concurrence of the United States Bankruptcy Judge, for the District of Idaho. The members of the Advisory Committee are:

T. N. Ambrose, Chairman  
L. D. Fitzgerald  
Gary L. McClendon

**Terry L. Myers  
Janice D. Newell  
Jim D. Pappas  
R. Wayne Sweney  
Vicki L. Yrazabal**

**The "Advisory Committee Notes" following the Rules are designated to provide explanation regarding the need for, as well as guidance regarding the anticipated operation of, the Local Rules. Constructions of the Rules as contained in such Advisory Committee Notes, however, are not controlling, and in some instances may not reflect unanimity of belief by the members of the Advisory Committee.**

LOCAL BANKRUPTCY RULE 102

OFFICE OF THE CLERK OF THE BANKRUPTCY COURT

All references in these Local Bankruptcy Rules to the Clerk of the Court, or the office thereof, shall be deemed to be references to the United States Bankruptcy Court for the District of Idaho, or to the office of the Clerk of the Bankruptcy Court, as required.

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Related Authority:

28 U.S.C. §§ 151, 156  
Bankruptcy Rules 9001, 9002

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Advisory Committee Notes:

Due to the "consolidation" of the office of the Clerk of the Bankruptcy Court and the Clerk of the District Court in the District of Idaho, this Rule provides that all references in these Rules are to the "Bankruptcy Court." Various provisions in the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (P.L. 99-554), relate to the issue of whether such "consolidation" will continue, or in what form. See 28 U.S.C. § 156(d). This Rule, and other such as LBR 105(b), attempt to avoid any confusion which may result from given such unification of the duties of the Clerk of each Court. There is, however, no "consolidation" of the two Courts, and they are distinct and separate entities. See 28 U.S.C. § 151; see also, 28 U.S.C. § 156(d). Though some forms exist to the contrary, there is no "Bankruptcy Division" of the U.S. District Court.



**LOCAL BANKRUPTCY RULE 103**

**ESTABLISHMENT OF BUSINESS HOURS**

The standard business hours of the office of the Clerk of the Bankruptcy Court of the District of Idaho, in Boise, Pocatello, and Moscow will be from 8:00 a.m. to 5:00 p.m., local time, all days except Saturday, Sunday, and legal holidays.

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**Related Authority:**

None

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**Advisory Committee Notes:**

The offices of the Clerk of the District Court in Moscow and Pocatello will accept bankruptcy pleadings, including case and adversary proceeding filings, during such hours as those offices may be open. All bankruptcy files and records, however, are maintained at the Bankruptcy Court in Boise. Bankruptcy pleadings should not be filed with the District Court in Boise. See, LBR 105(b).

LOCAL BANKRUPTCY RULE 104

FILES, RECORDS AND EXHIBITS

(a) **Custody and Withdrawal.** All files and records of the Court shall remain in the custody of the Clerk, subject to examination by the public without charge. No record or paper or article belonging to the files of the Court shall be taken from the custody of the Clerk without a special order of the Court and a receipt given by the party obtaining it describing the item and date of receipt, except as otherwise provided in this rule. Withdrawal orders will be made only in exceptional circumstances.

(b) **Exhibits Part of Files.** Every exhibit offered in evidence, whether admitted or not, becomes a part of the files.

(c) **Substitution of Copies.** Unless there be some special reason why original exhibits should be retained, the Bankruptcy Court may, on stipulation or application, order them returned to the party to whom they belong upon filing of a copy either certified by the Clerk or approved by counsel for all parties concerned.

(d) **Disposition of Exhibits.**

(1) **Delivery to Person Entitled.** In all adversary proceedings in which final judgment has been entered, and the time for filing a motion for new trial or rehearing and for appeal has passed, any party or person may withdraw any exhibit or deposition originally produced by him, without Court order, upon ten (10) days written notice to all parties, unless within that time another party or person files notice of claim thereto with the Clerk. In the event of competing claims, the Court shall determine the person entitled and order delivery accordingly. For good cause shown, the Court may allow withdrawal or determine competing claims in advance of the time above specified.

(2) **Unclaimed Exhibits.** If exhibits and depositions are not withdrawn within thirty (30) days of the time when notice may be given under subdivision (1) of this subdivision (d), the Clerk may destroy them or make other disposition as appears proper.

(e) **Retention of Electronic Recordings.**

(1) **§ 341(a) Meetings.** Electronic sound recordings of the § 341(a) meeting of creditors shall be retained and preserved for six (6) months from the date of such meeting, unless otherwise ordered by the Court. Retention and preservation of electronic sound recordings of the § 341(a) meeting of creditors shall be the responsibility of the Clerk.

Copies of the recordings may be obtained from the Clerk upon payment of the tape duplication fee.

(2) Court Hearings and Proceedings. Electronic sound recording and/or court reporter's stenographic records of any Bankruptcy Court proceeding shall be retained and preserved by the Clerk for five (5) years from the date of recording, unless otherwise ordered by the Court. Copies of the recordings may be obtained from the Clerk upon payment of the tape duplication fee. Transcripts may be obtained upon written request. Requests for either duplicate tapes or transcripts shall identify the name, address and phone number of the requesting attorney, the case name and case number, and the date of the subject hearing or proceeding.

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Related Authority:

11 U.S.C. § 107,  
28 U.S.C. § 156(e)  
Bankruptcy Rule 5007

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Advisory Committee Notes:

This Rule is substantially identical to the relevant provisions of Local Rule 1-115 of the District Court for the District of Idaho.

Subsection (e) reflects the current administrative requirements which control the Clerk's retention of electronic recordings of meetings and proceedings. Transcription from the duplicate tape of the § 341(a) meeting is the responsibility of counsel, while the Clerk will obtain the transcript of Court hearings and charge counsel therefor. The Advisory Committee determined to not address issues of "certification" or the evidentiary use of such transcriptions.

**LOCAL BANKRUPTCY RULE 105**

**HEARINGS, MEETINGS, AND FILING**

(a) **Hearings and Meetings.** Bankruptcy Court hearings and meetings are regularly scheduled in Boise, Coeur d'Alene, Moscow, Pocatello, and Jerome.

(b) **Filing of Pleadings and Papers.** All pleadings, motions and other pertinent papers may be filed with the office of the Clerk of the District Court in Pocatello and Moscow, and the office of the Clerk of the Bankruptcy Court in Boise. When a Judge is sitting elsewhere in the District, such papers may be filed with the Deputy Clerk at such place.

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**Related Authority:**

**28 U.S.C. § 156  
Bankruptcy Rule 5005**

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**Advisory Committee Notes:**

Hearings and § 341(a) meetings are held in various sites depending upon the county of the debtor's residence or principal place of business. The Court's designation of counties within each area is as follows:

**Eastern Calendar (Pocatello):**

Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power, Teton.

**Jerome Calendar (Jerome):**

Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, Twin Falls.

**Southern Calendar (Boise):**

Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington (and all Oregon cases).

**Central Calendar (Moscow):**

Clearwater, Idaho, Latah, Lewis, Nez Perce.

**Northern Calendar (Coeur d'Alene):**

Benewah, Bonner, Boundary, Kootenai, Shoshone.

This Rule contemplates continuation of the current practice of not allowing the filing of any pleadings with the Clerk at the time of the § 341(a) meeting of creditors. It further eliminates the practice of allowing the filing of amendments to schedules, etc., at the § 341(a) meeting since the same are not time-critical and can be mailed to the Court. It also reflects the fact that the United States Trustee will eventually conduct such meetings.

## LOCAL BANKRUPTCY RULE 106

### ATTORNEYS

#### (a) Eligibility for Admission.

(1) Any attorney who has been admitted to practice in the Supreme Court of the State of Idaho is eligible for admission to the Bar of this Court. Any attorney admitted to practice before the District Court for the District of Idaho is admitted to the bar of the Bankruptcy Court without further process.

(2) Each applicant for admission shall present to the Clerk a written petition for admission, stating the applicant's residence and office addresses and by what courts he has been admitted to practice and the respective dates of admission to those courts. The petition shall be accompanied by a certificate of a member of the Bar of this Court, stating that such member knows the applicant and can affirm that the applicant is of good moral character.

(b) Practice in this Court. Only a member of the Bar of this Court may enter appearances for a party, sign stipulations or receive payment or enter satisfactions of judgment, decree, or order.

(c) Attorneys for the United States. An attorney who is not admitted under this Rule but who is a member in good standing of and eligible to practice before the Bar of any United States Court or of the highest court of any State or any Territory or insular possession of the United States, and who is of good moral character, may practice in this Court in all actions and proceedings in which such attorney is employed or retained by, and is representing, the United States Government or any of its officers or agencies. Attorneys so permitted to practice in this Court are subject to the jurisdiction of the Court with respect to their conduct to the same extent as members of the Bar of this Court.

(d) Admission Pro Hac Vice of Attorneys. Any member in good standing of the Bar of any United States Court, or of the highest court of any State or any Territory or insular possession of the United States, who is of good moral character and has been retained to appear in this Court, and who is not admitted to the Bar of this Court, may be permitted, after written application and without previous notice, to appear and participate in a particular case and related proceedings.

The application shall be presented to the Clerk and shall state under penalty of perjury the attorney's residence and office addresses, by what court(s) the attorney has been admitted to practice and the date(s) of admission, that the attorney is in good standing and eligible to practice in said

court(s), and that the attorney is not currently suspended or disbarred in any other court(s).

Such applicant shall also designate, in his or her application to so appear, a member of the Bar of this Court who maintains an office in this District for the practice of law. The applicant shall also file with such application the address, telephone number and written consent of such designee. Unless otherwise ordered, the designee shall personally appear with the attorney on all matters heard and tried before the Court. Original proceedings may be filed by an attorney before admission pro hac vice, but the time for filing of any responsive pleading shall not begin to run until the appearance of associated local counsel is filed with the Clerk.

(e) Appearances.

(1) All appearances in this Court must be made by an attorney of this Court, unless the party appears in propria persona. Whenever a party has appeared by an attorney, he may not thereafter appear or act in his own behalf in the action, or take any step therein, unless a request for substitution or withdrawal, in accord with this Rule, shall first have been made by that party and filed with the Clerk, and after notice to the attorney of such party and to any opposing party; provided that a Judge may in its discretion hear a party in open Court notwithstanding the fact that he has appeared or is represented by an attorney. When an attorney of record for any reason ceases to act for a party, such party should appoint another attorney or appear in person.

(2) Any person who is representing himself without an attorney must appear personally for such purpose and may not delegate that duty to any other person. Any person so representing himself without an attorney is bound by these Local Rules, the Bankruptcy Rules, and by the Federal Rules of Civil Procedure. Failure to comply therewith may be grounds for dismissal or judgment by default. While such person may seek outside assistance in preparing court documents for filing, he is expected to personally participate in all aspects of the litigation, including Court appearances. In exceptional circumstances, a Judge may modify these provisions to serve the ends of justice.

(3) Whenever a corporation or partnership desires or is required to make an appearance in this Court, the appearance shall be made only by an attorney of the Bar of this Court or an attorney permitted to practice under these Rules.

(4) In all Oregon cases heard before this Court, and in all proceedings related thereto, counsel not previously admitted to the Bar of this Court under subdivision (a) of this Rule may appear for the debtor(s) or a creditor or party in

interest without compliance with the requirements of pro hac vice admission as set forth in subdivision (d) of this Rule.

(f) Substitutions and Withdrawals.

When an attorney of record for any person ceases to act for a party, such party shall appear in person or appoint another attorney by a written substitution of attorney signed by the party, the attorney ceasing to act, and the newly appointed attorney or by a written designation filed in the action and served upon the attorney ceasing to act unless said attorney is deceased, in which event the designation of a new attorney shall so state. Until such substitution is approved by the Court, the authority of the attorney of record shall continue for all proper purposes.

No attorney of record for a party may withdraw from representation of that party without leave of the Court. Before an attorney is to be granted leave to withdraw, he shall present to the Court a proposed order permitting the attorney to withdraw and directing his client to appoint another attorney to appear, or to appear in person by filing a written notice with the Court stating how he will represent himself, within twenty (20) days from the date the Court enters the order authorizing withdrawal. After the Court has entered such order, the withdrawing attorney shall forthwith and with due diligence, serve copies of the same upon his client and all parties entitled to notice under the Bankruptcy Rules or these Rules. The order shall provide that the withdrawing attorney shall continue to represent the client until proof of service of the withdrawal order on the client has been filed in the Court.

Upon the entry of the order and the filing of proof of service on the client, no further proceedings can be had in the action which will effect the rights of the party represented by the withdrawing attorney for a period of twenty (20) days. If the party fails to appear in the action, either in person or through a newly appointed attorney within such twenty (20) day period, such failure shall be sufficient grounds for the entry of default against such party or dismissal of the action without further notice, which shall be stated in the order.

(g) Standards of Professional Responsibility. The members of the Bar of this Court shall adhere to the the Rules of Professional Conduct promulgated and adopted by the Supreme Court of the State of Idaho. These provisions, however, shall not be interpreted to be exhaustive of the standards of professional conduct and responsibility. No attorney permitted to practice before this Court shall engage in any conduct which degrades or impugns the integrity of the Court or in any manner interferes with the administration of justice therein.



**(h) Attorney Discipline.**

(1) Disbarment. When any member of the Bar of this Court has been disbarred or suspended from the practice of law by any court of competent jurisdiction, he or she shall have thirty (30) days within which to present compelling reason why he or she should not be disbarred or suspended by this Court. Failure to present such reasons, or failure to notify this Court of disbarment or suspension, shall result in disbarment or suspension forthwith from practice before this Court.

(2) Discipline. In the event any attorney engages in conduct which may warrant discipline or other sanctions, a Judge may, in addition to initiating proceedings for contempt under Bankruptcy Rules 9020 or Title 18 of the United States Code or imposing other appropriate sanctions, refer the matter to the disciplinary body of any court before which the attorney has been admitted to practice.

(i) Multiple Counsel. If more than one attorney represents a party, only one attorney shall examine or cross-examine a single witness and only one attorney shall argue the merits before the Court, unless the Court otherwise permits.

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**Related Authority:**

**Bankruptcy Rules 9010, 9011, 9020**

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**Advisory Committee Notes:**

Many of the provisions of LBR 106 are substantially identical to Local Rules of the District Court for the District of Idaho. The District Court's corollary rules are indicated below:

LBR 106(a):	Rule 1-105(a)
LBR 106(b):	Rule 1-105(b)
LBR 106(c):	Rule 1-105(c)
LBR 106(d):	Rule 1-105(d)
LBR 106(e):	Rule 1-110(a), 1-113, 1-114
LBR 106(f):	Rule 1-110(b)-(c)
LBR 106(g):	Rule 1-107
LBR 106(h):	Rule 1-108
LBR 106(i):	Rule 2-140, 2-141

Legal interns may appear in the Bankruptcy Court to the same extent and by the same procedure as authorized by Local Rule 1-105(e) of the District Court for the District of Idaho.

The provision of (e)(4) are meant to continue current practice under which members of the Bar of the District of

Oregon may appear in those eastern Oregon bankruptcy cases and proceedings administered by this Court through agreement with the U.S. Bankruptcy Court for the District of Oregon. Such counsel need not be admitted to practice pro hac vice, but the authority to appear is limited solely to the Oregon case and its related proceedings.

LOCAL BANKRUPTCY RULE 201

PETITIONS

(a) **Number of Copies.** In addition to the original, each petition, schedules, and statements of affairs shall be accompanied by the following number of copies:

Chapter 7	. . . . .	3 copies
Chapter 7	(Stockbroker) . . . . .	3 copies
Chapter 7	(Commodity Broker) . . . . .	3 copies
Chapter 9	. . . . .	6 copies
Chapter 11	. . . . .	5 copies
Chapter 11	(Railroad Reorganization) . . . . .	6 copies
Chapter 12	. . . . .	3 copies
Chapter 13	. . . . .	3 copies

(b) **Captions of Petitions and Identity of Debtors.** In regard to all cases filed under §§ 301 and 302 of the Code, the caption of such cases shall be in the following style:

(1) If the debtor is an individual, not filing a joint petition with his/her spouse: "John A. Doe."

(2) If the debtor is an individual filing a joint petition with his/her spouse: "John A. Doe and Mary A. Doe." No "joint" petition, other than those of married individuals under § 302, will be accepted for filing by the Clerk.

(3) If the debtor is a general [or limited] partnership: "Name of entity, a general [limited] partnership."

(4) If the debtor is a corporation: "Name of entity, a corporation" (unless the word "Inc.," "Incorporated" or "Corporation" is a part of the name).

(c) **Other Names.** Immediately after the debtor's name as set forth in accordance with subdivision (b) of this Rule, the petitioner shall list in accordance with Bankruptcy Rule 1005 all other names, assumed names, trade names, or other designations under which the debtor has been known or conducted business within the six (6) years preceding the filing of the petition.

(d) **Petition Filed by a Corporation or Partnership.** Though a voluntary petition may be filed by a corporation or by a general or limited partnership, it must be executed by an authorized corporate officer or general partner, and the corporation or partnership shall be represented by an attorney, and such attorney shall also sign the petition.

(e) **Refusal of Petition.** The Clerk need not accept for filing a voluntary petition which is not accompanied by a cover sheet, matrix, filing fee, and required exhibits, or which is

not in compliance with these Rules. A voluntary Chapter 9 or 11 petition need not be accepted for filing unless also accompanied by a list of the twenty (20) largest unsecured creditors. Acceptance of a petition does not constitute a waiver of any provision of these Rules.

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**Related Authority:**

11 U.S.C. §§ 101(12), 101(35), 109, 301, 302  
Bankruptcy Rules 1002, 1004, 1005, 1007

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**Advisory Committee Notes:**

This Rule attempts subdivisions in (b) and (c) to address the problems caused by petitions either improperly or confusingly captioned, as well as those caused by petitions improperly purporting to be "joint" petitions outside the limited authority of § 302 of the Code -- i.e., an individual and a corporation. Should such a petition be accepted by the Clerk, the Rule contemplates that the precedent of Fitzgerald v. Hudson, 29 B.R. 3, 82 I.B.C.R. 205 (Bkrty. D. Id. 1982) will be followed.

The Rule in (d) addresses the problem of so-called "pro se" corporate or partnership cases. See also LBR 106(e)(3) regarding appearances for such entities.

**LOCAL BANKRUPTCY RULE 202**

**FILING FEES**

Filing fees required for the initiation of a voluntary case shall be accepted by the Clerk if in the form of cash, cashier's check, money order, or a check drawn on an attorney's trust fund. Two party checks, or personal checks of the debtor(s) will not be accepted.

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**Related Authority:**

11 U.S.C. §§ 301, 302  
28 U.S.C. § 1930  
Bankruptcy Rule 1006

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**Advisory Committee Notes:**

This Rule addresses an obvious problem encountered by the Clerk when debtors present petitions for filing.

LOCAL BANKRUPTCY RULE 203

MASTER ADDRESS LIST

(a) **Form of Matrix.** At the time of filing a petition initiating a proceeding under the Bankruptcy Code, a master address list shall accompany the petition, which list shall be adequate to produce address labels on standard office copying machines. The list shall include the name, address, and zip code of every scheduled creditor, attorney of record, debtor(s), and other parties in interest. The names and addresses shall be spaced and located on the page as follows:

From the top of the letter size sheet, the first address in the first column will begin two spaces down and indented three spaces. The second column starts three (3) inches from the left hand edge, and the third column starts six (6) inches from the left hand edge. Each label is one inch wide. The debtors(s) name is first typed in CAPITALS, then the debtors' attorney's name, then the creditors listed in schedules A-1, A-2, and A-3, proceeding from left to right. List each name and address once.

(b) **Accuracy of Matrix.** The Clerk need not check to insure that the matrix accurately reflects the names and addresses of the debtor, debtor's attorney, and creditors and equity security holders listed on the debtor's schedules. For purposes of notice by the Clerk or by any party in interest, an error or omission on the matrix shall be deemed an error or omission on the debtor's schedules, unless such creditor or party in interest should have been added as a result of a filed proof of claim or a written request to the Court.

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Related Authority:

11 U.S.C. § 521  
Bankruptcy Rules 1007, 2002(g)

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Advisory Committee Notes:

This continues the practice under prior Local Rule.

**LOCAL BANKRUPTCY RULE 204**

**BANKRUPTCY PETITION COVER SHEET**

Each debtor seeking relief under the Bankruptcy Code shall file with the Clerk, at the time the petition is filed, a Bankruptcy Petition Cover Sheet containing such information as required by the Clerk. Blank forms for compliance with this Rule will be furnished by the Clerk upon request.

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**Related Authority:**

None

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**Advisory Committee Notes:**

While the required information has been changed, this Rule continues the practice under prior Local Rule.

**LOCAL BANKRUPTCY RULE 205**

**SCHEDULES**

(a) **Debtor Engaged in Business.** Where any debts scheduled were incurred while the debtor was engaged in business even though he is not so engaged at the time of filing of the petition, the Statement of Affairs for a Debtor Engaged in Business shall be filed.

(b) **No Blank Items.** Each item in the schedules and statement of affairs not otherwise filled out, shall be completed by the entry of "none" or "not applicable," as appropriate.

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**Related Authority:**

11 U.S.C. § 521  
Bankruptcy Rule 1007  
Bankruptcy Official Form No. 8

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**Advisory Committee Notes:**

This addresses two problems consistently encountered by the Clerk and trustees.



**LOCAL BANKRUPTCY RULE 206**

**EXTENSION OF TIME**

An extension of time under Bankruptcy Rule 1007(c) for filing schedules, statement of affairs, or other required documents will not be granted beyond the date set for the meeting of creditors under § 341(a) unless a Judge orders otherwise for cause shown. In the event that schedules, statements or other required documents are not timely filed, a Judge may impose sanctions, including dismissal of the case, or take such other action as appropriate.

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**Related Authority:**

**11 U.S.C. § 521  
Bankruptcy Rule 1007**

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**Advisory Committee Notes:**

This Rule is substantially identical to the former Local Rule. Note also that failure to comply with the filing requirements may result in dismissal and possibly operation of the bar to filing a subsequent petition for relief set forth in § 109(g)(1).

**LOCAL BANKRUPTCY RULE 207**

**AMENDMENTS OF PETITIONS, LISTS, SCHEDULES  
AND STATEMENTS OF FINANCIAL AFFAIRS**

The debtor(s) shall give notice of an amendment of or to the petition, schedules, statement of affairs, or other lists or documents filed pursuant to Bankruptcy Rule 1007 or these Rules, to the trustee and to any entity affected thereby. An original, and a number of copies of the amendment consistent with the copies required under LBR 201(a), must be filed with the Clerk. Where the amendment adds additional creditors, the debtor(s) shall send to the creditor(s) so added a copy of the notice of the § 341(a) meeting of creditors and file a certificate of such service with the Clerk, and request the Clerk to add such creditor(s) to the Master Address List. The Clerk need not verify or confirm that the additional creditor(s) receive notice.

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**Related Authority:**

**Bankruptcy Rules 1007, 1009, 2002(g)**

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**Advisory Committee Notes:**

This Rule continues current practice in those situations where the debtor or debtor's counsel causes notice of the amendment to be served. It eliminates the procedure of having the Court notice the added creditor(s) upon payment of a fee.

LOCAL BANKRUPTCY RULE 208

BANKRUPTCY NOTICING FEE

(a) **Type of Notices to Which the Fee Applies.** A bankruptcy noticing fee shall be charged for all notices sent by the Clerk pursuant to Bankruptcy Rule 2002 and these Local Rules.

(b) **Amount of Fee.** The fee shall be fifty (50) cents for each copy of each notice, regardless of the number of pages in the notice. Where more than one copy of a notice is sent in the same envelope the Court shall charge fifty (50) cents for each notice sent. Multiple notices may be consolidated into one formal notice so long as the notice is not misleading; in such situations, only one fee of fifty (50) cents will be charged for each copy of each notice sent.

(c) **Assessment of Bankruptcy Noticing Fee.** The Clerk shall assess the noticing fee at the time the notice is sent out by the Court. The Clerk shall send an invoice reflecting the amount of the noticing fee to the trustee in a Chapter 7, 12 or 13 case and to the debtor in possession in a Chapter 11 case, unless a trustee has been appointed in such Chapter 11 case.

(d) **Time for Payment of the Bankruptcy Noticing Fee.**

(1) **Chapter 7 Cases.** Any noticing fee charged to the estate shall be paid by the trustee as an administrative expense at the time of any interim or final disbursement. In the event there are not sufficient funds to pay all allowed administrative expenses in full, then the noticing fee will be paid pro rata along with all other administrative expenses allowed in the case.

(2) **Chapter 11 Cases.** Any noticing fee charged to the estate shall be paid within thirty (30) days of assessment or at the effective date of the confirmed plan, whichever is earlier. In the event the noticing fee is not paid within the time required, the Court shall dismiss the case upon thirty (30) days notice unless a Judge for cause shown, extends the time.

(3) **Chapter 12 Cases.** Any noticing fee charged to the estate shall be paid at the time of confirmation of the plan, when the estate has sufficient funds to pay the fee, or within thirty (30) days after assessment of the fee, whichever is later.

(4) **Chapter 13 Cases.** Any noticing fee charged to the estate shall be paid at the time of confirmation of the plan, when the estate has sufficient funds to pay the fee, or within thirty (30) days after assessment of the fee, whichever is later.

(e) **Effective Date of Rule.** This rule will be effective to all Chapter 7 cases which have their initial final accounting filed after January 1, 1987, and to all Chapter 11, 12 and 13 cases which are filed, or have plans confirmed, after January 1, 1987.

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**Related Authority:**

28 U.S.C. § 1930

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**Advisory Committee Notes:**

This Rule was necessitated by changes in the internal practices of the Federal Courts, as the same are reflected in guidelines issued by the Administrative Office of the United States Courts.

Operation of subdivision (d)(4) of this Rule requires additional or increased payments in Chapter 13 cases and thus may affect confirmation. Similar circumstances exist in Chapter 12 cases. In both instances, provision of sufficient funds to make such payments would be a precondition to confirmation.

**LOCAL BANKRUPTCY RULE 209**

**CLOSING OF CASES**

The Clerk may close any open case which is otherwise eligible for closing despite a motion pending therein if a hearing date on such motion has not been obtained from the Clerk within twenty (20) days of the filing of the motion, or where an order has not been submitted by the moving party within twenty (20) days of the date when such an order could properly be executed.

The Clerk may close an open Chapter 11 case subsequent to entry of an Order confirming a plan of reorganization upon provision of not less than thirty (30) days written notice to the debtor(s) and to counsel for debtor(s).

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**Related Authority:**

**11 U.S.C. § 350  
Bankruptcy Rule 5009**

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**Advisory Committee Notes:**

Many cases otherwise eligible to be closed have pending motions never brought on for hearing, or stipulations concerning which orders never have been presented. This Rule is designed to encourage the prompt noticing of matters and submission of orders. Note, further, that the Court may close a Chapter 11 case subsequent to entry of confirmation. See also LBR 210.

LOCAL BANKRUPTCY RULE 210

REOPENING FEES AND PROCEDURES

Once a case is properly closed by the Clerk, any party wishing to file a pleading or other document therein must submit a motion and order reopening the case and pay the attendant fee.

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Related Authority:

11 U.S.C. § 350(b)  
Bankruptcy Rules 5009, 5010

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Advisory Committee Notes:

There are only limited circumstances where the Court may act without reopening a case. See Bankruptcy Rule 9024. The "attendant fee" is the same as the filing fee for a case under such Chapter in effect as of the time of the motion to reopen.

LOCAL BANKRUPTCY RULE 301

§ 341(a) MEETING OF CREDITORS

(a) Continuation. A continuance of the § 341(a) meeting of creditors will not be allowed except where extenuating circumstances render the debtor(s) unable to appear. Continuance must be requested by ex parte application, accompanied by an affidavit which identifies the circumstances necessitating the delay. If the ex parte application to continue the § 341(a) meeting is granted, the debtor or the debtor's attorney must notify all creditors, in writing, of the new § 341(a) meeting date. Continuances will not be allowed for conflicts involving the debtor's attorney.

(b) Notice and Service. The continuation notice must be mailed to the creditors at least seven (7) days prior to the date of the continued § 341(a) meeting. Proof of service of the continuance notice must be filed with the Clerk.

(c) Failure to Appear. Where the debtor(s) fail to appear at the scheduled § 341(a) meeting, the case will be dismissed unless the debtor or the debtor's attorney files an application for continuance not later than ten (10) days after the scheduled § 341(a) meeting, accompanied by an affidavit stating, in detail, the cause which prevented the attendance of the debtor(s). Failure to timely file an application for continuance will result in the case being dismissed unless the trustee or party in interest requests that the case remain open.

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Related Authority:

11 U.S.C. §§ 341, 343  
Bankruptcy Rules 2003, 2004, 4002

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Advisory Committee Notes:

While not as significant a problem as in many Districts, failure to appear and/or failure to advise the Court of the need for a continuance are still common and require a mechanism to control abuse. Under subdivision (c) of the Rule, the trustee may request that the case remain open, and is further allowed to oppose entry of the debtor's discharge based on the failure to appear. See 11 U.S.C. §§ 704, 727. Note also that dismissal on this ground falls within the scope of the prohibition of § 109(g)(1) on filing of a subsequent petition for relief.

For purposes of planning and avoiding potential conflicts, note that the Court's calendar for § 341(a) meeting dates is set some six to nine months in advance. Copies of this calendar are available, without charge, from the Clerk.



## LOCAL BANKRUPTCY RULE 302

### EXEMPTIONS

(a) **Claim of Exemptions.** A debtor shall claim exemptions, as required by § 522, on schedule B-4, or on the statements filed in Chapter 12 and 13 cases, pursuant to Bankruptcy Rule 1007. The Idaho Code section under which the exemption is claimed, and each item of property claimed as exempt, shall be described with specificity, without reference to other schedules.

(b) **Claim of Exemption by Joint Debtors.** If joint debtors claim separate exemptions under § 522(m), each debtor must make and file a separate itemization in the manner prescribed by subdivision (a) of this Rule.

(c) **Homestead Exemption.** If a homestead exemption is claimed by debtor(s), a copy of the declaration of homestead reflecting the date and place of recordation, shall be attached to schedule B-4 or to the appropriate statement.

(d) **Objections to Exemptions.** An objection to a claimed exemption shall state the specific exemption objected to and state the grounds upon which the objection is based. Notice of the objection must be given to the trustee, the debtor(s) and the debtor's attorney. The objection may be granted and the exemption disallowed without a hearing, unless a hearing is requested and set by the debtor(s), the trustee, or a party in interest.

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#### Related Authority:

11 U.S.C. § 522  
Idaho Code §§ 11-604, 11-605 and 55-1001, et seq.  
Bankruptcy Rules 1007, 4003

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#### Advisory Committee Notes:

This Rule addresses the common problem of failure of the debtors to provide sufficient information regarding the exemptions claimed, including proof of proper filing of a homestead declaration. It also reflects, in subdivision (d), the fact that hearings in many cases are not needed or demanded by debtors after review of the objection. The debtor's right to a hearing is preserved, however. The trustee may also request and set a hearing. This may be necessary, for example, in cases where the debtor amends the claim of exemption but such amendment is itself objectionable or does not fully resolve the original objection.

LOCAL BANKRUPTCY RULE 303

PROPERTY IN NEED OF ATTENTION OR PROTECTION

(a) **Inventory or Equipment.** When a stock of goods or business equipment is scheduled, the debtor shall, immediately after the general description thereof, list a present inventory, append a brief explanation of its exact location, the name and address of the custodian thereof, the protection being given such property, and the amount of fire and theft insurance, if any, and state whether prompt additional attention or protection is necessary.

(b) **Need for Immediate Action.** If a stock of goods includes perishables, or if property or the business premises otherwise requires immediate attention or protection, the debtor or the debtor's attorney, when relief is ordered under chapter 7 or 13 or a trustee is appointed under chapter 11, shall notify the trustee of the need for immediate action. Notification shall be by personal communication or by telephone.

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Related Authority:

11 U.S.C. §§ 521(4), 704

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Advisory Committee Notes:

While this Rule reflects current practice in many cases which fall within its scope, it is anticipated that the Rule will provide the trustee with additional necessary information in a timely manner in other cases.

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LOCAL BANKRUPTCY RULE 304

REAFFIRMATIONS

(a) Where Debtor(s) Not Represented by Counsel. Applications for approval of reaffirmation agreements in cases in which the debtor is proceeding pro se shall be accompanied by a copy of the reaffirmation agreement signed by both the creditor and the debtor(s). Such applications will be set for hearing upon request of a party in interest.

(b) Where Debtor(s) Represented by Counsel. Applications for approval of reaffirmation agreements in cases in which the debtor is represented by counsel shall be accompanied by a copy of the reaffirmation agreement signed by both the creditor and the debtor(s) and by the attorney's declaration or affidavit pursuant to § 524(c)(3). Such applications will be set for hearing upon request of a party in interest.

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Related Authority:

11 U.S.C. § 524  
Bankruptcy Rule 4008

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Advisory Committee Notes:

This Rule attempts to reflect current practice, including the lack of mandatory "discharge hearings," in this District. The Court will not approve, or execute an Order approving, a reaffirmation agreement absent a hearing attended by the debtor.

LOCAL BANKRUPTCY RULE 305

AVOIDANCE OF LIENS ON EXEMPT PROPERTY

(a) **Specificity.** All § 522(f) lien avoidance motions and attendant orders must contain a specific description of the subject lien interest, the property upon which the lien is claimed and to be avoided, the extent to which such lien is to be avoided, and the exemption which is impaired.

(b) **Nature of Relief.** The language contained in such motions to avoid lien, and attendant orders, should be substantially identical to the language of § 522(f).

(c) **Notice.** Notice of such a motion to avoid a lien pursuant to § 522(f) need be given only to the trustee and to the creditor claiming the lien.

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Related Authority:

11 U.S.C. § 522(f)  
Bankruptcy Rules 4003(d), 9014

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Advisory Committee Notes:

Many § 522(f) lien avoidance motions and orders are factually incomplete, vague or ambiguous. Additionally, the Court has found that many of the proposed orders granting relief improperly recite that the lien is absolutely "void," rather than avoided "to the extent that such lien impairs an exemption to which the debtor would have been entitled."

LOCAL BANKRUPTCY RULE 306

DEBTOR'S FAILURE TO PERFORM ACCORDING TO STATED INTENTION

(a) Request for Hearing. In the event a debtor required to file a statement of intention with respect to consumer debts secured by property of the estate shall fail to timely perform according to his stated intention, as provided by § 521(2), then upon request of either the trustee or a creditor affected thereby, the debtor(s) shall be required to appear before a Judge to provide an explanation for such failure to perform. Such a request shall be made by motion in accordance with Bankruptcy Rules 9013 and 9014 and shall be served upon the debtor(s), debtor's attorney, the trustee, and the creditor affected thereby, if applicable.

(b) Hearing and Order. At the hearing on the motion, a Judge may order the debtor(s) to perform or may provide such other relief to the estate and creditor as may be appropriate, including granting relief from the automatic stay in favor of the affected creditor and/or awarding attorney fees and costs to the moving party.

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Related Authority:

11 U.S.C. §§ 521(2), 522(b), 524(c), 704(3), 722  
Bankruptcy Rules 4002, 4003(f), 4008, 6008  
Bankruptcy Official Form No. 8A

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Advisory Committee Notes:

This Rule is designed to allow enforcement without unduly burdening the trustee to determine whether the stated intentions have been fully and properly performed by the debtor(s). Much of the referenced authority concerns alternatives available to the debtor(s) in dealing with property under § 521, but is not intended to be limiting.

LOCAL BANKRUPTCY RULE 307

SALE OF PROPERTY OF THE ESTATE

(a) **Contested Matter.** A sale pursuant to § 363(b), including a sale free and clear of any interest of an entity other than the estate, is initiated by notice and is subject to LBR 310. An action to determine the validity, priority, or extent of any interest of an entity other than the estate shall be brought separately as an adversary proceeding.

(b) **Notice of Sale.**

(1) The notice of sale shall include, without limitation, the following information:

- (A) A description of the property to be sold;
- (B) The time and place of sale;
- (C) The terms of sale;
- (D) Whether the property is to be sold free and clear of liens;
- (E) The estimated fair market value of the property, and a brief statement of the basis for the estimate;
- (F) If known, the amounts of each lien or encumbrance claimed against the property and the identity of each lienholder;
- (G) The proposed disposition of the proceeds of sale;
- (H) The subdivision of § 363(f) which authorizes the sale; and
- (I) The date by which objections to the sale must be filed, pursuant to Bankruptcy Rule 6004(b), and the name and address of any entity to be served with the objection.

(2) All interests in the property sold free and clear shall attach to the proceeds of the sale, except as otherwise provided in the notice.

(c) **Order.** A party moving for an order approving or confirming an unopposed sale shall support the motion with an affidavit showing the necessity for the order.

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Related Authority:

11 U.S.C. § 363(f)  
Bankruptcy Rules 2002(a), 2002(c)(1), 6004, 7001

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Advisory Committee Notes:

Certain controls on the sale of property of the estate, including a requirement of specificity in notice, were deemed advisable by the Advisory Committee especially in regard to sales free and clear of claims, liens and interests.

LOCAL BANKRUPTCY RULE 308

USE OF CASH COLLATERAL

A motion for authority to use or otherwise make disposition of cash collateral shall include the following:

(a) A statement describing with particularity the amount and source of the cash collateral sought to be used;

(b) Financial or other information demonstrating the need for and the projected use or disposition of the cash collateral;

(c) The identity of all entities, known to the debtor or trustee, holding or claiming to hold an interest in the cash collateral, and a description of such interest(s); and

(d) A description of the nature and extent of any adequate protection to be provided to entities holding or claiming to hold an interest in said cash collateral.

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Related Authority:

11 U.S.C. § 363  
Bankruptcy Rules 4001, 9014

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Advisory Committee Notes:

The information required by this Rule is generally provided by movants since it is essential to the granting of relief by the Court. However, it was determined that specifying what information was necessary, and requiring its provision at a time prior to actual hearing, was advisable. See also, the Advisory Committee Notes to the 1987 Amendments of Bankruptcy Rule 4001(b). Issues regarding notice and service of the motion are not addressed here due, in part, to the amendments to Bankruptcy Rule 4001. See also LBR 310 and LBR 316.



LOCAL BANKRUPTCY RULE 309  
MOTIONS REQUESTING RELIEF FROM THE AUTOMATIC STAY

("RESERVED")

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Related Authority

11 U.S.C. § 362  
Bankruptcy Rules 4001, 9013, 9014

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Advisory Committee Notes:

At the request of the Court, this Local Bankruptcy Rule is reserved until the second Bankruptcy Judge has assumed office, and the consequent changes in the Court's calendar and ability to hear such matters have been realized. Current practice will continue until such time. Note, however, the operation of Bankruptcy Rule 4001(d).

LOCAL BANKRUPTCY RULE 310

NOTICE AND HEARING

(a) Applicability. All contested matters under Bankruptcy Rule 9014, all motions under Bankruptcy Rule 9013, and all other matters requiring or with provision for a hearing under the Bankruptcy Code or Bankruptcy Rules, shall be subject to the following requirements and conditions.

(b) Notice.

(1) By whom given. Except for notices specified in Bankruptcy Rules 2002(a)(1), (a)(2), (a)(4), (a)(8), (b), (d), (e) and (f)(1-10), all notices shall be given by the party requesting an order or other relief.

(2) To whom given.

(A) "Notice," as used in this Rule shall mean notice by mail to all creditors, equity security holders, trustees and indenture trustees, the debtor, the chairman of any committee appointed in the case, and any other parties in interest. A different method or less inclusive notice may be given only if allowed by the Bankruptcy Code or Bankruptcy Rules, or if authorized by a Judge.

(B) The addresses of notices shall be in accordance with Bankruptcy Rule 2002(g). A master mailing list of names and addresses, as filed with the Court, and updated in accordance with Rule 2002(g) may be obtained from the Clerk upon payment of the attendant fee. Notice required to be given to all creditors is presumed to be appropriate if mailed to all entries on a master mailing list certified updated by the Clerk within twenty (20) days of the notice.

(3) Proof of Service. After giving notice, the moving party shall file within five (5) days the notice an affidavit of mailing with a list of the persons, and their addresses, to whom the notice was sent. If notice to all creditors is required, the affidavit of service must certify mailing (or other services) on all parties included on the certified master list described in subdivision (b)(2)(B) of this Rule.

(c) Objection. If the notice provides for the filing of an objection, a party objecting to an act or the entry of an order shall file with the Clerk and serve on the moving party, a written objection within the time set forth in the notice. The objection shall state, with specificity, the grounds therefor.

(d) When hearing is not required. If authorized by the Bankruptcy Code or Bankruptcy Rules, or if allowed by the Court, an actual hearing may not be required. In all such instances,

the moving party shall, in the notice, so advise all parties receiving notice that an order may be entered without hearing. The moving party shall provide not less than fifteen (15) days within which any party in interest may object, unless a longer period is required by order of a Judge or under applicable Bankruptcy Rule, or such period is shortened by order of a Judge.

(e) Hearing.

(1) By moving party. Counsel for the party who desires or is required to set a matter for hearing shall be responsible for contacting the Calendar Clerk and obtaining a date for such hearing. Unless a hearing date is provided by the Calendar Clerk after such contact, the matter will not be scheduled for hearing and will not be heard. Counsel obtaining a hearing date shall be responsible for providing notice to all parties as provided by this Rule.

(2) By objecting party. If a party objects to an act or the entry of an order and the matter is not previously set for hearing, counsel for the objecting party shall be responsible for contacting the Calendar Clerk and obtaining a hearing date, as provided in subdivision (e)(1) of this Rule and notifying the moving party and all other parties as required by this Rule. Failure to obtain and notice a hearing within thirty (30) days after filing the objection will waive the objection and allow entry of the Order.

(f) Vacation or continuance of hearing. A hearing may be vacated or continued by order of a Judge entered:

(1) on a Judge's own motion;

(2) upon agreement of the parties; or

(3) on the request of a party after notice to all opposing parties filed and served at least three (3) days prior to the scheduled hearing, accompanied by an affidavit stating the grounds for such request, unless a Judge for cause shown waives the requirements of this Rule.

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Related Authority:

11 U.S.C. § 102(1)  
Bankruptcy Rules 2002, 9007, 9008

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Advisory Committee Notes:

Note that subdivision (b)(1) requires a party to serve notice in certain circumstances where previously the Clerk

provided notice. Subdivision (e) reflects current practice and emphasizes the necessity of setting matters through the Calendar Clerk. Subdivision (f)(3) is designed to cure problems presently encountered by the Court where counsel vacates hearing without advising the Court and/or opposing counsel.

**LOCAL BANKRUPTCY RULE 311**

**FORM OF ORDERS**

(a) **Separate Documents.** All orders (except on official Court forms) must be submitted on a document separate from any attendant motion. All orders shall contain the proper case caption, the name, address and telephone number of the submitting attorney(s), and the name of the party(s) represented.

(b) **Requisite Information.** All orders submitted must identify with specificity the application, motion or other pleading to which it corresponds, and the Court hearing, if any, from which it resulted. The order must also specifically identify the property or interest with which it deals, and may not incorporate such information by reference to the motion.

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**Related Authority:**

**Bankruptcy Rule 9004(b), 9013**

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**Advisory Committee Notes:**

Motions which contain orders within the same pleading cause filing and case control issues for the Clerk. Additionally, some "separate" orders presently submitted are not complete without reference to the underlying pleading and are thus confusing. Certain orders, such as those regarding abandonment or relief from stay in particular, must adequately describe the subject property or interest.

**LOCAL BANKRUPTCY RULE 312**

**STIPULATIONS**

(a) **Submission and Form of Order.** Stipulations not accompanied by a separate order in accord with LBR 311 will be "lodged" by the Clerk in the file. Except for those stipulations submitted on forms provided by the Bankruptcy Court, the order must contain a recital of the property or interest at issue and may not contain incorporation by reference of such information from the body of the stipulation.

(b) **Documentation.** All stipulations must be accompanied by documents sufficiently establishing the interest which is alleged to exist, recordation or perfection of such interest, or other grounds for relief. Such documents must be signed by the appropriate parties. Photocopies are acceptable, but must be legible.

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**Related Authority:**

**Bankruptcy Rules 9004(a), 9013**

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**Advisory Committee Notes:**

With the exception of stipulations for relief from the § 362(a) stay submitted on the form promulgated by the Clerk of the Bankruptcy Court, pleadings seeking stipulated relief are often so incomplete or ambiguous that they must be rejected.

LOCAL BANKRUPTCY RULE 313

MOTIONS FOR RECONSIDERATION

A "motion for reconsideration", other than under Bankruptcy Rule 3008, is not authorized and will not be accepted by the Court. Should a motion be filed seeking relief in the nature of reconsideration of the Court's prior ruling(s) or decision(s), it shall be treated as hereinbelow provided.

(a) **Motions.** Such a motion filed subsequent to a ruling on a motion (whether entered in a case or in an adversary proceeding) shall be deemed to be a motion for relief from judgment or order under Bankruptcy Rule 9024 and Federal Rule of Civil Procedure 60. The grounds for such relief shall be affirmatively and specifically set forth in such motion, with specific reference to the provision(s) of Bankruptcy Rule 9024 relied upon. The Court may rule on such motion based upon the record and without hearing or argument.

(b) **Adversary proceedings.** Such a motion filed subsequent and in regard to a final decision in an adversary proceeding shall be deemed to be a motion to alter or amend judgment or a motion for new trial under Bankruptcy Rule 9023 and Federal Rule of Civil Procedure 59, or a motion for relief under Bankruptcy Rule 9024 as set forth in subdivision (a) of this Rule. The grounds for such relief must be affirmatively and specifically set forth in such motion, with specific reference to the provision(s) of such Rule relied upon. The Court may rule on such motion based upon the record and without hearing or argument.

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Related Authority:

11 U.S.C. § 105  
Bankruptcy Rules 8002(b), 9023, 9024

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Advisory Committee Notes:

This Rule addresses a continual problem stemming from attempts to relitigate or continue to litigate issues following entry of a final decision. It recognizes the lack of authority for such "motions to reconsider", and is consistent with the position taken by the Idaho Courts. See Lee v. Morrison-Knudsen Co., Inc., 111 Idaho 861, 727 P.2d 1289 (Ct. App. 1986); Hamilton v. Rybar, 111 Idaho 396, 724 P.2d 132 (1986). However, the right to relief as provided for in Bankruptcy Rules 9023 and 9024 is recognized, subject to specification of grounds under the limited authority of those two provisions. Motions to reconsider claims under Bankruptcy Rule 3008 are excluded,

however, it is anticipated such motions will comply generally with this Rule's requirement of specificity.



LOCAL BANKRUPTCY RULE 314

CORRESPONDENCE

Attorneys and parties to any action or proceeding shall refrain from writing letters or forwarding pleadings directly to a Judge. All matters to be presented to or otherwise called to the attention of a Judge should be formally submitted to the Clerk, and be served upon opposing counsel or parties in interest as required by applicable Rule.

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Related Authority:

Bankruptcy Rule 9003

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Advisory Committee Notes:

Bankruptcy Rule 9003 is clarified by this rule. All ex parte contact with a Judge concerning pending adversary proceedings or cases should be eliminated. All applications, motions, proposed orders, briefs or other documents should be filed with the Clerk and not sent to a Judge unless the Judge has otherwise directed. Cover correspondence should be sent to the Clerk with a request for presentation to the Court for consideration.

**LOCAL BANKRUPTCY RULE 315**

**NON-CONFORMING PLEADINGS**

Any pleading not in conformance with the Bankruptcy Rules or these Local Rules, will be marked "received" and placed in the Court file but no action thereupon or in regard thereto will be taken. Non-conforming pleadings will not be returned to the submitting party.

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**Related Authority:**

**Bankruptcy Rules 9004, 9013**

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**Advisory Committee Notes:**

This Rule is a corollary to the other restrictions on form of pleading and practice before the Court.

LOCAL BANKRUPTCY RULE 316

MOTIONS PURSUANT TO BANKRUPTCY RULE 4001

(a) **Applicability.** The provisions of Bankruptcy Rule 4001(b), (c) and (d) apply only in cases under Chapter 9 and Chapter 11 of the Code.

(b) **Service.** Any motion identified in such subdivisions of Rule 4001 shall be served upon the trustee, debtor, debtor's attorney, upon any committee appointed under the Code or such committee's authorized agent and such committee's creditors listed on the list filed pursuant to Bankruptcy Rule 1007(d), and upon any other party, if known, which holds or claims to hold a security interest or lien in or to the property which is the subject of the motion.

(c) **Proof of Service.** The moving party shall file, simultaneously with service of the motion, an affidavit or certificate of service with a list of the persons, and their addresses, to whom the motion was sent.

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Related Authority:

11 U.S.C. §§ 361, 362, 363, 364  
Bankruptcy Rules 4001, 6004, 9013, 9014

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Advisory Committee Notes:

Subdivision (a) of this rule delineates the scope of Bankruptcy Rule 4001 following the 1987 amendments to that Rule which became effective on August 1, 1987. By virtue of the language utilized in subdivisions (b), (c) and (d) of Rule 4001 (which language expressly refers to the requirements of Bankruptcy Rule 1007(d) concerning the list of twenty (20) largest unsecured creditors), these new provisions apply only in Chapter 9 and Chapter 11 cases. LBR 316 is, in part, designed to clearly identify this fact, and to avoid the confusion which might arise from attempts to apply these requirements in cases under other Chapters of the Code.

Thus, for example, in the absence of an "agreement", motions for relief from the § 362(a) stay would be subject to Rule 4001(a) and LBR 309 (when promulgated). Motions for use of cash collateral would be subject to Rule 4001(b) and LBR 308 in Chapter 9 and Chapter 11 cases, but only to LBR 308 in cases under other chapters. (Obviously, Bankruptcy Rules and LBR's of general application will also apply).

The Advisory Committee further notes that the provisions of Rule 4001(d) as added by the 1987 amendments relate only to

"agreements" concerning the automatic stay, adequate protection, use of cash collateral, or obtaining credit. Stipulations or agreements relating to other matters, or in cases other than those under Chapters 9 and 11, are governed by LBR 312.

Note that, in the case of an agreement subject to Rule 4001(d), a motion for approval is required. This is similar to practice for motions to approve compromise under Bankruptcy Rule 9019. A party may not merely file a stipulation and notice the same for hearing.

LBR 316 (b) of the Rule elaborates on the requirement of service of motions under Rule 4001(b), (c) and (d). [It does not apply to service of stay lift motions generally under Rule 4001(a). That issue is reserved for LBR 309]. The 1987 amendments to Rule 4001 clearly do not contemplate service of the identified motions on all creditors and parties in interest in a case, as manifested by the requirement of service on appointed committees or the twenty (20) largest unsecured creditors. The Advisory Committee declined to impose such an additional requirement in all cases.

However, it was deemed advisable by the Committee to include some specification of additional parties which should receive notice. LBR 316 therefore requires any motions falling within the scope of Rule 4001 (b), (c) or (d) to be served on other creditors which claim a security or lien interest in property subject to the motion. The terms "security interest" and "lien" are used as defined in § 101(45) and § 101(33) respectively. See also, §§ 101(32) and 101(47).

There is, for protection of the movant, a "good faith" requirement imposed. Service need be only on those parties known to the movant. However, the specification of creditors in this category is not intended to be limiting; any other party known to the movant which asserts an interest must be served as well.

Subdivision (c) of the Rule requires proof of service in the Court file. See 310(b)(3).

LOCAL BANKRUPTCY RULE 401

CONVERSION FROM CHAPTER 11

(a) **Applicability.** This Rule applies to a case converted from a case under Chapter 11 to a case under Chapter 7, Chapter 12 or Chapter 13.

(b) **Final Report and Account.** Upon conversion, the debtor, or trustee if one served in the original Chapter 11 case, shall file and serve on the successor trustee a final report and account within 30 days of the conversion of a Chapter 11 case. The final report and account shall include:

(1) A separate schedule accompanied by a matrix, listing unpaid debts incurred by the debtor after the commencement of the Chapter 11 case;

(2) A schedule of property acquired by the debtor after the commencement of the Chapter 11 case.

(3) A balance sheet as of the date of conversion and a profit and loss statement for the period of the pendency of the case under Chapter 11, unless such balance sheet and profit and loss statements for the period of the pendency of the case under Chapter 11 have been previously filed in accordance with Court Order.

(4) A statement of the money or property paid or transferred, directly or indirectly, during the pendency of the Chapter 11 case, to the debtor, if the debtor is an individual; or to each partner, if the debtor is a partnership; or to each officer, stockholder, and director, if the debtor is a corporation.

(5) A listing of all matters pending in the case and any adversary proceedings or other litigation pending in which the debtor, debtor in possession or trustee is a party;

(c) **Bank Account.** The debtor, or trustee if one served in the original Chapter 11 case, shall furnish to the Chapter 7, Chapter 12 or Chapter 13 trustee originals or photocopies of all cancelled checks and bank statements pertaining to the bank account(s) maintained in the Chapter 11 case.

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**Related Authority:**

**11 U.S.C. § 1112  
Bankruptcy Rule 1019**

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**Advisory Committee Notes:**

This Rule of these matters supplements the requirements of Bankruptcy Rule 1019, in particular the "final report and account" or under Bankruptcy Rule 1019(6). Paragraph (b)(3) eliminates the need for a reconciled balance sheet and a cumulative profit and loss statement upon conversion if the same were maintained and properly filed as a part of the debtor in possession's "monthly financial reports." The schedules required by subdivisions (b)(1) and (b)(2) can be provided by the filing of "amended" A and B schedules under Bankruptcy Rule 1007(b) and Official Form No. 6.

LOCAL BANKRUPTCY RULE 501

GENERAL APPLICABILITY OF BANKRUPTCY RULES IN CHAPTER 12 CASES

The Bankruptcy Rules and Forms, now in effect or as later amended, as supplemented by these Local Rules, govern procedure in cases under Chapter 12.

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Related Authority:

Bankruptcy Rule 9029

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Advisory Committee Notes:

*[The Rules of this Part are designed to clarify practice under Chapter 12 of the Code until the Bankruptcy Rules and Official Forms are promulgated, modified and adopted. Many of the Rules of this part are based upon the suggested "Interim Rules" drafted and proposed by the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States.]*

*[Bracketed and italicized material in the Advisory Committee Notes reflects material prepared by the Advisory Committee on Local Rules for the District of Idaho. The other Advisory Committee Notes to Rules in this Part are the comments of the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States.]*

Section 305(b) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986, Pub. L. No. 99-554, 100 Stat. 3088, provides that the Bankruptcy Rules in effect on the day of enactment shall apply to Chapter 12 family farmer's debt adjustment cases "to the extent practicable and not inconsistent" with Chapter 12. Amendments to the Bankruptcy Rules are currently under consideration by the Supreme Court. This Rule provides that if the proposed amendments become effective, the Rules as amended will apply to Chapter 12 cases.

LOCAL BANKRUPTCY RULE 502

VOLUNTARY CHAPTER 12 PETITION

(a) **Commencement.** A debtor's petition commencing a Chapter 12 case shall be filed with the Bankruptcy Court, shall conform substantially to Official Form No. 1, and shall comply with LBR 201.

(b) **Number of Copies.** The number of copies of the petition requesting relief under Chapter 12 of the Code shall be in compliance with LBR 201(a).

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**Related Authority:**

11 U.S.C. §§ 301, 302  
Bankruptcy Rule 1007

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**Advisory Committee Notes:**

*[This Rule is necessitated by lack of inclusion or cross-reference in the "Interim Rules" other Local Rules. Additionally, though not made the subject of a specific Local Rule because of the pending adoption of the Interim Rules regarding Chapter 12, LBR 202 (filing fees), LBR 203 (master address list), LBR 204 (case cover sheet), LBR 205 (schedules), LBR 206 (extension of time), LBR 207 (amendments), and the other LBR's of general operation apply also to Chapter 12 cases, except as modified by LBR 504. See generally LBR 101(b).]*



LOCAL BANKRUPTCY RULE 503

ADAPTATIONS OF CERTAIN BANKRUPTCY RULES

(a) The following Bankruptcy Rules are modified, by reference, to apply to cases under Chapter 12:

(1) The reference in Rule 1002(b)(1) to Chapter 13 shall be read also as a reference to Chapter 12.

(2) The reference in Rule 1007(a)(1) to a Chapter 13 Statement shall be read also as a reference to a Chapter 12 Statement, and the references in Rule 1007(c) and (h) to a Chapter 13 case and a Chapter 13 individual's debt adjustment case shall be read also as references to a Chapter 12 case and a Chapter 12 family farmer's debt adjustment case.

(3) The reference in Rule 1008 to Chapter 13 Statements shall be read also as a reference to Chapter 12 Statements.

(4) The references in Rule 1009 to a Chapter 13 Statement shall be read also as references to a Chapter 12 Statement.

(5) The references in Rule 1016 to an individual's debt adjustment case under Chapter 13 shall be read also as references to a family farmer's debt adjustment case under Chapter 12.

(6) The reference in Rule 1017(a) to § 1307(b) of the Code shall be read also as a reference to § 1208(b) of the Code.

(7) The references in Rule 1019 to a Chapter 13 case shall be read also as references to a Chapter 12 case.

(8) The reference in Rule 2004(b) to an individual's debt adjustment case under Chapter 13 shall be read also a reference to a family farmer's debt adjustment case under Chapter 12.

(9) The references in Rule 2009(c)(3) to Chapter 13 individual's debt adjustment cases and Chapter 13 cases shall be read also as references to Chapter 12 family farmer's debt adjustment cases and Chapter 12 cases.

(10) The references in Rule 2015(b)(1) to Chapter 13 trustee and debtor and Chapter 13 individual's debt adjustment case shall be read also as references to Chapter 12 trustee and debtor and Chapter 12 individual's debt adjustment case.

(11) The reference in Rule 2018(b) to a Chapter 13 case shall be read also as a reference to a Chapter 12 case.

(12) The reference in Rule 3002(c) to a Chapter 13 individual's debt adjustment case shall be read also a reference to a Chapter 12 family farmer's debt adjustment case.

(13) The references in the captions of Rule 3010 and Rule 3010(b) to Chapter 13 Individual's Debt Adjustment Cases and CHAPTER 13 CASES shall be read also as references to Chapter 12 Family Farmer's Debt Adjustment Cases and CHAPTER 12 CASES.

(14) The reference in the caption to Rule 3011 to Chapter Individual's Debt Adjustment Cases shall be read also as a reference to Chapter 12 Family Farmer's Debt Adjustment Cases.

(15) The reference in Rule 3013 to § 1322(b)(1) of the Code shall be read also as a reference to § 1222(b)(1) of the Code.

(16) The reference in the caption of Rule 4007(c) to CHAPTER 11 REORGANIZATION CASES shall be read also as a reference to CHAPTER 12 FAMILY FARMER'S DEBT ADJUSTMENT CASES.

(17) The reference in Rule 6006(b) to a Chapter 13 individual's debt adjustment case shall be read also as a reference to a Chapter 12 family farmer's debt adjustment case.

(18) The references in Rule 7001(5) and (8) to a Chapter 13 plan shall be read also as references to a Chapter 12 plan.

(19) The reference in Rule 7062 to § 1301 of the Code shall be read also as a reference to § 1201 of the Code.

(20) The reference in Rule 9011(a) to a Chapter 13 Statement shall be read also as a reference to a Chapter 12 Statement.

(21) The reference in Rule 9024 to § 1330 of the Code shall be read also as a reference to § 1230 of the Code.

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Related Authority:

Bankruptcy Rule 9029

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Advisory Committee Notes:

Many of the Bankruptcy Rules apply to cases under all chapters of the Code. Others apply only to specified chapters. Since the procedural aspects of Chapters 12 and 13 are almost identical, the Bankruptcy Rules applicable to Chapter 13 cases are appropriate for use in Chapter 12 cases, and pursuant to

§ 305(b) of the 1986 Act, these Rules are applicable to Chapter 12 cases.

This Rule provides that references in certain Bankruptcy Rules to Chapter 13 or an aspect of a Chapter 13 case shall be read to include a comparable reference to Chapter 12 or an aspect of a Chapter 12 case. *[Cross-reference to] Rule 1007(b) is omitted because [Interim] Rule 12-3 [LBR 504] covers the subject of filing schedules and statements.*

Paragraph (16) makes Rule 4007(c), which fixes the time for filing a complaint under § 523(c) to determine the dischargeability of certain debts at 60 days from the first date set for the meeting of creditors, applicable in Chapter 12 cases. Rule 4007(c) does not apply to Chapter 13 cases because the § 523(c) debts are discharged pursuant to § 1328(a). Under § 1228(a), the Chapter 12 discharge does not discharge the § 523(c) debts.

*[Interim] Rule 12-4 [LBR 506] governs the filing and confirmation of a Chapter 12 plan. [The suggested "Interim Rules" of the Advisory Committee on Bankruptcy Rules of the Judicial Conference were modified in this Rule by omission of cross-references to Chapter "X" of the current Bankruptcy Rules since the District of Idaho is not presently served by a U.S. Trustee.]*

LOCAL BANKRUPTCY RULE 504

CHAPTER 12 LISTS, SCHEDULES AND STATEMENTS; TIME LIMITS

(a) **General.** Unless a Judge orders otherwise, the debtor shall file with the Court a Chapter 12 Statement conforming to Form No. 12-A or 12-B, whichever is appropriate, and a statement of financial affairs for debtor engaged in business prepared as prescribed by Official Form No. 8. The budget included in the Chapter 12 Statement (as required in subdivision (c)(4) of this Rule) shall constitute the schedule of current income and expenditures.

(b) **List of Creditors and Equity Security Holders.**

(1) The debtor shall file with the petition a list containing the name and address of each creditor unless the petition is accompanied by a schedule of liabilities. This list shall comply with LBR 203.

(2) Where the debtor is a limited partnership or corporation, a list of the debtor's equity security holders showing each class by the number and kind of interests registered in the name of each holder and the last known address or place of business of each holder shall be filed by the debtor within fifteen (15) days after the entry of the order for relief.

(c) **Schedules and Statements Required.**

(1) Additional Forms. The debtor in a Chapter 12 case shall file with the Clerk, in addition to those documents required by subdivision (a) of this Rule, a statement of leases and executory contracts.

(2) Master Address List. LBR 203 applies to all Chapter 12 cases.

(3) Bankruptcy Petition Cover Sheet. LBR 204 applies to all Chapter 12 cases.

(4) Budget Information for the Farming Operation. If the debtor is an individual, the budget contained on Official Form No. 6A must be completed for personal income and expenditures. In addition, a budget for the farming operation must be completed by all debtors who have filed a Chapter 12 case using the official budget form. Corporations and partnerships are not required to complete the budget contained in Official Form No. 6A, but must complete the farming operation budget.

(d) **Time Limits.** The lists, schedules, and statements, required by subdivision (c) above, if not filed with the petition, must be filed within fifteen (15) days after the order for relief is entered. In a case converted from a Chapter 7, 11

or 13, the lists, schedules, and statements required by subdivision (c) above must be filed within fifteen (15) days from the entry of the order of conversion. Any extension of time for filing of the lists, schedules and statements shall be granted only on motion for cause shown and on notice to the trustee and any other party as a Judge may direct, as provided under LBR 206

(e) **Number of Copies.** The number of copies of the lists, schedules and statements shall correspond to the number of copies of the petition required by LBR 502(b).

(f) **Chapter 12 Plan.**

(1) **Amended Plans.** Any amended Chapter 12 Plan shall be filed with the Clerk and served upon all parties affected by such amendment not less than fifteen (15) days prior to any date set for the confirmation hearing.

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**Related Authority:**

11 U.S.C. § 1201, et seq.  
Bankruptcy Rules 1007, 9029

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**Advisory Committee Notes:**

*[This Rule incorporates the suggested "Interim Rule" in subdivision (a). The remainder of the Rule reflects the attempt of the Advisory Committee to clarify procedure in light of prior Local Rules and current practice.]*

This Rule is derived from Bankruptcy Rule 1007(b). Under § 109(f) of the Code, a Chapter 12 debtor must have regular annual income. A plan may be confirmed over an objection only if the plan commits the debtor's projected disposable income for three years to payments under the plan.

§ 1225(b)(1)(B). The Chapter 12 Statement (Form No. 12-A or 12-B) required by these Rules contains essential information for determining eligibility for commencing a Chapter 12 case and the amount of the debtor's disposable income.

The time for the filing of the Chapter 12 Statement is prescribed by Bankruptcy Rule 1007(c). *[Interim] Rule 12-2(2)*. *[See LBR 503(a)(2).]*

*[The number of required copies of the plan or amended plan, and other issues relating to confirmation, are addressed in LBR 506.]*

LOCAL BANKRUPTCY RULE 505

CLAIMS IN CHAPTER 12 CASES

(a) **Time for Filing Proof of Claims.** In a Chapter 12 Case, a proof of claim shall be filed within ninety (90) days after the first date set for the meeting of creditors scheduled pursuant to § 341(a) except as allowed in Bankruptcy Rule 3002(c)(1), (2), (3) and (4), 3004, and 3005.

(b) **Payment of Small Dividends in Chapter 12 Cases.** In a Chapter 12 case, no payment in an amount less than \$15.00 shall be distributed by the trustee to any creditor unless authorized by order of a Judge. Funds not distributed because of this subdivision shall accumulate and shall be paid whenever the accumulation aggregates \$15.00. Any funds remaining shall be distributed with the final payment.

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Related Authority:

11 U.S.C. § 1226  
Bankruptcy Rules 3002, 3004, 3005, 3010

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Advisory Committee Notes:

*[LBR 505(a) reflects, by reference, additional periods within which the debtor, the trustee, or specified third parties (such as co-debtors and guarantors) may file claims. See LBR 503(a)(12).]*

*[Subdivision (b) of this Rule is identical to the corollary provision for payments in Chapter 13 cases contained in Bankruptcy Rule 3010(b). See also, LBR 503(a)(13).]*

LOCAL BANKRUPTCY RULE 506

FILING AND CONFIRMATION OF PLAN

(a) **Time for Filing.** The debtor may file a Chapter 12 plan with the petition. If a plan is not filed with the petition, it shall be filed within ninety (90) days thereafter unless a Judge, pursuant to § 1221 of the Code, extends the time for filing the plan. The debtor shall furnish a sufficient number of copies of the plan to enable the Clerk to include a copy of the plan, with the notice of the hearing on confirmation of the plan, to each party included on the master address list required by LBR 504(c)(2) plus ten (10) additional copies.

(b) **Objections.** Objections to confirmation of the plan shall be in writing and filed with the Clerk and served on the debtor, the trustee, and on any other party in interest, not less than seven (7) days prior to any scheduled confirmation hearing. An objection to confirmation must set forth with specificity the grounds for objection and is governed by Bankruptcy Rule 9014.

(c) **Hearing.** After notice as provided in subdivision (d) of this rule, a Judge shall conduct and conclude a hearing within the time prescribed by § 1224 of the Code and rule on confirmation of the plan. If no objection is timely filed, a Judge may determine that the plan has been proposed in good faith and not by any means forbidden by law without receiving evidence on those issues.

(d) **Notice.** The Clerk shall give the debtor, the trustee, all creditors, and all equity security holders notice by mail of the time fixed for filing objections to and the hearing to consider confirmation of the plan. Unless a Judge fixes a shorter period, notice of such hearing shall be given not less than twenty-five (25) days before the hearing. A copy of the plan shall accompany the notice.

(e) **Order of Confirmation.** The order of confirmation shall conform to Official Form No. 31 and notice of entry thereof shall be mailed promptly by the Clerk to the debtor, the trustee, all creditors, all equity security holders, and other parties in interest.

(f) **Retained Power.** Notwithstanding the entry of the order of confirmation, a Judge may enter all orders necessary to administer the estate.

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Related Authority:

11 U.S.C. §§ 1221, 1224, 1225  
Bankruptcy Rules 2002, 9029

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Advisory Committee Notes:

*[The Advisory Committee has modified the suggested "Interim Rule" where it was believed to be necessary. The "Note" to Interim Rule 12-4 of the Advisory Committee of the Judicial Conference follows.]*

Section 1221 of the Code requires that the plan be filed within 90 days of the order for relief. The date of the order for relief is the date of the filing of the Chapter 12 petition. See § 301 of the Code. Involuntary petitions are not permitted under Chapter 12. Section 1224 requires that the confirmation hearing be held after "expedited notice". The confirmation hearing must be concluded within 45 days after the plan is filed unless the Court extends the period for cause. This Rule is derived from Bankruptcy Rules 3015 and 3020 and supplements the statutory requirements.

Subdivision (a) is derived from Bankruptcy Rule 3015. An extension of the time for the filing of a plan may be granted pursuant to § 1221 if a judge finds "an extension is substantially justified". A summary of the plan may not be distributed unless approved by a Judge.

Subdivision (b) is derived from Bankruptcy Rule 3020(b)(1). Notice of the time for filing objections shall be included in the notice given pursuant to subdivision (d) of this Rule.

Subdivision (c) is derived from Bankruptcy Rule 3020(b)(2). Section 1224 requires that the confirmation hearing be concluded within 45 days unless a Judge grants an extension for cause.

Subdivision (d). Section 1224 requires that there be "expedited notice" of the confirmation hearing. *[The proposed Interim Rule will establish fifteen (15) days as the notice period.]* A Judge may shorten this time on its own motion or on motion of a party in interest. The coordination of the hearing date and the date for filing objections is determined by the Clerk. The notice should include both dates and be accompanied by a copy of the plan or a Court approved summary of the plan.



Subdivisions (e) and (f) are derived from Bankruptcy Rule 3020(c) and (d).

[Additionally, the Court has adopted the following general guidelines for conducting Chapter 12 confirmation hearings:

- (1) The trustee will present his report. If the trustee does not recommend confirmation, the Court will accept the lack of recommendation as prima facie evidence the plan cannot be confirmed.
- (2) If the debtor contests the lack of recommendation, debtor's counsel shall make an offer of proof of the evidence upon which the debtor relies to substantiate confirmation.
- (3) If the trustee recommends confirmation, objecting creditors will be called upon to make an offer of proof of the evidence the objector intends to present to defeat confirmation.
- (4) The process of qualifying expert witnesses and inquiring into the basis of their opinions will be kept to a minimum.

[This Local Rule, and Bankruptcy Rule 2002(b), require twenty (25) days notice of hearing on confirmation. The Interim Rule, if adopted, would shorten that period to fifteen (15) days. However, the confirmation hearing must be held within forty-five (45) days of the filing of the plan. See § 1224. This clearly causes a problem due to the Court's travel schedule. Therefore, if there is insufficient time for notice prior to hearing on a "non-Boise" case, (see, LBR 105(a) and the Advisory Committee Notes thereto), the Court will sua sponte extend the time limit of § 1224 and put the matter on the next available calendar. Scheduling should be coordinated with the Calendar Clerk and the Case Administrator.]

**LOCAL BANKRUPTCY RULE 601**

**FILING OF PROOFS OF CLAIM IN CHAPTER 13 CASES**

All proofs of claims in Chapter 13 cases which may be filed pursuant to § 501, shall be filed with the Chapter 13 trustee appointed for the particular case. Any claim incorrectly filed shall be forwarded to the Chapter 13 trustee administering the case.

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**Related Authority:**

11 U.S.C. §§ 501, 1305  
Bankruptcy Rules 3002, 3004

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**Advisory Committee Notes:**

This Rule is viewed as consistent with, and necessary to achieve, accelerated confirmation of uncontested Chapter 13 plans and distribution thereunder. See LBR 602.

LOCAL BANKRUPTCY RULE 602

CONFIRMATION OF CHAPTER 13 PLAN

A Judge may confirm a Chapter 13 plan without hearing if a written objection to confirmation is not filed prior to or at the § 341(a) meeting of creditors. This confirmation process is subject to the following requirements.

(a) **Notice to Creditors.** The Clerk shall send to the debtor, debtor's attorney, the trustee, and all creditors and parties in interest, a notice which advises them of the provisions of this Rule. This notice shall be sent at the same time and may be incorporated within the notice of the § 341(a) meeting of creditors.

(b) **Objections to Confirmation of the Plan.** Any objection to the confirmation of the plan must be in writing and filed with the Clerk, the trustee, debtor, and debtor's attorney prior to or at the scheduled § 341(a) meeting of creditors. An objection to confirmation must set forth with specificity the grounds for objection and is governed by Bankruptcy Rule 9014.

(c) **Confirmation of Plan Without Objection.** Where no objection to confirmation of a Chapter 13 plan is filed within the time limits established by this Rule, then a Judge, without hearing, may enter an order confirming the plan.

(d) **Amendment of Plans at the § 341(a) Meeting of Creditors.** The proposed plan may be amended, at either the § 341(a) meeting or any time prior to the hearing scheduled under subdivision (e) of this Rule, to resolve an objection. Such amendment must be placed on the Chapter 13 Trustee's Minutes or be included in an amended plan. Where a timely objection has been made, the plan will not be confirmed until the objecting party has withdrawn such objection or a hearing is held as provided in subdivision (e) of this Rule. Where the amendment does not affect any other party in interest, a Judge may confirm the plan as amended without notice or a hearing. Where the amendment would affect another party in interest, the plan as amended must be mailed to each affected party with a notice providing fifteen (15) days to object to the amendment. If no objection is made within the time allowed, a Judge may confirm the plan as amended without a hearing.

(e) **Objections not Resolved by Amendment of the Plan.** Where an objection to a proposed Chapter 13 plan cannot be resolved by an amendment to the proposed plan, or where the trustee does not recommend confirmation, the Court shall hold a confirmation hearing to resolve the objection. The Clerk shall schedule a tentative confirmation hearing date, in the event actual hearing is required under this Rule, and provide notice of such date on the notice of the § 341(a) meeting of creditors.

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**Related Authority:**

**11 U.S.C. §§ 1302, 1322, 1323, 1324, 1325  
Bankruptcy Rule 2002, 3015**

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**Advisory Committee Notes:**

The process of confirmation as structured under this Rule is designed to protect interests of objecting creditors while allowing accelerated confirmation of plans and payment to creditors in the large majority of Chapter 13 cases where there are no objections or where objections can be readily resolved. The prior Local Rule has been amended to confirm to current Court procedures.

**LOCAL BANKRUPTCY RULE 701**

**COMMENCEMENT OF ADVERSARY PROCEEDINGS**

(a) **Cover Sheet.** Every complaint commencing an adversary proceeding under Bankruptcy Rule 7003 shall be accompanied by a completed "Adversary Proceeding Cover Sheet" and a summons prepared in compliance with the Federal Rules of Civil Procedure and practice in U.S. District Court for the District of Idaho, with sufficient copies for service. Blank forms for compliance with this Rule will be furnished by the Clerk upon request.

(b) **Adversary Number and Summons.** Upon the filing of a complaint under Bankruptcy Rule 7003, the Clerk will assign the proceeding an adversary number, which number must thereafter appear on all pleadings, and issue the summons which will then be returned to the plaintiff who will be responsible for service according to Bankruptcy Rule 7004.

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**Related Authority:**

**Bankruptcy Rules 7003, 7004, 9004(b)**

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**Advisory Committee Notes:**

**This Rule continues the practice under former Local Rule.**

LOCAL BANKRUPTCY RULE 702

DISMISSAL OF INACTIVE ADVERSARY PROCEEDINGS

(a) **Dismissal.** In the absence of a showing of good cause for retention, any adversary proceeding (except one objecting to or seeking to revoke discharge) in which no action has been taken for a period of six (6) months shall be dismissed, without prejudice, at any time.

(b) **Notice.** At least twenty (20) days prior to such dismissal, the Clerk shall give notice of the pending dismissal to all attorneys of record, and to any party appearing on its own behalf, in such adversary proceeding. The notice shall be sent to the last address of such attorneys or parties as shown in the official Court adversary proceeding file.

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Related Authority:

Bankruptcy Rule 7041

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Advisory Committee Notes:

Certain changes have been made in this Rule from the prior Local Rule. The period of inactivity has been shortened from one (1) year to six (6) months in order that the Court can better control its caseload, and to better reflect the nature of the vast majority of adversary proceedings. The revised Rule has eliminated reference to "contested matters" under Bankruptcy Rule 9014 since justification for a similar rule is not present for motions within a case.

This Rule contains an exception to proceedings objecting to or seeking to revoke the general discharge of the debtor. See LBR 703.

LOCAL BANKRUPTCY RULE 703

DISMISSAL OF ADVERSARY PROCEEDINGS CONTESTING DISCHARGE

An adversary proceeding objecting to entry of discharge of the debtor(s), or seeking to revoke entry of discharge of the debtor(s), shall be dismissed only upon compliance with the following conditions.

(a) **Motion.** The Plaintiff shall file a motion which sets forth with particularity the grounds upon which the request for dismissal is based.

(b) **Affidavit.** Contemporaneously with such motion, there must be filed an affidavit of the Plaintiff setting forth any consideration, monetary or otherwise, received in connection with such requested dismissal.

(c) **Service of Pleadings.** Proof of service of the motion and affidavit provided for in subdivisions (a) and (b) of this Rule, reflecting service upon the trustee and upon any committee appointed under the Code, must be filed within five (5) days of the motion.

(d) **Notice to Creditors and Hearing.** Notice of such intended dismissal, and of the hearing thereon, shall be issued by the Plaintiff and served upon all creditors and parties in interest in the debtor(s)' case, and proof of such service filed with the Clerk.

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Related Authority:

11 U.S.C. §§ 727, 1141, 1228, 1328  
18 U.S.C. § 152  
Bankruptcy Rules 7001(4); 7041

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Advisory Committee Notes:

Bankruptcy Rule 7041 and precedent limit voluntary dismissal of complaints generally objecting to discharge of debtors (as contrasted with those actions under § 523 of the Code contesting dischargeability of individual debts). This Rule clarifies the requirements previously imposed by the Court in most cases. Subsection (b) is, in part, in reference to the criminal prohibition upon the giving, receiving, offering or seeking to obtain any money, property or other advantage in return for acting or forbearing to act in a case under Title 11, U.S. Code.

LOCAL BANKRUPTCY RULE 704

NONFILING OF DISCOVERY AND LIMITATIONS ON DISCOVERY

(a) **Adversary Proceedings.** Pursuant to Bankruptcy Rule 7005 and Federal Rule of Civil Procedure 5(d), all papers after the complaint initiating an adversary proceeding which are required to be served upon a party shall be so served and filed with the Clerk either before service or within a reasonable time thereafter; provided, however, that discovery, including depositions upon oral examination or written questions, interrogatories, requests for production of documents, requests for admissions, and answers and responses thereto, shall be served but shall not be filed except upon order of a Judge following motion by a party in interest.

(b) **Contested Matters.** All discovery made in a contested matter pursuant to Bankruptcy Rule 9014, including depositions upon oral examination or written questions, interrogatories, requests for production of documents, requests for admissions, and answers and responses thereto, shall be served but shall not be filed with the Court except upon order of a Judge following motion by a party in interest.

(c) **Limitations on Discovery.** All discovery made in a contested matter pursuant to Bankruptcy Rule 9014 is subject to the following limitations absent stipulation of the opposing party or order of a Judge upon a showing of good cause waiving or modifying such limitations:

(1) **Interrogatories:** No party shall serve upon any other party more than fifteen (15) interrogatories, in which sub-parts of interrogatories shall count as separate interrogatories.

(2) **Requests for Admission:** No party shall serve upon any other party more than fifteen (15) requests for admissions.

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Related Authority:

Bankruptcy Rules 7005, 7026, 7033, 7036, 9014

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Advisory Committee Notes:

Subdivisions (a) and (b) are designed to eliminate the filing burden upon the Court in the majority of cases where discovery is never utilized prior to or at trial or prior to disposition of the case, as well as eliminate any potential



problems caused by the nature or admissibility of the material included in the discovery requests or responses. This is consistent with District Court practice. See Local Rule 2-117.

The provision of the Rule set forth in subdivision (c) is meant to control abuses of discovery processes in regard to motion practice under the provisions of Rule 9014 regarding "contested matters" while still preserving availability and usefulness of discovery in proper circumstances. If appropriate, and in what are believed to be extraordinary circumstances, the Court may modify the limitations. A similar limitation is not imposed in adversary proceedings, though the Advisory Committee considered adoption of the limitations of the Idaho Rules of Civil Procedure. A responding party may still, however, seek protection of the Court in regard to burdensome or oppressive discovery. See, e.g., Federal Rule of Civil Procedure 26(b)(1) and 26(c) and Bankruptcy Rule 7026.

## LOCAL BANKRUPTCY RULE 705

### COSTS

(a) **Filing of Cost Bill.** Within ten (10) days after notice of entry of judgment in an adversary proceeding, under which costs may be claimed, the prevailing party may serve and file a cost bill requesting taxation of costs itemized thereon. Said party shall also submit extra copies on which the Clerk shall endorse his action and which he shall mail to all parties when costs have been taxed. The cost bill shall itemize the costs claimed and be supported by a certificate of counsel that the costs are correctly stated, were necessarily incurred, and are allowable by law.

(b) **Objections to Cost Bill.** Within ten (10) days after service by any party of its cost bill, any other party may serve and file specific objections to any items setting forth the grounds therefor.

(c) **Taxing of Costs.** Not less than fifteen (15) days after receipt of a party's cost bill, the Clerk, after consideration of any objections thereto, shall tax costs and shall serve copies of the cost bill upon all parties of record. The cost bill shall reflect his action as to each item contained therein.

(d) **Review of Cost Bill.** A review of the decision of the Clerk in the taxation of costs may be taken to the Court on a motion to retax by any party, upon written notice thereof, served and filed with the Clerk within ten (10) days after the costs have been taxed in the Clerk's office, but not afterwards. The motion to retax shall particularly specify the ruling of the Clerk excepted to, and no others will be considered at the hearing. The motion will be heard upon the same papers and evidence used before the Clerk and upon such memorandum of points and authorities as the Court may require.

(e) **Rules for Taxing Costs.** Costs shall be taxed in conformity with the provisions of 28 U.S.C. §§ 1920-1923 and such other provisions of law as may be applicable and such directives as the Court may from time to time issue.

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**Related Authority:**

**28 U.S.C. §§ 1920-1923  
Bankruptcy Rule 7054(b)  
Federal Rule of Civil Procedure 54(d)**

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**Advisory Committee Notes:**

Subdivisions (a), (b), (c), (d) and (e) of this Rule are substantially identical to (respectively) Local Rules 2-143, 2-144, 2-145, 2-148, and 2-149 of the District Court for the District of Idaho.