

Summary of the Notable 2020 Proposed Amendments to the Local Bankruptcy Rules and Appendices

I. Rule 2002-1A. Changing how we reduce notice on a motion, application, or plan.

Under the proposed new procedure, Judge Nail will still either grant or deny a motion to reduce notice, but instead of the movant or plan proponent serving the order reducing notice if the motion is granted, the movant or plan proponent will prepare the usual notice that goes with the underlying motion, application, or plan, put the reduced last date for objections in the notice, and then add a sentence to the notice stating the notice period has been reduced. The order reducing notice itself will not be served by the movant, just the notice. The various notices in Bankr. D.S.D. R. 2002-1 and Appendices 2A, 2B, 2D, 2F, and 2G each contain particularized information, as well as instructions on how to file an objection, etc. This information was lost under the old procedure for reducing notice where just the order reducing notice was served.

II. Rule 3011-1. Establishing a local procedure for seeking unclaimed funds.

Getting unclaimed funds into the hands of the rightful owner has been a recent nationwide push by the federal courts. Each district was urged to adopt a local procedure that promotes uniformity among all districts.

III. Rules 3022-1, 3072-1A, and 3072-1B and Appendices 3F and 3G. Obtaining a discharge in a chapter 11, 12, or 13 case.

Three rules and two appendices were revised to make the process for a chapter 11, chapter 12, or chapter 13 debtor to obtain a discharge as uniform as possible and to incorporate changes necessitated by the Small Business Reorganization Act of 2019 ("SBRA"). There will be just two certification and request for discharge forms going forward: Appendix 3F for individuals and Appendix 3G for businesses.

IV. Appendix 1A. Two new checklists for SBRA cases.

Two filing checklists reflecting SBRA have been created, one for an individual who files chapter 11 under the new subpart V and one for a business that files chapter 11 under the new subpart V.

Winter 2020 Proposed Amendments to the Local Bankruptcy Rules and Appendices for the District of South Dakota

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

These local rules and appendices govern procedures for bankruptcy cases and ~~related~~ adversary proceedings filed in the District of South Dakota under Title 11 of the United States Code. They are effective ~~December 1, 2017~~ February 19, 2020. They shall be cited using "Bankr. D.S.D. R.," e.g., Bankr. D.S.D. R. 4001-1(b).

Purpose of amendment: Technical corrections.

Rule 1007-1. Lists (other than mailing list of creditors), Schedules, Statements, and Payment Advices; Extension of Time to File.

(a) Form.

(1) Lists (other than mailing list of creditors), schedules, and statements. All lists (other than the mailing list of creditors), schedules, and statements shall conform to the Official Forms and be typewritten. A creditor shall be listed at the creditor's own address and shall not be listed only in care of its attorney at the attorney's address.

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(g) **Chapter 11 small business debtor statement.** A small business chapter 11 debtor shall file ~~the~~ statement regarding certain business records using the form at Appendix 1D, and attach thereto, when applicable, the business records required by 11 U.S.C. § 1116(1)(A).

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Purpose of amendment: To consistently use the term "mailing list of creditors" throughout the local rules. Technical correction.

Rule 1007-2. Mailing List of Creditors. A debtor not represented by an attorney shall file, with ~~his~~the petition, a mailing list of creditors that includes the full name and the full mailing address for each creditor and any other party in interest ~~that has been or will be listed on the debtor's schedules D, E/F, G, and H,~~ excluding the debtor, any case trustee, and the United States Trustee. The mailing list of creditors shall strictly conform to the guidelines, the sample mailing list, and the "Trouble Sheet" at Appendix 1F. If a debtor not represented by an attorney has more than ten creditors, the debtor shall also submit the mailing list of creditors electronically, as may be directed by the Bankruptcy Clerk.

Purpose of amendment: To consistently use the term "mailing list of creditors" throughout the local rules. Technical corrections.

Rule 1009-2. Amendment of a List (other than a mailing list of creditors), Schedule, or Statement (other than a Statement About Your Social Security Numbers).

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Practice Pointers:

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A debtor does not need to amend both the mailing list of creditors and a schedule. If a creditor was omitted from a schedule or if the claim information on a schedule for a particular creditor is incorrect, the debtor should file an amended schedule and the Clerk will update the ~~case~~-mailing list of creditors, if necessary. If the creditor and the creditor's claim were correctly included on the appropriate schedule but the creditor's name or address was missing from the mailing list of creditors or if the address was listed incorrectly on the mailing list of creditors, the debtor should amend only the mailing list of creditors.

Purpose of amendment: To consistently use the term "mailing list of creditors" throughout the local rules.

Rule 1009-4. Amendment of a Mailing List of Creditors.

(a) ~~Required document.~~By a debtor. If a debtor needs to correct the mailing list of creditors that was either electronically uploaded when the case was commenced or filed pursuant to Bankr. D.S.D. R. 1007-2, the debtor shall file a combined amendment and notice of amendment that conforms to Appendix 1J. The amendment shall specifically state each change being made.

(b) ~~Service.~~—The debtor shall serve the combined amendment and notice of amendment on parties in interest not electronically served.

(b) By a creditor or other party in interest. A creditor or other party in interest shall correct its name or address on the mailing list of creditors by filing a signed and dated notice that conforms to Appendix 1N.

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Practice Pointers: A debtor does not need to amend both the mailing list of creditors and a schedule. If a creditor was omitted from a schedule or if the claim information on a schedule for a particular creditor is incorrect, the debtor should file an amended schedule and the Clerk will update the ~~case~~-mailing list of creditors, if necessary. If the creditor and the creditor's claim were correctly included on the appropriate schedule but the creditor's name or address was missing from the mailing list of creditors or if the address was listed incorrectly on the mailing list of creditors, the debtor should amend only the mailing list of creditors.

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Purpose of amendment: To formalize a way for a creditor or other party in interest to advise the Bankruptcy Clerk when its name or address is incorrect on the mailing list of creditors or when the party changes its address. To consistently use the term "mailing list of creditors" throughout the local rules. Suggested by Bankruptcy Clerk and Chambers.

Rule 1016-2. Waiver of Pre-petition Credit Counseling or Post-petition Financial Management Course. A motion under 11 U.S.C. § 109(h)(4) seeking a waiver of the pre-petition credit counseling required by 11 U.S.C. §§ 109(h)(1) and 521(b), the post-petition financial management course required by 11 U.S.C. § 727(a)(11), § 1141(d)(3)(C), or § 1328(g)(1), or both shall substantially conform to Appendix 1O, be signed by the debtor's attorney, and be served with a notice of motion on parties in interest not electronically served. The notice shall conform to Bankr. D.S.D. R. 2002-1(a) and Appendix 2A and shall set forth a last date (month, day, year) for filing an objection or other response that is seven days after service of the motion and notice of motion.

REFERENCES: 11 U.S.C. §§ 109(h), 521(b), 727(a)(11), 1141(d)(3)(C), and 1328(g)(1); Fed.R.Bankr.P. 1007(c).

Practice Pointers:

When a waiver of the pre-petition credit counseling is sought, the motion should be filed the same day the petition is filed. Unless the debtor's disability is temporary, the motion should seek the waiver of both the credit counseling and the financial management course. If the death or disability of a debtor occurs after the petition date but before the debtor has completed the financial management course, the debtor's attorney should promptly file a motion for a waiver of the financial management course.

A guardian or a person holding a power of attorney may not complete either the pre-petition credit counseling or the post-petition financial management course for a debtor.

If any party is served by mail or under the provisions of Fed.R.Civ.P. 5(b)(2)(D) [leave with clerk] or (F) [other means consented to], the notice period stated above shall be increased three days pursuant to Fed.R.Bankr.P. 9006(f).

Purpose of new rule: To formalize a motion for waiver and to clarify, in the Practice Pointers, that another person may not complete the credit counseling or the financial management course for a debtor. Suggested by Chambers.

Rule 1019-1. Required Documents upon Conversion of Case from Chapter 13 to Chapter 7.

(a) Financial status documents. A debtor whose case is converted from chapter 13 to chapter 7 shall, on or before the ~~21st~~14th day after . . . , file. . . :

(1) a Chapter 7 Statement of Your Current Monthly Income (Official Form 122A-1 ~~and, if appropriate, Official Forms 122A-1Supp or 122A-2~~) that:

~~(A) sets forth the debtor's financial circumstances as of the petition date;~~
~~and~~

~~(B) has attached to it a Schedule I (Official Form 106I) and a Schedule J (Official Form 106J) that set forth the debtor's financial circumstances as of the conversion date and that are each identified as supplemental by checking the box in the upper right corner of the first page and inserting the date the case was converted;~~

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(4) a schedule of either unpaid debts incurred after the filing of the petition and before conversion of the case, as set forth in Fed.R.Bankr.P. 1019(5)(B)(i), or if a plan was confirmed, unpaid debts incurred after confirmation but before conversion, as set forth in Fed.R.Bankr.P. 1019(5)(C)(ii). If more than five creditors are listed in this schedule, the debtor, regardless of whether the debtor is represented by counsel, shall attach to the schedule a mailing list of ~~the~~ creditors that conforms to Appendix 1F of these local rules; ~~and~~

(5) if the case was converted after confirmation of a plan,

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(B) . . . ; and

(6) a supplement schedule I and a supplement schedule J that comply with Bankr. D.S.D. R. 1009-5 and set forth the debtor's financial circumstances as of the conversion date.

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Purpose of amendment: To conform to Fed.R.Bankr.P. 1019(a)(1) and Bankr. D.S.D. R. 1009-5. Suggested by Bankruptcy Clerk.

Rule 2002-1. Notices: General and Particular.

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(f) Determining the last date to file an objection or other response included in a notice.

(1) The last date for filing and serving an objection or other response set forth in a notice shall be the date on which the required notice period prescribed by the Code, applicable Federal Rule of Bankruptcy Procedure, local rule, or order

expires, plus an additional three days as provided by Fed.R.Bankr.P. 9006(f) if any party is served by mail ~~or electronically~~. The last date shall also not be

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Purpose of amendment: To conform to Fed.R.Bankr.P. 9006(f). Suggested by Bankruptcy Clerk.

Rule 2002-1A. Reduced (shortened) Notice.

(a) Motion. A motion to reduce any notice period required by the Code, the Federal Rules of Bankruptcy Procedure, these local rules, or an order shall be filed with the motion, application, plan, or other request for relief for which reduced notice is sought. The motion shall conform to [Appendix 2H](#), shall specify the desired date (month, day, year) by which an objection or other response to the underlying motion, application, plan, or other request for relief must be filed with the Court and served, and shall state the cause for such relief. [The movant shall serve the motion on parties in interest not electronically served.](#)

(b) Order ~~constitutes the~~ notice. If a motion for reduced notice is granted, the order ~~reducing notice shall constitute the notice of the underlying motion, application, plan, or other request for relief. The movant or applicant shall not prepare, file, or serve a separate notice.~~ will set forth the last date for filing an objection that shall be included in the notice of the underlying motion, application, plan, or other request for relief. The notice shall also include the following sentence after the last date for filing an objection: "The notice period provided herein has been reduced pursuant to an order entered [insert date of the order reducing notice]."

(c) Service. Upon entry of an order [granting a motion to reduce notice](#), the movant ~~or applicant~~ shall [file the notice that complies with \(b\) above](#), serve the ~~order reducing notice and the~~ underlying motion, application, plan, or other request for relief [and the notice](#) on the parties and within the time directed by the Court in the [order](#), and file a certificate of service.

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Practice Pointers:

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Until the Court either grants or denies the motion for reduced notice, the movant should only file the underlying motion, application, plan, or other request for relief, the motion for reduced notice, and a certificate of service regarding the motion for reduced notice. ~~The movant should not prepare and file a notice or a certificate of service and should not file or serve any documents other than those specified in the rule until the Court rules on the motion for reduced notice.~~ If the motion for reduced notice is granted, the movant will ~~serve the order reducing notice in lieu of then~~ file a notice that includes the last date for filing objections specified in the order reducing notice and a reference to the order reducing notice and then serve the notice and the underlying motion, application, plan, or other request for relief. If the motion for reduced notice is denied, the Court's order will direct the movant to prepare, file, and

serve a regular notice regarding the movant's underlying motion, application, plan, or other request for relief.

The movant should anticipate serving any ~~order reducing~~ notice **with a reduced notice period** on the *same day* the motion for reduced notice is filed with the Court. Accordingly, the earlier in the day the motion for reduced notice is filed, the better.

Purpose of amendment: The Federal Rules of Bankruptcy Procedure and the local bankruptcy rules require certain notices to contain specific information, e.g., a notice of a fee application states the amount of fees sought. The notices established by our local rules also inform parties in interest how and where to file an objection. When a motion for reduced notice is granted, that important information is retained and better disseminated if a notice with the reduced notice period is served rather than an order reducing notice that just contains a last date for objections. Also, to clarify a gray area regarding service of a motion to reduce notice. Suggested by Chambers.

Rule 2002-1B. Limited Notice.

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(b) Motion to limit notice. A motion to limit the parties to be served with a notice required by the Code, the Federal Rules of Bankruptcy Procedure, these local rules, or an order shall be filed with the underlying motion, application, plan, or other request for relief for which limited notice is sought. The motion shall conform to Appendix 2I, shall specify the parties to whom notice is to be limited, and shall state the cause for such relief. **The movant shall serve the motion on parties in interest not electronically served.**

Purpose of amendment: To clarify a gray area regarding service of a motion to limit notice. Suggested by Chambers.

Rule 2002-4. Returned Mail or Undeliverable Mail.

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(b) Amendment of mailing list of creditors. If any party, including the debtor, files a certificate of service under paragraph (a) above, the Clerk shall amend the ~~case~~-mailing list **of creditors** to reflect the correct address.

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Purpose of amendment: To consistently use the term "mailing list of creditors" throughout the local rules.

Rule 2014-1. Employment of Estate Professionals.

(a) Application: content and service. An application to employ an estate professional under Fed.R.Bankr.P. 2014(a) shall be signed by the trustee, debtor in possession, or committee chairperson and any attorney for the trustee, debtor in possession, or

committee and, in addition to the particular information and the supporting ~~affidavit of-verified statement by~~ the professional to be employed required by Fed.R.Bankr.P. 2014(a), shall set forth the particular subsection or subsections of 11 U.S.C. § 327 under which authority for the employment is sought. If the proposed fee agreement with the professional to be employed includes the reimbursement of expenses, the application ~~should~~shall identify any unusual expenses anticipated and estimate the cost. ~~If an effective date of employment other than the date the application is filed is sought, the application shall set forth the specific effective date of employment sought and the cause therefor.~~~~The application shall be served on parties in interest not electronically served.~~ No service of the application is required other than the electronic service on the United States Trustee made by the Clerk.

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Purpose of amendment: To ensure all necessary information is included in the application and to conform to Fed.R.Bankr.P. 2014(a). Suggested by Bankruptcy Clerk and Chambers.

Rule 2015-3. Reports Filed with the United States Trustee. Unless otherwise ordered, financial, inventory, or other reports required by Fed.Rs.Bankr.P. 2015(a)(1), (a)(3), ~~(a)(5), (a)(6)~~, (b), (c)(1), or (e); 2015.1; or 2015.3 shall be submitted *only* to the United States Trustee, and shall be deemed filed with the Court when received by the United States Trustee.

REFERENCES: 11 U.S.C. §§ 704(a)(8), 1106(a)(1), 1107(a), and 1116; Fed.Rs.Bankr.P. ~~2002(k)~~, 2015, 2015.1, and 2015.3.

Purpose of amendment: To ensure compliance with the code. Federal Rule of Bankruptcy Procedure 2015(a)(5) deals with quarterly reports in a chapter 11 case, while Fed.R.Bankr.P. 2015(a)(6) deals with a small business chapter 11 debtor's obligation to file a report pursuant to 11 U.S.C. § 308. Suggested by Acting United States Trustee James Snyder.

Rule 2016-2. Fees for Estate Professionals.

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(a) Fee application: required content and service. An application by a professional employed by the estate for payment of fees (compensation for services, applicable sales tax, and reimbursement of expenses, including any Clerk's fees) from the estate shall contain the information required by Fed.R.Bankr.P. 2016(a), shall identify the applicable sales tax rate, and shall conform to Appendix 20. ~~If a~~An attorney for a trustee or a debtor in possession may electronically files a fee application on behalf of an ~~other~~ estate professional, ~~other than another attorney~~, but the ~~application and the itemization of services rendered and expenses to be reimbursed~~ shall be signed and dated by the estate professional ~~and attached to the application~~. The application shall be served on parties in interest not electronically served. If the application seeks compensation for services and reimbursement of expenses, excluding sales tax, of more than \$1,000.00, a notice of the application shall be served on all creditors and

other parties in interest not electronically served. The notice shall conform to Bankr. D.S.D. R. 2002-1(e) and [Appendix 2G](#).

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(c) Proposed order awarding fees. The applicant shall submit, to proposed_orders@sdb.uscourts.gov, a proposed order awarding fees from the estate that conforms to Bankr. D.S.D. R. 9072-1(a) and (b)(1) and the sample at [Appendix 2P](#).

Purpose of amendment: To clarify when and how a trustee or an attorney for a DIP may file a fee application for other estate professionals. To restore and update paragraph c, which was erroneously omitted from the last round of local rules. Suggested by Chambers.

Rule 2091-1. Withdrawal or Substitution of Attorney.

(a) Withdrawal as attorney for a debtor or a trustee with substitution of new attorney.
If a debtor or a trustee has retained a new attorney:

(1) the debtor or trustee shall sign a motion to substitute attorney and the debtor's or the trustee's new attorney shall file the motion ~~and shall submit, pursuant to Bankr. D.S.D. R. 9072-1(a), a proposed order granting the motion that conforms to Appendix 2Q.~~ The motion to substitute attorney shall be served on parties in interest not electronically served. A notice of the motion is not required. [The new attorney shall file a disclosure of compensation pursuant to 11 U.S.C. § 329\(a\), Fed.R.Bankr.P. 2016\(b\), and Bankr. D.S.D. R. 2016-1\(a\) and serve a copy of the disclosure of compensation on the debtor, if not electronically served.](#) If the proposed substitution ~~is for~~ ~~of~~ an attorney for a debtor ~~or a trustee is~~ in a chapter 11 or chapter 12 case ~~or for a trustee~~, the debtor or trustee shall simultaneously file and give notice of an application to employ the new attorney pursuant to 11 U.S.C. § 327, Fed.R.Bankr.P. 2014(a), and Bankr. D.S.D. R. 2014-1, and the new attorney shall file ~~an affidavit verified statement~~ as the professional to be employed pursuant to Fed.R.Bankr.P. 2014(a) ~~and a disclosure of compensation pursuant to 11 U.S.C. § 329(a), Fed.R.Bankr.P. 2016(b), and Bankr. D.S.D. R. 2016-1(a), and shall serve a copy of the disclosure of compensation on the debtor, if not electronically served;~~

(2) the debtor's or the trustee's former attorney shall:

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(B) in a chapter 11, 12, or 13 case, file an application and, [if the fees sought, excluding sales tax, exceed \\$1,000.00](#), a notice under Fed.R.Bankr.P. 2016(a) and Bankr. D.S.D. Rs. 2002-1(e) and 2016-2 for fees incurred in connection with the case that have not yet been awarded and serve the application and [any](#) notice in compliance with Fed.R.Bankr.P. 2016(a) and Bankr. D.S.D. R. 2016-2.

(b) Withdrawal as attorney for a debtor or a trustee *without* substitution of new attorney. If an attorney wishes to withdraw as the attorney for a debtor or a trustee and the debtor or the trustee has not retained a substitute attorney, the withdrawing attorney shall:

(4)

(B) in a chapter 11, 12, or 13 case, file an application and, **if the fees sought, excluding sales tax, exceed \$1,000.00, a** notice under Fed.R.Bankr.P. 2016(a) and Bankr. D.S.D. Rs. 2002-1(e) and 2016-2 for fees incurred in connection with the case that have not yet been awarded and serve the application and **any** notice in compliance with Fed.R.Bankr.P. 2016(a) and Bankr. D.S.D. R. 2016-2.

REFERENCES: 11 U.S.C. §§ 327 and 329(a); Fed.Rs.Bankr.P. 2002(g)(1), 2014(a), and 2016; S.D.C.L. § 16-18-31 and Rule 1.16(b), (c), and (d) of the South Dakota Rules of Professional Conduct (Appendix to S.D.C.L. ch. 16-18).

Purpose of amendments: To clarify a new attorney for a debtor has to file a disclosure of compensation, regardless of the chapter of the case. Suggested by Pat Dougherty. To clarify, pursuant to Fed.R.Bankr.P. 2002(a)(6), a notice of a fee application is not required when the fees sought do not exceed \$1,000.00, excluding sales tax. Suggested by Brian Utzman. To include in the references applicable provisions from the state code and the South Dakota Rules of Professional Conduct. Suggested by Chambers.

Rule 3003-1. Chapter 11 Deadline to File Proof of Claim or Interest. Unless otherwise ordered, in a chapter 11 case the last day to timely file a proof of claim or interest shall be **60**30 days after the date first set for the meeting of creditors under 11 U.S.C. § 341(a). The Clerk shall give notice of this deadline in the Clerk's Notice of Chapter 11 Bankruptcy Case, ~~Meeting of Creditors & Deadlines~~.

Purpose of amendment: To reflect the 90 days from the petition date that a Sub V chapter 11 debtor has to file a plan under the Small Business Reorganization Act of 2019 ("SBRA"), which will become effective February 19, 2020. Suggested by Chambers. Technical correction. Suggested by Bankruptcy Clerk.

Rule 3011-1. Payment of Unclaimed Funds.

(a) Definitions. For the purpose of this local rule and Appendix 3H only, the following definitions apply:

(1) "applicant" means the individual or the entity filing the application;

- (2) "claimant" means the individual or the entity entitled to the unclaimed funds, including a successor claimant as the result of an assignment, purchase, merger, acquisition, or other formal means of transfer from the "owner of record." The "applicant" and the "claimant" may be the same person or entity;
- (3) "owner of record" means the original payee entitled to the unclaimed funds, as appears in the bankruptcy case file, including the claims register;
- (4) "unclaimed funds" means money deposited with the Court pursuant to 11 U.S.C. § 347(a) and Fed.R.Bankr.P. 3011 for an individual or an entity who is entitled to the money but has failed to claim ownership of it; and
- (5) "United States person" means an individual who is a United States citizen or United States resident alien; a partnership, corporation, company, or association created or organized in the United States or under the laws of the United States; an estate, other than a foreign estate; or a domestic trust as defined in 26 C.F.R. § 301.7701-7.

(b) Application. An applicant shall fully complete, sign, date, and file an application for payment of unclaimed funds that substantially conforms to Appendix 3H of these local rules or Director's Form 1340.

(c) Supporting documents. The applicant shall provide supporting documents establishing the claimant's entitlement to the funds. Any personal identifying information, such as a Social Security number, a date of birth, or a full account number, must be redacted from the supporting documents before they are filed. The applicant may provide the supporting documents by referencing a specific proof of claim that contains the supporting documents or by filing the supporting documents, as described below based on the classification of the claimant, as an attachment to the application:

- (1) Individual. Documents establishing the individual's entitlement to the funds, including, if the individual is a successor claimant, documents establishing the transfer of the claim from the owner of record to the individual.
- (2) Business entity. Documents establishing the business entity's entitlement to the funds, including, if the business entity is a successor claimant, documents establishing the transfer of the claim from the owner of record to the business entity.

(3) Decedent's estate:

(A) Documents establishing the decedent's identity and entitlement to the funds, including, if the decedent is a successor claimant, documents establishing the transfer of the claim from the owner of record to the decedent; and

(B) A certified copy of the document establishing the decedent's administrator's, executor's, or representative's right to act on behalf of the decedent.

(4) Claimant's representative, including an attorney, a funds locator service, or other agent:

(A) A notarized power of attorney signed by the claimant on whose behalf the agent or the funds locator service is acting; and

(B) Documents establishing the claimant's entitlement to the funds, including, if the claimant is a successor claimant, documents establishing the transfer of the claim from the owner of record to the claimant.

(d) Required identifying information. The applicant shall provide the required identifying information described below. The Clerk or an attorney electronically filing the required identifying information shall use the CM/ECF event "Unclaimed Funds Identifying Information" found under "Bankruptcy-Other," so the identifying information is not viewable on the public docket.

(1) For a claimant who is a United States person, as defined in subparagraph (a)(5) above, a completed Vendor Information/TIN Certification (AO Form 213) or an Internal Revenue Service W-9 form or, for a foreign claimant, a completed Request to Determine Foreign Vendor Tax Payments (AO Form 215) and an Internal Revenue Service W-8 form; and

(2) For each claimant, agent for a claimant, or applicant who is an individual, a copy of a current government-issued identification that includes a photograph and a current address, such as a driver's license or a passport.

(e) Service. The applicant shall serve the application, the supporting documents, and the required identifying information only on the United States Attorney for the District of South Dakota at Post Office Box 2638, Sioux Falls, SD 57101-2638.

(f) Notice. The Court will enter and serve on parties in interest an order that sets a last date for objections that is 24 days after service of the order. The order will constitute the notice of the application.

(g) Payment of funds. If an order is entered authorizing the payment of unclaimed

funds, the Clerk will pay the funds only after the order is final. Any payment of funds by the Clerk involving a claimant and a funds locator service shall be issued jointly payable to the claimant and the funds locator service.

REFERENCES: 11 U.S.C. § 347(a); 28 U.S.C. § 2042; Fed.R.Bankr.P. 3011.

Practice Pointers: Unclaimed funds may be located at <https://ucf.uscourts.gov>. Select "SDB - South Dakota" for the United States Bankruptcy Court for the District of South Dakota from the drop-down list and then enter the applicable search criteria. A link is also available on the Court's website, <https://www.sdb.uscourts.gov>.

The Internal Revenue Service forms may be located at <https://www.irs.gov>. The federal court's Administrative Office (AO) forms may be obtained from <https://www.uscourts.gov/services-forms>.

A business entity may, through an authorized agent, file an application for payment of unclaimed funds. The business entity is not required to utilize an attorney for this particular application. If an attorney files an application, however, it must be filed electronically.

A closed bankruptcy case does not need to be reopened for an application for payment of unclaimed funds to be filed.

The Court will prepare the order setting the objection deadline and the order granting or denying the application.

If the Court grants the application, the Clerk will not disburse the funds until the 14-day appeal time on the order has expired.

Unclaimed funds are subject to the Treasury Offset Program that is administered by the Bureau of the Fiscal Service's Debt Management Services. Under it, the bureau will collect delinquent debts owed to federal agencies and states in accordance with, for example, 26 U.S.C. § 6402(d) and 31 U.S.C. § 3720A.

Purpose of amendment: Memorialize the process for seeking and disbursing unclaimed funds, reflecting suggested nationwide procedures. Suggested by the Bankruptcy Clerk and the United States Courts' Administrative Office.

Rule 3016-1. Chapter 11 Plan Required Content. A proposed chapter 11 plan shall:

~~(1) if the debtor is a small business debtor, conform to Official Form B425A or Appendix 3A and, if a separate disclosure statement will not be filed, also incorporate relevant portions of paragraphs A through E from part II and paragraphs D, E, and G from part III of Official Form B425B;~~

~~(2) be entitled "[insert name of proponent]'S PLAN DATED [insert the date the proponent signs the plan]," e.g., "DEBTOR'S PLAN DATED DECEMBER 19, 2018";~~

(1) be entitled "[insert name of proponent]'S PLAN DATED [insert the date the proponent signs the plan]," e.g., "DEBTOR'S PLAN DATED DECEMBER 19, 2021";

(2) if the debtor is a small business debtor, conform to Official Form 425A or Appendix 3A, incorporate relevant portions of part II and paragraphs D, E, F, and G of part III of Official Form 425B, and if confirmation is sought under 11 U.S.C. § 1191, include the information required by 11 U.S.C. § 1190;

(3) if the debtor is an individual, set forth in ~~the opening~~ a separate paragraph the date of the last payment being made under the plan; and

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REFERENCES: 11 U.S.C. §§ 1122, 1123, 1190, and 1191; Fed.R.Bankr.P. 3016.

Purpose of amendment: Technical corrections and to incorporate and reflect SBRA. Suggested by Chambers.

Rule 3016-2. Disclosure Statement in a Small Business Chapter 11 Case. Pursuant to 11 U.S.C. § 1125(f)(1) or 11 U.S.C. §§ 1181(b) and 1187(c) and unless otherwise ordered, a ~~small business chapter 11 debtor's~~ plan filed in a small business chapter 11 case is ~~presumed~~ deemed to contain adequate information and the proponent of a plan in a small business chapter 11 ~~debtor case need~~ shall not prepare, file, and serve a disclosure statement with the plan.

Purpose of amendment: To recognize SBRA and to clarify a disclosure statement is not needed in a small business case, regardless of who files the plan. Suggested by Bankruptcy Clerk and Chambers.

Rule 3019-1. Chapter 11 Modification of a Plan Before Confirmation.

(a) Content and notice. A proposed chapter 11 plan that is modified before confirmation shall:

(1) be entitled "[insert name of proponent]'S MODIFIED PLAN DATED [insert the date the proponent signs the modified plan]," e.g., "DEBTOR'S MODIFIED PLAN DATED DECEMBER 16, 2025"; and

(2) comply with Bankr. D.S.D. R. 3016-1(2), (3), and (4).

(b) Service. The modified plan, the order setting the confirmation hearing on the modified plan, and, if directed by the Court, a disclosure statement that comports to the modified plan, shall be served by the proponent on parties in interest not electronically served, including, but not limited to, any creditor or other party in interest that may be adversely affected by the modification, any party who has filed an objection to a previously filed plan, and any party who has filed a notice of appearance.

(c) Effect of filing and serving a modified plan. If a proponent in good faith files a modified plan as provided by these rules, the previously filed plan by the same proponent and any objections to that previously filed plan shall be deemed moot and any confirmation hearing on the previously filed plan will be cancelled without further notice, unless otherwise ordered.

REFERENCES: 11 U.S.C. §§ 1122, 1123, 1127, 1190, and 1193(a); Fed.Rs.Bankr.P. 2002(b) and 3019(a).

Practice Pointers: Most often, a proponent will need to serve a modified plan on all creditors and other parties in interest not electronically served because the effect of the modification is difficult to ascertain or because the modification may affect the feasibility of the plan, which makes every creditor a party adversely affected by the modification.

Compare Bankr. D.S.D. R. 3019-2 (modification of a chapter 11 plan after confirmation).

Purpose of amendment: *To recognize SBRA and to establish a local procedure for filing a modified plan in a chapter 11 case. Suggested by Bankruptcy Clerk and Chambers.*

Rule 3019-2. Chapter 11 Modification of Plan After Confirmation ~~(Individual Debtors Only)~~.

(a) Content of motion. A motion to modify a confirmed chapter 11 plan ~~for a chapter 11 individual debtor~~ shall include:

REFERENCES: 11 U.S.C. § 1127 ~~(e)~~ or § 1193; Fed.Rs.Bankr.P. 2002(a)(5) and 3019(b).

Practice Pointers:

Compare Bankr. D.S.D. R. 3019-1 (modification of a chapter 11 plan before confirmation).

Purpose of amendment: *To recognize SBRA. Suggested by Chambers.*

Rule 3022-1. Chapter 11 Discharge and Entry of Final Decree.

(a) Entry of final decree in a case for a debtor that is not an individual and whose plan was confirmed under 11 U.S.C. § 1129 or for any debtor whose plan was confirmed under 11 U.S.C. § 1191(a). Unless the confirmed plan provides otherwise, ~~n~~Not later than 30 days after substantial consummation of a ~~confirmed chapter 11~~ plan confirmed under 11 U.S.C. § 1129 for a debtor that is not an individual or confirmed under 11 U.S.C. § 1191(a) for any debtor, the debtor or the trustee, if one has been appointed under 11 U.S.C. § 1104 or directed to perform the debtor in possession's duties under 11 U.S.C. § 1183(b)(5), shall file a motion for entry of a final decree. The motion shall be served on parties in interest not electronically served. A notice of the motion is not required.

~~(b) Discharge and entry of final decree in a case for a debtor who is an individual.—~~

~~(1) Debtor's certification. Not later than 45 days after completion of all plan payments, a chapter 11 debtor who is an individual shall file a Certification and Request for Discharge and Entry of Final Decree that strictly conforms to Appendix 3F. Joint debtors shall prepare and file separate Certifications and Requests for Discharge.—~~

Request for a discharge upon completion of plan payments by an individual debtor whose plan was confirmed under 11 U.S.C. § 1129(a) or (b) or upon completion of payments required during the plan term circumscribed by 11 U.S.C. § 1191(c)(2)(A) or (B) by any debtor whose plan was confirmed under 11 U.S.C. § 1191(b).

(1) Individual debtor's certification and request. Not later than 45 days after the completion of all plan payments for a plan confirmed under 11 U.S.C. § 1129(a) or (b) or the completion of all payments required during the plan term circumscribed by 11 U.S.C. § 1191(c)(2)(A) or (B) for a plan confirmed under 11 U.S.C. § 1191(b), an individual debtor shall file a Certification and Request for Discharge that strictly conforms to Appendix 3F. Joint debtors shall prepare and file separate Certifications and Requests for Discharge.

(2) Nonindividual (business) debtor's certification and request. Not later than 45 days after the completion of all payments during the plan term circumscribed by 11 U.S.C. § 1191(c)(2)(A) or (B) for a plan confirmed under 11 U.S.C. § 1191(b), a nonindividual (business) debtor shall file a Certification and Request for Discharge that strictly conforms to Appendix 3G.

~~(2)~~ **(3) Clerk's Notice of Certification and Request for Discharge.** Upon a debtor's timely compliance with subparagraph (1) or (2) above, the Clerk shall serve a Notice of Certification and Request for Discharge on all creditors and other parties in interest not electronically served. The Clerk's notice shall state any party wishing to object to the debtor's discharge shall file an objection or other response to the debtor's Certification and Request for Discharge before

a stated date not less than 24 days after the date the Clerk's notice was generated.

~~(3) Entry of discharge. The Court may enter an order of discharge if:-~~

~~(A) no party in interest timely files an objection or other response to the debtor's Certification and Request for Discharge; or~~

~~(B) any timely filed objection or other response to the debtor's Certification and Request for Discharge is overruled.~~

~~(4) Entry of final decree. The Court may enter a final decree after the discharge order is final and, if a trustee has been appointed in the case, the trustee has filed a final report and account.~~

(c) Request for a discharge before completion of plan payments (a "hardship" discharge) under 11 U.S.C. § 1141(d)(5)(B) by an individual debtor whose plan was confirmed under 11 U.S.C. § 1129(a) or (b). An individual debtor whose plan was confirmed under 11 U.S.C. § 1129(a) or (b) seeking a discharge of debts before completion of all plan payments shall:

(1) file and serve on all creditors and other parties in interest not electronically served a motion for hardship discharge that:

(A) describes the circumstances that render the debtor unable to complete payments under the plan;

(B) explains why modification of the confirmed plan is not practicable; and

(C) includes, as an attachment, a liquidation analysis showing the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the bankruptcy estate had been liquidated under chapter 7 on such date;

(2) file and serve on all creditors and other parties in interest not electronically served a notice of the motion for hardship discharge that conforms to Bankr. D.S.D. R. 2002-1(a) and Appendix 2A and sets forth a last date (month, day, year) for filing an objection or other response that is 14 days after service of the motion and notice of motion; and

(3) file a Certification and Request for Discharge that conforms to Appendix 3F but is modified to state all plan payments have not been completed. Joint debtors shall prepare and file separate Certifications and Requests for Discharge.

(d) Entry of a discharge for an individual debtor whose plan was confirmed under 11 U.S.C. § 1129(a) or (b) or for any debtor whose plan was confirmed under 11 U.S.C. § 1191(b). The Court may enter an order of discharge for an individual debtor whose plan was confirmed under 11 U.S.C. § 1129(a) or (b) or for any debtor whose plan was confirmed under 11 U.S.C. § 1191(b) if the debtor has complied with either paragraph (b) or (c) above and:

(1) no party in interest timely files an objection or other response to the debtor's Certification and Request for Discharge;

(2) any timely filed objection or other response to the debtor's Certification and Request for Discharge has been overruled;

(3) the debtor has timely cured any arrearage in plan payments, as ordered by the Court, following a hearing on an objection to the debtor's Certification and Request for Discharge; or

(4) an order granting a hardship discharge has been entered.

(e) Entry of a final decree in a case for an individual debtor whose plan was confirmed under 11 U.S.C. § 1129(a) or (b) or for any debtor whose plan was confirmed under 11 U.S.C. § 1191(b). Upon a motion filed by the debtor or the trustee, if one has been appointed under 11 U.S.C. § 1104 or directed to perform the debtor in possession's duties under 11 U.S.C. § 1183(b)(5), and served on parties in interest not electronically served, the Court may enter a final decree in a case for an individual debtor whose plan was confirmed under 11 U.S.C. § 1129(a) or (b) or for any debtor whose plan was confirmed under 11 U.S.C. § 1191(b) after the order of discharge is final, the United States Trustee has filed a statement of no objection to the motion, and, if a trustee was appointed in the case or directed to perform the debtor in possession's duties, the trustee has filed any required final report and final account.

Practice Pointers: When this document is filed, it is not viewable on the public docket because of the personal identifier information that may be included. The case trustee will be able to view it so the trustee can complete his or her case administration duties.

Each debtor in a joint case must file a separate Certification and Request for Discharge.

Regarding the notice of a motion for "hardship" discharge in subparagraph (c)(2), if any party is served by mail or under the provisions of Fed.R.Civ.P. 5(b)(2)(D) [leave with clerk] or (F) [other means consented to], the notice period stated for such a motion shall be increased three days pursuant to Fed.R.Bankr.P. 9006(f).

Purpose of amendment: To the extent possible, make uniform the procedure for a discharge

(regular or hardship) in chapter 11, chapter 12, and chapter 13 cases. To recognize SBRA. Suggested by Bankruptcy Clerk and Chambers.

Rule 3072-1A. Chapter 12 Discharge and Closing Case.

(a) Debtor's request for discharge upon completion of plan payments.

(1) Service of the debtor's final report and final account form by the trustee. Within ~~14~~30 days after the date on which all plan payments, other than payments to holders of allowed claims provided for under 11 U.S.C. § 1222(b)(5) or § 1222(b)(9), have been completed by the debtor, the ~~chapter 12~~ trustee shall serve on the debtor the final report and final account form and file an ~~appropriate~~ certificate of service.

(2) Filings and notice by the debtor. Within 45 days after service of the final report and final account form, a debtor eligible for a discharge under 11 U.S.C. § 1228(a) shall:

(A) file and serve on the chapter 12 trustee a completed final report and final account; and

~~(B) file and serve on all creditors and other parties in interest not electronically served a Notice of Filing Final Report and Final Account that strictly conforms to Appendix 3G and states:~~

~~(i) the debtor has filed with the Court and served on the chapter 12 trustee a completed Final Report and Final Account;~~

~~(ii) the debtor has completed all payments under the plan, other than payments to holders of allowed claims provided for under 11 U.S.C. § 1222(b)(5) or § 1222(b)(9);~~

~~(iii) any party objecting to entry of a discharge on the grounds the debtor has failed to complete all plan payments, other than payments to holders of allowed claims provided for under 11 U.S.C. § 1222(b)(5) or § 1222(b)(9), shall file a motion to dismiss on or before 21 days after service the Clerk's notice, as provided by Bankr. D.S.D. R. 3072-1A(a)(4); and~~

~~(iv) if no party timely files a motion to dismiss for failure to complete all plan payments, a discharge of debts may be entered; and~~

~~(C) — (1) if an individual, file a Certification Regarding Domestic Support Obligations and Section 522(q) using Director's Form 2830 and~~

~~changing "Chapter 13" to "Chapter 12" in the title, changing the citation in Part I from § 1328(a) to § 1228(a), and changing the citation in Part III from § 1328(h) to § 1228(f) and Request for Discharge that conforms to Appendix 3F, excluding part I(b) and part II. Joint debtors shall prepare and file separate Certifications Regarding Domestic Support Obligations and Section 522(q) and Requests for Discharge; or~~

(2) if a nonindividual (business), file a Certification and Request for Discharge that strictly conforms to Appendix 3G.

(3) Notice of Certification and Request for Discharge by the Clerk. Upon a debtor's timely compliance with subparagraph (B)(1) or (B)(2) above, the Clerk shall serve a Notice of Certification and Request for Discharge on all creditors and other parties in interest not electronically served. The Clerk's notice shall state any party wishing to object to the debtor's discharge shall file an objection or other response to the debtor's Certification and Request for Discharge on or before a stated date not less than 24 days after the date the Clerk's notice was generated.

~~Failure to comply. If a debtor who is eligible for a discharge under 11 U.S.C. § 1228(a) fails to timely comply with paragraph (2) above, the chapter 12 trustee shall seek an appropriate remedy from the Court that ensures the case is timely closed, including, but not limited to, dismissal of the case.~~

~~(4) Motion to dismiss for failure to complete plan payments. Any party objecting to the entry of a discharge in a chapter 12 case on the grounds the debtor has failed to complete all plan payments, other than payments to holders of allowed claims provided for under 11 U.S.C. § 1222(b)(5) or § 1222(b)(9), shall, not more than 21 days after the debtor serves the Notice of Filing Final Report and Final Account, obtain a hearing date from the Scheduling Deputy Clerk, file a motion to dismiss the case for failure to complete plan payments and a notice of the motion, serve the motion on parties in interest not electronically served, and serve the notice on all creditors and other parties in interest not electronically served. The notice shall conform to Bankr. D.S.D. R. 2002-1(a) and shall contain the date, time, and place for the hearing on the motion.~~

(b) Debtor's request for discharge before completion of all plan payments (a "hardship" discharge). A debtor seeking a discharge prior to completion of all plan payments shall:

. . . .

~~(3) if an individual, file a Certification Regarding Domestic Support Obligations and Section 522(q) using Director's Form 2830 and changing "Chapter 13" to "Chapter 12" in the title, changing the citation in Part I from § 1328(a) to §~~

~~1228(a), and changing the citation in Part III from § 1328(h) to § 1228(f). Joint debtors shall prepare and file separate Certifications Regarding Domestic Support Obligations and Section 522(q);~~

~~(4) file and serve on all creditors and other parties in interest not electronically served a motion for hardship discharge that:~~

~~(A) states the debtor has filed with the Court and served on the chapter 12 trustee a final report and final account;~~

~~(B) describes the circumstances for which the debtor should not justly be held accountable that render the debtor unable to complete payments under the plan;~~

~~(C) includes a liquidation analysis showing the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the bankruptcy estate had been liquidated under chapter 7 on such date; and~~

~~(D) explains why modification of the confirmed plan is not practicable; and~~

~~(5) file and serve on all creditors and other parties in interest not electronically served a notice of the motion for hardship discharge. The notice shall conform to Bankr. D.S.D. R. 2002-1(a) and shall set forth a last date (month, day, year) for filing an objection or other response that is 14 days after service of the motion and notice of motion.~~

(3) file and serve on all creditors and other parties in interest not electronically served a motion for hardship discharge that:

(A) states the debtor has filed and served on the chapter 12 trustee a final report and final account;

(B) describes the circumstances for which the debtor should not justly be held accountable that render the debtor unable to complete payments under the plan;

(C) explains why modification of the confirmed plan is not practicable; and

(D) includes, as an attachment, a liquidation analysis showing the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the bankruptcy estate had been liquidated under chapter 7 on such date; and

(4) file and serve on all creditors and other parties in interest not electronically served a notice of the motion for hardship discharge that conforms to Bankr. D.S.D. R. 2002-1(a) and Appendix 2A and sets forth a last date (month, day, year) for filing an objection or other response that is 14 days after service of the motion and notice of motion; and

(5) (A) if an individual, file a Certification and Request for Discharge that conforms to Appendix 3F but is modified to state all plan payments have not been completed. Joint debtors shall prepare and file separate Certifications and Requests for Discharge; or

(B) if a nonindividual (business), file a Certification and Request for Discharge that conforms to Appendix 3G but is modified to state all plan payments have not been completed.

(c) Entry of discharge. The Court may enter an order of discharge if the debtor has complied with either paragraph (a)~~(2)(C)~~ or (b)~~(3)~~ above, ~~if applicable,~~ and:

(1) ~~no motion to dismiss for failure to complete plan payments has been timely filed with the Court;~~

~~(2) upon entry of an order denying a motion to dismiss for failure to complete plan payments; or no party in interest timely files an objection or other response to the debtor's Certification and Request for Discharge;~~

(2) any timely filed objection or other response to the debtor's Certification and Request for Discharge has been withdrawn or overruled; ~~or~~

(3) the debtor has timely cured any arrearage in plan payments, as ordered by the Court, following a hearing on an objection to the debtor's Certification and Request for Discharge; or

(4) ~~upon entry of an order granting a motion for~~ hardship discharge has been entered.

(d) Closing the case. ~~After entry of an order discharging the debtor, the chapter 12 trustee shall file a final report and final account and shall serve the final report and final account on the debtor, if not electronically served. If no objection to the trustee's final report and final account is received within 30 days after service of the final report and final account, the Clerk may close the case.~~A chapter 12 case may be closed by the Clerk after the trustee files ~~his~~ a final report and final account and ~~when:~~

(1) an order of discharge is final; or

(2) the debtor has failed, or in a joint case, both debtors have failed, to timely comply with ~~Bankr. D.S.D. R. 3072-1B(b)~~subparagraph (a)(2) above;

.....

Practice Pointers:

~~If any party is served by mail or under the provisions of Fed.R.Civ.P. 5(b)(2)(D) [leave with clerk] or (F) [other means consented to], the notice periods stated above shall be increased three days pursuant to Fed.R.Bankr.P. 9006(f).~~

Regarding the notice of a motion for "hardship" discharge in **subsection**~~subparagraph~~ (b)(4), if any party is served by mail or under the provisions of Fed.R.Civ.P. 5(b)(2)(D) [leave with clerk] or (F) [other means consented to], the notice period stated for such a motion shall be increased three days pursuant to Fed.R.Bankr.P. 9006(f).

Purpose of amendments: To the extent possible, make uniform the procedure for a discharge (regular or hardship) in chapter 11 (individuals only), chapter 12, and chapter 13 cases. To recognize SBRA. Suggested by Bankruptcy Clerk and Chambers.

Rule 3072-1B. Chapter 13 Discharge and Closing Case.

~~(a) **Trustee's Notice of Completion of Plan Payments.** When the chapter 13 trustee is satisfied the debtor has completed all plan payments, the trustee shall file a Notice of Completion of Plan Payments. The Notice of Completion of Plan Payments shall be served on parties in interest not electronically served and shall advise the debtor that:~~

~~(1) the debtor shall timely comply with Bankr. D.S.D. R. 3072-1B(b); and~~

~~(2) in the event the debtor does not timely comply with Bankr. D.S.D. R. 3072-1B(b), the Clerk may administratively close the case without entry of a discharge.~~

~~(b) **Debtor's Certification and Request for Discharge upon completion of plan payments.** Within 30 days after service of the trustee's Notice of Completion of Plan Payments, a debtor shall file a Certification and Request for Discharge that strictly conforms to Appendix 3H. Joint debtors shall prepare and file separate Certifications and Requests for Discharge.~~

~~(c) **Clerk's Notice of Certification and Request for Discharge.** Upon a debtor's timely compliance with paragraph (b) above, the Clerk shall serve a Notice of Certification and Request for Discharge on all creditors and other parties in interest not electronically served. The Clerk's notice shall state any party wishing to object to the debtor's discharge shall file an objection or other response to the debtor's Certification and Request for Discharge on or before a stated date not less than 24 days after the date the Clerk's notice was generated.~~

Debtor's request for discharge upon completion of plan payments.

(1) Notice of Completion of Plan Payments by the trustee. Within 30 days after the date on which all plan payments, other than payments to holders of allowed

claims provided for under 11 U.S.C. § 1322(b)(5), have been completed by the debtor, the trustee shall file a Notice of Completion of Plan Payments and the Clerk shall serve it on parties in interest not electronically served. The Notice of Completion of Plan Payments shall advise the debtor that:

(A) the debtor must timely comply with Bankr. D.S.D. R. 3072-1B(a)(2); and

(B) if the debtor does not timely comply with Bankr. D.S.D. R. 3072-1B(a)(2), the Clerk may administratively close the case without entry of a discharge.

(2) Certification and Request for Discharge by the debtor. Within 30 days after the trustee's filing of a Notice of Completion of Plan Payments, a debtor eligible for a discharge under 11 U.S.C. § 1328(a) shall file a Certification and Request for Discharge that strictly conforms to Appendix 3F. Joint debtors shall prepare and file separate Certifications and Requests for Discharge.

(3) Notice of Certification and Request for Discharge by the Clerk. Upon a debtor's timely compliance with subparagraph (2) above, the Clerk shall serve a Notice of Certification and Request for Discharge on all creditors and other parties in interest not electronically served. The Clerk's notice shall state any party wishing to object to the debtor's discharge shall file an objection or other response to the debtor's Certification and Request for Discharge on or before a stated date not less than 24 days after the date the Clerk's notice was generated.

(d)(b) Debtor's request for discharge before completion of all plan payments (a "hardship" discharge). A debtor seeking a discharge prior to completion of all plan payments shall **file**:

(1) **file and serve on all creditors and other parties in interest not electronically served** a motion for hardship discharge that:

(A) describes the circumstances for which the debtor should not justly be held accountable that render the debtor unable to complete payments under the plan;

~~(B) includes a liquidation analysis showing the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the bankruptcy estate had been liquidated under chapter 7 on such date; and~~

~~(C) explains why modification of the confirmed plan is not practicable;~~
(B) explains why modification of the confirmed plan is not practicable;

and

(C) includes, as an attachment, a liquidation analysis showing the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the bankruptcy estate had been liquidated under chapter 7 on such date; and

(2) file and serve on all creditors and other parties in interest not electronically served a notice of the motion for hardship discharge that conforms to Bankr. D.S.D. R. 2002-1(a) and Appendix 2A and sets forth a last date (month, day, year) for filing an objection or other response that is 14 days after service of the motion and notice of motion; and

(3) file a ~~Chapter 13 Debtor's Certifications Regarding Domestic Support Obligations and Section 522(q) (Director's Form 2830)~~ Certification and Request for Discharge that conforms to Appendix 3F but is modified to state all plan payments have not been completed. Joint debtors shall prepare and file separate Certifications and Requests for Discharge.

~~The debtor shall serve the motion on parties in interest not electronically served and shall serve the notice on all creditors and other parties in interest not electronically served.~~

~~(e)~~(c) **Entry of discharge.** The Court may enter an order of discharge if the debtor has complied with either paragraph (a)(2) or (b) above, ~~if applicable~~, and:

(1) ~~if~~ no party in interest timely files an objection or other response to the debtor's Certification and Request for Discharge;

(2) ~~if~~ any timely filed objection or other response to the debtor's Certification and Request for Discharge ~~is~~ has been withdrawn or overruled; ~~or~~

(3) the debtor has timely cured any arrearage in plan payments, as ordered by the Court, following a hearing on an objection to the debtor's Certification and Request for Discharge; or

(4) ~~upon entry of~~ an order granting a ~~motion for~~ hardship discharge has been entered.

~~(f)~~(d) **Closing the case.** A chapter 13 case may be closed by the Clerk after the trustee files ~~his~~ a final report and final account and ~~when~~:

(1) an order of discharge is final; or

(2) the debtor has failed, or in a joint case, both debtors have failed, to timely

comply with ~~Bankr. D.S.D. R. 3072-1B(b)~~ subparagraph (a)(2) above;

~~(2) the debtor has failed, or in a joint case, both debtors have failed, to timely cure any arrearage in plan payments as may have been ordered by the Court following a hearing on an objection to the debtor's Certification and Request for Discharge; or~~

~~(3) the debtor has, or in a joint case, both debtors have, timely cured any arrearage in plan payments as may have been ordered by the Court following a hearing on an objection to the debtor's Certification and Request for Discharge.~~

. . . .

Practice Pointers:

Regarding the notice of a motion for "hardship" discharge in ~~subsection~~subparagraph ~~(d)~~(b)(2), if any party is served by mail or under the provisions of Fed.R.Civ.P. 5(b)(2)(D) [leave with clerk] or (F) [other means consented to], the notice period stated for such a motion shall be increased three days pursuant to Fed.R.Bankr.P. 9006(f).

Purpose of amendments: To the extent possible, make uniform the procedure for a discharge (regular or hardship) in chapter 11, chapter 12, and chapter 13 cases. Suggested by Bankruptcy Clerk and Chambers.

Rule 5010-1. Reopening a Case.

. . . .

(b) **Reopening not required.** A case need *not* be reopened to:

. . . .

(5) file a notice or a motion regarding the redaction of certain information from a transcript under Bankr. D.S.D. R. 5077-1(e); ~~or~~

(6) file a motion to substitute a redacted document or a redacted proof of claim under Bankr. D.S.D. R. 9037-1; ~~or~~

(7) file an application for payment of unclaimed funds.

Purpose of amendment: To recognize new Bankr. D.S.D. R. 3011-1. Suggested by Bankruptcy Clerk and Chambers.

Rule 5070-1. Scheduling a Hearing.

~~(a) Hearings scheduled by a party. A party shall obtain a hearing date from the Scheduling Deputy Clerk prior to filing;~~

~~(1) a motion to withdraw as attorney for a debtor and a notice of the hearing on the motion pursuant to Bankr. D.S.D. R. 2091-1(b); or~~

~~(2) a motion to dismiss a chapter 12 case for failure to complete plan payments and a notice of the hearing on the motion pursuant to Bankr. D.S.D. R. 3072-1A(a)(4).~~

(b) Hearings scheduled by the Court. Except as provided in paragraph ~~(a) above~~(b) below, the Court will, by order, set any necessary hearing on a contested matter following the expiration of the deadline for filing an objection or other response to the underlying motion, application, or other request for relief, and the Clerk will prepare and file the notice of the confirmation hearing on a chapter 12 or a chapter 13 plan or modified plan.

(b) Hearings scheduled by a party. An attorney shall obtain a hearing date from the Scheduling Deputy Clerk prior to filing a motion to withdraw as attorney for a debtor and a notice of the hearing on the motion under Bankr. D.S.D. R. 2091-1(b).

Purpose of amendment: Technical correction and to recognize amended Bankr. D.S.D. R. 3072-1A. Suggested by Bankruptcy Clerk and Chambers.

Rule 6004-1. Sale of Estate Property.

(b) Proposed sale of property—\$2,500.00 or more.

(1) Motion. In addition to the information required by Fed.Rs.Bankr.P. ~~2002(c)(1) and~~ 6004(g), a motion for authority to sell property with an aggregate gross value of \$2,500.00 or more shall describe the property to be sold, ~~and shall~~ state the property's value, ~~and~~ how that value was determined, ~~and~~ state the terms and conditions of the proposed sale, ~~and~~ identify and state the value of each lien or other encumbrance on the property to be sold. If the property is to be sold by private sale, the motion shall also ~~state~~ identify the proposed buyer(s) and the sale price. If the property is to be sold at public auction, the motion shall also state the auction date, time, and location, the name of any known opening bidder, the amount of any known opening bid or any minimum opening bid, and the amount of any minimum bidding increments.

~~(A) Any request that the Court's order authorizing the use, sale, or lease of property not be stayed under Fed.R.Bankr.P. 6004(h) shall be included in the motion.~~

~~(B) Any request for a waiver of the requirement that a report of sale be filed pursuant to Fed.R.Bankr.P. 6004(f)(1) shall be included in the motion.~~

(A) Any request for a waiver of the requirement that a report of sale be filed

pursuant to Fed.R.Bankr.P. 6004(f)(1) shall be included in the motion and shall state the cause therefor.

(B) Any request that the order authorizing the use, sale, or lease of property not be stayed under Fed.R.Bankr.P. 6004(h) shall be included in the motion and shall state the cause therefor.

(c) Report of sale ~~or no sale~~. A report of sale by a debtor under Fed.R.Bankr.P. 6004(f)(1) shall conform to Appendix 6B. A report of sale by a trustee under Fed.R.Bankr.P. 6004(f)(1) shall either conform to Appendix 6B or be filed as a docket text entry using the CM/ECF event "Report of Sale (Text Entry)" found under "Bankruptcy–Trustee/US Trustee."

Purpose of amendments: In addition to some technical corrections, to remove an erroneous federal rule cite and to help ensure encumbrance holders on the property to be sold are identified and served as parties in interest to the motion. Suggested by Chambers.

Rule 9001-1. Definitions.

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(7) "parties in interest," "such other parties as the Court may designate," or similarly described entities as used in the Code, the Federal Rules of Bankruptcy Procedure, or these local rules, unless otherwise directed by the Court, are:

.
(F) ~~the each~~ members of ~~and any attorney for~~ any committee authorized under the Code, including any official committee of unsecured creditors, or, in the alternative, the committee's attorney of record;

.
Purpose of amendment: To clarify each member of the official committee of unsecured creditors must be served unless the committee has an attorney of record. Suggested by Bankruptcy Clerk.

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

(g) Documents Signed Through a Power of Attorney or Guardianship.

(1) If a document is signed for a debtor, creditor, or other party under a power of attorney or a guardianship, a copy of the power of attorney or order appointing the guardian must be filed with the document. Once a power of attorney or order appointing a guardian is filed in a bankruptcy case or an adversary proceeding, it does not need to be filed with subsequent documents filed by that party under the power of attorney or guardianship. If a power of attorney or order appointing a guardian is filed alone, it must be attached to a captioned, dated, and signed cover pleading.

- (2) The signature on each document signed for a debtor, creditor, or other party under a power of attorney or a guardianship shall include the name of the person holding the power of attorney or the guardian and the name of the person who gave the power of attorney or is under the guardianship, *e.g.*, Robert R. Helper, POA for Debtor Donald Allen Doe or Robert R. Helper, guardian for Debtor Donald Allen Doe.
- (3) A person holding a power of attorney from a debtor or a debtor's guardian may not complete the pre-petition credit counseling or the post-petition financial management course for the debtor.

(h) Suggested format for citations. Citations to code provisions, case law, and other sources in documents filed with the Court should generally follow *The Bluebook: A Uniform System of Citation* (The Harvard Law Review Assoc., 20th ed. 2014, or subsequent edition). Set forth below are samples of acceptable citations:

- (1) docket number of a particular document on the Court's CM/ECF docket:
(doc. 47)
- (2) United States Code:
11 U.S.C. § 1112(a)(4)(A) (2019)
- (3) Federal Rule of Bankruptcy Procedure:
Fed.R.Bankr.P. 1007(a)
- (4) Federal Rule of Civil Procedure:
Fed.R.Civ.P. 26(d)(2)
- (5) local rule for the United States Bankruptcy Court for the District of South Dakota:
Bankr. D.S.D. R. 1007-2
- (6) local rule for the United States District Court for the District of South Dakota:
D.S.D. Civ. LR 5.1
- (7) local bankruptcy form:
Bankr. D.S.D. R. Appendix 3A

- (8) South Dakota Codified Laws:
S.D.C.L. § 43-45-4 (2019)
- (9) unpublished decision in a bankruptcy case, with pin cite:
In re John R. Doe, Bankr. No. 00-00000, slip op. at 3 (Bankr. D.S.D. April 15, 2022).
- (10) unpublished decision in a bankruptcy adversary proceeding, with pin cite:
Curt R. Smith v. John R. Doe (In re Doe), Case No. 00-00000, Adv. No. 00-0000, slip op. at 11 (Bankr. D.S.D. June 19, 2022).
- (11) published decision in a bankruptcy case, with pin cite:
In re Doe, 752 B.R. 922, 924 (Bankr. D.S.D. 2022).
- (12) published opinion by a district court from a bankruptcy appeal, with pin cite:
Smith v. Doe (In re Doe), 912 F.Supp. 3d 222, 227 (D.S.D. 2023).
- (13) published opinion by a bankruptcy appellate panel from a bankruptcy appeal, with pin cite:
Smith v. Doe (In re Doe), 754 B.R. 12, 19 (B.A.P. 8th Cir. 2023).
- (14) published opinion by a court of appeals from a bankruptcy appeal, with pin cite:
Smith v. Doe, 945 F.3d 423, 444 (8th Cir. 2023).
- (15) published appendix opinion by a court of appeals from a bankruptcy appeal:
Smith v. Doe, 946 F. App'x 914 (8th Cir. 2023).
- (16) published opinion by the United States Supreme Court from a bankruptcy appeal, with pin cite:
Smith v. Doe, 614 U.S. 912, 924 (2025).

Purpose of amendment: Provide a uniform procedure for POA filings. Suggested by Bankruptcy Clerk. Ease citation anxiety. Suggested by Pat Dougherty.

Rule 9004-3. Filing and Serving Documents; Certificates of Service.

. . . .

(b) Serving.

(1) Any document filed with the Court shall be served by the filing party pursuant to the applicable Code section, Federal Rule of Bankruptcy Procedure, or local rule; provided, however, the filing party need not serve the document on any party to whom the Court has transmitted a Notice of Electronic Filing in the manner outlined in the Court's Electronic Case Filing Administrative Procedures **or on the debtor if the debtor is represented by an attorney and the debtor signed the document being served.**

Purpose of amendment: To provide an attorney for a debtor does not need to serve a document on the debtor if the debtor signed the document. Suggested by Bankruptcy Clerk and Chambers.

Rule 9070-1. Exhibits.

(a) ~~Copies~~Original exhibits and copies of exhibits for an evidentiary hearing or a trial.

A party shall provide the original and two copies of each exhibit for the Court and one copy of each exhibit for each opposing party. If an exhibit is in color, all copies of that exhibit shall be in color. Multiple pages of an exhibit shall not be condensed onto a single page, *e.g.*, four pages should not be condensed onto one page. If a party intends to offer more than six exhibits, the original exhibits and all copies of those exhibits shall, to the extent possible, be organized in binders, indexed, and tabbed. The index shall conform to Appendix 9H.

. . . .

Purpose of amendment: Technical correction.

Rule 9072-1. Proposed Orders.

(a) Format.

(1) A proposed order shall conform to Bankr. D.S.D. R. 9004-1(a), (c), and (d) and shall not be signed by the proponent or the proponent's attorney or, absent advance authorization from the Court, include any attachment;

(2) Each page of a proposed order other than the first shall be numbered at the bottom center; and

(3) An agreed proposed order submitted by two or more parties shall conform to Appendix 9F.

(a)(b) Submission of proposed orders.

. . . .

(2) A proposed order granting a motion for relief from stay, a motion to compel abandonment, or an application for compensation for services or reimbursement of expenses ~~of \$1,000.00 or less~~ (excluding fees sought as part of the administrative expenses in a chapter 7 trustee's final report and proposed distribution) shall be submitted to the Court when the motion or application is filed. A proposed order ~~confirming a plan or a proposed order~~ granting any other motion, application, objection to claimed exemptions, or objection to a proof of claim that is *not* contested, other than those listed on Appendix 9I, shall be submitted to the Court as soon as the deadline for objections or other responses has passed. A proposed agreed order resolving a contested matter without a hearing shall conform to Appendix 9F and shall be submitted as early as possible before any scheduled hearing **or trial**. A proposed order ~~confirming a plan or a proposed order~~ granting or denying any motion, application, objection to claimed exemptions, or objection to a proof of claim that *is* contested shall be submitted, **if so directed by the Court**, as soon after the hearing or trial as is reasonable, unless a specific submission deadline is set by the Court at the hearing or trial.

(b)(c) Review of proposed document by party in interest.

. . . .

Purpose of amendment: In addition to some technical corrections, to clarify proposed orders generally should not include attachments. Suggested by Pat Dougherty.

**Appendix 1A. Filing Requirements for Voluntary Cases
Filed under Chapters 7, 11, 12, or 13**

. . . .

**CHAPTER 11 SUBCHAPTER V INDIVIDUAL THAT IS ALSO A SMALL BUSINESS,
AS DEFINED BY 11 U.S.C. § 101(51C) AND (51D) and § 1182 (VOLUNTARY)**

Due on First Day of Filing:

- Voluntary Petition for Individuals Filing for Bankruptcy.** Official Form 101 (with the last box in question 13 checked).
- Initial Statement About an Eviction Judgment Against You.** Filed only if the debtor rents a residence and the landlord has obtained a judgment for possession or an eviction judgment against the debtor. Official Form 101A.
- Statement About Your Social Security Numbers.** Filed only by a debtor not represented by an attorney. Official Form 121.
- Certificate of Credit Counseling and copy of any debt repayment plan.** The certificate and, if one was prepared, a copy of a debt repayment plan will be provided to the debtor by the approved nonprofit budget and credit counseling agency giving the pre-petition credit counseling course. A separate certificate shall be filed for each joint debtor. See 11 U.S.C. §§ 109(h)(1) and 521(b) and Fed.R.Bankr.P. 1007(b)(3).
- Bankruptcy Petition Preparer's Notice, Declaration, and Signature.** Filed only if the debtor hired a nonattorney to assist the debtor in typing the petition and other required documents. Official Form 119.
- Disclosure of Compensation of Bankruptcy Petition Preparer.** Filed only if the debtor hired a nonattorney to assist the debtor in typing the petition and other required documents. Director's Form 2800.
- Statement Regarding Business Records Pursuant to 11 U.S.C. §§ 1116(1) and 1187(a).** The debtor shall complete the form at Appendix 1D of the local bankruptcy rules and shall attach to the statement the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return for the debtor or disclose in the statement which of these records was not prepared or filed. See *a/so* Bankr. D.S.D. R. 1007-1(g).
- Mailing list of creditors.** When a debtor is represented by an attorney, the attorney shall electronically upload a mailing list of creditors when the petition is filed. A debtor not represented by an attorney shall submit a mailing list of creditors with the petition conforming to the local form at Bankr. D.S.D. R. 1007-2 and Appendix 1F. See *a/so* 11 U.S.C. § 521(a)(1)(A) and

Fed.R.Bankr.P. 1007(a)(1).

- **List of Creditors Who Have the 20 Largest Unsecured Claims Against You and Are Not Insiders.** Official Form 104. See Fed.R.Bankr.P. 1007(d).
- **Filing fee of \$1,717.00 paid in full OR an Application for Individuals to Pay the Filing Fee in Installments.** An attorney for a debtor shall pay the fee by credit card. See Internet Payment Guide on the Court's website at www.sdb.uscourts.gov under CM/ECF Info. A debtor not represented by an attorney shall pay the fee to the Clerk by cashier's check, money order, or—only if hand delivered—cash. The payment shall be in the exact amount. See Official Form 103A for the Application for Individuals to Pay the Filing Fee in Installments.

Due Not More than 14 Days after Petition is Filed:

- **Summary of Your Assets and Liabilities and Certain Statistical Information.** Official Form 106Sum.
- **Schedules A/B through J.** Official Forms 106A/B, 106C, 106D, 106E/F, 106G, 106H, 106I, 106J, and, if necessary, 106J-2.
- **Declaration About an Individual Debtor's Schedules.** Official Form 106Dec.
- **Statement of Financial Affairs for Individuals Filing for Bankruptcy.** Official Form 107.
- **Statement Regarding Payment Advices.** If the debtor received payments from an employer within 60 days before the date of the filing of the petition, the debtor shall file the statement using the local form, checking the first box thereon, and attaching to it a copy of each payment advice (also known as employee income records or wage statements) received by the debtor during that 60 days. Redact from the payment advices all but the last four digits of the debtor's Social Security number or other personal identification numbers. If the debtor did *not* receive payments from any employer within 60 days before the date of the filing of the petition, the debtor shall still file the statement using the local form but shall check the second box thereon. Joint debtors shall prepare and file separate statements. See local form at Bankr. D.S.D. R. 1007-1(a)(2) and Appendix 1B. See also 11 U.S.C. § 521(a)(1)(B)(iv) and Fed.R.Bankr.P. 1007(b)(1)(E).
- **Statement of Interest in an Education Individual Retirement Account, Qualified ABLE Program, or under a Qualified State Tuition Program Pursuant to 11 U.S.C. § 521(c).** If a debtor has an account as defined by 11 U.S.C. § 521(c), the debtor shall file the statement using the local form and attach to it a record of each such account. Redact from the account records all but the

last four digits of the debtor's Social Security number or other personal identification numbers. See local form at Bankr. D.S.D. R. 1007-1(h) and Appendix 1E. See also Fed.R.Bankr.P. 1007(b)(1)(F).

- **Disclosure of Compensation.** Filed only by an attorney for the debtor. See local form at Bankr. D.S.D. R. 2016-1(a) and Appendix 2M. See also 11 U.S.C. § 329(a) and Fed.R.Bankr.P. 2016(b). Though Director's Form 2030 exists for this disclosure, attorneys are strongly encouraged to use the local form instead.
- **Application(s) to Employ.** Filed by the debtor if the debtor wants to employ an attorney, an accountant, or other professional. The application should be filed before any post-petition services are rendered by that particular professional. See 11 U.S.C. § 327, Fed.R.Bankr.P. 2014(a), and Bankr. D.S.D. R. 2014-1(a).

Due Not Less than 14 Days Before Mandatory Status Conference:

- **Pre-conference Status Report** "that details the efforts the debtor has undertaken and will undertake to attain a consensual plan of reorganization." See 11 U.S.C. § 1188(c).

Due Not More than 90 Days after Petition is Filed:

- **Plan.** See 11 U.S.C. §§ 1189 and 1190, Bankr. D.S.D. R. 3016-1, and Official Form 425A. The debtor should not file a disclosure statement unless the Court has ordered the debtor to file one. See also 11 U.S.C. § 1187(c) and Bankr. D.S.D. R. 3016-2.

Due Not More than 14 Days after Confirmed Plan is Substantially Consummated:

- **Notice of Substantial Consummation.** See 11 U.S.C. § 1183(c)(2).

Due Before the Last Payment under Debtor's Confirmed Plan:

- **Certification About a Financial Management Course.** The approved nonprofit budget and credit counseling agency that provides the post-petition financial management course will either file a certificate of completion directly or the debtor or the debtor's attorney shall, after receiving the certificate of completion, file a completed Certification About a Financial Management Course (Official Form 423). A separate certificate of completion or a Certification About a Financial Management Course shall be filed for each joint debtor. See 11 U.S.C. §§ 109(h)(4) and 727(a)(11) and Fed.R.Bankr.P. 1007(c).

Due Not More than 30 Days after Confirmed Plan is Substantially Consummated, if Plan was Confirmed under 11 U.S.C. § 1191(a):

- **Motion for Entry of Final Decree.** Fed.R.Bankr.P. 3022 and Bankr. D.S.D. R.

3022-1(a).

Due upon Completion of Payments Required During the Plan Term Circumscribed by 11 U.S.C. § 1191(c)(2)(A) or (B), if Plan was Confirmed under 11 U.S.C. § 1191(b):

- **Certification and Request for Discharge.** See local form at Bankr. D.S.D. R. 3022-1(b)(1) and Appendix 3F. See *also* 11 U.S.C. §§ 522(b)(3), 522(q)(1), and 1192.

Due after Entry of an Order of Discharge if Plan was Confirmed under 11 U.S.C. § 1191(b):

- **Motion for Entry of Final Decree.** Fed.R.Bankr.P. 3022 and Bankr. D.S.D. R. 3022-1(e).

**CHAPTER 11 SUBCHAPTER V NON-INDIVIDUAL THAT IS ALSO A SMALL BUSINESS,
AS DEFINED BY 11 U.S.C. § 101(51C) AND (51D) AND § 1182 (VOLUNTARY)**

Due on First Day of Filing:

- **Voluntary Petition for Non-Individuals Filing for Bankruptcy.** Official Form 201 (with the appropriate box in question 8 checked). A corporation, partnership, or other formal legal entity may file a petition only with the assistance of an attorney.
- **Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11.** Official Form 201A.
- **Statement of Authority to File.** Generally, this will be a copy of a signed and dated resolution or meeting minutes by the business entity's governing body authorizing the filing of the petition. The resolution or meeting minutes shall be attached to a captioned cover pleading signed and dated by the debtor's attorney.
- **Statement of Corporate Ownership.** Filed using the local form only if the debtor is a corporation as defined by 11 U.S.C. § 101(9)(A), which includes limited liability companies, business trusts, and other similar legal entities. See local form at Bankr. D.S.D. R. 1007-1(f) and Appendix 1C. See *a/so* Fed.Rs.Bankr.P. 1007(a)(1) and 7007.1.
- **Statement Regarding Business Records Pursuant to 11 U.S.C. §§ 1116(1) and 1187(a).** The debtor shall complete the form at Appendix 1D of the local bankruptcy rules and shall attach to the statement the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return for the debtor or disclose in the statement which of these records was not prepared or filed. See *a/so* Bankr. D.S.D. R. 1007-1(g).
- **Mailing list of creditors.** The debtor's attorney shall electronically upload a mailing list of creditors when the petition is filed. See 11 U.S.C. § 521(a)(1)(A) and Fed.R.Bankr.P. 1007(a)(1).
- **List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders.** Official Form 204. If the debtor files this list separate from the debtor's schedules, the debtor will need to complete and sign a Declaration Under Penalty of Perjury for Non-Individual Debtors (Official Form 202) that references only the list of creditors who have the 20 largest unsecured claims, attach it to the completed Official Form 204 as the last page, and file both forms as one document. See Fed.R.Bankr.P. 1007(d).
- **Filing fee of \$1,717.00.** The debtor's attorney shall pay the fee by credit card. See Internet Payment Guide on the Court's website at www.sdb.uscourts.gov

under CM/ECF Info.

Due Not More than 14 Days after Petition is Filed:

- **Summary of Assets and Liabilities for Non-Individuals.** Official Form 206Sum.
- **Schedules A/B and D through H.** Official Forms 206A/B, 206D, 206E/F, 206G, and 206H.
- **Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy.** Official Form 207.
- **Declaration Under Penalty of Perjury for Non-Individual Debtors.** Official Form 202.
- **List of Equity Security Holders.** See Fed.R.Bankr.P. 1007(a)(3).
- **Disclosure of Compensation.** Filed only by the attorney for the debtor. See local form at Bankr. D.S.D. R. 2016-1(a) and Appendix 2M. See also 11 U.S.C. § 329(a) and Fed.R.Bankr.P. 2016(b). Though Director's Form 2030 exists for this disclosure, attorneys are strongly encouraged to use the local form instead.
- **Application(s) to Employ.** Filed by the debtor if the debtor wants to employ the attorney, an accountant, or other professional. The application should be filed before any post-petition services are rendered by that particular professional. See 11 U.S.C. § 327, Fed.R.Bankr.P. 2014(a), and Bankr. D.S.D. R. 2014-1(a).

Due Not Less than 14 Days Before Mandatory Status Conference:

- **Pre-conference Status Report** "that details the efforts the debtor has undertaken and will undertake to attain a consensual plan of reorganization." See 11 U.S.C. § 1188(c).

Due Not More than 90 Days after Petition is Filed:

- **Plan.** See 11 U.S.C. §§ 1189 and 1190, Bankr. D.S.D. R. 3016-1, and Official Form 425A. The debtor should not file a disclosure statement unless the Court has ordered the debtor to file one. See *also* 11 U.S.C. § 1187(c) and Bankr. D.S.D. R. 3016-2.

Due Not More than 14 Days after Confirmed Plan is Substantially Consummated:

- **Notice of Substantial Consummation.** See 11 U.S.C. § 1183(c)(2).

Due Not More than 30 Days after Confirmed Plan is Substantially Consummated, if Plan was Confirmed under 11 U.S.C. § 1191(a):

- **Motion for Entry of Final Decree.** Fed.R.Bankr.P. 3022 and Bankr. D.S.D. R. 3022-1(a).

Due upon Completion of Payments Required During the Plan Term Circumscribed by 11 U.S.C. § 1191(c)(2)(A) or (B), if Plan was Confirmed under 11 U.S.C. § 1191(b):

- **Certification and Request for Discharge.** See local form at Bankr. D.S.D. R. 3022-1(b)(1) and Appendix 3G. See also 11 U.S.C. §§ 522(b)(3), 522(q)(1), and 1192.

Due after Entry of an Order of Discharge if Plan was Confirmed under 11 U.S.C. § 1191(b):

- **Motion for Entry of Final Decree.** Fed.R.Bankr.P. 3022 and Bankr. D.S.D. R. 3022-1(e).

CHAPTER 12 INDIVIDUAL (VOLUNTARY)

. . . .

Due upon Completion of Plan Payments OR upon the Filing of a Motion for Hardship Discharge under 11 U.S.C. § 1228(b):

- ~~☐ **Certifications Regarding Domestic Support Obligations and Section 522(q).** See Bankr. D.S.D. R. 3072-1A(a)(2)(C) and Director's Form 2830. Change Chapter 13 to Chapter 12 in the title; change the citation in Part I from § 1328(a) to § 1228(a); and change the citation in Part III from § 1328(h) to § 1228(f).~~
- ☐ **Final Report and Final Account.** The form is prescribed by the United States Trustee and will be provided to the debtor by the case trustee upon completion of plan payments or upon the debtor's request if the debtor intends to file a motion for hardship discharge. Fed.R.Bankr.P. 5009(a) and Bankr. D.S.D. R. 3072-1A(a)(2)(A).
- ~~☐ **Notice of Filing Final Report and Final Account.** See local form at Bankr. D.S.D. R. 3072-1A(a)(2)(B) and Appendix 3G.~~
- ☐ **Certification and Request for Discharge.** See local form at Bankr. D.S.D. R. 3072-1A(a)(2)(B)(1) and Appendix 3F.

CHAPTER 12 NON-INDIVIDUAL (aka A BUSINESS) (VOLUNTARY)

. . . .

Due upon Completion of Plan Payments OR the Filing of a Motion for Hardship Discharge under 11 U.S.C. § 1228(b):

. . . .

- ~~☐ Notice of Filing Final Report and Final Account. See local form at Bankr. D.S.D. R. 3072-1A(a)(2)(B) and Appendix 3G.~~
- ☐ **Certification and Request for Discharge.** See local form at Bankr. D.S.D. R. 3072-1A(a)(2)(B)(2) and Appendix 3G.

Appendix 1B. Statement Regarding Payment Advices.

. . . .
Committee Notes

In a joint [chapter 7, 11, or 13](#) case, each debtor shall file a separate statement. [A chapter 12 debtor is not required to file a statement.](#)

. . . .

Purpose of amendment: *Technical correction.*

Appendix 1N. Notice of Change of Party Information (Address or Name)

UNITED STATES BANKRUPTCY COURT DISTRICT OF SOUTH DAKOTA	
In re:	Bankr. No.
	Chapter
	NOTICE OF CHANGE OF PARTY INFORMATION
Debtor(s)	

Previous Party Information:

Name(s)	
Mailing address	
City, state, zip code	

Updated Party Information:

Name(s)	
Mailing address	
City, state, zip code	

Date:

Requestor's Signature

Authorized Signator's Title,
if requestor is a business

If you wish to change a preferred address registered with the Bankruptcy Noticing Center or to sign up for Electronic Bankruptcy Noticing with the Bankruptcy Noticing Center, go to <https://bankruptcynotices.uscourts.gov>.

SEE COMMITTEE NOTES ON FOLLOWING PAGE

Committee Notes

A creditor or other party in interest should use this form when its address on the mailing list of creditors is inaccurate or has changed or if the creditor's or other party in interest's name on the mailing list of creditors is inaccurate.

A debtor may use this form to change his or her own address if he or she moves during the pendency of the case. However, if the debtor's petition contained an incorrect address for the debtor or if the debtor's name was incomplete or misspelled on the petition, the debtor must file and serve an amended petition and notice of amendment in compliance with Bankr. D.S.D. R. 1009-1.

If a debtor needs to amend a creditor's or other party in interest's name or address on the mailing list of creditors, the debtor must either file and serve an amendment in compliance with Bankr. D.S.D. R. 1009-4 or re-serve the creditor or other party in interest and file a certificate of service in compliance with Bankr. D.S.D. R. 2002-4. *See also* the Committee Notes to Bankr. D.S.D. R. 1009-4.

REFERENCES: 11 U.S.C. § 521(a)(1)(A); Fed.Rs.Bankr.P. 1007(a)(1) and 1009(a).

Appendix 10. Motion for Waiver of Credit Counseling and Financial Management Course.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA

In re:)
) Bankr. No. 20-90000
) Chapter 7
JANE ANNE ANONYMOUS)
fdba Jane's Flower Shop) DEBTOR'S MOTION FOR A WAIVER
SSN/ITIN xxx-xx-0000) OF CREDIT COUNSELING AND THE
) FINANCIAL MANAGEMENT COURSE
Debtor.)

Debtor Jane Anne Anonymous, through her attorney of record, hereby moves the Court under 11 U.S.C. §§ 109(h)(4) and 727(a)(11) for an order waiving the requirements that Debtor complete the pre-petition credit counseling required by 11 U.S.C. § 109(h)(1) and the post-petition financial management course required by 11 U.S.C. § 727(a)(11), and in support thereof respectfully states:

- (1) On April 17, 2020, Debtor filed a chapter 7 petition and commenced the instant case through her guardian, John R. Known, who was appointed as Debtor's guardian on December 30, 2019.
- (2) Debtor is 74 years old and resides in a care facility. Due to Alzheimer's disease, Debtor is unable to effectively communicate or make financial or other decisions on her own behalf and thus is unable to complete either the required pre-petition credit counseling or the post-petition financial management course due to disability and incapacity.

WHEREFORE, Debtor requests the requirements for Debtor to complete the pre-petition credit counseling and the post-petition financial management course be waived pursuant to 11 U.S.C. §§ 109(h)(1) and 727(a)(11).

Dated: April 17, 2020.

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

Appendix 2P. Order Awarding Fees.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA

In re:	)	Bankr. No. 18-90000
	)	Chapter 13
JANE ANNE ANONYMOUS)	
fdba Jane's Flower Shop	)	ORDER AWARDING FEES
SSN/ITIN xxx-xx-0000	)	TO ATTORNEY CARSON
)	
Debtor.)	

Upon consideration of Attorney Joseph J. Carson's Application for Fees (doc. 42) and the record before the Court; and it appearing no objection to the application was timely filed after appropriate notice; and for cause shown; now, therefore,

IT IS HEREBY ORDERED Attorney Carson's application is granted, and he is awarded as a chapter 13 administrative expense \$2,000.00 for compensation for services, \$120.00 for applicable sales tax, and \$380.00 for reimbursement ~~offor~~ expenses, for a total **award** of \$2,500.00. Attorney Carson shall draw down and apply his \$1,000.00 retainer. Trustee Dale A. Wein shall pay the ~~balance of remaining~~ \$1,500.00 pursuant to the terms of Debtor's confirmed plan.

So ordered:

Appendix 3D. **Order Modifying Confirmed Chapter 11-~~(individual debtor)~~, Chapter 12, or Chapter 13 Plan.**

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA

In re:	)	Bankr. No. 18-90000
	)	Chapter 12
JANE ANNE ANONYMOUS)	
fdba Jane's Fancy Chickens	)	ORDER MODIFYING
SSN/ITIN xxx-xx-0000	)	CONFIRMED PLAN
)	
Debtor.)	

A hearing on Debtor's Motion to Modify Confirmed Plan (doc. 51) was held April 19, 2018, with appearances as noted in the hearing minutes. Pursuant thereto, and in recognition of and compliance with the findings and conclusions entered on the record; and for cause shown; now, therefore,

. . . .

Appendix 3F. Chapter 11, Chapter 12, or Chapter 13 Individual Debtor's Certification and Request for Discharge ~~and Entry of Final Decree.~~

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA

In re:) Bankr. No. 18-90000
) Chapter 11
WADE JOEL EARNER)
aka W.J. Earner)
SSN/ITIN xxx-xx-0000)
) DEBTOR WADE JOEL EARNER'S
and) CERTIFICATION AND
) REQUEST FOR DISCHARGE
WANDA GAIL EARNER) ~~AND ENTRY OF FINAL DECREE~~
SSN/ITIN xxx-xx-0001)
)
Debtors.)

~~STATE OF SOUTH DAKOTA~~)
~~_____~~) ss
~~COUNTY OF WONDERMENT~~)

~~I, Wade Joel Earner, one of the above-named debtors, being duly sworn upon oath, state as follows:~~

~~1. I am asking the Court to enter a discharge order and a final decree in this case because I have completed all payments due under the confirmed plan and any subsequent modifications thereto as approved by the Court and have completed an instructional course concerning personal financial management and have filed verification of the same with the Court. I further state I have not received a discharge in another chapter 11 bankruptcy case or in a chapter 7 bankruptcy case filed within eight years before the filing of this chapter 11 bankruptcy case, and I have not received a discharge in a chapter 12 or a chapter 13 bankruptcy case filed within six years prior to the filing of this chapter 11 bankruptcy case, unless one of the exceptions provided by 11 U.S.C. §§ 727(a)(9) and 1141(d)(3)(C) apply.~~

~~2. I confirm [check A or B]:~~

~~A. 11 U.S.C. § 522(q)(1) does not apply because I have not claimed a homestead or other exemption specified in 11 U.S.C. § 522(p)(1) in an amount greater than \$155,675.00;~~

~~OR~~

~~B. Although I have claimed a homestead or other exemption specified in 11 U.S.C. § 522(p)(1) in an amount greater than \$155,675.00, 11 U.S.C.~~

~~§ 522(q)(1)(A) does not apply because I have not been convicted of a felony, as defined by 18 U.S.C. § 3156, that under the circumstances demonstrates the filing of the case was an abuse of the provisions of Title 11 of the United States Code, and 11 U.S.C. § 522(q)(1)(B) does not apply because I do not owe a debt arising from:~~

~~(i) any violation of the federal securities laws, as defined in § 3(a)(47) of the Securities Exchange Act of 1934, any state securities laws, or any regulation or order issued under federal securities laws or state securities laws;~~

~~(ii) fraud, deceit or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under § 12 or § 15(d) of the Securities Exchange Act of 1934 or under § 6 of the Securities Act of 1933;~~

~~(iii) any civil remedy under 18 U.S.C. § 1964; or~~

~~(iv) any criminal act, intentional tort or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding five years.~~

~~3. There is not currently pending any proceeding in which I may be found guilty of a felony of the kind described in 11 U.S.C. § 522(q)(1)(A) or liable for a debt of the kind described in 11 U.S.C. § 522(q)(1)(B).~~

~~By signing this affidavit, I declare under penalty of perjury all of the statements contained herein and all of the information or documents submitted in support thereof are true and accurate and the Court may rely on the truth of each in determining whether to grant a discharge in this chapter 11 case. The Court may revoke my discharge if any of these statements or any of the information or documents submitted in support thereof are not true and accurate.~~

~~Dated: March 9, 2018.~~

~~/s/
Wade Joel Earner
Debtor~~

~~Subscribed and sworn to before me this 9th day of March, 2018.~~

~~{SEAL}~~

~~/s/
Notary Public~~

~~My commission expires:~~

I, Wade Joel Earner, an above-named debtor, certify and request as follows:

I. **Eligibility.** I am asking the Court to enter a discharge order in this case because:

(a) I have completed all payments, including any disposable income payments, due through the end of the plan term, as provided by my confirmed plan and any subsequent modifications approved by the Court; and

(b) I have not received a prior discharge that would render me ineligible for a discharge in this case.

II. **Personal financial management course.** I have completed an instructional course concerning personal financial management and a certification of the same has been filed by the course provider or I have completed and filed an Official Form 423.

III. **Domestic Support Obligation** (check A or B and, if B is checked, complete part B in full):

A. NO Support Debt. I have not been required by a judicial or administrative order or by statute to pay any Domestic Support Obligation, as defined by 11 U.S.C. § 101(14A), either before this bankruptcy case was filed or at any time thereafter.

OR **B. Support Debt.** I have been required to pay a Domestic Support Obligation, as defined by 11 U.S.C. § 101(14A), either before this bankruptcy case was filed or at any time thereafter. I certify that prior to the date of this affidavit I have paid in full any Domestic Support Obligation payments required by a judicial or administrative order or by statute, including amounts due before or since this bankruptcy case was filed, to the extent provided by the confirmed plan and any subsequent modifications thereto.

The name and address of each holder of a Domestic Support Obligation is:

My most recent address is:

The name and address of my most recent employer(s) is/are:

IV. **Application of 11 U.S.C. § 522(q).** I certify [*check A or B*]:

A. Section 522(q)(1) of Title 11 does not apply because I have not claimed

a homestead or other exemption specified in 11 U.S.C. § 522(p)(1) in an amount greater than the allowance provided in 11 U.S.C. § 522(p) on the date I filed my bankruptcy petition.

OR **B.** Although I have claimed a homestead or other exemption specified in 11 U.S.C. § 522(p)(1) in an amount greater than the allowance under 11 U.S.C. § 522(p) on the date I filed my bankruptcy petition,

(1) Section § 522(q)(1)(A) of Title 11 does not apply because I have not been convicted of a felony, as defined by 18 U.S.C. § 3156, that under the circumstances demonstrates the filing of the case was an abuse of the provisions of Title 11 of the United States Code, and 11 U.S.C. § 522(q)(1)(B) does not apply because I do not owe a debt arising from:

(A) any violation of the federal securities laws, as defined in § 3(a)(47) of the Securities Exchange Act of 1934, any state securities laws, or any regulation or order issued under federal securities laws or state securities laws;

(B) fraud, deceit or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under § 12 or § 15(d) of the Securities Exchange Act of 1934 or under § 6 of the Securities Act of 1933;

(C) any civil remedy under 18 U.S.C. § 1964; or

(D) any criminal act, intentional tort or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding five years; and

(2) There is not currently pending any proceeding in which I may be found guilty of a felony of the kind described in 11 U.S.C. § 522(q)(1)(A) or liable for a debt of the kind described in 11 U.S.C. § 522(q)(1)(B).

I certify under penalty of perjury that the information provided in this certification is true and correct to the best of my knowledge and belief.

Dated: March 10, 2025.

/s/
Wade Joel Earner
Debtor

SEE COMMITTEE NOTES ON THE FOLLOWING PAGE

Committee Notes

This local form should be used in lieu of any Official Form.

The document shall be completed in full, ~~sworn to and signed in front of a notary public,~~ and filed with the Court ~~in order~~ to begin the discharge process. A chapter 12 debtor may exclude subpart I(b) and part II. Be sure to reflect the correct chapter in the caption.

Each debtor in a joint case shall complete a separate document.

When this document is filed, it is not viewable on the public docket because of the personal identifier information that may be included. The case trustee will be able to view it so the trustee can complete his or her case administration duties.

~~Pursuant to 11 U.S.C. § 104, the amount of the homestead limitation in paragraph 2 adjusts every three years. The applicable amount is determined by the code provision in effect when the case was filed and should be adjusted in this form as necessary.~~

Appendix 3G. ~~Chapter 12 Debtor's Notice of Final Report and Final Account.~~

~~UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA~~

~~In re: _____)
_____)
WADE JOEL EARNER _____)
aka W.J. Earner _____)
SSN/ITIN xxx-xx-0000 _____)
_____)
and _____)
_____)
WANDA GAIL EARNER _____)
SSN/ITIN xxx-xx-0001 _____)
_____)
_____ Debtors. _____)~~

~~Bankr. No. 18-40000
Chapter 12~~

~~NOTICE OF FILING FINAL
REPORT AND FINAL ACCOUNT~~

~~Debtors have filed with the Court and served on the chapter 12 trustee a Final Report and Final Account. Debtors believe they have completed all payments under the plan, other than payments to holders of allowed claims provided for under 11 U.S.C. § 1222(b)(5) or 1222(b)(9).~~

~~Any party objecting to entry of a discharge of debts on the grounds Debtors have failed to complete all plan payments, other than payments to holders of allowed claims provided for under 11 U.S.C. § 1222(b)(5) or 1222(b)(9), shall file a motion to dismiss on or before November 5, 2018 pursuant to Bankr. D.S.D. R. 3072-1A(a)(4).~~

~~If no party timely files a motion to dismiss for failure to complete all plan payments, the Court may enter an order discharging debts.~~

~~Dated: October 12, 2018.~~

~~_____
Joseph J. Carson, Esq.
101 E. Legal Lane
Justice, SD 57000-0000
tele: (605) 555-5555
e-mail: jjclaw@legalline.net~~

Chapter 11 or 12 Nonindividual (Business) Debtor's Certification and Request for Discharge.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA

In re:	)	Bankr. No. 18-00001
	)	Chapter 11
BOB'S FEED & SEED, INC.)	
dba Bob's Feed Store	)	DEBTOR'S CERTIFICATION
Tax ID/EIN 18-0111111	)	AND REQUEST FOR DISCHARGE
)	
Debtor.)	

I, Joseph J. Carson, attorney for the above-named debtor, certify:

(a) Debtor has completed all payments, including any disposable income payments, due through the end of the plan term, as provided by Debtor's confirmed plan and any subsequent modifications approved by the Court; and

(b) Debtor has not received a prior discharge that would render it ineligible for a discharge in this case.

Debtor is, therefore, requesting the entry of an order of discharge.

I certify under penalty of perjury that the information provided in this certification is true and correct to the best of my knowledge and belief.

Dated: March 10, 2025.

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

SEE COMMITTEE NOTES ON THE FOLLOWING PAGE

Committee Notes

~~For the last date for objections, use a business date that is 24 days after service of the notice. This notice period already incorporates the extra three-day notice period required by Fed.R.Bankr.P. 9006(f).~~

This local form should be used in lieu of any Director's Form or Official Form by a nonindividual (business) chapter 11 debtor whose plan was confirmed under 11 U.S.C. § 1191(b) and any nonindividual chapter 12 debtor. A chapter 12 debtor may exclude paragraph (b). Be sure to reflect the correct chapter in the caption.

The document shall be completed in full and filed with the Court to begin the discharge process.

Appendix 3H. ~~Chapter 13 Debtor's Certification and Request for Discharge.~~

~~UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA~~

~~In re: _____) Bankr. No. 18-40000
_____) Chapter 13
WADE JOEL EARNER _____)
aka W.J. Earner _____)
SSN/ITIN xxx-xx-0000 _____)
_____) DEBTOR WADE EARNER'S
and _____) CERTIFICATION AND
_____) REQUEST FOR DISCHARGE
WANDA GAIL EARNER _____)
SSN/ITIN xxx-xx-0001 _____)
_____)
_____ Debtors. _____)~~

~~STATE OF SOUTH DAKOTA _____)
_____) ss
COUNTY OF _____)~~

~~I, an above-named debtor, being duly sworn upon oath, state as follows:~~

~~1. Eligibility. I am asking the Court to enter a discharge order in this case because I have completed all payments, including any disposable income payments, due under the confirmed plan and any subsequent modifications approved by the Court and I have completed an instructional course concerning personal financial management and have filed verification of the same with the Court. I further state I have not received a discharge in a chapter 7, 11, or 12 bankruptcy case filed within four years before the filing of this chapter 13 bankruptcy case, and I have not received a discharge in another chapter 13 bankruptcy case filed within two years prior to the filing of this chapter 13 bankruptcy case.~~

~~2. Domestic Support Obligation (check A or B and, if B is checked, complete part B in full):~~

~~A. **NO** Support Debt. I have not been required by a judicial or administrative order or by statute to pay any Domestic Support Obligation, as defined by 11 U.S.C. § 101(14A), either before this bankruptcy case was filed or any time thereafter.~~

~~OR~~

~~B. Support Debt. I have been required to pay a Domestic Support Obligation, as defined by 11 U.S.C. § 101(14A), either before this bankruptcy case was filed or any time thereafter. I certify that prior to the date of this affidavit I have~~

~~paid in full any Domestic Support Obligation payments required by a judicial or administrative order or by statute, including amounts due before or since this bankruptcy case was filed, to the extent provided by the confirmed plan and any subsequent modifications thereto.~~

~~The name and address of each holder of a Domestic Support Obligation is:~~

~~_____

_____~~

~~My most recent address is: _____

_____~~

~~The name and address of my most recent employer(s) is/are:~~

~~_____

_____~~

~~3. Debts Not Discharged.~~

~~The following creditor(s) hold a claim that is not discharged under 11 U.S.C. § 523(a)(2) or (a)(4) [list name and address of each creditor or specify "NONE"]:~~

~~_____

_____~~

~~4. Application of 11 U.S.C. § 522(q). I confirm [check A or B]:~~

~~A. 11 U.S.C. § 522(q)(1) does not apply because I have not claimed a homestead or other exemption specified in 11 U.S.C. § 522(p)(1) in an amount greater than \$155,675.00;~~

OR

~~□ B. Although I have claimed a homestead or other exemption specified in 11 U.S.C. § 522(p)(1) in an amount greater than \$155,675.00, 11 U.S.C. § 522(q)(1)(A) does not apply because I have not been convicted of a felony, as defined by 18 U.S.C. § 3156, that under the circumstances demonstrates the filing of the case was an abuse of the provisions of Title 11 of the United States Code, and 11 U.S.C. § 522(q)(1)(B) does not apply because I do not owe a debt arising from:~~

~~(i) any violation of the federal securities laws, as defined in § 3(a)(47) of the Securities Exchange Act of 1934, any state securities laws, or any regulation or order issued under federal securities laws or state securities laws;~~

~~(ii) fraud, deceit or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under § 12 or § 15(d) of the Securities Exchange Act of 1934 or under § 6 of the Securities Act of 1933;~~

~~(iii) any civil remedy under 18 U.S.C. § 1964; or~~

~~(iv) any criminal act, intentional tort or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding five years.~~

~~5. There is not currently pending any proceeding in which I may be found guilty of a felony of the kind described in 11 U.S.C. § 522(q)(1)(A) or liable for a debt of the kind described in 11 U.S.C. § 522(q)(1)(B).~~

~~By signing this affidavit, I declare under penalty of perjury all of the statements contained herein and all of the information or documents submitted in support thereof are true and accurate and the Court and the case trustee may rely on the truth of each in determining whether to grant a discharge in this chapter 13 case. The Court may revoke my discharge if any of these statements or any of the information or documents submitted in support thereof are not true and accurate.~~

~~Dated: March 9, 2018.~~

~~/s/
Wade Joel Earner
Debtor~~

~~Subscribed and sworn to before me this 9th day of March, 2018.~~

~~(SEAL)~~

~~/s/
Notary Public~~

My commission expires:

~~SEE COMMITTEE NOTES ON THE FOLLOWING PAGE~~

Committee Notes

~~This local form should be used in lieu of Director's Form 2830. The local form contains the information required by Director's Form 2830 and other information the case trustee needs to complete his case administration duties.~~

~~The document shall be completed in full, sworn to and signed in front of a notary public, and filed with the Court in order to begin the discharge process.~~

~~Each debtor in a joint case shall complete a separate document.~~

~~Pursuant to 11 U.S.C. § 104, the amount of the homestead limitation in paragraph 4 adjusts every three years. The applicable amount is determined by the code provision in effect when the case was filed and should be adjusted in this form as necessary.~~

~~When this document is filed, it is not available for public view because of the personal identifier information that may be included. The Clerk will serve a copy of the document on the case trustee so the trustee can complete his case administration duties.~~

~~Any question a debtor may have pertaining to this document or declarations contained in this certification shall be directed to the debtor's attorney, not the case trustee. The case trustee cannot provide legal advice to any debtor.~~

Application for Payment of Unclaimed Funds

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA

In re:	)	Bankr. No. 18-40000
	)	Chapter 13
WADE JOEL EARNER)	
aka W.J. Earner)	
SSN/ITIN xxx-xx-0000)	
	)	BOB'S FEED & SEED, L.L.C.'S
and	)	APPLICATION FOR PAYMENT
	)	OF UNCLAIMED FUNDS
WANDA GAIL EARNER)	
SSN/ITIN xxx-xx-0001)	
)	
Debtors.)	

Bob's Feed & Seed, L.L.C. hereby makes application for the payment to it of previously unclaimed funds of \$794.12. Pursuant thereto:

- Claim information.** DeFunct Seeds, Inc. filed Proof of Claim 22-1 in this case and was issued a payment of \$794.12 by the case trustee during the administration of the case. DeFunct Seeds, Inc. failed to timely negotiate the

check. The case trustee deposited the funds with the Court pursuant to 11 U.S.C. § 347(a) on April 19, 2019. Bob's Feed & Seed, L.L.C. purchased the assets of DeFuncnt Seeds, Inc. on June 15, 2020 and is now the holder of the subject claim.

2. **Applicant's information.** Bob's Feed & Seed, L.L.C.'s address is 1402 West Highland Drive, Blunt, SD 57522. Its agent's name and address are provided below.
3. **Supporting documents.** DeFuncnt Seeds, Inc., as the owner of record of the subject funds, supplied supporting documents with its Proof of Claim 22-1. Those supporting documents are incorporated herein by reference. Bob's Feed & Seed, L.L.C. has attached hereto documents showing the transfer of DeFuncnt Seeds, Inc.'s assets to Bob's Feed & Seed, L.L.C.
4. **Required identifying information.** Bob's Feed & Seed, L.L.C. will separately file the required identifying information described in Bankr. D.S.D. R. 3011-1(d).

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing and the required identifying information filed herewith are true and correct.

Date:

Signature of Applicant

Printed Name of Applicant

Address:

Telephone:
e-mail:

Notarization:

STATE OF
COUNTY OF

This Application for Payment of Unclaimed Funds dated _____ was subscribed and sworn to before me this _____ day of _____, 20____ by _____, who signed above and is personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within

instrument.

WITNESS my hand and official seal.

(SEAL)

Notary Public
My commission expires:

SEE COMMITTEE NOTES ON FOLLOWING PAGE

Committee Notes

An applicant may file an application that conforms to this appendix or use Director's Form 1340.

If an attorney is the applicant or an agent for the applicant, the attorney shall electronically file the application, the supporting documents, and the required identifying information. So the required identifying information is not viewable on the public docket, the applicant must separately file the required identifying information using the CM/ECF event "Unclaimed Funds Identifying Information" found under "Bankruptcy-Other."

A nonindividual (business) debtor is not required to employ an attorney to file this application on its behalf. Any authorized agent of the business may do so.

Appendix 6D. Order Compelling Abandonment.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA

In re:	)	Bankr. No. 18-90000
	)	Chapter 7
JANE ANNE ANONYMOUS)	
fdba Jane's Flower Shop	)	ORDER COMPELLING ABANDONMENT
SSN/ITIN xxx-xx-0000	)	OF CERTAIN PERSONAL PROPERTY
)	
Debtor.)	

Upon consideration of Bob's Bank's Motion to Compel Abandonment (doc. 8) and the record before the Court; and it appearing no objection to the motion was timely filed after appropriate notice; and for cause shown; now, therefore,

IT IS HEREBY ORDERED Bob's Bank's motion is granted, and the case trustee shall abandon the following property from the bankruptcy estate:

2012 Jeep Cherokee, VIN: WNAX3EH076006.

~~This order constitutes the notice the case trustee has abandoned the subject property in compliance with this order.~~

So ordered: