

2023 Proposed Amendments to the Local Bankruptcy Rules for the District of South Dakota

Rule 1002-1. Petition.

...

- (b) **Other names used.** In the answer to question [42](#) of the petition, an individual debtor shall include married and maiden names and any assumed, trade names and doing the business as names. ~~and any~~ In the answer to question 4 of the petition, an individual debtor shall include any Employer Identification Number for a business the debtor presently operates as a sole proprietorship or previously operated as a sole proprietorship within eight years before filing the petition. In the answer to question 12 of the petition, an individual debtor shall include the business name and location only of a sole proprietorship the debtor presently operates. Any sole proprietorship listed in a debtor's answer to question 12 should also be listed in the debtor's answer to question [42](#).

Rule 9004-1. General Requirements for Documents Submitted for Filing.

(a) General requirements for all documents submitted for filing.

- (1) ~~Conventional (paper) Format.~~ Each document, excluding exhibits attached to a document and official forms, ~~filed conventionally (by paper)~~ shall be on white, 8½" x 11" paper and have margins of not less than one inch. ~~All~~ Each documents shall be typewritten using one simple font and shall be without erasures, excessive corrections ~~fluid~~, or other marks materially defacing ~~them~~ it. ~~The~~ Each document shall ~~contain an original signature~~ be signed and dated in compliance with paragraph (5) below.
- (2) Documents filed electronically. Except as modified by paragraph (5) below, ~~a~~Any document filed electronically by an attorney or a limited filing user shall conform to the Court's Electronic Case Filing Administrative Procedures.

(3) ~~Captioned and signed~~. Each document, excluding exhibits attached to a document and official forms, shall include an appropriate caption as prescribed by Bankr. D.S.D. R. 9004-2 ~~and shall be signed and dated. If the document is signed by an attorney, the attorney's mailing address, telephone number, and e-mail address shall be included in the attorney's signature block.~~

(4) Orientation. The page orientation of each document shall be "portrait," not "landscape," except for exhibits and attachments better viewed in "landscape."

(5) Signature and date. Each document, excluding exhibits attached to a document, shall have affixed to it the signature(s) required by the Federal Rules of Bankruptcy Procedure and these local rules and the date each signature was made.

- (A) A signature by the filing attorney or the limited filing user shall conform to part V of the Court's Electronic Case Filing Administrative Procedures.
- (B) A signature by any party who is not the filing attorney or the limited filing user shall be either:
 - (i) an original "wet ink" signature; or
 - (ii) if the document will be electronically filed by an attorney or a limited filing user, a digital signature produced by an acceptable software program, including DocuSign, Adobe Sign, or SignEasy, that creates a secure electronic signature that uniquely identifies the signer and the date of the signature, ensures the authenticity of the signature, and ensures the signed document has not been altered or repudiated. The Clerk from time to time shall determine which digital signature software programs are acceptable to the Court and give notice thereof to the bankruptcy bar for the District of South Dakota.

(C) Use of the CM/ECF login and password of an attorney or a limited filing user to file any document that contains one or more signatures in addition to the filing attorney's or the limited filing user's signature or that requires verification pursuant to Fed.R.Bankr.P. 1008 or an unsworn declaration pursuant to 28 U.S.C. § 1746, including a petition, list, schedule, statement, or an amendment thereof, constitutes the filing attorney's or the limited filing user's representation that prior to filing the document electronically the filing attorney or the limited filing user obtained all necessary signatures, each signature in compliance with this rule, on an original hard copy document and at the time of the electronic filing the filing attorney or the limited filing user has possession of the signed original document containing each complying signature. The filing attorney or the limited filing user shall electronically file either:

- (i) a copy of the document indicating the filer's signature, any original signature, and any digital signature on the electronically filed document with "/s/signer's name" in the appropriate signature space (see sample at Appendix 9K); or
- (ii) an imaged (scanned) copy of the original document containing all the required signatures (see sample at Appendix 9L).

Appendix 9K. Signatures Complying with Bankr. D.S.D. R. 9004-1(a)(5)(C)(i)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA

In re:)
) Bankr. No. 23-90000
) Chapter 7
JANE ANNE ANONYMOUS)
)
fdba Jane's Flower Shop)
)
SSN/ITIN xxx-xx-0000)
)
)
Debtor.)

Dated: April 17, 2023.

/s/ Joseph J. Carson
Joseph J. Carson, Esq.
Attorney for Trustee Smith
101 E. Legal Lane
Justice, SD 57000-0000
tele: (605) 555-5555
e-mail: *jjclaw@legalline.net*

Dated: April 17, 2023.

/s/ Samuel S. Smith
Trustee Samuel S. Smith

Dated: April 18, 2023.

/s/ Milton Moore Work
Milton Moore Work, Esq.
Attorney for Debtor
1511 N. Courthouse Blvd.
Justice, SD 57000-0000
tele: (605) 555-5551
e-mail: *mmwlaw@gwtc.net*

Dated: April 19, 2023.

/s/ Jane Anne Anonymous
Jane Anne Anonymous, Debtor

Appendix 9L. Signatures Complying with Bankr. D.S.D. R. 9004-1(a)(5)(C)(ii)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA

In re:) Bankr. No. 23-90000
) Chapter 7
JANE ANNE ANONYMOUS)
fdbA Jane's Flower Shop)
SSN/ITIN xxx-xx-0000)
)
Debtor.)

Dated: April 17, 2023.

/s/ Joseph J. Carson
Joseph J. Carson, Esq.
Attorney for Trustee Smith
101 E. Legal Lane
Justice, SD 57000-0000
tele: (605) 555-5555
e-mail: jjclaw@legalline.net

Dated: April 17, 2023.

[handwritten signature]
Trustee Samuel S. Smith

Dated: April 18, 2023.

[handwritten signature]
Milton Moore Work, Esq.
Attorney for Debtor
1511 N. Courthouse Blvd.
Justice, SD 57000-0000
tele: (605) 555-5551
e-mail: mmwlaw@gwtc.net

Dated: April 19, 2023.

[handwritten signature]
Jane Anne Anonymous, Debtor

Rule 9014-1. Objection or Other Response in Contested Matter.

...

(c) Documents or actions attendant to a response. In a case under any chapter, if a response to a motion or to an objection to exemptions indicates the debtor will amend a schedule to resolve the contested matter in whole or in part, the debtor shall timely file ~~and, if required, give notice of~~ the amendment ~~at the same time the response is filed~~. An amendment to a schedule alone does not constitute a response. In a chapter 12 or chapter 13 case, if a response to a motion indicates the debtor will file a modified plan or a motion to modify a confirmed plan to resolve the contested matter in whole or in part, the debtor shall timely file ~~and give notice of~~ the modified plan or the motion to modify a confirmed plan ~~at the same time the response is filed~~. A modified plan or a motion to modify a confirmed plan alone does not constitute a response.

REFERENCES: Fed.Rs.Civ.P. 8 and 10; Fed.Rs.Bankr.P. 9006, 9007, and 9014.

Rule 9022-1. Notice of Judgments and Orders.

(a) All signed decisions, judgments, and orders will be filed on the docket. "Text only" orders may also be filed on the docket without a signature or an attached document.

(b) The electronic filing of decisions, judgments, and orders constitutes entry on the docket kept by the Clerk under Fed.Rs.Bankr.P. 5003 and 9021 and the notice of the entry required by Fed.R.Bankr.P. 9022(a).

Rule 9074-1. Telephonic Hearings or Conferences.

(a) Telephonic hearings or conferences set by order or notice. When an order or a notice sets a hearing or conference ~~on a contested matter or a plan or sets a pre-trial conference in an adversary proceeding~~ and specifically states the hearing or conference will be conducted by telephone, the order or notice will also give instructions for participating in the telephonic hearing or conference ~~the Court will initiate the call to the following parties or their attorney: the movant, the plan proponent, each plaintiff, each party filing an objection or other response regarding~~

~~the contested matter or the plan or each defendant who has filed an answer, and the case trustee, if the case trustee is a party to the action. Other parties may request to appear by contacting the Courtroom Deputy Clerk at least one business day before the scheduled hearing or conference. If the number of parties participating in a telephonic hearing or conference will exceed the number of parties the Court's telephone system will support, the Courtroom Deputy Clerk will advise the participants and provide each with a telephone number to use to join a conference call shortly before the scheduled time for the hearing or conference.~~

(b) Receipt of evidence at telephonic hearing. Witnesses may not testify at a telephonic hearing, ~~regardless of any agreement among the parties.~~ Exhibits will not be received at a telephonic hearing, unless prior to the hearing the parties ~~in interest~~ advise the Court they have stipulated certain exhibits may be admitted into evidence.