

WHAT I EXPECT FROM THE UTAH BANKRUPTCY BAR

Utah Bankruptcy Lawyers Forum
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United States Bankruptcy Judge

WHAT THE BAR CAN EXPECT FROM ME

- **I am committed to maintaining the integrity of the bankruptcy process.** It is important that the participants in the bankruptcy system have faith in the system.
- **I am committed to ensuring a fair and efficient process.** This process is an effort to secure a "just, speedy, and inexpensive determination of every case and proceeding."
- **I will look at the big picture.** I will constantly revisit what is trying to be accomplished.
- **I will look at the details.** I will not niggle but I will be looking at the details of proper procedure and fair play.
- **My chambers will be accessible.** I recognize that one call to or from chambers may help resolve a procedural issue and save time or eliminate a recurring problem.
- **I will process orders in a timely manner.** Orders that are properly submitted will be promptly signed. Orders will be held until any applicable time period has expired or the order is approved as to form or electronically endorsed if required.
- **I don't want to waste time.** Many issues (motions and objections), if properly plead, can be disposed of with little or no court time.
- **You can expect an even and judicial temperament.** I know it is important to attorneys to be reasonably comfortable when appearing in court. I am not inclined to "fly off the handle."

WHAT I EXPECT FROM THE BAR

- **Be committed to maintaining the integrity of the bankruptcy process.** What you do is important.
- **Be committed to ensuring a fair and efficient process.** Follow the rules of procedure.
- **Look at the big picture.** Your practice may be repetitive in many ways but don't lose sight of the forest while focusing on the trees.
- **Pay attention to details.** Don't make me look like a niggler.
- **Don't abuse my chambers.** Don't expect my chambers to solve your procedural problems.
- **Submit proper orders in a timely manner.** Be sure to comply with Local Rule 9021-1. Obtain signatures or endorsements if required.
- **Don't waste my time.** Strike hearings when appropriate, get your chapter 13 plans confirmed by consent.
- **Don't provoke me.** Don't take advantage of my good nature, its not limitless.

WHAT THE BAR CAN EXPECT FROM ME

- **You can expect to be treated with respect.** This doesn't mean I won't be firm or demanding.
- **I will be open and communicate with you.** I will tell you what I think is important or what is bothering me.
- **I will be prepared.** If you draft your pleadings well, I will read your pleadings and understand the issues.
- **I may limit or alter oral argument.** There is no right to oral argument under Federal Rule of Bankruptcy Procedure 9014. Parties must be given adequate opportunity to argue their case, but argument does not have to be oral.
- **I will be open to persuasive argument.** I recognize that initial conclusions are not always correct; especially in difficult cases.
- **I will not excuse shoddy work but I recognize we all make mistakes.** I will shoot a sheep in front of the flock only when necessary.
- **I will follow the rules of procedure.** I may not like rules but I understand their importance.
- **I will not ignore a rule of procedure because none of the parties care.** Someone smarter than me drafted the Federal Rules of Bankruptcy Procedure. I am not going to second guess them.
- **I will not permit an unfair action or result that comes to my attention.** Rules and procedures are to effect a just and speedy result. They are not to be used for deception or trickery.

WHAT I EXPECT FROM THE BAR

- **Respect the office and the Court.** When in Court, show respect to all participants.
- **Communicate with me.** I recognize this may be easier said than done.
- **Be prepared.** Read your pleadings and recognize issues that will be important.
- **Know your argument and organize your argument.** I may not want to follow your outline. There may be specific issues I want to discuss and some that I don't.
- **Persuade me, don't argue with me.** This applies to written as well as oral argument. Be careful in your use of case law.
- **Take pride in your work.** What you do is important and helps maintain the integrity of the process.
- **Follow the rules of procedure.** You may not like them but they are important.
- **Follow the rules of procedure.** You may not like them, but they are there.
- **Follow the rules of procedure. Don't try to take unfair advantage.** Your pleadings and actions should fairly comply with Rule 9011.

**A JUST, SPEEDY, AND EFFICIENT
BANKRUPTCY PROCESS**

A JUST, SPEEDY, AND EFFICIENT BANKRUPTCY PROCESS

There should be four objectives in the administration of the bankruptcy process: *impartial*, *expert*, and *speedy* performance of decision-making and other functions necessary to bring a case to a fruitful conclusion, *economy* that avoids waste, duplication, dilatoriness, and inefficiency; *uniformity* in case procedure and in the application of substantive laws throughout the United States; and managerial *flexibility* that can adjust quickly and efficiently to changes in quantity, kind, size, and location of cases. [Report of the Commission on the Bankruptcy Laws of the United States, H.R. Doc. No. 137, 93a Cong., 1st Sess. (1973)]

The bankruptcy laws of the United States underwent a massive revision in 1978. An enormous amount of time was spent drafting title 11 of the United States Code (the Bankruptcy Code), and the Federal Rules of Bankruptcy Procedure to make the bankruptcy process more efficient, uniform and fair. The Bankruptcy Code establishes the substantive law, the Federal Rules of Bankruptcy Procedure and the Official Bankruptcy Forms govern the procedures in cases under Bankruptcy Code.

Rule 1001 Scope of Rules and Forms; Short Title

The Bankruptcy Rules and Forms govern procedure in cases under title 11 of the United States Code. The rules shall be cited as the Federal Rules of Bankruptcy and the forms as the Official Bankruptcy Forms. These rules shall be construed to secure the just, speedy, and inexpensive determination of every case and proceeding. (emphasis added)

I. MOTION PRACTICE

In bankruptcy the term "motion" is exceedingly broad. The Federal Rules of Bankruptcy Procedure provide that a request for an order from a judge is obtained by filing a motion unless the Rules authorize use of an application. Federal Rule of Bankruptcy Procedure 9013 states "a request for an order, except when an application is authorized by these rules, shall be by written motion, unless made during a hearing." Federal Rule of Bankruptcy Procedure 9014 states "in a contested matter not otherwise governed by these Rules, relief shall be requested by motion . . . "

The Federal Rules of Bankruptcy Procedure authorize use of an application in only a few situations. The situations generally concern matters for which there is no apparent adverse party at the time of filing, for example, applications to employ professionals and applications seeking compensation.

In addition to motions and applications there are two other ways of requesting bankruptcy court relief: adversary proceedings and claims objections. Motions may be filed within an adversary proceeding including motions for summary judgment, discovery and injunctive relief. Federal Rules of Bankruptcy Procedure 7005 and 7007 govern motions in adversary proceedings.

Claim objection must also be writing. The claim objection is a contested matter governed by Federal Rule of Bankruptcy Procedure 9014 which requires notice and an opportunity for hearing. If an objection is joined with a demand for relief under Federal Rule of Bankruptcy Procedure 7001, it becomes an adversary proceeding, See Federal Rule of Bankruptcy Procedure 3007.

A. Motion Calendars

I divide motions into three general categories: (1) routine motions in bankruptcy cases; (2) contested matters in bankruptcy cases; and (3) motions in adversary proceedings.

Routine motions are usually uncontested or resolved by the time of a noticed hearing. Routine motions include motion for the relief from the stay, motion to dismiss chapter 7 and 13 cases, motion to redeem property, motion to reopen a case, motion for abandonment, motion to convert, and motion to reaffirm. Because routine motions are often uncontested or are settled before the time of hearing, many matters can be set at the same time, this practice is referred to as "deep setting." I have law and motion calendars every Wednesday to handle routine motions. It should be emphasized that only routine matters should be set on the law and motion calendar. If a party expects their motion to be contested it should not be set on the law and motion calendar. Also, hearings on routine motions are not evidentiary hearings and the court will not conduct an evidentiary hearing.

If a party objects to a motion the proceeding becomes a contested matter governed by Federal Rule of Bankruptcy Procedure 9014. In addition, some Federal Rules of Bankruptcy Procedure expressly provide that certain types of relief are considered contested matters. Contested matters included motions to assume, assign, or reject executory contracts or unexpired leases, to obtain credit, or for use of cash collateral. Contested matters and evidentiary hearings in adversary proceedings are scheduled by contacting the court's scheduling clerk.

B. Pleading Your Motion

In order for your motion to be granted the motion and/or supporting memorandum ("motion papers") should state sufficient grounds for the relief requested. The motion papers should address all arguable relevant facts. I will take as true (a) representations in the motion papers duly signed by counsel subject to Rule 9011, or (b) affidavits accompanying the motion papers, except to the extent the representations are disputed in responsive pleadings by an opposing party or the representations are patently incorrect.

If the motion is properly plead, proper notice has been given and no responsive pleading or objection is filed, the motion may be granted without hearing. (See Notice Practice below). If a responsive pleading is filed but it is not an objection, the motion

will be granted, without oral argument, at the time of the hearing, unless a party, at the time of hearing, asks to be heard.

II. NOTICE PRACTICE

Rules and procedure are critical to the efficient administration of the bankruptcy process. In bankruptcy, the resolution of matters is principally effected after notice and a hearing. Section 102(1) of the Bankruptcy Code defines "after notice and a hearing."

§ 102 Rules of Construction

In this title -

(1) "**after notice and a hearing**", or a similar phrase

(A) means after such notice as is appropriate in the particular circumstances, and such opportunity for a hearing as is appropriate in the particular circumstances; but

(B) **authorizes an act without an actual hearing if such notice is given properly and if -**

(i) such a hearing is not requested timely by a party in interest; or

(ii) there is insufficient time for a hearing to be commenced before such act must be done, and the court authorize such act;

Section 102(1)(B) authorizes an act without an actual hearing if such notice is given properly. An act may be authorized without an actual hearing but not without proper notice.

A. Proper Notice

Proper notice is not a defined term but the requirements for proper notice are clearly determined by the Code, the Rules, and the Official Forms. Bankruptcy Rule of Procedure 9009 specifically adopts the Official Forms in bankruptcy cases.

Rule 9009 Forms

... **the Official Forms prescribed by the Judicial Conference of the United States shall be observed and used with alterations as may be appropriate.** Forms may be combined and their contents rearranged to permit economies in their use. The Director of Administrative Office of the United States Courts may issue additional forms for use under the Code. The forms shall be construed to be consistent with these rules and the Code.

Official Forms 20A and 20B establish the basic requirements for notice of motions and notice of objection to claims. Both Official Form 20A and 20B, although slightly different, have the same following requirements:

1. A clear statement of the action intended to be taken.
2. A clear statement that a right may be affected.
3. Notice that a response must be filed by a date certain.
4. Notice that a response or objection must be in writing and filed with the clerk of the court.
5. The address for filing with the clerk of the court.
6. Notice of the date and time of hearing and requirement to attend the hearing if necessary.
7. A statement that if the steps for objection or response are not taken the court may determine that there is no opposition to the relief sought or the objection and the court may enter and order granting the relief.

Official Forms 20A and 20B may adapted to local procedures but any adaptations to these Official Forms must be consistent with the intent of the forms "to give notice of applicable procedures in easily understood language." [1997 Advisory Committee Note].

B. Local Bankruptcy Rules

District courts, or bankruptcy courts if authorized by the district court, may establish local rules which do not prohibit or limit the use of the Official Forms.

Rule 9029 Local Bankruptcy Rules; Procedure When There Is No Controlling Law

(a) Local bankruptcy rules

(1) Each district court acting by a majority of its district judges may make and amend rules governing practice and procedure in all cases and proceedings within the district court's bankruptcy jurisdiction which are consistent with - but not duplicative of - Acts of Congress and these rules **which do not prohibit or limit the use of the Official Forms**. Rule 83 F.R.Civ.P. governs the procedure for making local rules. A district court may authorize the bankruptcy judges of the district, subject to any limitation or condition it may prescribe and the requirements of 83 F.R.Civ.P., to make and amend rules of practice and procedure which are consistent with - but not duplicative of - Acts of Congress and these rules **which do not prohibit or limit the use of the Official Forms**. Local rules shall conform to any uniform numbering system prescribed by the Judicial Conference of the United States.

The Local Rules of Practice of the United States Bankruptcy Court for the District of Utah are consistent with all of the foregoing provisions. Local Rules 4001-1 and 9013-1 require notices of motions to conform to Official Form 20A. Local Rule 3007-1 requires that notice of objections to claim must be in accordance with the Federal Rule of Bankruptcy Procedure 3007 and Official Form 20B.

Local Rule 2002-1 provides an adaptation that a notice may include a statement that the relief requested may be granted without a hearing unless an objection is timely filed. Rule 2002-1 also provides that a notice not accompanied by a motion must state the relief requested and explain the basis for the relief.

C. Striking a Hearing After Proper Notice

If your motion has been properly plead, you have given proper notice, including compliance with Local Rule 2002-1, and no responsive pleading or objection has been filed, you may strike the hearing and file an application/declaration for entry of order and a proposed order granting the requested relief. (Local Rule 3013-1). Counsel is strongly encouraged to properly plead their motion, give proper notice and strike the hearing when appropriate. If you fail to properly plead your motion, or fail to give proper notice or fail to strike your hearing when you can, you may find your matter set at the end of a "deep calendar."

III. HEARING PRACTICE

It is important that proper decorum in the courtroom be maintained. All parties are expected to act respectfully toward each other and the court. The Bankruptcy court for the District of Utah is a unit of the Federal District Court for the District of Utah and the local rules of the District Court are applicable to the bankruptcy court. Local Rule 43-1 for the District Court applies to courtroom practices and procedures.

DUCivR 43-1 Courtroom Practices and Protocol

(a) Conduct of Counsel.

- (1) Only one (1) attorney for each party may examine or cross-examine a witness, and not more than two (2) attorneys for each party may argue the merits of the action unless the court otherwise permits.
- (2) To maintain decorum in the courtroom, counsel will abide strictly by the following rules:
 - (A) Counsel will stand, if able, when addressing the court and when examining and cross-examining witnesses.
 - (B) Counsel will not address questions or remarks to opposing counsel without first obtaining permission from the court. Appropriate quiet and informal consultations among counsel of the record are permitted as long as they neither delay nor disrupt the proceedings.

- (C) The examination and cross-examination of witnesses will be limited to questions addressed to the witnesses. Counsel must refrain from making statements, comments, or remarks prior to asking a question or after a question has been answered.
- (D) In making an objection, counsel must state plainly and briefly the specific ground of objection and may not engage in argument unless requested or permitted by the court to do so.
- (E) Only one(1) attorney for each party may make objections concerning the testimony of a witness when being questioned by an opposing party. The objections must be made by the attorney who has conducted or is to conduct the examination or cross-examination of the witness.
- (F) The examination and cross-examination of witnesses must be conducted from the counsel's table or the lectern, except when necessary to approach the witness or the courtroom clerk's desk for the purpose of presenting or examining exhibits.

There is no inherent right to oral argument. Parties must be given an adequate opportunity to argue their motions, but argument does not have to be oral. The Court may limit the time, scope, and manner of oral argument. The Court may ask counsel to address specific issues and is not required to listen to counsel drone on about issues the Court believes have been adequately addressed. Counsel should make every effort to be responsive and adaptable in their oral arguments.

**PRACTICES & PROCEDURES
UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH**

CHIEF JUDGE WILLIAM T. THURMAN
JUDGE JUDITH A. BOULDEN
JUDGE R. KIMBALL MOSIER

PRACTICES & PROCEDURES
(April 13, 2009 update)

Section I Communications with Chambers
Section II Scheduling and Calendar Matters
Section III Appearances
Section IV Motions For Relief From The Automatic Stay

I. COMMUNICATIONS WITH CHAMBERS

A. Telephone Calls

Calls to chambers are permitted.

- Chief Judge Thurman: Judicial Assistant, Thora Searle, 801-524-6572
Law Clerk, Kristine Grigorian, 801-524-6570
- Judge Boulden: Law Clerk, Heather Schriever, 801-524-5749
Law Clerk, Michael Coffman, 801-524-5749
- Judge Mosier: Judicial Assistant, Shannon Robinson, 801-524-6549
Law Clerk, John Straley, 801-524-6569

Chambers staff are not permitted to give legal advice.

B. Faxes

Faxes to chambers are not permitted.

II. SCHEDULING AND CALENDAR MATTERS

A. General Scheduling Procedure

To schedule or to strike a hearing before Chief Judge Thurman, Judge Boulden, or Judge Mosier, please contact the Scheduling Clerk, Judianne Weaver, at 801-524-6627.

B. Law and Motion Calendar

Each chambers typically reserves one day a week for motions requiring five minutes or less of hearing time ("law and motion calendar"). The Court schedules these matters in

three general categories: (1) preliminary hearings on motions for relief from the automatic stay; (2) objections to claims; and (3) other routine matters where no opposition is anticipated. Examples of routine matters appropriate for the law and motion calendar include motions to amend a chapter 13 plan, objections to trustee's motion to dismiss, motions to incur debt, and motions to sell property. Parties should not request time on the law and motion calendar if they believe that a hearing will take more than five minutes. Instead, parties should schedule a lengthier hearing on another day.

C. Chamber Presets

ECF attorney filers ("ECF Filer") can obtain certain preset hearing dates on the "law and motion calendar" without calling the court. The preset hearing dates are posted to a report within CM/ECF (Chamber Presets). ECF Filers will find the Chamber Presets under the Reports menu in the CM/ECF database. Preset Guidelines for each chambers are posted on the Chamber Presets page. ECF Filers should review and comply with the Preset Guidelines for the types of hearings allowed and other restrictions prior to selecting a hearing date. If an ECF Filer does not comply with the Preset Guidelines the preset hearing may be stricken by the Court. Once a preset hearing time has been selected, the ECF Filer should promptly docket a notice of hearing in order to save their selected preset date and time.

D. Chapter 13 Confirmation Hearings

Each chambers reserves several days a month to conduct chapter 13 confirmation hearings. If, in preparing for a confirmation hearing, the Court concludes that no objections have been filed and no concerns remain, the Court may strike the scheduled confirmation hearing and issue an order confirming the plan.

Occasionally the Court may have independent concerns regarding a confirmation hearing even though no objections have been filed and the chapter 13 trustee's concerns have been resolved. In that event, the confirmation hearing will go forward and parties will be required to appear. Chambers staff are not permitted to answer questions as to the Court's concerns.

E. Notice

Each chambers requires that motions filed with the Court comply with the notice requirements of the Bankruptcy Code, the Bankruptcy Rules, the Official Forms, and the Local Rules of this Court. The Local Rules are available on this Court's website at <http://www.utb.uscourts.gov/lrules.htm>.

Generally, none of the judges will consider motions filed without notice to the opposing party. There are a few exceptions such as motions for orders to shorten or extend time or motions to appear telephonically.

The Court may grant motions to shorten the notice period required for a particular motion. These motions may be filed without notice to parties in interest and are granted at the Court's discretion. Note: Even if the Court grants a motion to shorten time, parties are expected to send a separate notice of hearing to those entitled to receive notice.

F. Evidentiary Hearings

Any matter to be heard before this Court where any party anticipates presenting evidence must clearly state in the notice of hearing or objection to the requested relief, that the hearing will be an evidentiary hearing. Failure to do so may result in the Court not allowing evidence to be presented. Parties are also directed to the other Practices and Procedures on this page for other requirements for scheduling and giving notice of hearings.

G. Striking Hearings

When appropriate, parties are encouraged to strike hearings and, pursuant to Local Rule 9013-1(c), request relief without a hearing. Parties should notify the Court at least two days prior to the scheduled hearing if they wish to strike a hearing.

III. APPEARANCES

A. Appearances in St. George

Cases originating with debtors located in southern Utah are assigned to Judge Thurman. At least once a month, Chief Judge Thurman travels to St. George to hold hearings for these cases. Parties should contact the Scheduling Clerk, Judianne Weaver at 801-524-6627 to schedule hearings for the Court's St. George calendar. Some hearings may be held by videoconferencing with Chief Judge Thurman sitting in Salt Lake City.

Chief Judge Thurman will not receive evidence via videoconferencing. Parties appearing for the St. George calendar who believe that they will be submitting evidence should contact chambers to schedule a hearing when Judge Thurman is in St. George.

B. Telephonic Appearances

Each chambers allows parties to appear telephonically at its discretion. Parties wishing to appear telephonically at an upcoming hearing should contact chambers and obtain permission in advance. The Court may require a motion and order allowing a party to appear telephonically. The Court will not allow parties appearing telephonically to present evidence or to examine witnesses. Parties appearing telephonically may state their positions and conduct oral argument only.

IV. MOTIONS FOR RELIEF FROM THE AUTOMATIC STAY

A. Scheduling

Each Judge holds preliminary hearings on motions for relief from stay on a regularly scheduled day. Please refer to Sections II. B. and C. above.

B. Drafting Issues

As part of its review process in connection with filed motions for relief from stay, the Court looks for compliance with the following requirements:

1. All motions for relief from stay should have the following:
 - a. Motion for relief from stay (Local Rule 4001-1(a));
 - b. Notice of hearing (Local Rule 4001-1(a), notice must substantially conform to Official Form 20A);
 - c. Certificate of service (Local Rule 9013-1(g), the certificate may be attached to the papers that are served or may be filed separately); and
 - d. Optional: A supporting memorandum may also be filed (Local Rule 9013-1(d)).

2. The motion and/or memorandum should state sufficient grounds for relief under Section 362(d). If one of the grounds for relief is lack of equity, then the movant should identify the current amount of the lien (and amount of any other known liens against the property), the estimated value of the property subject to the lien, and how that value has been determined. If the movant is asserting that it is not adequately protected, please specify why not. **Do not simply assert that the debtor lacks equity in the property or generally claim that you are not adequately protected.** Such statements do not give the Court the basis to grant the requested relief, even if uncontested. Failure to comply with this procedure may result in the motion being denied without prejudice.

3. **The motion and/or memorandum should attach suitable evidence that a lien is perfected pursuant to state law.** If the underlying obligation has been assigned to the movant, evidence of the assignment should be provided.

C. Relief Without Hearing

If no objection to the motion is timely filed, the hearing may be stricken and an order for relief submitted pursuant to Local Rule 4001-1(c). **A request to strike the hearing should be made at least two days prior to the hearing.**

D. Preliminary Hearings

Unless otherwise ordered by the Court, the originally scheduled hearing will always be conducted as a preliminary hearing. At this preliminary hearing, detailed offers of proof

should be used but no live witnesses. The Court will set the matter for a final evidentiary hearing only if the offers of proof demonstrate a genuine issue of material fact. Do not assume that you can make general statements of what you hope you can prove by the time of a final hearing or the motion may be denied at the preliminary hearing.

E. Final Hearings

A party may request a final hearing on a motion for relief from stay, instead of a preliminary hearing, by contacting the Scheduling Clerk, Judianne Weaver at 801-524-6627. If a party requests that the hearing on the motion for relief from stay be conducted as a final hearing, the notice of hearing must clearly state that the hearing will be conducted as an evidentiary hearing. Failure to do so may result in the Court not allowing evidence to be presented.

The Court, on its own initiative, or at the request of the parties, may enter a scheduling order regarding preparation for and the conduct of the final hearing.

Common mistakes to avoid at or prior to the final hearing:

- Failure to exchange exhibits and witness lists with opposing party/counsel prior to the hearing.
- If the Court orders that Federal Rule of Bankruptcy Procedure 7026 applies to a motion for relief, parties should identify expert witnesses, and tender a list of the expert's qualifications and a written summary of the expert's expected testimony and opinions. Failure to comply with Federal Rule of Bankruptcy Procedure 7026(a)(2) may result in your inability to use any expert at the final hearing (if such a hearing is required).
- Relief from stay proceedings are "summary proceedings" in nature. While you need to present detailed offers of proof, keep in mind that the Court will not "finally determine" any of the factual issues raised. It will only make summary determinations as to whether the statutory grounds for relief have been satisfied.

G. Policy on Waiving Federal Rule of Bankruptcy Procedure 4001(a)(3) Stay of Order

The Court will not waive the 10-day stay of an order granting a motion for relief from the automatic stay as provided for in Federal Rule of Bankruptcy Procedure 4001(a)(3) as a matter of course. Granting this relief as a matter of routine without a stated basis is inappropriate.

Creditors seeking to shorten or eliminate the 10-day stay of order pursuant to Federal Rule of Bankruptcy Procedure 4001(a)(3) should include in their motions a concise statement of the basis for shortening or eliminating the stay.

**PROCEDURE FOR FILING AND GIVING NOTICE OF
HEARING ON AN OBJECTION
TO A PROOF OF CLAIM**

The attached rules and form establish the procedures that should be followed when a party is objecting to a proof of claim. Please pay particular attention to the following points:

- **Local Rule 3007-1(a)** requires that “[a] party objecting to a claim must provide notice to the claimant in accordance with **Fed. R. Bankr. P. 3007** and **Official Form 20B**.”
- **Local Rule 3007-1(b)** provides “[a] response to an objection to a claim must be filed and served not later than 30 days after service of the objection”. **Pursuant to this rule, an objecting party must give the claimant 30 days after service to respond to the objection.**
- **Federal Rule of Bankruptcy Procedure 3007(c)** provides that “[u]nless otherwise ordered by the court or permitted by subdivision (d), objections to more than one claim shall not be joined in a single objection. **Federal Rule of Bankruptcy Procedure 3007(d)** provides that objections to more than one claim may be joined in an “omnibus objection” but only when the conditions set forth in Rule 3007 (d) and (e) are met. This means that **a separate objection and notice of objection must be filed for each claim** unless an omnibus objection that complies with Rule 3007 is filed.
- The objection to claim should clearly identify the claimant and the claim number and clearly explain the basis for the objection. **The objection and notice should be served on the claimant as set forth on the proof of claim and also comply with Federal Rule on Bankruptcy Procedure 7004.**
- **Official Form 20B** requires the objecting party to provide “plain English explanations to parties regarding what they must do to respond” to the objection to their claim. The notice of hearing for the objection should clearly identify the name of the claimant, the deadline to respond to the claim objection (not less than 30 days after service) and, if you intend to submit an order without a hearing, a statement that if no response to the claim objection is timely filed, the relief sought by the claim objection may be granted without a hearing.
- **Federal Rule of Bankruptcy Procedure 9014** applies to contested matters and makes **Rule 7004** applicable to service of motions in contested matters. The Advisory Committee Notes to Rule 3007 and Rule 9014 refer to objections to proofs of claim as contested matters. **Objections to proofs of claims must comply with Rule 7004 and in particular, service on an “Insured Depository Institution” must comply with Rule 7004(h).**

Parties are expected to comply with the attached rules and form when filing objections to proofs of claim.

RULE 3007-1

**LOCAL RULES OF PRACTICE
OF THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH**

RULE 3007-1

OBJECTIONS TO CLAIMS

(a) **Notice of Objection to Claim.** A party objecting to a claim must provide notice to the claimant in accordance with Fed. R. Bankr. P. 3007 and Official Form 20B.

(b) **Response to Objection to Claim.** A response to an objection to a claim must be filed and served not later than 30 days after service of the objection. The court will conduct an evidentiary hearing if a response is timely filed. If a response is not timely filed, the court may sustain the objection without a hearing.

RULE 3007. OBJECTIONS TO CLAIMS
FEDERAL RULES OF BANKRUPTCY PROCEDURE

Rule 3007. OBJECTIONS TO CLAIMS

(a) Objections to Claims.

An objection to the allowance of a claim shall be in writing and filed. A copy of the objection with notice of the hearing thereon shall be mailed or otherwise delivered to the claimant, the debtor or debtor in possession and the trustee at least 30 days prior to the hearing. If an objection to a claim is joined with a demand for relief of the kind specified in Rule 7001, it becomes an adversary proceeding.

(b) Demand for Relief Requiring an Adversary Proceeding.

A party in interest shall not include a demand for relief of a kind specified in Rule 7001 in an objection to the allowance of a claim, but may include the objection in an adversary proceeding.

(c) Objections.

Unless otherwise ordered by the court or permitted by subdivision (d), objections to more than one claim shall not be joined in a single objection.

(d) Omnibus Objection.

Subject to subdivision (e), objections to more than one claim may be joined in an omnibus objection if all the claims were filed by the same entity, or the objections are based solely on the grounds that the claims should be disallowed, in whole or in part, because:

- (1) they duplicate other claims;
- (2) they have been filed in the wrong case;
- (3) they have been amended by subsequently filed proofs of claim;
- (4) they were not timely filed;

- (5) they have been satisfied or released during the case in accordance with the Code, applicable rules, or a court order;
- (6) they were presented in a form that does not comply with applicable rules, and the objection states that the objector is unable to determine the validity of the claim because of the noncompliance;
- (7) they are interests, rather than claims; or
- (8) they assert priority in an amount that exceeds the maximum amount under § 507 of the Code.

(e) Requirements for Omnibus Objection.

An omnibus objection shall:

- (1) state in a conspicuous place that claimants receiving the objection should locate their names and claims in the objection;
- (2) list claimants alphabetically, provide a cross-reference to claim numbers, and, if appropriate, list claimants by category of claims;
- (3) state the grounds of the objection to each claim and provide a cross-reference to the pages in the omnibus objection pertinent to the stated grounds;
- (4) state in the title the identity of the objector and the grounds for the objections;
- (5) be numbered consecutively with other omnibus objections filed by the same objector; and
- (6) contain objections to no more than 100 claims.

(f) Finality of Objection.

The finality of any order regarding a claim objection included in an omnibus objection shall be determined as though the claim had been subject to an individual objection.

Advisory Committee Note

This rule is derived from § 47a(8) of the Act and former Bankruptcy Rule 306. It prescribes the manner in which an objection to a claim shall be made and notice of the hearing thereon given to the claimant. The requirement of a writing does not apply to an objection to the allowance of a claim for the purpose of voting for a trustee or creditors' committee in a chapter 7 case. See Rule 2003.

The contested matter initiated by an objection to a claim is governed by rule 9014, unless a counterclaim by the trustee is joined with the objection to the claim. The filing of a counterclaim ordinarily commences an adversary proceeding subject to the rules in Part VII.

While the debtor's other creditors may make objections to the allowance of a claim, the demands of orderly and expeditious administration have led to a recognition that the right to object is generally exercised by the trustee. Pursuant to § 502(a) of the Code, however, any party in interest may object to a claim. But under § 704 the trustee, if any purpose would be served thereby, has the duty to examine proofs of claim and object to improper claims.

By virtue of the automatic allowance of a claim not objected to, a dividend may be paid on a claim which may thereafter be disallowed on objection made pursuant to this rule. The amount of the dividend paid before the disallowance in such event would be recoverable by the trustee in an adversary proceeding.

Advisory Committee Note—1991 Amendment

The words "with the court" are deleted as unnecessary. See Rules 5005(a) and 9001(3).

Advisory Committee Note—2007 Amendment

The rule is amended in a number of ways. First, the amendment prohibits a party in interest from including in a claim objection a request for relief that requires an adversary proceeding. A party in interest may, however, include an objection to the allowance of a claim in an adversary proceeding. Unlike a contested matter, an adversary proceeding requires the service of a summons and complaint, which puts the defendant on notice of the potential for an affirmative recovery. Permitting the plaintiff in the adversary proceeding to include an

objection to a claim would not unfairly surprise the defendant as might be the case if the action were brought as a contested matter that included an action to obtain relief of a kind specified in Rule 7001.

The rule as amended does not require that a party include an objection to the allowance of a claim in an adversary proceeding. If a claim objection is filed separately from a related adversary proceeding, the court may consolidate the objection with the adversary proceeding under Rule 7042.

The rule also is amended to authorize the filing of a pleading that joins objections to more than one claim. Such filings present a significant opportunity for the efficient administration of large cases, but the rule includes restrictions on the use of these omnibus objections to ensure the protection of the due process rights of the claimants.

Unless the court orders otherwise, objections to more than one claim may be joined in a single pleading only if all of the claims were filed by the same entity, or if the objections are based solely on the grounds set out in subdivision (d) of the rule. Objections of the type listed in subdivision (d) often can be resolved without material factual or legal disputes. Objections to multiple claims permitted under the rule must comply with the procedural requirements set forth in subdivision (e). Among those requirements is the requirement in subdivision (e)(5) that these omnibus objections be consecutively numbered. Since these objections may not join more than 100 objections in any one omnibus objection, there may be a need for several omnibus objections to be filed in a particular case. Consecutive numbering of each omnibus objection and the identification of the objector in the title of the objection is essential to keep track of the objections on the court's docket. For example, the objections could be titled Debtor in Possession's First Omnibus Objection to Claims, Debtor in Possession's Second Omnibus Objection to Claims, Creditors' Committee's First Omnibus Objection to Claims, and so on. Titling the objections in this manner should avoid confusion and aid in tracking the objections on the docket.

Subdivision (f) provides that an order resolving an objection to any particular claim is treated, for purposes of finality, as if the claim had been the subject of an individual objection. A party seeking to appeal any such order is neither required, nor permitted, to await the court's

resolution of all other joined objections. The rule permits the joinder of objections for convenience, and that convenience should not impede timely review of a court's decision with respect to each claim. Whether the court's action as to a particular objection is final, and the consequences of that finality, are not addressed by this amendment. Moreover, use of an omnibus objection generally does not preclude the objecting party from raising a subsequent objection to the claim on other grounds. See Restatement (Second) of Judgments § 26(1)(d) (1982) (generally applicable rule barring multiple actions based on same transaction or series of transactions is overridden when a statutory scheme permits splitting of claims).

Overview of Rule 3007

Rule 3007 provides the procedure for filing and giving notice of a hearing on an objection to a proof of claim.

Relation to Code Sections

Section 501 provides for the filing of proofs of claim or interests. Section 502 provides for the allowance of claims or interests and sets forth substantive grounds for which an objection to a claim may be filed. Section 1111 governs claims in chapter 9 and chapter 11 cases.

Relation to Other Rules

Rule 3001 governs the form, content and evidentiary effect of the proof of claim, as well as transfers of claims. Rule 3002 governs the necessity, place and time for filing proofs of claim. Rule 3003 governs proofs of claims in chapter 9 and chapter 11 cases. Rule 3004 permits the debtor or trustee to file a proof of claim for a creditor. Rule 3005 provides for the filing of claims by a guarantor, surety or other codebtor. Rule 3006 permits a proof of claim to be withdrawn. Rule 3008 permits reconsideration of orders allowing or disallowing proofs of claim at any time. Rule 3013 permits classification of claims for plan purposes.

Rule 7004 governs service of the objection to claim, a contested matter. Rule 9014 governs litigation of contested matters. Rules 7001–7087 govern procedures for objections to claims that become adversary proceedings because they are joined with demands for relief listed in Rule 7001.

**RULE 7004. PROCESS; SERVICE OF
SUMMONS, COMPLAINT**

FEDERAL RULES OF BANKRUPTCY PROCEDURE

Rule 7004. PROCESS; SERVICE OF SUMMONS, COMPLAINT

(a) Summons; Service; Proof of Service.

(1) Except as provided in Rule 7004(a)(2), Rule 4(a), (b), (c)(1), (d)(1), (e)–(j), (l), and (m) F.R.Civ.P. applies in adversary proceedings. Personal service under Rule 4(e)–(j) F.R.Civ.P. may be made by any person at least 18 years of age who is not a party, and the summons may be delivered by the clerk to any such person.

(2) The clerk may sign, seal, and issue a summons electronically by putting an “s/” before the clerk’s name and including the court’s seal on the summons.

(b) Service by First Class Mail. Except as provided in subdivision (h), in addition to the methods of service autho-

rized by Rule 4(e)-(j) F.R.Civ.P., service may be made within the United States by first class mail postage prepaid as follows:

(1) Upon an individual other than an infant or incompetent, by mailing a copy of the summons and complaint to the individual's dwelling house or usual place of abode or to the place where the individual regularly conducts a business or profession.

(2) Upon an infant or an incompetent person, by mailing a copy of the summons and complaint to the person upon whom process is prescribed to be served by the law of the state in which service is made when an action is brought against such a defendant in the courts of general jurisdiction of that state. The summons and complaint in that case shall be addressed to the person required to be served at that person's dwelling house or usual place of abode or at the place where the person regularly conducts a business or profession.

(3) Upon a domestic or foreign corporation or upon a partnership or other unincorporated association, by mailing a copy of the summons and complaint to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant.

(4) Upon the United States, by mailing a copy of the summons and complaint addressed to the civil process clerk at the office of the United States attorney for the district in which the action is brought and by mailing a copy of the summons and complaint to the Attorney General of the United States at Washington, District of Columbia, and in any action attacking the validity of an order of an officer or an agency of the United States not made a party, by also mailing a copy of the summons and complaint to that officer or agency. The court shall allow a reasonable time for service pursuant to this subdivision for the purpose of curing the failure to mail a copy of the summons and complaint to multiple officers, agencies, or corporations of the United

States if the plaintiff has mailed a copy of the summons and complaint either to the civil process clerk at the office of the United States attorney or to the Attorney General of the United States.

(5) Upon any officer or agency of the United States, by mailing a copy of the summons and complaint to the United States as prescribed in paragraph (4) of this subdivision and also to the officer or agency. If the agency is a corporation, the mailing shall be as prescribed in paragraph (3) of this subdivision of this rule. The court shall allow a reasonable time for service pursuant to this subdivision for the purpose of curing the failure to mail a copy of the summons and complaint to multiple officers, agencies, or corporations of the United States if the plaintiff has mailed a copy of the summons and complaint either to the civil process clerk at the office of the United States attorney or to the Attorney General of the United States. If the United States trustee is the trustee in the case and service is made upon the United States trustee solely as trustee, service may be made as prescribed in paragraph (10) of this subdivision of this rule.

(6) Upon a state or municipal corporation or other governmental organization thereof subject to suit, by mailing a copy of the summons and complaint to the person or office upon whom process is prescribed to be served by the law of the state in which service is made when an action is brought against such a defendant in the courts of general jurisdiction of that state, or in the absence of the designation of any such person or office by state law, then to the chief executive officer thereof.

(7) Upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule, it is also sufficient if a copy of the summons and complaint is mailed to the entity upon whom service is prescribed to be served by any statute of the United States or by the law of the state in which service is made when an action is brought against such a defendant in the court of general jurisdiction of that state.

(8) Upon any defendant, it is also sufficient if a copy of

the summons and complaint is mailed to an agent of such defendant authorized by appointment or by law to receive service of process, at the agent's dwelling house or usual place of abode or at the place where the agent regularly carries on a business or profession and, if the authorization so requires, by mailing also a copy of the summons and complaint to the defendant as provided in this subdivision.

(9) Upon the debtor, after a petition has been filed by or served upon the debtor and until the case is dismissed or closed, by mailing a copy of the summons and complaint to the debtor at the address shown in the petition or to such other address as the debtor may designate in a filed writing.

(10) Upon the United States trustee, when the United States trustee is the trustee in the case and service is made upon the United States trustee solely as trustee, by mailing a copy of the summons and complaint to an office of the United States trustee or another place designated by the United States trustee in the district where the case under the Code is pending.

(c) *Service by Publication.* If a party to an adversary proceeding to determine or protect rights in property in the custody of the court cannot be served as provided in Rule 4(e)-(j) F.R.Civ.P. or subdivision (b) of this rule, the court may order the summons and complaint to be served by mailing copies thereof by first class mail, postage prepaid, to the party's last known address, and by at least one publication in such manner and form as the court may direct.

(d) *Nationwide Service of Process.* The summons and complaint and all other process except a subpoena may be served anywhere in the United States.

(e) *Summons: Time Limit for Service Within the United States.* Service made under Rule 4(e), (g), (h)(1), (i), or (j)(2) F.R.Civ.P. shall be by delivery of the summons and complaint within 10 days after the summons is issued. If service is by any authorized form of mail, the summons and complaint shall be deposited in the mail within 10 days after the summons is issued. If a summons is not timely delivered or mailed, another summons shall be issued and served. This subdivision does not

apply to service in a foreign country.

(f) *Personal Jurisdiction.* If the exercise of jurisdiction is consistent with the Constitution and laws of the United States, serving a summons or filing a waiver of service in accordance with this rule or the subdivisions of Rule 4 F.R.Civ.P. made applicable by these rules is effective to establish personal jurisdiction over the person of any defendant with respect to a case under the Code or a civil proceeding arising under the Code, or arising in or related to a case under the Code.

(g) *Service on Debtor's Attorney.* If the debtor is represented by an attorney, whenever service is made upon the debtor under this Rule, service shall also be made upon the debtor's attorney by any means authorized under Rule 5(b) F. R. Civ. P.

(h) *Service of Process on an Insured Depository Institution.* Service on an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act) in a contested matter or adversary proceeding shall be made by certified mail addressed to an officer of the institution unless—

- (1) the institution has appeared by its attorney, in which case the attorney shall be served by first class mail;
- (2) the court orders otherwise after service upon the institution by certified mail of notice of an application to permit service on the institution by first class mail sent to an officer of the institution designated by the institution; or
- (3) the institution has waived in writing its entitlement to service by certified mail by designating an officer to receive service.

RULE 9014. CONTESTED MATTERS

FEDERAL RULES OF BANKRUPTCY PROCEDURE

Rule 9014. CONTESTED MATTERS

(a) *Motion.* In a contested matter not otherwise governed by these rules, relief shall be requested by motion, and reasonable notice and opportunity for hearing shall be afforded the party against whom relief is sought. No response is required under this rule unless the court directs otherwise.

(b) *Service.* The motion shall be served in the manner provided for service of a summons and complaint by Rule 7004. Any paper served after the motion shall be served in the manner provided by Rule 5(b) F. R. Civ. P.¹

(c) *Application of Part VII rules.* Except as otherwise provided in this rule, and unless the court directs otherwise, the following rules shall apply: 7009, 7017, 7021, 7025, 7026, 7028-7037, 7041, 7042, 7052, 7054-7056, 7064, 7069, and 7071. The following subdivisions of Fed. R. Civ. P. 26, as incorporated by Rule 7026, shall not apply in a contested matter unless the court directs otherwise: 26(a)(1) (mandatory disclosure), 26(a)(2) (disclosures regarding expert testimony) and 26(a)(3) (additional pre-trial disclosure), and 26(f) (mandatory meeting before scheduling conference/discovery plan). An entity that desires to per-

petuate testimony may proceed in the same manner as provided in Rule 7027 for the taking of a deposition before an adversary proceeding. The court may at any stage in a particular matter direct that one or more of the other rules in Part VII shall apply. The court shall give the parties notice of any order issued under this paragraph to afford them a reasonable opportunity to comply with the procedures prescribed by the order.

(d) *Testimony of witnesses.* Testimony of witnesses with respect to disputed material factual issues shall be taken in the same manner as testimony in an adversary proceeding.

(e) *Attendance of witnesses.* The court shall provide procedures that enable parties to ascertain at a reasonable time before any scheduled hearing whether the hearing will be an evidentiary hearing at which witnesses may testify.

Advisory Committee Note

Rules 1017(d), 3020(b)(1), 4001(a), 4003(d), and 6006(a), which govern respectively dismissal or conversion of a case, objections to confirmation of a plan, relief from the automatic stay and the use of cash collateral, avoidance of a lien under § 522(f) of the Code, and the assumption or rejection of executory contracts or unexpired leases, specifically provide that litigation under those rules shall be as provided in Rule 9014. This rule also governs litigation in other contested matters.

Whenever there is an actual dispute, other than an adversary proceeding, before the bankruptcy court, the litigation to resolve that dispute is a contested matter. For example, the filing of an objection to a proof of claim, to a claim of exemption, or to a disclosure statement creates a dispute which is a contested matter. Even when an objection is not formally required, there may be a dispute. If a party in interest opposes the amount of compensation sought by a professional, there is a dispute which is a contested matter.

When the rules of Part VII are applicable to a contested matter, reference in the Part VII rules to adversary proceedings is to be read as a reference to a contested matter. See Rule 9002(1).

Advisory Committee Note—1999 Amendment

This rule is amended to delete Rule 7062 from the list of Part VII rules that automatically apply in a contested matter.

Rule 7062 provides that Rule 62 F.R.Civ.P., which governs stays of proceedings to enforce a judgment, is applicable in adversary proceedings. The provisions of Rule 62, including the ten-day automatic stay of the enforcement of a judgment provided by Rule 62(a) and the stay as a matter of right by posting a supersedeas bond provided in Rule 62(d), are not appropriate for most orders granting or denying motions governed by Rule 9014.

Although Rule 7062 will not apply automatically in contested matters, the amended rule permits the court, in its discretion, to order that Rule 7062 apply in a particular matter, and Rule 8005 gives the court discretion to issue a stay or any other appropriate order during the pendency of an appeal on such terms as will protect the rights of all parties in interest. In addition, amendments to Rules 3020, 4001, 6004, and 6006 automatically stay certain types of orders for a period of ten days, unless the court orders otherwise.

Advisory Committee Note—2002 Amendment

The list of Part VII rules that are applicable in a contested matter is extended to include Rule 7009 on pleading special matters, and Rule 7017 on real parties in interest, infants and incompetent persons, and capacity. The discovery rules made applicable in adversary proceedings apply in contested matters unless the court directs otherwise.

Subdivision (b) is amended to permit parties to serve papers, other than the original motion, in the manner provided in Rule 5(b) F.R. Civ. P. When the court requires a response to the motion, this amendment will permit service of the response in the same manner as an answer is served in an adversary proceeding.

Subdivision (d) is added to clarify that if the motion cannot be decided without resolving a disputed material issue of fact, an evidentiary hearing must be held at which testimony of witnesses is taken in the same manner as testimony is taken in an adversary proceeding or at a trial in a district court civil case. Rule 43(a), rather than Rule 43(e), F.R. Civ. P. would govern the evidentiary hearing on the factual dispute. Under Rule 9017, the Federal Rules of Evidence

also apply in a contested matter. Nothing in the rule prohibits a court from resolving any matter that is submitted on affidavits by agreement of the parties.

Subdivision (e). Local procedures for hearings and other court appearances in a contested matter vary from district to district. In some bankruptcy courts, an evidentiary hearing at which witnesses may testify usually is held at the first court appearance in the contested matter. In other courts, it is customary for the court to delay the evidentiary hearing on disputed factual issues until some time after the initial hearing date. In order to avoid unnecessary expense and inconvenience, it is important for attorneys to know whether they should bring witnesses to a court appearance. The purpose of the final sentence of this rule is to require that the court provide a mechanism that will enable attorneys to know at a reasonable time before a scheduled hearing whether it will be necessary for witnesses to appear in court on that particular date.

Other amendments to this rule are stylistic.

Advisory Committee Note—2004 Amendment

The rule is amended to provide that the mandatory disclosure requirements of Fed. R. Civ. P. 26, as incorporated by Rule 7026, do not apply in contested matters. The typically short time between the commencement and resolution of most contested matters makes the mandatory disclosure provisions of Rule 26 ineffective. Nevertheless, the court may by local rule or by order in a particular case provide that these provisions of the rule apply in a contested matter.

OFFICIAL FORMS 20A & 20B

Form 20A. NOTICE OF MOTION OR OBJECTION
Form 20B. NOTICE OF OBJECTION TO CLAIM

COMMITTEE NOTE (1997)

These forms are new. They are intended to provide uniform, plain English explanations to parties regarding what they must do to respond in certain contested matters which occur frequently in bankruptcy cases. Such explanations have been given better in some courts than in others. The forms are intended to make bankruptcy proceedings more fair, equitable, and efficient, by aiding parties, who sometimes do not have counsel, in understanding the applicable rules. It is hoped that use of these forms also will decrease the number of inquiries to bankruptcy clerks' offices.

These notices will be sent by the movant unless local rules provide for some other entity to give notice.

These forms are not intended to dictate the specific procedures to be used by different bankruptcy courts. The forms contain optional language that can be used or adapted, depending on local procedures. Similarly, the signature line will be adapted to identify the actual sender of the notice in each circumstance. All adaptations of the form should carry out the intent to give notice of applicable procedures in easily understood language.

NOTICE OF MOTION OR OBJECTION

I. INTRODUCTION

Official Form 20A, Notice of Motion or Objection, is intended to provide uniform, plain English explanations to parties regarding what they must do to respond in certain contested matters which occur frequently in bankruptcy cases. Such explanations have been given better in some courts than in others. The form is intended to make bankruptcy proceedings more fair, equitable, and efficient, by aiding parties, who sometimes do not have counsel, in understanding the applicable rules.

The form is not intended to dictate the specific procedures to be used by different bankruptcy courts. The form contains optional language that can be used or adapted, depending on local procedures.

II. APPLICABLE LAW AND RULES

Rule 9014 of the Federal Rules of Bankruptcy Procedure (referred to as "Fed. R. Bankr. P." or "Bankruptcy Rule") requires that a person who asks that the court take certain types of action (which is referred to as requesting relief) must do so by filing a motion and giving the person against whom the relief is sought notice of the motion and an opportunity to respond. Examples of these contested matters include motions by creditors for relief from the automatic stay under Rule 4001(a), motions by debtors to avoid liens on exempt property under Rule 4003(d), and motions by trustees to assume, reject, or assign unexpired leases under Rule 6006(a). Form 20A also should be used to give notice to the debtor when the trustee or a creditor objects to the debtor's claim of exemptions under Rule 4003(b) or requests that the court modify the debtor's confirmed chapter 12 or chapter 13 plan under Rule 3015(g).

Bankruptcy Rule 9009 states that the Official Forms shall be used with alterations as may be appropriate. Any adaptation of Form 20A should carry out the intent to give notice of applicable procedures in easily understood language.

III. DIRECTIONS

1. Directions for the person preparing the notice are in italics and enclosed in brackets on the Official Form. Only the language which applies to the particular motion or objection under the Bankruptcy Rules, the court's local rules, or court order should be included in the notice. (Copies of the court's local rules may be obtained from the clerk's office or, in many instances, from the court's Internet website.) The notice may be modified to the particular requirements of the matter, but any adaptation should be consistent with the intent to give notice of applicable procedures in easily understood language. See Fed. R. Bankr. P. 9009.
2. The notice should be prepared and sent by the person who filed the motion or objection (the movant) unless the local rules or court order provide for some other entity to give notice.

Official Form 20A
continued

3. The caption should be placed at the top of the page and should conform to Official Form 16A. Instructions for Official Form 16A, Caption (Full), may be found following that form.
4. The name of the movant and a description of the relief requested from the court should be inserted in the first paragraph in the spaces indicated.
5. The action which the court has been asked to take and the deadline for responding to the motion or objection should be specified in the third paragraph in the spaces indicated.
6. In the space following the third paragraph, the person preparing the notice should specify whether the person receiving the notice must file a written request for a hearing or a written response in order to oppose the motion or objection. The address of the bankruptcy clerk's office, and the names and addresses of the movant's attorney and others to be served should be set out in the spaces indicated.
7. If a hearing has been scheduled on the motion or objection, the time, date, and place for the hearing should be specified in the space provided.
8. Any additional steps required to oppose the motion or objection under the local rules or court order should be set out in the space provided.
9. The person who prepares and sends the notice should sign and date it and set out the preparer's name and address in the spaces indicated.
10. Copies of the notice should be filed with the court and mailed to the person against whom relief is sought, that person's attorney (if any), and other parties as required by local rules or court order.

NOTICE OF OBJECTION TO CLAIM

I. INTRODUCTION

Official Form 20B, Notice of Objection to Claim, is intended to provide creditors and other claimants with a uniform, plain English explanation of what they must do to respond to objections to their claims. (The requirements for completing Official Form 10, Proof of Claim, may be found following that form.) Form 20B is intended to make the court's resolution of objections to claims more fair, equitable, and efficient, by aiding creditors, who sometimes do not have counsel, in understanding the applicable rules. The form is intended to make it clear to creditors that the court may eliminate or change their claims unless they take the specified steps to oppose the objections.

The form is not intended to dictate the specific procedures to be used by different bankruptcy courts. The form contains optional language that can be used or adapted, depending on local procedures.

II. APPLICABLE LAW AND RULES

Rule 3007 of the Federal Rules of Bankruptcy Procedure (referred to as "Bankruptcy Rule" or "Fed. R. Bankr. P.") requires that an objection to the allowance of a claim be in writing and filed with the court. A copy of the objection and a notice of the hearing on it must be mailed or otherwise delivered to the creditor, the debtor, and the trustee at least 30 days prior to the hearing. Form 20B is to be used to give notice of the objection and hearing.

Bankruptcy Rule 9009 states that the Official Forms shall be used with alterations as may be appropriate. Any adaptation of the form should carry out the intent to give notice of applicable procedures in easily understood language.

III. DIRECTIONS

1. Directions for the person preparing the notice and alternative language are enclosed in brackets on the Official Form. The preparer should use the language which applies to the court's local rules or court order. (Copies of the court's local rules may be obtained from the clerk's office or, in many instances, from the court's Internet website.) Any adaptation of the Official Form should be consistent with the intent to give notice of applicable procedures in easily understood language. See Fed. R. Bankr. P. 9009.
2. The notice should be prepared and sent by the person who filed the objection to claim (the objector) unless the local rules or court order provide for some other entity to give notice.

Official Form 20B
continued

3. The caption should be placed at the top of the page and should conform to Official Form 16A. Instructions for Official Form 16A, Caption (Full), may be found following that form.
4. The name of the objector should be inserted in the first paragraph in the blank provided.
5. The deadline for responding to the objection to claim should be specified in the third paragraph in the space indicated.
6. In the space following the deadline, the person preparing the notice should specify the steps which a creditor must take pursuant to local rules or court order to oppose the objection to claim.
7. The address of the bankruptcy clerk's office, and the names and addresses of the objector's attorney and others to be served should be set out in the spaces indicated.
8. The time, date, and place for the hearing on the objection to the claim should be specified in the space provided.
9. The person who prepares and sends the notice should sign and date it and set out the preparer's name and address in the spaces indicated.
10. Copies of the notice should be filed with the court and mailed to the creditor, the debtor, the trustee, and any other parties required by the court at least 30 days prior to the hearing.

United States Bankruptcy Court

_____ District Of _____

In re _____)
Set forth here all names including married,)
maiden, and trade names used by debtor within)
last 6 years.])
Debtor) Case No. _____)
Address _____)
_____)
_____) Chapter _____)
Employer's Tax Identification (EIN) No(s). *[if any]*: _____)
_____)
Last four digits of Social Security No(s): _____)

NOTICE OF OBJECTION TO CLAIM

_____ has filed an objection to your claim in this bankruptcy case.

Your claim may be reduced, modified, or eliminated. You should read these papers carefully and discuss them with your attorney, if you have one.

If you do not want the court to eliminate or change your claim, then on or before (date) , you or your lawyer must:

{If required by local rule or court order.}

[File with the court a written response to the objection, explaining your position, at:

{address of the bankruptcy clerk's office}

If you mail your response to the court for filing, you must mail it early enough so that the court will receive it on or before the date stated above.

You must also mail a copy to:

{objector's attorney's name and address}

{names and addresses of others to be served}]

Attend the hearing on the objection, scheduled to be held on (date), (year), at _____ a.m./p.m. in Courtroom _____, United States Bankruptcy Court, {address}.

If you or your attorney do not take these steps, the court may decide that you do not oppose the objection to your claim.

Date: _____

Signature: _____

Name:

Address:

SAMPLE FORMS 20A & 20B

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH

In re:

Debtor.

Bankruptcy Number:

Chapter

Judge R. Kimball Mosier

**NOTICE OF MOTION
AND NOTICE OF HEARING**

(Hearing Date: _____)
(Objection Deadline: _____)

PLEASE TAKE NOTICE that _____ attorney for _____ has filed with the United States Bankruptcy Court for the District of Utah, a Motion for _____ (the Motion) (Insert summary of relief requested if motion is not served with notice).

YOUR RIGHTS MAY BE AFFECTED. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant the relief requested in the Motion then on or before _____ you or your lawyer must file with the Bankruptcy Court a written objection to the motion, explaining your position, at:

United States Bankruptcy Court
350 South Main Street, Room 301
Salt Lake City, UT 84101

If you mail your objection to the Bankruptcy Court for filing you must mail it early enough so that the Court will **receive** it on or before _____. You must also mail a copy to the undersigned counsel at _____.

You must also, attend the hearing on the Motion at the time and place set forth below.

If you and your attorney do not take these steps, the Bankruptcy Court may decide that you do not oppose the relief sought in the Motion and may enter an order granting that relief.

NOTICE OF HEARING

NOTICE IS FURTHER GIVEN that a hearing on the Motion and any timely filed objection to the Motion will be held on _____ at _____, before the Honorable _____ at the United States Bankruptcy Court, Frank E. Moss Courthouse, 350 South Main Street, Room _____, Salt Lake City, Utah.

NOTICE IS FURTHER GIVEN, that pursuant to Local Rule 2002-1(b), Rules of Practice, United States Bankruptcy Court for the District of Utah, in the absence of timely filed objections, filed on or before _____, the Bankruptcy Court may enter an Order approving the Motion, without hearing. The undersigned counsel may and will ask the Court to strike the hearing on the Motion, and without hearing, enter its Order approving the Motion.

Dated this ____ Day of _____, 2009.

/s/ _____

Kent W. Plott (USB No. 5336)
Mark S. Middlemas (USB No. 9252)
Lundberg & Associates
3269 South Main Street, Suite 100
Salt Lake City, UT 84115
(801) 263-3400
(801) 263-6513 (fax)
LundbergECFmail@lundbergfirm.com

Attorneys for First Horizon Home Loan Corporation
[REDACTED]

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

In re:

Kathryn Ruiz,

Debtor.

Bankruptcy No. 05-28794 RKM

(a Chapter 13 case)

Filed Electronically

NOTICE OF HEARING ON MOTION OF FIRST HORIZON HOME LOAN CORPORATION
FOR TERMINATION OF THE AUTOMATIC STAY

TO ALL PARTIES IN INTEREST:

YOUR RIGHTS MAY BE AFFECTED. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

Please take notice that the Motion for Termination of the Automatic Stay filed by secured creditor First Horizon Home Loan Corporation, its successors and assigns to include MidFirst Bank

("Creditor") in this case will come on for hearing before the Honorable R. Kimball Mosier on April 8, 2009, at the hour of 2:00 p.m., in Room 369 or such other room as may be assigned, United States Courthouse, 350 South Main Street, Salt Lake City, Utah. Midland Mortgage Co. presently services this loan.

Creditor's motion seeks an order of the Court terminating the automatic stay with respect to property (the "Property") in which debtor has an interest, said Property being located at 743 East 6895 South #H, Midvale, in Salt Lake County, Utah, and more particularly described as follows:

Unit No. 240, IN BUILDING 42, CONTAINED WITHIN THE FAIRMEADOWS PHASE 1, a Prowswood Open Space Community, a Utah Condominium Project, as the same is identified in the Record of Survey Map recorded in Salt Lake County, Utah as Entry No. 3207545, in Book 78-12, at Page 325, and in the Declaration of Covenants, Conditions and Restrictions and bylaws of the Fairmeadows Phase No. 1, a Prowswood Open Space Community, a Utah Condominium Project, recorded in Salt Lake County, Utah, on June 14, 1979, as Entry No. 3294150, in Book 4881, at Page 455, together with: (a) the undivided ownership interest in said condominium projects periodic alteration both in the magnitude of said undivided ownership interest and in the composition of the common areas and facilities to which said interest relates); (b) The Exclusive right to use the enjoy each of the limited common areas which is appurtenant to said unit, and (c) the nonexclusive right to use and enjoy the common areas and facilities included in said condominium project (as said project may hereafter be expanded) in accordance with the aforesaid declaration and survey map (as said declaration and may thereafter be amended or supplemented) and the Utah Condominium ownership act.

Together with all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property.

If you do not want the Court to grant relief from the automatic stay, or if you want the Court to consider your views on the motion, then, on or before March 30, 2009 (15 days from the date of this notice plus 3 days for mailing), you or your attorney must:

1. File with the Court a written response explaining your position at:

United States Bankruptcy Court
350 South Main Street, Room 301
Salt Lake City, UT 84101

If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the date stated above.

2. Serve a copy of your response upon the following via ECF or U.S. mail:

Lundberg & Associates
3269 South Main Street, Suite 100
Salt Lake City, UT 84115
Attorneys for Creditor

Kevin Anderson
405 So. Main Street, Suite 600
Salt Lake City, UT 84111
Trustee

3. Attend the hearing scheduled to be held as set forth in this notice.

If you intend to call witnesses or make a presentation of facts or law at this hearing that will extend beyond 5 minutes, please inform Lundberg & Associates at once at (801) 263-3400 so that, in the event time for such a presentation is inadequate, the hearing may be rescheduled on a date when there will be sufficient time on the Court's calendar.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH**

In re:

Debtor.

Bankruptcy Number:

Chapter

Judge R. Kimball Mosier

**NOTICE OF OBJECTION TO CLAIM NO. ___ FILED BY _____
AND NOTICE OF HEARING**

(Hearing Date: _____)
(Response Deadline: _____)

TO: Claimant

PLEASE TAKE NOTICE that _____ attorney for _____ has filed an objection (the Objection), to your proof of claim.

Your claim may be reduced, modified, or eliminated. You should read these papers carefully and discuss them with your attorney, if you have one. (If you do not have an attorney you may wish to consult with one).

If you do not want the Bankruptcy Court to change or eliminate your claim, then on or before _____ you or your lawyer must file with the Bankruptcy Court a written response to the objection, explaining your position, at:

United States Bankruptcy Court
350 South Main Street, Room 301
Salt Lake City, UT 84101

If you mail your response to the Bankruptcy Court for filing you must mail it early enough so that the Court will **receive** it on or before _____. You must also mail a copy to the undersigned counsel at _____.

You must also, attend the hearing on the Objection at the time and place set forth below.

If you and your attorney do not take these steps, the Bankruptcy Court may decide that you do not oppose the objection to your claim.

Objection to Claim No.
Claimant - (name)
(Address)

[Objection to Claim]

NOTICE OF HEARING

NOTICE IS FURTHER GIVEN that a hearing on the Objection to Claim No. _____
Filed by _____ shall be heard before the Honorable _____, United States
Bankruptcy Court Judge, United States Bankruptcy Court, Frank E. Moss Courthouse, 350 South
Main Street, Room _____ on _____.

NOTICE IS FURTHER GIVEN, that pursuant to Local Rule 2002-1(b) Rules of
Practice, United States Bankruptcy Court for the District of Utah, in the absence of any
responses/objections filed on or before _____, the Bankruptcy Court may take the

action requested and may change or eliminate your claim without a hearing. The undersigned counsel may and will ask the Court to strike the hearing on the Objection and, without hearing, enter its order sustaining the objection and [relief requested in objection].

Dated this ___ day of _____, 2009.

/s/ _____

