

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH DAKOTA

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GENERAL ORDER AMENDING LOCAL BANKRUPTCY RULES  
AND RELATED APPENDICES FOLLOWING FORMAL PROMULGATION

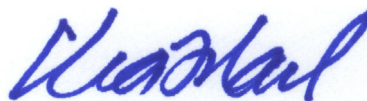
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Upon consideration of the several substantive and technical changes to the local bankruptcy rules and attendant appendices proposed by the Local Bankruptcy Rules Committee; and it appearing the Local Bankruptcy Rules Committee has recommended the proposed amendments to the Court for its approval after giving public notice of them and an opportunity to comment; now, therefore,

IT IS HEREBY ORDERED the Local Bankruptcy Rules for the District of South Dakota and attendant appendices are amended as set forth on the attachment hereto. The effective date shall be October 1, 2022. The Clerk shall post the rules and appendices, as amended, on the Court's website.

So ordered: September 30, 2022.

BY THE COURT:



Charles L. Nail, Jr.  
Bankruptcy Judge

**AMENDMENTS TO THE  
LOCAL BANKRUPTCY RULES AND APPENDICES  
FOR THE UNITED STATES BANKRUPTCY COURT,  
DISTRICT OF SOUTH DAKOTA**  
effective October 1, 2022

1. New rule:

Rule 1017-1. Voluntary conversion to chapter 11. Any debtor voluntarily seeking conversion of the debtor's case from chapter 7, 12, or 13 to chapter 11 shall state in the motion to convert whether the debtor qualifies as a small business debtor as defined by 11 U.S.C. § 101(51C) and (51D) and whether the debtor elects to proceed under subchapter V of chapter 11.

2. Amendment of Bankr. D.S.D. R. 9014-2:

(a) **Withdrawal in a bankruptcy case.** A party may withdraw any document that party filed in a bankruptcy case either by filing a withdrawal that conforms to Appendix 9E and serving the withdrawal on parties in interest not electronically served or, if the party is permitted to file electronically, by filing a "text-entry" withdrawal in CM/ECF and serving a copy of the Notice of Electronic Filing on parties in interest not electronically served. This rule does not apply to the withdrawal of a proof of claim, which is governed by Fed.R.Bankr.P. 3006 ~~or to the withdrawal of a document in an adversary proceeding.~~

(b) **Withdrawal in an adversary proceeding.** A party may withdraw any document that party filed in an adversary proceeding, excluding a complaint, answer, counterclaim, cross-claim, or third party pleading, either by filing a withdrawal that conforms to Appendix 9E and serving the withdrawal on parties in interest not electronically served or, if the party is permitted to file electronically, by filing a "text-entry" withdrawal in CM/ECF and serving a copy of the Notice of Electronic Filing on parties in interest not electronically served. A party to an adversary proceeding may request authority to withdraw a complaint, answer, counterclaim, cross-claim, or third party pleading only by motion pursuant to Fed.R.Bankr.P. 7007, Fed.R.Civ.P. 7(b), and Bankr. D.S.D. R. 7007-1.

(c) Effect of withdrawing a document.

. . . .

3. Amendment of Bankr. D.S.D. R. 2016-2(a) and Bankr. D.S.D. R. 2016-3(a):

**Rule 2016-2. Fees for Estate Professionals.**

(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 . . . . 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 and shall set forth a last date (month,

day, year) for filing an objection or other response that is 21 days after service of the application and the notice of the application.

**Rule 2016-3. Administrative Expense other than for Estate Professional.**

**(a) Application and notice.** An application . . . . The notice shall conform to Bankr. D.S.D. R. 2002-1(e) and Appendix 2G and shall set forth a last date (month, day, year) for filing an objection or other response that is 21 days after service of the ~~motion~~ application and the notice of ~~motion~~ the application.

4. Amendment of Bankr. D.S.D. R. 5010-1(b):

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

. . . .

(3) file, amend, or withdraw a proof of claim or file a transfer of claim;

. . . .

(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 a reaffirmation agreement;

(8) file a satisfaction of judgment; or

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

5. New rule:

**Rule 7069-1. Filing a Satisfaction of Judgment.** A satisfaction of judgment may be filed in an adversary proceeding that has been administratively closed.

6. Amendment of Bankr. D.S.D. R. 2002-1A(a):

**(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, unless the reduction is otherwise proscribed by another Federal Rule of Bankruptcy Procedure, as set forth in Fed.R.Bankr.P. 9006(c)(2), 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 to reduce notice on parties in interest not electronically served.

7. New rule:

**Rule 2002-2. Waiver of Notice of Need to File a Proof of Claim.** If a chapter 7 trustee determines estate assets are sufficient to pay only administrative expenses in full or in part, the trustee may file a Notice of Recovery of Limited Assets. If the trustee files a Notice of Recovery of Limited Assets, the requirement for the Clerk to serve a Notice of Need to File a Proof of Claim is waived pursuant to Fed.Rs.Bankr.P. 2002(e) and (f)(3) and 3002(c), and the trustee may proceed to file a Notice of Trustee's Final Report and Applications for Compensation and Deadline to Object (no notice).

8. New rule:

**Rule 2004-1. Content of a Motion Under Fed.R.Bankr.P. 2004.** In any motion under Fed.R.Bankr.P. 2004, the movant shall state whether the movant has consulted with the party to be examined or the party from whom a production of documents is sought or that party's attorney and whether the requested date, time, and place for the examination or the production of documents is mutually agreeable.

Present Bankr. D.S.D. R. 2004-1 will be renumbered to Bankr. D.S.D. R. 2004-2.

9. Amendment of Bankr. D.S.D. R. 2091-1(d)(1):

**(d) Substitution of attorney for a party other than a debtor or a trustee.**

(1) Substitution of attorney for a party other than a debtor or a trustee while a contested matter or adversary proceeding is pending. If a party other than a debtor or a trustee wishes to substitute an attorney while a contested matter or adversary proceeding involving that party is pending, the party shall file . . . . The party shall serve a copy of the motion ~~and the proposed order~~ on parties in interest not electronically served. The Court may, in its discretion, grant the motion, set a deadline for responses to the motion, or set a hearing on the motion.

10. New rule:

**Rule 5001-1. Receipt and Transmittal of Rent to Lessor under 11 U.S.C. § 362(l).**

(a) An individual debtor proceeding under 11 U.S.C. § 362(l) shall file a copy of the judgment of eviction with the debtor's completed, dated, and signed Initial Statement About an Eviction Judgment Against You (Official Form 101A).

(b) Any deposit of rent by an individual debtor pursuant to 11 U.S.C. § 362(l)(1)(B) shall be a certified check or money order payable to the debtor's lessor and shall be delivered to the Clerk with the debtor's completed, dated, and signed Initial Statement About an Eviction Judgment Against You (Official Form 101A).

(c) Upon receipt of a debtor's completed, dated, and signed Initial Statement About an Eviction Judgment Against You (Official Form 101A), a copy of the

judgment of eviction, and a certified check or money order, as described in paragraphs (a) and (b) above, the Clerk will transmit the certified check or money order to the debtor's lessor by certified mail, with return receipt requested, at the address listed on the debtor's Initial Statement About an Eviction Judgment Against You (Official Form 101A). The Clerk will docket the return receipt when received.

11. Amendment of Bankr. D.S.D. R. 3016-1:

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

~~(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 a separate paragraph the date of the last payment being made under the plan; and~~

~~(4) not include repetitive descriptions of claims or claim treatment or unnecessarily repeat information from any attendant disclosure statement.~~

(a) Each chapter 11 plan shall:

(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, 2024";

(2) set forth in a separate paragraph the plan term in months, the date of the first payment being made under the plan, the date of the last payment being made under the plan, and the names of the creditors holding nondischargeable claims and secured claims that will continue to receive payments after the plan term ends;

(3) not include repetitive descriptions of claims or claim treatment or unnecessarily repeat information from any attendant disclosure statement; and

(4) be signed and dated by the proponent and any attorney for the proponent.

(b) In addition to the requirements set forth in paragraph (a) above, a plan filed in a small business case, as defined by 11 U.S.C. § 101(51C) and (51D), shall conform either to:

(1) Official Form 425A; or

(2) Appendix 3A of these local bankruptcy rules, excluding Parts 1, 2.2, 7.2 (unless the debtor is an individual), and 8 and any references to

chapter 13 and "nonstandard provisions," incorporating the relevant portions of Official Form 425A, including paragraph 3.05 and Articles 7 and 9, and incorporating the relevant portions of Official Form 425B, including part II and paragraphs D and G of part III.

- (c) In addition to the requirements set forth in paragraph (a) above, a plan by a debtor who has elected to be a debtor under subchapter V of chapter 11 shall conform either to:

(1) Official Form 425A; or

(2) Appendix 3A of these local bankruptcy rules, excluding Parts 1, 2.2, 7.2 (unless the debtor is an individual), and 8 and any references to chapter 13 and "nonstandard provisions," incorporating the relevant portions of Official Form 425A, including Articles 7 and 9, incorporating the relevant portions of Official Form 425B, including part II and paragraphs D and G of part III, and including the information required by 11 U.S.C. § 1190.

12. Amendment of Appendix 3A:

- (a) Part 3.2 of Appendix 3A is rewritten (the underlining to indicate an addition is omitted to enhance readability):

**3.2 Professional fees.**

☐ *No fees owed.*

Debtor's(s') attorney and any other professional employed by the bankruptcy estate will file and give notice of a fee application. The Court will enter an order awarding the professional fees consistent with 11 U.S.C. § 330. The fees awarded will be paid as follows:

**Estimated total fees paid through plan  
for Debtor's(s') attorney \$ \_\_\_\_\_**

**Payments**  
\$ \_\_\_\_\_ per month for \_\_\_\_ months  
beginning \_\_\_\_\_, 20\_\_.

**Estimated total fees paid through plan  
for Debtor's(s') financial advisor \$ \_\_\_\_\_**

**Payments**  
\$ \_\_\_\_\_ per month for \_\_\_\_ months  
beginning \_\_\_\_\_, 20\_\_.

**Estimated fees paid through plan  
for Debtor's(s') accountant \$ \_\_\_\_\_**

**Payments**  
\$ \_\_\_\_\_ per month for \_\_\_\_ months  
beginning \_\_\_\_\_, 20\_\_.

If the Court awards professional fees that total less than the estimates above, unsecured creditors may receive a distribution that is more than the estimate set forth in Part 6. If the Court awards professional fees that total more than the estimates above, Debtor(s) may file a motion to modify the confirmed plan to provide for those additional fees. If the Court approves the modification, unsecured creditors may receive a distribution that is less than the estimate set forth in Part 6. The actual amount of the monthly installment fee payments will be calculated by the trustee based on the Court's fee orders.

- (b) In Parts 5.1, 5.2, and 5.3 of Appendix 3A, the following sentence is added:

If the case is dismissed or converted to another chapter before the plan is completed, a creditor listed below will retain its lien to the extent recognized by applicable nonbankruptcy law.

- (c) In Part 6 of Appendix 3A, "through the plan payments" is added at the end of the last sentence of the first paragraph.
- (d) In Part 8 of Appendix 3A, the check box and the "None" that are directly under the title are removed. Going forward a debtor may just type "None" where prompted in the second paragraph of Part 8 if the plan does not contain any nonstandard provisions.
- (e) On Exhibit A to Appendix 3A, near the bottom, "(as scheduled, unless proof of claim deadline has expired)" is removed and "Unsecured, nonpriority claims" is moved to the right to align with "Secured claims arrearage payments (listed by creditor)."
- (f) The following Committee Note is added to Appendix 3A to address the use of the form in a chapter 12 case:

When using this plan form in a chapter 12 case, omit Parts 1, 5.1, and 8 and renumber the remaining parts. The use of the remaining subparts in Part 5 is optional; the plan treatment for each fully or partially secured creditor instead may be set forth seriatim in Part 5. Remove all references to "nonstandard provisions." Convert all references to a chapter 13 statute to the applicable chapter 12 statute. On the signature page, omit the sentence referring to nonstandard provisions and instead use "Respectfully submitted:" above the signatures and dates.

13. Amendment of Bankr. D.S.D. R. 3015-2:

**Rule 3015-2. Chapter 12 or Chapter 13 Required Plan Content.** A proposed chapter 12 or chapter 13 plan shall:

(4) include:

(A) a detailed liquidation analysis, excluding any fees for the debtor's attorney, that demonstrates the plan compliance~~es~~ with 11 U.S.C. § 1225(a)(4) or § 1325(a)(4); and

~~(B) if appropriate, as attachments referenced within the plan, a Supplement Schedule I and/or a Supplement Schedule J that reflect each actual or reasonably anticipated change in the debtor's financial circumstances since the petition date; and~~

~~(C)~~ the dates (month, day, year) . . . .

A new Practice Pointer also will be added to Bankr. D.S.D. R. 3015-2 and Appendix 3A. It will link to updated memos from the Farm Service Agency and the Internal Revenue Service regarding their desired language in chapter 12 and chapter 13 plans.

14. Amendment of Bankr. D.S.D. R. 9004-1:

- (i) Any motion, application, complaint, or other request for relief regarding real property shall set forth the legal description and the postal address, if any, for the subject real property. Any motion, application, complaint, or other request for relief regarding personal property shall set forth any serial number or other identification number assigned to the subject personal property.

15. Amendment of Bankr. D.S.D. R. 5080-1(b):

**(b) Unpaid fees when case dismissed.** Unless otherwise ordered, any fee still owed to the Clerk by a debtor or debtor in possession when a case is dismissed shall be paid by the debtor or debtor in possession within 14 days after the order dismissing the case is entered, ~~unless a trustee is serving in the case and has estate funds available to pay all or part of such fee. In that event, the debtor shall be liable only for the balance remaining after payment by the trustee.~~

16. New rule:

**Rule 9014-3. Discovery in a Contested Matter.** Discovery in a contested matter shall be governed by Bankr. D.S.D. R. 7026-1.

Present Bankr. D.S.D. R. 9014-3 will be renumbered to Bankr. D.S.D. R. 9014-4.

17. Amendment of Bankr. D.S.D. R. 7055-1:

**Rule 7055-1. Default Judgment.** An application for a default judgment and a supporting affidavit of default shall be filed with the Court and served on the defaulting defendant and the defaulting defendant's attorney, if known. If required by Fed.R.Bankr.P. 7055 and Fed.R.Civ.P. 55(b)(2), the applicant shall also file and serve a notice of the application on the defaulting defendant and the defaulting defendant's attorney, if known. The applicant shall submit pursuant to Bankr. D.S.D. R. 9072-1 ~~(a)~~ a proposed order directing the entry of a default judgment and a proposed default judgment.

18. Amendment of Bankr. D.S.D. R. 9072-1(b)(2):

(2) A proposed order granting a motion for relief from stay, a motion to avoid a lien on or other transfer of exempt property, a motion to compel abandonment, or an application for compensation for services or reimbursement of expenses (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 granting any motion, application, objection to claimed exemptions, or objection to a proof of claim regarding which the Court has granted a motion for reduced notice shall be submitted before the deadline to object passes. A proposed order granting any other motion, . . . .

19. New rule and certain amendments following formal promulgation of changes made earlier by general order:

**Rule 1019-2. Trustee's Report Following Conversion From Chapter 13.** If a chapter 13 case converts to a chapter 7 case, the chapter 13 trustee shall file a final report and account and transmit it to the United States Trustee on or before the later of 30 days after the date of conversion or 45 days after all checks or other forms of payment issued pre-conversion by the chapter 13 trustee have either been negotiated by the payee or cancelled by the chapter 13 trustee.

**Rule 2002-1. Notices: General and Particular.**

**(c) Notice of a chapter 12 or a chapter 13 confirmation hearing.** A notice of a confirmation hearing in a chapter 12 case or in a chapter 13 case will be prepared and filed by the Clerk, shall conform to Appendix 2D ~~(telephonic hearing) or 2E (in-court hearing)~~, and shall include:

(1) a last date (month, day, year) by which an objection or other response must be filed with the Court and served in compliance with Bankr. D.S.D. R. 9014-1(b) that is 21 days after service of the plan ~~in a chapter 12 case and 28 days after service of the plan in a chapter 13 case~~ but not fewer than seven days after the first date set for the meeting of creditors under 11 U.S.C. § 341(a) and Fed.R.Bankr.P. 2003(a) or fewer than seven days before the date of the confirmation hearing;

**(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~~ under the provisions of Fed.R.Civ.P. 5(b)(2)(D) [leave with clerk] or (F) [other means consented to]. The last date shall also not be

. . . .

**Rule 2015-3. Reports Filed with the United States Trustee.**

(a) Unless otherwise ordered and except as provided in paragraph (b) below, financial, inventory, or other reports required by Fed.Rs.Bankr.P. 2015(a)(1), (a)(3), (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.

(b) Unless otherwise ordered, a monthly operating report or a post-confirmation report by a debtor in possession or a trustee in a chapter 11 case, other than a chapter 11 small business case or a chapter 11 case where the debtor has elected to be a debtor under subchapter V, shall be filed with the Court in compliance with the United States Trustee's "Procedures for Completing Uniform Periodic Reports in Non-Small Business Cases Filed Under Chapter 11 of Title 11."

**Rule 4004-2. Motion Objecting to Discharge.** A motion objecting to a debtor's discharge under 11 U.S.C. § 727(a)(8), 11 U.S.C. § 727(a)(9), or 11 U.S.C. § 1328(f) shall be served, with a notice, on parties in interest not electronically served. 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 21 days after service of the motion and the notice of the motion.

20. Amendment of Bankr. D.S.D. Rs. 1007-1, 1009-5, 3016-2, and Appendix 1A:

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

**(g) Chapter 11 ~~small business debtor~~ statement under 11 U.S.C. § 1116(1).** A ~~small business chapter 11~~ debtor in a small business chapter 11 case and a debtor who has elected to be a debtor under subchapter V of chapter 11 shall file a 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).

. . . .

**Rule 1009-5. Supplement Schedule I or J.** If an individual debtor in a chapter 11, chapter 12, or ~~a~~ chapter 13 case wants to show or is directed by the Court to show a post-petition change in income or a post-petition change in expenses in support of a proposed plan, a motion, or a response, the debtor shall . . . .

**Rule 3016-2. Disclosure Statement in a Small Business 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 plan filed in a small business chapter 11 case or in a chapter 11 case in which the debtor has elected to be a debtor under subchapter V is deemed to contain adequate information and the proponent of ~~a the~~ plan ~~in a small business chapter 11 case~~ shall not prepare, file, and serve a disclosure statement with the plan.

**Appendix 1A.** For the two filing checklists for subchapter V debtors, "that is also a Small Business Debtor" is removed from the titles.

21. A second sample Supplemental Disclosure of Compensation is added at Appendix 2N-2 (see attachment). The original sample is re-labeled Appendix 2N-1.

**Appendix 2N-2. Supplemental Disclosure of Compensation.**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH DAKOTA

In re:	)	Bankr. No. 25-90000
	)	Chapter 13
JANE ANNE ANONYMOUS	)	
fdba Jane's Flower Shop	)	SUPPLEMENTAL DISCLOSURE
SSN/ITIN xxx-xx-0000	)	OF COMPENSATION
	)	
Debtor.	)	

Pursuant to 11 U.S.C. § 329(a), Fed.R.Bankr.P. 2016(b), and Bankr. D.S.D. R. 2016-1(b), I declare that since the filing of my Disclosure of Compensation (doc. 4), my fee arrangement with Debtor has changed as follows:

Debtor converted her chapter 7 case to a chapter 13 case on March 31, 2025. She paid me \$485.00 for post-petition, pre-conversion services related to the conversion using nonbankruptcy estate funds. Debtor has agreed to pay me a flat fee of \$1,800.00 for all post-conversion chapter 13 services through confirmation of a plan and actual expenses, which will be paid through her plan.

Dated: April 4, 2025.

/s/  
Joseph J. Carson, Esq.  
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e-mail: [jjclaw@legalline.net](mailto:jjclaw@legalline.net)