

UNITED STATES BANKRUPTCY COURT, NORTHERN DISTRICT OF GEORGIA

PROPOSED AMENDMENTS TO LOCAL BANKRUPTCY RULES

The United States Bankruptcy Court for the Northern District of Georgia has proposed amendments to certain of its Local Rules and invites comments from the public. Comments must be sent to James N. Hatten, Acting District Court Executive and Clerk of Court, 2015 United States Courthouse, 75 Spring Street, SW, Atlanta, Georgia 30303. Comments must be sent by mail no later than July 18, 2009.

The proposed amendments change calculations of time periods of less than 30 days to multiples of 7 days and are intended to maintain consistency with similar rule changes to the Federal Rules of Bankruptcy Procedure that are scheduled to take effect on December 1, 2009. For most rules, the proposed changes will lengthen time periods to the closest 7-day period.

The following chart identifies the pertinent rules and the proposed amendments to those rules. Below the chart is a red-lined version of the affected rules that shows the proposed changes within the full language of the rules.

CHART OF PROPOSED AMENDMENTS TO LOCAL BANKRUPTCY RULES

RULE	CURRENT PERIODS	PROPOSED CHANGE
BLR 2004-1(b)	Notices of examinations must be filed and served “no less than ten days” before the date of the exam.	Extend period to 14 days.
BLR 3018-1(c)	Report of Balloting shall be filed and served “at least three business days” prior to hearings on confirmations.	Keep period of three days.
BLR 5011-2(b) and (c)	Motions to withdraw the reference in adversary proceedings and contested matters shall be served and filed “no later than 11 days” from when the grounds to withdraw arise or the contested matter is initiated.	Extend periods to 14 days.
BLR 5011-4	Responses to motions to withdraw the reference shall be filed and served “within 11 days” after the party was served with the motion.	Extend period to 14 days.
BLR 6007-1(b) and (c)	Objections to proposals of abandonment shall be filed and served “within 15 days” from the filing or service of the notice of abandonment.	Shorten period to 14 days to conform with the proposed amendment to Bankruptcy Rule 6007.

BLR 6008-2	Responses to motions to redeem property or avoid liens shall be filed and served “ within 20 days ” of the date of service of the motion.	Extend period to 21 days.
BLR 7007-1(c) and (d)	Responses and replies to motions in adversary proceedings shall be filed and served “ not later than ten days ” after service of the motion or responsive pleading.	Extend period to 14 days.
BLR 7007-1(c)	Time to file and serve responses to motions for summary judgment in adversary proceedings “ shall be 20 days. ”	Extend period to 21 days.
BLR 7016-1(a)(1)	Scheduling conferences shall be held “ within 20 days ” after the appearance of the first defendant or the removal of the proceeding to the Bankruptcy Court.	Extend period to 21 days.
BLR 7016-2(b)(13)	Parties can rely on representations that a witness will be called unless notice is given “ ten days ” prior to a non-jury trial.	Extend period to 14 days.
BLR 7016-3(18)(B)	Parties can rely on representations that a witness will be called unless notice is given “ ten days ” prior to a jury trial.	Extend period to 14 days.
BLR 7037-1(c) and (d)	Motions to compel must be filed within the later of the close of discovery of “ ten days ” after the day for responding to discovery requests; responses to motions shall be filed “ within 10 days ” after service of the motion.	Extend period to 14 days.
BLR 7056-1(b)	Motions for summary judgment shall be filed “ not later than 20 days ” after the close of discovery.	Extend period to 21 days.
BLR 9007-2(b)	Certificates of service shall be filed “ within three days ” of service of notices.	Keep three day period.
BLR 9010-5(b)(1), (b)(1)(F), and (b)(2)	Clients must have “ 10 days’ notice ” of attorney’s intent to request withdrawal; clients have “ 10 days ” to object to withdrawal of attorney.	Extend period to 14 days.

BLR 9014-2(a)(3)	If Bankruptcy Rules do not specify a number of days' notice for responses or objections to a motion, the time for filing responses or objections " shall be 20 days " from the date of service or notice of the motion.	Extend period to 21 days.
BLR 9014-2(a)(3)	" Three days shall be added " to prescribed notice periods when a party's motion requires responses or objections to be filed.	Keep three day period.
BLR 9015-1(a) and (b)	Parties may demand a jury trial by serving a jury demand " not later than ten days " after the service of the last pleading directed to the issue; other parties may serve a demand for other issues to be included " within ten days " after service of the first demand.	Extend period to 14 days.
BLR 9023-1	Motions to reconsider shall be filed " within ten days " after entry of the order or judgment; responses shall be filed " not later than ten days " after service of the motion.	Extend period to 14 days.
BLR 9027-1	Parties with pending motions when an action or proceeding is removed to the Bankruptcy Court shall serve a memorandum in support of the motion " within ten days " after removal.	Extend period to 14 days.

UNITED STATES BANKRUPTCY COURT, NORTHERN DISTRICT OF GEORGIA

TEXT OF PROPOSED AMENDMENTS TO LOCAL BANKRUPTCY RULES
(REDLINED)

BLR 2004-1. Examinations pursuant to Bankruptcy Rule 2004.

(b) **Examination by notice.** Examinations and production of documents pursuant to Bankruptcy Rule 2004 may be initiated by notice if the entity to be examined consents. The notice shall specify the scope of the examination and the date, time and place of the examination; describe any documents to be produced; and shall be served upon the debtor, the debtor's attorney, the Chapter 7, 11, 12, or 13 trustee, as appropriate, the United States Trustee, and the entity to be examined. The notice must be filed and served **no less than ~~ten~~ 14 days** before the date set for the examination.

BLR 3018-1. Procedure for Filing and Counting Ballots in Connection with Chapter 11 Plan Confirmation.

(c) **Filing Report of Balloting and Proof of Service.** At least **three business days** prior to the hearing on confirmation, the plan proponent shall file the Report of Balloting with the Bankruptcy Clerk and shall serve a copy of the Report and Notice that shows the date of filing upon the Office of the United States Trustee and all parties who have filed objections to confirmation. Proof of service thereof shall also be filed prior to said hearing with a copy thereof served upon the United States Trustee.

BLR 5011-2. Withdrawal of the Reference: Time for Filing of Motion.

(b) **Adversary Proceedings.** A motion to withdraw the reference of all or any part of an adversary proceeding shall be served and filed **not later than ~~11~~ 14 days** after service of any timely filed pleading or paper in which the ground for the motion to withdraw the reference first arises.

(c) **Contested Matters.** A motion to withdraw the reference of a contested matter within a case shall be served and filed **no later than ~~11~~ 14 days** after service of the motion, application or objection which initiates the contested matter.

BLR 5011-4. Withdrawal of the Reference: Responses to Motions to Withdraw the Reference; Reply.

Opposing parties shall file with the Bankruptcy Clerk and serve on all parties to the matter as to which the withdrawal of the reference has been requested, their written responses to the motion to withdraw the reference **within 14 days** after being served with a copy of the motion. The moving party may serve and file a reply **within 14 days** after service of a response.

BLR 6007-1. Abandonment.

(b) **By Trustee.** In accordance with Bankruptcy Rule 6007, if the § 341 Meeting of Creditors Notice provides therefor, a trustee in the Chapter 7 case of an individual may give oral notice of a proposed abandonment at a Meeting of Creditors held pursuant to 11 U.S.C. § 341(a) and no further notice or service shall be required; provided, however, that said oral notice shall be reduced to a writing, **stating the grounds therefor, and filed with the Bankruptcy Clerk within 14 days** after the Meeting of Creditors. If no objection to the proposed abandonment is filed **within 14 days** following the filing of the trustee's notice, the property shall be deemed abandoned.

(c) **By a Party in Interest.** A party in interest filing a motion to abandon property in accordance with Bankruptcy Rule 6007(b) shall perfect service thereof as provided by Bankruptcy Rule 6007(a) and shall also serve the trustee, debtor, and debtor's counsel. Any objection to a proposed abandonment shall state the grounds therefor, shall be filed with the Bankruptcy Clerk and shall be served on the trustee, the debtor in possession and the party serving notice of the proposed abandonment **within 14 days** from the date of service of the notice.

BLR 6008-2. Redemption and Avoidance of Liens: Filing of Response Required.

The respondent shall file a response to a motion under BLR 6008-1 within 21 days of the date of service and serve a copy of same on movant. If no response is timely filed and served, the motion will be deemed unopposed and the Bankruptcy Court may enter an order granting the relief sought. If the motion is timely controverted, the Bankruptcy Court may schedule a hearing on notice to the movant and respondent or order such other proceedings as may be appropriate.

BLR 7007-1. Filing of Motions and Responses in Adversary Proceedings; Hearings.

(c) **Response to Motion.** Any party opposing a motion shall file and serve the party's response, responsive memorandum, affidavits, and any other responsive material **not later than ten 14 days** after service of the motion, except that the time to respond to a motion for summary judgment **shall be 20 21 days**. Failure to file a response shall indicate no opposition to the motion.

(d) **Reply.** A reply by the movant shall be permitted, but it is not necessary for the movant to file a reply as a routine practice. When the movant deems it necessary to file a reply, the reply must be filed and served **not later than ten 14 days** after service of the responsive pleading.

BLR 7016-1 Rule 26(f) Conference and Rule 16(b) Scheduling Order.

(a) **Rule 26(f) Conference and Report.**

(1) **Within 20 21 days** after the later of the appearance of the first defendant by answer or motion or the removal of a proceeding to the Bankruptcy Court, all unrepresented parties and counsel for all represented parties shall confer as required by, and for the purposes of, Rule 26(f) of the Federal Rules of Civil Procedure and to discuss scheduling matters as set forth in Rule 16(b) of the Federal Rules of Civil Procedure.

BLR 7016-2. Form and Content of Consolidated Pretrial Order (Non-Jury).

(b) **Content.** Each proposed consolidated pretrial order shall contain the information outlined below. No modifications or deletions shall be made without the prior permission of the Bankruptcy Judge. The proposed order shall contain:

(13) A separate listing for each party of the witnesses (and their addresses) whom that party will or may have present at trial, including impeachment and rebuttal witnesses whose use can or should have been reasonably anticipated. A representation that a witness will be called may be relied upon by other parties unless notice is given **ten 14 days** prior to trial to permit other parties to subpoena the witness or obtain his testimony by other means. Witnesses not included on the witness list will not be permitted to testify.

BLR 7016-3. Form and Content of Consolidated Pretrial Order (Jury Trial).

(18)(B) A representation that a witness will be called may be relied upon by other parties unless notice is given ~~ten~~ **14 days** prior to trial to permit other parties to subpoena the witness or obtain the witness' testimony by other means.

BLR 7037-1. Motions to Compel Discovery.

(c) **Procedures.** Motions to compel and responses thereto are subject to the general motion requirements set forth in BLR 7007-1. A response to a motion to compel shall be served **within ten 14 days** after service of the motion.

(d) **Time Limitation for Filing.** A motion to compel discovery must be filed within the later of (I) the close of discovery or (ii) **ten 14 days** after the date for responding to the discovery request(s) upon which the motion is based, unless the Bankruptcy Court orders otherwise. The close of discovery is established by the expiration of the original or extended discovery period or by written notice of all counsel, filed with the Bankruptcy Court, indicating that discovery was completed earlier.

BLR 7056-1. Motions for Summary Judgment.

(b) Time. Motions for summary judgment shall be filed as soon as possible, but, unless otherwise ordered by the Bankruptcy Court, **not later than 20 21 days** after the close of discovery, as established by the expiration of the original or extended discovery period or by written notice of all counsel, filed with the Bankruptcy Court, indicating that discovery was completed earlier.

BLR 9007-2. Service of Other Notices.

(b) **Certificate of Service.** **Within three days** of service, the party serving notices shall file a Certificate of Service with the Bankruptcy Clerk. The Certificate of Service shall be signed by the person who gave the notice, shall state the date and method of service, and shall set forth the names and addresses of entities served.

BLR 9010-5. Withdrawal; Responsibilities of Party No Longer Represented;

Leave of Absence.

(b) **Withdrawal Procedure.** An attorney desiring to withdraw as counsel shall comply with the following procedure:

(1) The attorney shall give ~~ten~~ **14 days'** notice to the client of the attorney's intention to request permission to withdraw. Such notice shall be served on the client personally or by U.S. Mail at the client's last known address and shall contain at least the following:

(F) - Unless the withdrawal is with the client's consent, that the client has ~~10~~ 14 days from the date of service of the notice to contact the attorney and state any objections to the attorney's withdrawal.

(2) The attorney shall file a motion with the Bankruptcy Clerk requesting permission to withdraw. The motion shall include the attorney's certification that the attorney has given the client ~~ten~~ **14 days'** prior written notice of the attorney's intention to request permission to withdraw in accordance with the provisions of BLR 9010-5b(1) by the method described in the motion and shall state, to the best of the attorney's knowledge, the last known address and telephone number for the client. A copy of the notice shall be attached to the motion. The motion shall be accompanied by a notice to the client that any objection to the motion must be filed **within ten 14 days** after its service and the address of the Bankruptcy Clerk's office where the objection may be filed.

(3) ~~Ten~~ **Fourteen days** after service of the motion, the Bankruptcy Clerk shall submit the motion and any responses to the Bankruptcy Judge for action thereon.

BLR 9014-2. When Response or Objection to Motion or Notice Is Required.

(3) the time within which the Bankruptcy Rules and this Rule require a response or objection to be filed and served and that the response or objection must be actually received by the Bankruptcy Clerk within the required time. If the Bankruptcy Rules do not specify the number of days' notice that must be given, the time for the filing of the required response or objection shall be ~~20~~ **21 days** from the date of service of the motion or notice. The notice may provide for a longer period of time for a response or objection to be filed and served than specified by the Bankruptcy Rules. In all matters, three days shall be added to the prescribed notice period to account for service of the notice by mail. The date by which a required response or objection must be filed shall be computed in accordance with the

Bankruptcy Rules;

BLR 9015-1. Jury Demands in Adversary Proceedings.

(a) **Demand.** Any party may demand a trial by jury of any issue triable of right by jury by: (1) serving upon the other parties a demand therefor in writing at any time after the commencement of the action and **not later than ten 14 days** after the service of the last pleading directed to such issue, and (2) filing the demand as required by Bankruptcy Rule 7005, incorporating Fed. R. Civ. P. 5(d). Such demand must be made by separate pleading captioned "Jury Demand."

(b) **Specification of Issues.** In the demand a party may specify the issues which the party wishes so tried; otherwise the party shall be deemed to have demanded trial by jury for all the issues so triable. If the party has demanded trial by jury for only some of the issues, any other party may, **within ten 14 days** after service of the demand or such lesser time as the Bankruptcy Court may order, serve a demand for trial by jury of any other or all of the issues of fact in the action.

BLR 9023-1. Motions for Reconsideration.

Motions for reconsideration shall not be filed as a matter of routine practice. Whenever a party or attorney for a party believes it is absolutely necessary to file a motion to reconsider an order or judgment, the motion shall be filed with the Bankruptcy Clerk **within ten 14 days** after entry of the order or judgment. Responses shall be filed **not later than ten 14 days** after service of the motion. Parties and attorneys for the parties shall not file motions to reconsider the Bankruptcy Court's denial of a prior motion for reconsideration.

BLR 9027-1. Motions Pending on Removal.

When an action or proceeding is removed to this Bankruptcy Court with pending motions on which briefs have not been submitted, the moving party shall serve a memorandum in support of the motion **within ten 14 days** after removal. Each party opposing the motion shall respond in compliance with BLR 7007-1(c).