

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND

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In re: :

PROMULGATION OF REVISED LOCAL :
RULES AND ADOPTING LOCAL FORMS

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ORDER OF PROMULGATION

Pursuant to 28 U.S.C. § 2071, Fed. R. Civ. P. 83, Fed. R. Bankr. P. 9029, and the November 11, 1990 Order of the U.S. District Court Authorizing Promulgation of Local Bankruptcy Rules, the following rules and local forms are adopted and shall be effective as of November 1, 1997, and shall govern the practice and procedure before the United States Bankruptcy Court for the District of Rhode Island in all cases and proceedings now pending and hereinafter filed. These rules and local forms shall supersede all previously adopted local bankruptcy rules and administrative orders in this District.

Dated at Providence, Rhode Island, this 6th day of
August, 1997.

/s/ Arthur N. Votolato
Arthur N. Votolato
U.S. Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND**

UNITED STATES BANKRUPTCY JUDGE:

Honorable Arthur N. Votolato
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Providence, RI 02903 (401)528-4487

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BANKRUPTCY LOCAL FORMS

R.I. BANKR. FORM

- A Format for Preparing Creditor Matrix
- B Notice to Creditors in Chapter 11 Case Scheduled as Disputed, Contingent or Unliquidated
- C Notice of Filing of Interim/Final Application for Compensation
 - C.2 Fee Application Summary Sheet
 - C.3 Interim Fee Allowance Summary
 - C.4 Final Fee Allowance Summary
- D Notice of Filing of Final Application for Compensation Chapter 11/13 Case
- E Petition for Payment of Unclaimed Funds
- F.1 Identification Form for Unclaimed Dividends, individual
- F.2 Identification Form for Unclaimed Dividends, business
- ~~G Notice of Chapter 13 Filing, with Proof of Claim form on reverse side~~ **ABOLISHED March 3, 2003**
- ~~H Notice of Conversion to Chapter 13, with Proof of Claim form on reverse side~~ **ABOLISHED March 3, 2003**
- I Report on Ballots
- J Ballot for Accepting or Rejecting Plan of Reorganization
- K.1 Proposed Order of Distribution

- K.2 Notice of Filing of Proposed Order of Distribution
- L Chapter 11 Confirmation Worksheet and Certification
- M Proposed Order Confirming Chapter 11 Plan
- N Proposed Application for Final Decree
- O Requirements for Joint Pretrial Order, with attached exhibit list
- O.2 Discovery Plan Pursuant to Fed.R.Civ.P. 26(f)
- P.1 Notice Regarding Change of Address
- P.2 Notice of Substitute Counsel
- P.3 Declaration Regarding Electronic Filing in Support of Original Petition, Schedules and Statements
- P.4 Declaration Regarding Electronic Filing For All Other Documents Requiring Original Signatures
- Q Proposed Notice of Intended Public Sale
- R Adversary Proceeding Coversheet (two sided)
- S Appellant Election Form
- T Proposed Motion for Entry of Appearance *Pro Hac Vice*, with Attorney Certification attached
- T.2 Certificate Regarding Admission of Law Student Pursuant to Local Bankruptcy Rule 9010-1
- U Reaffirmation Agreement
- V Chapter 13 Agreement between Debtor and Counsel
- W Chapter 13 Plan and Cover Sheet
- X Order Confirming Chapter 13 Plan

Y Motion To Be Excused From Court

APPENDIX TO LOCAL BANKRUPTCY RULES

APPENDIX

- I Clerk's Amended Designation of Parties to Provide and Receive Notice of Hearing and Court Orders
- II ABROGATED AS AN APPENDIX and Renamed R.I. Bankr. Form C.2
- III Rhode Island Standard Expense List
- IV Notice of Required Filing of Fee Applications
- V Clerk's Office Written Policy on Imposition of Search Fees for Requests for Information
- VI Local Rule 5(c) of the U.S. District Court, District of Rhode Island
- VII RESERVED for future Procedure for Alternate Dispute Resolution
- VIII Electronic Bankruptcy Noticing
- IX Administrative General Order Establishing Procedures for Filing, Signing, Maintaining, and Verifying Pleadings and Other Documents in the Electronic Case Filing (ECF) System.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

LOCAL BANKRUPTCY RULES

RULE 1001-1 **TITLE; SCOPE AND EFFECTIVE DATE OF RULES** Modified 12/1/02

- (a) **Local Rules of Court.** These Rhode Island Bankruptcy Rules and Forms, adopted pursuant to 28 U.S.C. §§ 2071, Rule 83 of the Federal Rules of Civil Procedure, Federal Rule of Bankruptcy Procedure 9029, and the November 11, 1990 Order of the U.S. District Court, District of Rhode Island, Authorizing Promulgation of Local Bankruptcy Rules, shall be the local rules of the United States Bankruptcy Court for the District of Rhode Island, subject to the limitations set forth in Fed. R. Bankr. P. 9029, and shall govern procedure in all cases and proceedings under Title 11 of the United States Code in the District of Rhode Island. These rules may be referred to as the "Rhode Island Bankruptcy Rules" and shall be cited as "R.I. LBR ", or simply LBR when cited within a local rule.
- (b) **Applicability of Other Rules.** To the extent a procedural matter is not covered by these rules or the Federal Rules of Bankruptcy Procedure, the Local Rules of the U.S. District Court for the District of Rhode Island shall apply.
- (c) **Waiver or Modification of Local Rules.** On motion or on the Court's own initiative, the provisions of these rules may be waived or modified in any case or proceeding for the convenience of the parties or in the interest of justice, as determined by the Court.
- (d) **Meaning of Terms.** Except as otherwise noted, the terms used herein shall have the same meaning as ascribed to them under Fed. R. Bankr. P. 9001, or as defined in other sections of the Code and Rules. The references herein to the Official Forms shall mean the Official Forms as defined in Fed. R. Bankr. P. 9009. The references to R.I. Bankr. Forms shall mean the local forms adopted from time to time by the U.S. Bankruptcy Court for the District of Rhode Island.
- (e) **Failure to Comply with Local Rules.** Failure to comply with the provisions of these local rules may result in the issuance of an order to show cause why appropriate sanctions should not be imposed. Such sanctions may include but are not necessarily limited to, the imposition of monetary sanctions, non-monetary sanctions, dismissal of the case or proceeding, or denial of the relief sought, as the Court in its discretion deems appropriate.
- (f) **Effective Date.** These rules are effective on November 1, 1997, and supersede all previously adopted local bankruptcy rules and administrative orders in this District.
- (g) **General and Special Orders.**
 - (1) The Court may supplement these rules, subsequent to their effective date, by general (standing) orders and administrative procedures issued by the Court as needed.

(2) All future general orders and administrative procedures shall be categorized by the year of adoption and numbered consecutively. Copies of which may be obtained from the Clerk through the Court's web site and in the clerk's office public area.

RULE 1002-1 **PETITION - GENERAL** Modified 3/3/03

- (a) **Filing.** A petition commencing a case under the Bankruptcy Code shall be filed in the office of the Clerk or by electronic means as established by the Court. Filing of the petition or related schedule, statement or list by facsimile transmission is not authorized in this District.
- (b) **Form.** A petition commencing a voluntary case shall conform substantially to Official Form No. 1, and be fully completed by petitioner. All petitions must include the full name(s) and address(es) (including zip codes) of the debtor(s); the firm name, mailing address, telephone and facsimile number, and state bar admission number of the attorney for each debtor.
- (c) **Number of Copies.** For cases filed under chapters 7 and 13, the original and two copies of the petition and all schedules, statements and attorney disclosure shall be filed with the Court. For cases filed under chapter 11, the original and five copies of the petition and all schedules, statements and attorney disclosure shall be filed with the Court. Only the original of the mailing matrix is required to be filed. Detailed information regarding filing requirements and related fees is available at the clerk's office. **Effective March 3, 2002, this subsection (c) is eliminated.**
- (d) **Mailing Matrix.** In all voluntary cases, a mailing matrix containing the names and addresses, including zip codes, of all known creditors and holders of executory contracts must be filed with the petition, or within twenty-four hours thereafter, even if the schedules are not filed with the petition. Failure to file the mailing matrix at the time of filing will result in the issuance, within twenty-four hours thereafter, of an order to show cause why the case should not be immediately dismissed. In the absence of a showing to the contrary, any such dismissal shall be presumed to be a willful failure within the meaning of 11 U.S.C. §§ 109(g), with a 180-day bar to refiling any petition.
- (1) **Mailing Format.** In accordance with the filing requirements set forth by Fed.R.Bankr.P. 1002, 1003, and 1007, the debtor shall file with the petition a list of creditors/matrix listing the name and address of each creditor shown on the debtor's schedules in the format prescribed by the clerk's office and designated as Amended R.I. Bankr. Form A in all conventionally filed cases, and in cases filed electronically if the list of creditors is not filed with the petition. Unless leave of court is obtained, in all chapter 7, 11, 12 and 13 cases, the list of creditors/matrix shall be

submitted on a computer diskette as set forth in the "Instructions for Submission of the List of Creditors on Computer Diskette", designated as Amended Bankr. Form A. Failure to correctly conform to the requirements detailed in Bankr. Form A will result in the automatic issuance of an order to show cause why the case should not be dismissed within 48 hours. Failure to correctly conform to the requirements detailed in Bankr. Form A will result in the automatic issuance of a two (2) day Notice of Missing Documents and Notice of Dismissal if Documents are Not Timely Filed.

- (2) **Required Addresses.** Except as provided below, the matrix shall include the names and addresses (including zip codes) of all known creditors and parties in interest. The name and address of: (a) the debtor(s); (b) the debtor(s)' attorney; (c) the United States trustee; and (d) the Rhode Island Division of Taxation, should not be included on the matrix because information pertaining to them will be added to the matrix and/or case automatically by the Court.
- (3) **Incorrect Address; Returned Mail.** It is the responsibility of the debtor to ensure that all addresses set forth on the matrix are accurate and complete, and that they conform to the addresses set forth on the schedules. If a mailing based on the creditor matrix is undeliverable by the post office, the mailing will be returned by the post office directly to the debtor's attorney, or debtor, if pro se, and it will be debtor's responsibility to re-mail the document(s). Upon re-mailing, the debtor is also required to file with the Clerk the updated address(es) and a certificate of service of the mailing.
- (4) **Involuntary Cases.** In involuntary cases, the matrix shall be filed within fifteen (15) days of the entry of the order for relief. The matrix shall be prepared and filed by the debtor unless the court orders otherwise.
- (5) **Amendments to Matrix.** See LBR 1009-1(d).
- (e) **Foreign Country Creditor or Party.** In any bankruptcy case that includes creditors or parties in any foreign country, the debtor or such other party specified in R.I. LBR 1002-1(d)(4) shall supply the clerk's office with properly addressed envelopes containing the correct postage affixed thereto, to insure that the mailing reaches the addressees in the foreign country.
- (f) **Corporate Petition and Petitions for Non-Individuals.**
 - (1) **Corporate Petitions.** A petition filed by a corporation shall be signed in accordance with 28 U.S.C. §§ 1746 or verified by an authorized officer or authorized agent of the corporation, and shall include a copy

of the board of director's resolution or of the minutes of the corporate meeting, or other evidence of the verifying officer's or authorized agent's authority to file the bankruptcy petition on behalf of the corporation.

- (2) **Petitions for Other Non-Individuals.** A petition by a partnership, trust or other non-individual debtor shall be signed and verified by a general partner, or trustee, or appropriate agent, and shall include evidence of the signatory's authority to file the bankruptcy petition.
- (3) **Legal Representation Required for all Corporations, Partnership, or other non-individuals.** The Clerk is not authorized to accept for filing a petition on behalf of a corporation, partnership, trust or other non-individual which is not represented by counsel. This requirement is substantive, and not one of "form," as addressed in Fed. R. Bankr. P. 5005(a).
- (4) **"Doing Business As" or "Formerly Known As".** The Clerk is not authorized to accept for filing a petition by an individual, corporation or other legal entity that lists as a DBA or FKA a separate corporation or other legal entity. A corporation or other legal entity, must file a separate petition even if it considers itself the FKA or DBA of an individual, partnership, trust or other corporation, and even if its corporate charter has been revoked prepetition. This requirement is substantive, and not one of "form," as addressed in Fed. R. Bankr. P. 5005(a).

RULE 1003-1

INVOLUNTARY PETITIONS

- (a) **Required Designation.** An involuntary petition filed against a corporation, partnership, trust or other non-individual shall include a designation of the alleged debtor's principal operating officer, trustee, managing general partner or other appropriate authorized agent, as the case may be. If the petitioning creditor(s) have no knowledge of the identity of the person(s) to be designated under this LBR, a statement to that effect shall be included.
- (b) **Partnership Lists.** Involuntary petitions relating to partnership debtors must include a list setting forth the names, addresses and telephone numbers of all general and limited partners. If that information is not

known to the petitioner, the petition shall include or be accompanied by a statement to that effect.

- (c) **Number of Copies.** An original and two copies of an involuntary petition is required in chapter 7, and an original and five copies in chapter 11.

RULE 1004-1 **PETITION - PARTNERSHIP**

Voluntary partnership petitions shall include a verified statement or unsworn declaration that all general partners consent to and join in the filing of the bankruptcy petition. Failure to file the required affidavit will result in the petition being treated as an involuntary filing.

RULE 1005-1 **FILING PAPERS - REQUIREMENTS** Modified 12/1/02

- (a) **Caption of Papers.** The bankruptcy case name, number, and chapter shall appear on all papers filed with the Clerk and must also appear on the signature page of all documents filed with the court.
- (b) **Size and Form.** All papers, including the bankruptcy petition, schedules, statements, lists and other papers shall be on 8 ½" x 11" paper. All papers other than the bankruptcy petition and related schedules and lists shall not contain typeset less than 11 point, with the exception of footnotes which shall not be less than 10 point, and may not contain material that belongs in the body of the text or argument. All such papers shall be double spaced, with the exception of quotations and footnotes.
- (c) **Number of Copies.** For cases filed under any chapter of the Bankruptcy Code, the original and two copies of all papers filed, including motions, objections, responses and supporting memoranda shall be filed with the Court. Excepted documents, which require the filing of the original only, include: (1) the proof of claim form; (2) a chapter 7 trustee's report of no distribution; (3) minutes of the Section 341 meetings; (4) final reports and accounts in chapter 13 cases; and (5) notices of appearance and requests for notice. **Effective March 3, 2003, this subsection (c) is eliminated.**
- (d) **Required Signatures and Identifying Information.** Each original paper filed with the Clerk shall include the filer's name, original signatures, address, telephone number, facsimile number, and if an attorney, the law firm's name, the attorney's state bar identification number, and the name of the client.
- (e) **Required Response Time Language Must Be Included on All Papers.**
 - (1) **Usual Papers.** In order to provide adequate notice to interested parties of the time to respond, every motion (except motions for relief from stay and those set

forth in paragraph (2) below), application, petition (not including bankruptcy petition), objection to claim or objection to exemption filed with the clerk's office shall contain language substantially similar to the following, in single or double space and must appear in at least 11 point type:

Within ten (10) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Bankruptcy Court Clerk's Office, 380 Westminster Mall, 6th Floor, Providence, RI 02903, (401) 528-4477. If no objection or other response is timely filed within the time allowed herein, the paper will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise.

(2) Excepted Papers with Different Response Times. A different objection/response time applies to the following matters and should be substituted for the ten (10) day period above:

- (A) Application to Compromise -- 20 days;
- (B) Motion/Notice of Intended Sale -- 20 days;
- (C) Motion to Amend or Modify a Plan -- 20 days;
- (D) Application (or Notice) to Abandon -- 20 days;
- (E) Motion to Shorten Time (Expedited treatment) -- 5 business days;
- (F) Emergency Motion for Relief -- left to discretion of Court, above language should not be used;
- (G) Motion for Rule 2004 Examination -- see R.I. LBR 2004-1(c)(2).

(3) Objection to Claim. See R.I. LBR 3007-1.

(4) Objection to Exemption. See R.I. LBR 4003-1(b).

- (f) **Filings Made on Day of Court.** An intended filing related to a matter on for hearing that day, shall be filed in open court and not with the clerk's office.
- (g) **Caption of Amendments.** Any paper filed to effect an amendment of a previously-filed or served paper, including bankruptcy petition, lists, schedules, and statements, shall clearly state in bold print that it is an amendment. Any amendment adding creditors to the case shall be accompanied with the appropriate filing fee, and a supplemental diskette containing only the names and addresses of the added creditors. See also, R.I. LBR 1009-1.

RULE 1006-1 **FILING FEE**

- (a) **Manner of Payment.** The filing fee commencing a case shall be paid in cash or by cashier's check or money order, made payable to "Clerk, U.S. Bankruptcy Court." Payment by personal check or credit card will be accepted only if the check or credit card is in the name of the attorney for the debtor, or the law firm of which the attorney for the debtor is a member, partner or associate. A \$25.00 fee shall be assessed and shall be payable to the "Clerk, U.S. Bankruptcy Court" for any dishonored check. The Clerk of the court shall maintain a list of attorneys and law firms whose checks have been dishonored, may refuse to accept the checks of such attorneys or firms, and, if circumstances warrant, may report the attorney(s) or firm(s) to the appropriate authorities.
- (b) **Multiple/Erroneous Payments of Same Fee or Charge.** It is the filer's responsibility to ensure any clerk's office fee or charge is paid only once, and creditors are responsible for ascertaining that the status of the case is such that the action they seek requires a fee. Except where the payment of a fee is the error of the clerk's office, the clerk is not authorized to refund fees paid by mistake. The clerk shall deposit excess or erroneous payments into the appropriate government account.
- (c) **Payment of Filing Fee in Installments.** The clerk may approve a debtor's application to pay the filing fee in installments, if the application contains a payment schedule that provides for at least 25% of the fee at the time of the filing, or within five (5) business days thereafter, and continued payments of 25% commencing within thirty (30) days of the petition date and every twenty-five (25) days thereafter. The application to pay in installments must comply with Official Form 3.
- (d) **Nonconforming Application to Pay in Installments.** An application to pay the filing fee in installments that does not

comply with LBR 1006-1(c) shall be presented to the Court for consideration. If denied, the debtor shall have five (5) business days from the date of the order to either resubmit the application in compliance with LBR 1006-1(c) or remit the full filing fee. Failure to timely do either will result in the automatic issuance of an Order to Show Cause why the case should not be dismissed.

RULE 1007-1 **LISTS, SCHEDULES AND STATEMENTS; TIME LIMITS; NOTICE OF INTENT TO DISMISS; NOTICE IN CHAPTER 11**

Modified 3/3/03

- (a) **Certification of Pro Se Debtor Required.** All pro se debtors are required to complete at the time of filing of the petition, or within fifteen (15) days thereof, a certification listing the names, addresses and amounts paid to persons who assisted with the bankruptcy filing. If however, the pro se debtor files an application to pay the filing fee in installments, then the certification is due at the time of filing.

- (b) **Notice of Intent to Dismiss for Lack of Prosecution (Below Amendments Effective March 3, 2003)**
 - (1) **Procedure for Issuance of Notice of Intent.** In all voluntary cases filed in this District where the petition is not accompanied by the required schedules, statements, declarations and/or plan, pursuant to Fed. R. Bankr. P. 1007(c), 1008, 2016, and 3015(b), and R.I. LBR 5005-4, the debtor shall have fifteen (15) days from the commencement of the case to file all missing schedules, statements, declarations or plans or, if cause exists, to move within that time for an order extending the time to make the required filings. Upon filing, the debtor will receive a Notice of Missing Documents and Notice of Dismissal If Documents Are Not Timely Filed indicating which documents are missing and giving the debtor fifteen (15) days to file the required documents. If, after the expiration of fifteen (15) days, or any court authorized extension thereof, the debtor fails to file the required documents, the case will be automatically dismissed without further notice. In the absence of a showing to the contrary, any such dismissal shall be presumed to be a willful failure within the meaning of 11 U.S.C. §§ 109(g), with a 180-day bar to refile a petition. See also, R.I. LBR 1017-2.

(2) **Type of Filings Included:** The following types of filings, as applicable to the case and chapter, will be subject to the procedures set forth in subparagraph (b)(1) above and R.I. LBR 1017-2:

(A) Schedules A through J;

(B) Statement of affairs;

(C) Summary of schedules;

(D) Statement of executory contracts;

(E) Attorney fee disclosure statement;

(F) all required declarations having been properly executed;

(G) the chapter 13 plan; and/or

(H) Certificate of service re: notice of chapter 13 filing;

(I) Chapter 11 Exhibit A;

(J) Chapter 11 twenty (20) largest unsecured creditors.

(3) **Order to Pay Mailing Costs.** See R.I. LBR 1017-2(c).

(c) **Notification of Creditors in Chapter 11 Cases Scheduled as Disputed, Contingent or Unliquidated.** The debtor in each chapter 11 case shall serve R.I. Bankr. Form B on each creditor whose claim is listed on the schedules as disputed, contingent or unliquidated within fifteen (15) days after filing the schedules of liabilities, or within fifteen (15) days of adding such creditors to previously filed schedules. The notification must advise such creditors of their right to file proofs of claim and that their failure to do so shall prevent them from voting upon the plan or participating in any distribution thereunder. Within ten days of service, a certificate of service evidencing compliance with this LBR shall be filed with the Clerk.

RULE 1009-1 **AMENDMENTS OF PETITIONS, LISTS, SCHEDULES AND STATEMENTS** Modified 3/3/03

(a) **Procedure, Form and Number of Copies.** Amended bankruptcy petitions, schedules, statements of financial affairs, statements of income and expenses, and summaries of assets and liabilities shall be filed with the Clerk, accompanied by a

statement of the purpose the amendment is intended to serve. The amendment shall be underlined and in italics to identify the added or changed information. The amended paper shall contain an original signature by the amending party. The amending party shall attach to the amended papers one signed affirmation relating to all the amended pages in the same form as required on the original papers.

- (b) **Notice and Service of Amendment.** In each instance in which the debtor amends its petition, lists, schedules or statements, it shall give notice by serving a copy of the amendment and the statement of the purpose of the amendment upon any trustee appointed, the local office of the United States trustee, and to all other entities directly affected by the amendment, and shall file a certificate of service indicating the parties served and the date and method of service.
- (c) **Amendments Adding an Omitted Creditor.** If, at any time after the first notice of the first meeting of creditors is mailed, pre-petition creditors not previously included on the mailing matrix are added by amendments, the following procedures shall apply:
 - (1) Contemporaneous with the filing of the motion to amend, the debtor shall file a supplemental disk, listing only the name(s) and address(es) of the added creditor(s) in the form prescribed by R.I. LBR 1002-1(d);
 - (2) Upon court approval of the motion to amend, the clerk's office shall serve upon said creditors:
 - (A) A copy of the amendment and the statement of purpose, together with a copy of the original Notice of Section 341 meeting of creditors; and
 - (B) If an asset case, a notice informing the creditor of its right to file a Proof of Claim within ninety (90) days of service of the papers required by this LBR or within the time set for the filing of Proofs of Claim by creditors previously scheduled, whichever is later, or within such other time as allowed by Fed. R. Bankr. P. 9006(c) and as ordered by the Court; and
 - (C) In a chapter 7 case, a notice informing the creditor of its right to file complaints under 11 U.S.C. §§§§ 523 and 727, and objections to the debtor's claim of exemptions within sixty (60) days of service of the papers required by this LBR or within the time set for the filing of such complaints or objections by creditors previously scheduled, whichever is later.

- (3) The extensions of deadlines granted by this LBR shall apply only to those creditors added by amendment.
- (4) Creditor(s) added after the Section 341 meeting of creditors has commenced shall, unless the Court orders otherwise, be entitled, upon request to the U.S. trustee, to reconvene the Section 341 meeting.
- (5) In an individual chapter 7 case in which there is no distribution to creditors, if a creditor is added after the order of discharge is entered, the order of discharge shall be deemed to apply to the prepetition debts owed to such creditor as of the later of:

 - (A) 60 days after the date the debtor certifies compliance with paragraphs (1) and (2) above, and no complaints under 11 U.S.C. §§§§ 523 and 727 are filed by such creditor; or
 - (B) the date the last orders denying or dismissing such complaints become final.
- (d) Amendments to Mailing Matrix. A motion to amend the matrix is required to be filed whenever the debtor files its initial schedules containing creditors that were not listed on the original creditor list/ mailing matrix. The following procedures shall apply:

 - (1) An amended matrix shall be filed with the motion to amend, and shall contain only the names and addresses of the new creditors. Creditors listed on the original matrix shall not be repeated on the amended matrix.
 - (2) The applicable miscellaneous fee for filing amendments to the lists of creditors shall be filed with the motion to amend matrix and the amended matrix.
 - (3) If the schedules themselves are being amended to add new creditors, the debtor shall file a motion to amend to add creditors, with the applicable fee, and shall include a supplemental diskette containing only the names and addresses of the added creditors. See LBR 1005-1(f). The debtor is not required to file a separate motion to amend the matrix. This requirement (of amending the matrix) is already prescribed within LBR 1005-1(f) for all motions to amend to add creditors.

RULE 1015-1 JOINT ADMINISTRATION AND CONSOLIDATION

Modified 12/1/02

- (a) **Includes all Administrative Activities, Unless Otherwise Specified.** A motion for joint administration shall be deemed to include all administrative activities of the case, unless the movant specifies that it shall apply only to limited activity, and identifies such activity.
- (b) **Designation of Lead Case and Service of Motion.** A motion for consolidation or joint administration of cases, or a plan so providing, shall designate the lead bankruptcy case upon consolidation and shall be served on all parties requesting notice, all attorneys of record, any appointed trustee, and the local office of the U.S. trustee.
- (c) **Notice of Order to All Creditors.** Upon entry of an order authorizing the consolidation or joint administration of cases pursuant to this LBR, the moving party shall serve notice of said order upon all creditors and interested parties.

RULE 1017-2 DISMISSAL FOR LACK OF PROSECUTION

- (a) **Want of Prosecution Defined.** For purposes of Fed. R. Bankr. P. 1017, the term “want of prosecution” shall include, but is not limited to:
 - (1) failure to file lists, schedules and statements within the time allowed by Fed. R. Bankr. P. 1007(c);
 - (2) failure of a debtor that is a corporation to be represented by counsel within the time set by order of the Court;
 - (3) failure to pay on time any required filing fee;
 - (4) failure to prosecute the filing of a plan, disclosure statement or other document or pleading, timely and diligently, as required by the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, these LBRs or orders of the Court;
 - (5) failure of a party or counsel to appear, upon notice or order, at a hearing before the Court;

- (6) failure of the debtor(s) to appear at the initial Section 341 meeting, or any continued meeting; and
 - (7) failure to abide by any Court order requiring the filing of papers or payment of fees, costs or sanctions.
- (b) ***Sua Sponte Action by Court.*** The Court may, on its own motion, and after notice to the debtor, the debtor's attorney, if any, and to all creditors, dismiss a case for lack of prosecution unless the debtor cures the deficiency timely, and/or the debtor or any party in interest requests a hearing within five days of service of such notice of intent to dismiss or order to show cause.
- (c) **Order to Pay Mailing Costs.** Whenever the Court issues a Notice of Intent to Dismiss the Case, or an Order to Show Cause why the case should not be dismissed, as a result of the debtor(s)' lack of prosecution, the Court shall order the debtor and debtor's attorney to reimburse the Court for the mailing cost incurred for service on all creditors. A bill of cost will issue against the debtor and counsel, jointly and severally.

RULE 1019-1 **CONVERSION OF CHAPTER 11, CHAPTER 12, OR**
CHAPTER 13 CASE TO CHAPTER 7 LIQUIDATION

- (a) **Content of Final Report and Account.** The final report and account required by Fed. R. Bankr. P. 1019(5) shall include, in addition to the information specified in Fed. R. Bankr. P. 1019(5): (1) a statement of the total funds which passed through the chapter 11, 12, or 13 estate; (2) a statement that all United States trustee operating reports are available upon request; (3) an itemization of all disbursements since the last United States trustee operating report; and (4) a statement of the balance on hand at the time of conversion. If the debtor operated a business, the report shall also include a statement listing all assets in the debtor's possession at the time of conversion, including but not limited to, inventory,

fixtures, leases and executory contracts, and accounts receivable.

- (b) **Schedule of Unpaid Debts.** The schedule of unpaid debts required by Fed. R. Bankr. P. 1019(5) shall include the names and addresses of all post-petition creditors and shall be accompanied by a supplemental mailing matrix conforming to the requirements set forth in R.I. LBR 1002-1(d).

RULE 2002-1 **NOTICE TO CREDITORS, EQUITY SECURITY**
HOLDERS, UNITED STATES, AND UNITED STATES
TRUSTEE

- (a) **Designation of Parties to Provide Notice Under Fed. R. Bankr. P. 2002(a) and (f).** The Clerk is authorized to designate the persons who shall provide notice to creditors and parties in interest as required by Fed. R. Bankr. P. 2002(a) and (f). A copy of such designation is included as **Appendix I** to these LBRs.
- (b) **Twenty-five Day Notice to Parties in Interest.** The notices required by Fed. R. Bankr. P. 2002(b) for the time fixed for filing objections and the hearing to consider approval of a disclosure statement, and the time fixed for filing objections and the hearing to consider confirmation of a chapter 9 or chapter 11 plan, shall be given by the proponent of the disclosure statement or plan to be considered at the hearing. Notice of the time fixed for filing objections and of the confirmation hearing for chapter 13 plans shall be given by the Clerk, in the first instance.
- (c) **Notice of Filing of Application for Compensation.** All professionals who file an application for compensation with the Court (excluding a chapter 7 trustee's request for commission) must serve a "Notice of Filing" document, substantially similar to either **R.I. Bankr. Form C or D**, depending on the circumstances, upon the parties listed in paragraphs (1) and (2) below, within ten days of the filing of the fee application. A copy of said notice shall also be filed with the Court, together with a certificate of service. **(Form C is to be used for interim and final applications for compensation in chapter 7, and interim applications for**

compensation in chapters 11 and 13, and Form D is to be used for final applications for compensation in chapters 11 and 13).

- (1) In chapter 7 and 13 cases, parties in interest shall include, but are not necessarily limited to:
 - (A) the local office of the United States trustee;
 - (B) debtor's counsel, or the debtor, if pro se;
 - (C) the chapter 7 or 13 trustee;
 - (D) any party who has requested service or notice in the case; and
 - (E) in asset cases, creditors who have filed proofs of claim in accordance with R.I. LBR 2002-1(f), or in no asset cases, all creditors.

- (2) In chapter 11 cases, parties in interest shall include, but are not necessarily limited to:
 - (A) the local office of the United States trustee;
 - (B) debtor's counsel, or the debtor, if pro se;
 - (C) a chapter 11 trustee, if any, and his/her counsel;
 - (D) the chairperson of the creditors' committee and its counsel if any, and to the chairperson and counsel of any other official committee approved by the Court;
 - (E) any party who has requested service or notice in the case; and
 - (F) all creditors.

- (d) **Service of Application for Compensation.** In all cases, the applicant must serve a *complete copy of the application for compensation* with:
- (1) the local office of the U.S. trustee;
 - (2) any chapter 7, 11, or 13 trustee;
 - (3) the debtor and debtor's counsel;
 - (4) the chairperson of the creditors' committee and its counsel, if any; and
 - (5) the chairperson and counsel of any other official committee approved by the Court.
- (e) **Notice to Equity Security Holders.** The notices required in chapter 11 cases by Fed. R. Bankr. P. 2002(d)(1), (2) and (3) shall be given by the debtor or the trustee, if applicable. The notices required by Fed. R. Bankr. P. 2002(d)(4), (5), (6), and (7) shall be given by the movant or proponent of the plan or disclosure statement, whichever applies.
- (f) **Notice to Creditors in Chapter 7 Asset Cases and Chapter 13 Cases.** After ninety (90) days following the first date set for the Section 341 meeting of creditors in a chapter 13 case, or within the time allowed by the Court for the filing of claims in a chapter 7 asset case, the Clerk will mail notices only to creditors whose claims have been filed or who have been granted extensions within which to file claims.

RULE 2003-1

MEETING OF CREDITORS OR EQUITY SECURITY HOLDERS

- (a) Pursuant to Fed. R. Bankr. P. 2003(b)(1), unless otherwise ordered by the Court, the following persons shall preside at a meeting of creditors:
- (1) **Chapter 7 Cases.** In a chapter 7 case, the interim trustee or trustee appointed by the United States trustee, unless an alternative trustee is elected pursuant to § 702 of the Code and there is no dispute with regard to said election, then such alternate trustee shall preside. If the United States trustee has

determined there is a dispute with regard to such an election, the interim trustee shall preside at the initial meeting, and shall continue the meeting to a date reasonably calculated to be sufficient for the Court to determine such dispute.

(2) **Chapter 11 Cases.** In chapter 11 cases, the United States trustee or his/her designee, unless:

(A) a trustee has been appointed by the Court pursuant to § 1104 then such chapter 11 trustee shall preside; or

(B) an alternate trustee is elected under § 1104(b) of the Code and the United States trustee has determined that there is no dispute with regard to said election, then such alternate trustee shall preside.

If the United States trustee has determined that there is a dispute with regard to such an election, the interim trustee shall preside at the initial meeting, and shall continue the meeting to a date reasonably calculated to be sufficient for the Court to determine such dispute.

(3) **Chapter 13 Cases.** In chapter 13 cases, the chapter 13 trustee or such designee as is approved by the United States trustee.

(b) Each officer presiding at a meeting of creditors shall file with the Court, and serve upon the local office of the United States trustee, a report of action taken no later than four (4) days after the Section 341 meeting and, in chapter 7 cases, the

chapter 7 trustee shall file a report of no distribution no later than fifteen (15) days after such meeting, if applicable.

RULE 2004-1 **EXAMINATION**

- (a) **Consultation Required.** Before the filing of a motion for examination under Fed. R. Bankr. P. 2004, counsel for the moving party shall confer with counsel for the proposed examinee(s), or with the proposed examinee, if unrepresented, to arrange a mutually agreeable date, place and time for the examination. All motions for examination shall include either:
- (1) a statement that such conference has been held as required and that all parties have agreed to the date, time and place of the examination; or
 - (2) a statement explaining why it was not possible for such conference to be held; or
 - (3) a verified statement that the movant has good reason to believe that the proposed examinee would absent himself or herself from the jurisdiction if notified of the request for examination; or
 - (4) a statement that the conference was held, but no agreement could be reached by the parties and the motion is presented to the Court for determination.
- (b) **Objections/Protective Orders.** Any objection to a motion for a Rule 2004 examination shall be in the form of an objection and/or a motion for a protective order in accordance with Fed. R. Civ. P. 26(c) as adopted in Fed. R. Bankr. P. 7026. The motion/objection shall state precisely the basis for such objection or protective order as well as the nature and scope of the relief requested.
- (c) **Notice and Response Time.**

- (1) Not less than thirteen (13) days written notice of a proposed examination shall be given to the entity to be examined, such entity's counsel (if known), and to all other affected parties in accordance with Fed. R. Bankr. P. 9013. The notice shall apprise the party to be examined of the proposed scope of the examination and list any documents requested to be presented at such examination.
- (2) In addition, the notice shall contain the following language regarding the time to object or otherwise respond to the proposed examination:

Within ten (10) days of service of this Motion for a Rule 2004 Examination, and an additional three (3) days pursuant to Fed. R. Bankr. P. 9006(f) if you were served by mail, any party who objects to the examination shall serve and file an objection and/or motion for protective order with the Bankruptcy Court Clerk's Office, 380 Westminster Mall, 6th Floor, Providence, RI 02903, (401) 528-4477. If no objections or motions for protective order are timely filed, the motion for examination will be granted by the Court by endorsement order.

- (d) **Stay of Examination.** The timely filing of an objection and/or motion for a protective order as provided in subdivisions (b) and (c) of this LBR will automatically stay the

motion for examination and the entry of any order determining said examination, until the Court considers the objection or motion for protective order.

- (e) **Unopposed Motion for Rule 2004 Examination.** If no response or objection is timely served, the motion to conduct an examination under this LBR will be granted by the Court by endorsement order.
- (f) **Inapplicability to Adversary Proceedings.** The provisions for examination under this LBR shall be inapplicable to pending adversary proceedings and contested matters. Discovery in connection with pending adversary proceedings and contested matters, including examinations, shall be pursuant to the discovery provisions made applicable by Part VII of the Fed. R. Bankr. P. and Fed. R. Bankr. P. 9014.

**RULE 2007.1-1 APPOINTMENT OF TRUSTEE OR EXAMINER IN A
CHAPTER 11 REORGANIZATION CASE OR ELECTION
OF A TRUSTEE UNDER 11 U.S.C. § 1104(b)**

- (a) **Election of Trustee in a Chapter 11 Reorganization Case.**
 - (1) **Request for an Election.** A request to convene a meeting of creditors for the purpose of electing a trustee in a chapter 11 reorganization case shall be filed and transmitted to the United States trustee in accordance with Fed. R. Bankr. P. 5005 within the time prescribed by § 1104(b) of the Bankruptcy Code. Pending Court approval of the person elected, any person appointed trustee under § 1104(d) and approved in accordance with subdivision (b) of this LBR shall serve as trustee.
 - (2) **Manner of Election and Notice.** An election of a trustee under § 1104(b) of the Code shall be conducted in the manner provided in Fed. R. Bankr. P. 2003(b)(3) and 2006. Notice of the meeting of creditors

convened under § 1104(b) shall be given as provided in Fed. R. Bankr. P. 2002. The United States trustee shall preside at the meeting. A proxy for the purpose of voting in the election may be solicited only by a committee of creditors appointed under § 1102 of the Code or by any other party entitled to solicit a proxy pursuant to Fed. R. Bankr. P. 2006.

(3) Appointment and Resolution of Disputes.

If it is not necessary to resolve a dispute regarding the election or if the Court has resolved all such disputes, the United States trustee shall promptly appoint the person elected to be trustee and file an application for approval of the appointment in accordance with subdivision (b) of this LBR. If it is necessary to resolve a dispute regarding the election, the United States trustee shall promptly file a report informing the Court of the dispute and pending resolution, the person appointed under § 1104(b) as trustee shall continue to serve. Not later than the date on which the report is filed, the United States trustee shall mail a copy of the report to any party in interest that has made a request to convene a meeting under § 1104(b) or to receive a copy of the report, and to any committee appointed under § 1102 of the Code. Unless a motion for the resolution of the dispute is filed not later than 10 days after the United States trustee files the report, any person appointed by the United States trustee under § 1104(d) and approved in accordance with subdivision (b) of this LBR shall serve as trustee.

- (b) Approval of Appointment.** An order approving the appointment of a trustee elected under §1104(d), or the appointment of an examiner under §1104(d) of the Code, shall be made on application of the United States trustee. The

application shall state the name of the person appointed and, to the best of the applicant's knowledge, all the person's connections with the debtor, creditors, any other parties in interest, their respective attorneys and accountants, the United States trustee, and persons employed in the office of the United States trustee. Unless the person has been elected under §1104(b), the application shall state the names of the parties in interest with whom the United States trustee consulted regarding the appointment. The application shall be accompanied by a verified statement of the person appointed setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, and any person employed in the office of the United States trustee.

RULE 2014-1 **EMPLOYMENT OF PROFESSIONAL PERSONS**

- (a) **Statement To Accompany Applications.** Within the verified statement required by Fed. R. Bankr. P. 2014(a), the applicant shall also state whether they are a “disinterested person” within the meaning of 11 U.S.C. §101.
- (b) **Conflicts of Interest.** All compensation may be denied where the Court determines after notice and hearing that the professional person is not a disinterested person within the meaning of 11 U.S.C. § 101, or has an actual conflict of interest in a case or proceeding in which the professional seeks compensation. An actual conflict of interest shall be presumed to exist, subject to rebuttal, where an attorney seeks to represent a debtor and its principal(s) or other insiders.
- (c) **Time for Filing of Application.** Absent extraordinary circumstances, nunc pro tunc applications for appointment of professional persons pursuant to 11 U.S.C. §§ 327 and 1103 and Fed. R. Bankr. P. 2014, will not be considered. An application is considered timely if it is filed within thirty (30) days of the date of the filing of the bankruptcy petition, or the date the professional commences rendering services, whichever occurs later.

- (d) **Content of Application.** Every application shall set forth the information as required by Fed. R. Bankr. P. 2014(a) and 2016(b), including a specific statement as to what payments have been made or promised to the applicant for services rendered or to be rendered in any capacity whatsoever in connection with the case, or any other arrangement regarding the payment of fees, including the existence of any guaranties for such fees and the debtor's relationship with any non-debtor entity paying or guaranteeing such fees. All retainers shall be maintained in accordance with R.I. LBR 2016-1(c).
- (e) **Application to Employ Professional for Specified Service.** If an applicant seeks to employ a professional for a specified and discrete service to the estate, the application to employ may request total future compensation in an amount no greater than the amount contained in Fed. R. Bankr. P. 2002(a)(6), which amount will be deemed allowed if the application to employ is approved, without requiring a separate fee application to be filed. An example of a specified and discrete service is the employment of an accountant to prepare a one year tax return for a chapter 7 estate.

RULE 2015-1 **DUTIES OF TRUSTEE OR DEBTOR IN POSSESSION**

The reports required by 11 U.S.C. §§ 704(8) and 1106(a), and Fed. R. Bankr. P. 2015(a)(5), shall be timely filed with the Court, with copies served on the local office of the United States trustee, any examiner and if requested, any committee appointed in the case, and its counsel, if any.

RULE 2015-3 **DUTY OF TRUSTEE AND DEBTOR IN POSSESSION TO FILE INVENTORY RECORDS IN CHAPTERS 7 AND 11**

- (a) An inventory under Fed. R. Bankr. P. 2015(a)(1) shall be required in all chapter 7 and 11 cases and shall separately detail each asset of the debtor, including listing all accounts receivable, as of the date of filing, and shall be served on the local office of the United States trustee (and not filed with the Court) within thirty days after the Court approves the trustee's

appointment or within thirty days of the commencement of the case, whichever is later, unless such detailed inventory has already been filed with the court or is included in the bankruptcy schedules.

- (b) The inventory served on the local office of the United States trustee pursuant to subdivision (a) above is confidential and not available for public inspection pursuant to Department of Justice Order Number 2620.7, entitled "Control and Protection of Limited Official Use Information," dated September 1, 1982, or as may be amended from time to time.

RULE 2015-5 **CHAPTER 13 BUSINESS CASES**

If the debtor is engaged in business, the debtor shall be required to also file:

- (a) **Profit and Loss Statement.** A profit and loss statement for the calendar or fiscal year, whichever is applicable, for the year preceding the bankruptcy filing, and a profit and loss statement covering the end of the fiscal or calendar year to the filing date of the petition;
- (b) A statement by the debtor indicating whether the business incurs trade credit;
- (c) **Quarterly Income and Expense Statements.** Within thirty (30) days of the close of each quarter, the debtor shall file a statement of the quarter's income and expenses, and serve a copy of such statement upon the chapter 13 trustee; and
- (d) **Evidence of Insurance.** The debtor shall within five (5) days after the commencement of the case submit to the chapter 13 trustee evidence of appropriate business insurance as required by applicable law, such as general liability, workers compensation and asset protection coverage.

RULE 2016-1 **COMPENSATION FOR SERVICES RENDERED AND REIMBURSEMENT OF EXPENSES**

Modified 3/3/03

- (a) **Application for Compensation of Professionals, including Chapter 11 and Chapter 7 trustees.** In addition to the provisions of Fed. R. Bankr. P. 2016, each application and any attachments shall:
- (1) be legible and understandable;
 - (2) identify the time period or periods during which services were rendered;
 - (3) describe the specific services performed each day by each person with the time broken down into units of tenths of one hour devoted to such services;
 - (4) include a copy of any contract or agreement reciting the terms and conditions of employment and compensation;
 - (5) include a copy of the order authorizing the employment;
 - (6) include the date and amount of any retainer, partial payment or prior interim allowances;
 - (7) include a brief narrative description of services performed and a summary of hours by professionals and other personnel;
 - (8) if the trustee is also serving as his or her own attorney, the trustee's attorney's application must contain a certification that no compensation has been or will be sought for services as an attorney which are properly trustee services; and
 - (9) include a brief biography of each person included in the fee application, stating his or her background and experience. The statement should demonstrate that the hourly rate charged for each professional is reasonable, and should include such information as the applicant deems pertinent to that issue. After the initial application, biographies need not be included in subsequent applications, other than for professionals whose biographies were not

included in the initial application. With respect to professionals who have previously filed such a biography with this Court, he/she may indicate that fact on the application and need not repeat said biography unless the Court so orders.

- (10) include the fee application summary sheet contained in **R.I. Bankr. Form C.2**, which summary shall also include a key to the initials or other device used to identify each such person in itemized billings. Additionally, all requests for interim fees shall include **R.I. LBR Form C.3**, "Interim Fee Allowance Summary" and all requests for payment of final fees and expenses shall include **R.I. LBR Form C.4**, "Final Fee Allowance Summary." Any fees that remain unapproved from a previous interim application for compensation or that were partially allowed on account must be requested again in a final fee application and shall be included on **R.I. LBR Form C.4**.

- (b) **Applications by Co-counsel.** Any application for compensation by co-counsel shall specify the separate services rendered by each counsel and contain a certification that no compensation is sought for duplicate services.
- (c) **Applications by Trustees Exceeding \$5,000.** If an application for compensation and reimbursement by a chapter 7, 11 or 12 trustee exceeds \$5,000.00, the trustee shall state:
 - (1) the total amount received in the estate;
 - (2) the amount of money disbursed and to be disbursed by the trustee to parties in interest (excluding the debtor) and a calculation of the maximum fee allowable under 11 U.S.C. § 326;
 - (3) a brief narrative description of services performed;

- (4) if the payment sought is interim compensation, why the payment of interim compensation is reasonable and appropriate;
 - (5) the dividend, expressed as a percentage of funds to be distributed to creditors, if the requested compensation and other requested administrative expenses are allowed in the amounts requested. If a trustee has served both as a chapter 7 and a chapter 11 trustee, separate itemizations must be provided for each period. The amount of compensation shall be stated as a dollar amount, regardless of the calculation of the maximum compensation allowable under 11 U.S.C. § 326(a).
- (d) **Narrative Summary Required on Applications Exceeding \$35,000.** All applications which seek more than \$35,000.00 in compensation, or are otherwise very lengthy, must be divided into narrative sections. Each narrative section must represent a task, must describe the task and the benefit to the estate, and must identify the work done by each professional. There shall be attached to the narrative a specific description of services performed under such task each day by each person and the time devoted to such services on that day by each person. The end of each narrative section must include a summary chart that substantially conforms to the requirements of section (a)(10) of this rule.
- (e) **Reimbursement of Expenses.** Attached hereto as **Appendix III** is the Rhode Island Standard Expense List. The Court will approve reimbursement of reasonable and necessary expenses at the levels set forth in Appendix III, subject to an applicant requesting reimbursement at other levels upon proof that the reimbursement levels set by the Rhode Island Standard Expense List are inadequate in view of the applicant's actual costs. The Rhode Island Standard Expense List may be amended by the Court from time to time.
- (f) **Exception for Retention of Professional for Specified Service.** *See* R.I. LBR 2014-1(e).

- (g) **Regulation of Retainer Fees.** In any case in which the professionals retained or to be retained hold or receive retainer funds, whether from the debtor or from any other source for the benefit of the debtor or for the benefit of an appointed trustee or committee, such retainer funds shall be deposited in a segregated, federally-insured, interest-bearing account. Retainers held pursuant to this LBR are to be held solely for the benefit of the bankruptcy estate, until such time as an order for their disposition issues. None of the retainer funds deposited shall be withdrawn until the professional complies with the provisions of this subdivision.
- (1) **Motion for Authority to Draw Down on Retainer Funds.** A person who has applied for employment pursuant to 11 U.S.C. § 327 may file a motion with the Court to draw down on retainer funds held pursuant to this LBR prior to the filing of any application under 11 U.S.C. §§ 330 or 331. A motion filed under this LBR shall provide that such funds will not be drawn down until at least fifteen (15) days after service of an itemized bill upon the debtor, the local office of the United States trustee and any committee(s) appointed pursuant to 11 U.S.C. § 1102.
- (2) In most cases, a percentage “hold back” of such retainer funds will be ordered by the Court. All retainer funds distributed pursuant to this LBR are subject to review and approval by the Court upon the filing of an interim and/ or final fee application. All applicants should be aware that the Court may, after review of the interim and/ or final fee application, order disgorgement of any retainer funds previously distributed under this LBR.
- (h) **Sanctions for Noncompliance.** Failure to comply with the provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure or these LBRs regarding applications for compensation may result in the *sua sponte* denial of the application.

RULE 2016-2 **DUTY TO UPDATE 2016(b) STATEMENT**

- (a) **Continuing Duty to Update.** Counsel for the debtor has a continuing duty to timely update the Rule 2016(b) statement, as prescribed by Fed.R.Bankr.P. 2016(b), if additional fees are incurred after the initial filing of the statement.
- (b) **Sanctions for Noncompliance.** Failure to comply with this rule may result in the sua sponte entry of an order for the disgorgement and/or denial of all fees.

RULE 2017-1 **PAYMENT OR TRANSFER OF FUNDS TO ATTORNEY**
BEFORE ORDER FOR RELIEF

- (a) In addition to those instances when required under the Bankruptcy Code and Rules, a fee application conforming to the standards set forth in R.I. LBR 2016-1 shall be filed within twenty (20) days of any order requesting it, when an attorney for either a chapter 7 or 13 debtor or a document preparer has charged a fee that exceeds the amounts listed on **Appendix IV**;
- (b) The Court may order disgorgement of all fees and any other appropriate sanction for the failure to timely comply with the requirements of this LBR.

RULE 2083-1 **CHAPTER 13 - GENERAL** Modified 3/3/03.

Duty to File Chapter 13 Agreement. Contemporaneous with the filing of a Chapter 13 case, or within 15 days thereafter, the debtor and counsel shall complete and file R.I. Bankruptcy Form V with the Court. Failure to timely file Local Form V will result in the automatic issuance of a Notice of Missing Documents and Notice of Dismissal If Documents Are Not Timely Filed.

RULE 2090-2 **DISCIPLINARY PROCEEDINGS**

- (a) An attorney who appears for any purpose in any case or proceeding submits himself or herself to the Court's disciplinary jurisdiction and shall be held to the standards of professional conduct set forth in District Court Local Rule 4.
- (b) In any matter in which a bankruptcy judge has reasonable cause to believe that an attorney has committed a violation of any canon or ethical rule, the bankruptcy judge may refer the attorney for disciplinary proceedings to the District Court pursuant to District Court Local Rule 4 and to any state disciplinary authority. In connection with any such referral, the bankruptcy judge may recommend expedited interim action by the District Court and/or the state disciplinary authority if in the opinion of the bankruptcy judge such action is necessary to avoid an imminent risk of harm to the public.
- (c) A bankruptcy judge may impose any other sanction the judge deems necessary under the circumstances in accordance with the relevant statutes, rules of this Court and the District Court, or applicable law.

RULE 3002-1 **FILING PROOF OF CLAIM OR INTEREST**

- (a) **Service of Proof of Claim on Attorney for the Debtor and case trustee.** An original proof of claim shall be filed with the Clerk. In addition, in all chapters, the claimant shall, contemporaneously with the filing, serve a copy of the proof of claim, with all attachments thereto, on the trustee, if any, and on the debtor's attorney, or debtor, if pro se.
- (b) **Notice to Creditors in Chapter 7 Cases.** Following expiration of the bar date for filing claims, the Clerk and parties designated to provide service may limit the serving and distribution of papers, except notices as governed by Fed. R. Bankr. P. 2002 and R.I. LBR 2002-1(f), to those parties who have filed proofs of claim or who have been granted extensions within which to file claims, excepting therefrom, however, creditors whose claims have been fully disallowed.

RULE 3003-1 **CHAPTER 11 CLAIMS BAR DATE**

Unless otherwise ordered by the Court, proofs of claim in chapter 11 cases must be filed on or before sixty (60) days from the date first set for the Section 341 meeting of creditors, or for governmental units, within the time provided in 11 U.S.C. § 502(b)(9).

RULE 3007-1 **CLAIMS - OBJECTIONS**

An objection to a claim(s) shall contain the following notice, which shall appear below the signature block of the objecting party, or otherwise be conspicuously set forth within the objection:

NOTICE OF TIME TO RESPOND/OBJECT

Within ten (10) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bankr. P. 9006 if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Bankruptcy Court Clerk's Office, 380 Westminster Mall, 6th Floor, Providence, RI 02903, (401) 528-4477. If no objection or other response is timely filed within the time allowed herein, the paper will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise.

If you timely file such a response, you will be given thirty (30) days notice of the hearing date for this objection.

(a) Procedure for Deposit of Unclaimed Funds

- (1) Unclaimed funds in excess of \$25.00 received by the Court shall be deposited in the Treasury registry fund, or otherwise as directed by the Judicial Conference. Unclaimed funds of \$25.00 or less shall be deposited directly with the United States Treasury.
- (2) Upon receipt of the items and/or information specified in subparagraphs (A) through (C) below, a ledger shall be established and maintained by the financial department of the clerk's office containing information described in paragraph (3) below:

 - (A) a check for unclaimed funds;
 - (B) a declaration that the check has not been cashed within ninety (90) days or was returned as address unknown; and
 - (C) the name, address and amount owed the creditor.
- (3) For each unclaimed fund creditor, a ledger containing the following information shall be maintained:

 - (A) the name of the debtor(s);
 - (B) the bankruptcy case number;
 - (C) the name and address of the creditor(s) whose unclaimed funds have been deposited; and
 - (D) the amount owed.
- (4) The Financial Administrator shall also maintain a copy of the trustee's or debtor's forwarding letter, the check, and the receipt,

in a separate file available for public inspection.

(b) Procedure for Payment of Unclaimed Funds.

- (1) A court order must be obtained before the Clerk of court may disburse unclaimed funds.
- (2) The following documentation is required to obtain a court order to disburse unclaimed funds:
 - (A) Petition for Payment of Unclaimed Funds substantially similar to **R.I. Bankr. Form E**;
 - (B) Satisfactory completion of the appropriate identification form for unclaimed dividends, *see* **R.I. Bankr. Forms F.1 or F.2**; and
 - (C) Such other documentation establishing proof of ownership as the Court may direct.
- (3) Upon receipt of the required documents described in paragraph (2) above, copies of which shall also be served upon the United States attorney, a twenty (20) day deadline shall be fixed for the filing of objections (plus an additional three (3) days if served by mail). If no objection(s) is timely filed, the Financial Administrator shall obtain a court order approving the payment. If an objection to the petition is timely received, the matter shall be referred to the Court for determination.

RULE 3012-1

PROCEDURE FOR VALUATION OF COLLATERAL

Unless leave of Court is otherwise obtained, any moving or objecting party that intends to rely on any appraisal(s) supporting a motion, objection or response at a hearing at which the

valuation of property of the estate is at issue, shall not attach such appraisal(s) to the original motion, objection or response when filed with the Court. Counsel shall make reference to each such appraisal(s) in the body of the motion, objection or response, so that upon request by the Court for their production, the Court can refer to the appraisal(s) so identified. However, the moving, objecting or responding party must attach all such appraisal(s) to the copy of its motion, objection or response served upon all other parties to whom notice is required.

RULE 3015-1 **CHAPTER 13 PLAN** Modified 3/3/03

(a) **Form of Plan.** A Chapter 13 plan shall conform to **RI Bankr. Form W**, with such alterations as may be appropriate to suit the circumstances. Additionally, each plan shall contain the following:

(1) **Signature(s).** Every plan or amendment thereto shall be signed by the Debtor, and

(2) **Date.** Every plan or amendment thereto shall be dated as required by Fed. R. Bankr. P. 3015(c).

(b) **Filing the Chapter 13 Plan and Service of Plan on all Creditors and Interested Parties.** The debtor's attorney, or the debtor, if pro se, must, in addition to the time requirements for filing the Chapter 13 Plan with the court pursuant to Fed. R. Bankr. P. 3015(b), must also serve a copy of the proposed chapter 13 plan on the chapter 13 trustee, all creditors and all interested parties within twenty-four (24) hours of its filing with the Court. A certificate of service evidencing compliance with this rule shall be filed with the Court within ten (10) days thereafter.

RULE 3015-2 **CHAPTER 13 - AMENDMENTS TO PLANS** Modified 12/1/02

(a) **Amendments to Plan Prior to Confirmation that do not Adversely Affect Creditors.**

(1) **Without Leave of Court.** Amendments to a plan which do not adversely affect creditors may be made at or prior to the Section 341(a) meeting without leave of Court by a separate pleading entitled "Modification of Plan," which shall be filed with the Court and served on the Chapter 13 trustee and any party or attorney who has filed an appearance and

requested service of pleadings in the case. Those parts of the amended plan that are changed from the previous plan shall be clearly identified.

- (2) **The modification shall be accompanied by a certificate of service.** If no objections to the modification are filed within ten (10) days after service or at the hearing on confirmation, whichever occurs sooner, the Court shall consider confirmation of the plan as amended.

(b) Amendments to Plan that Adversely Affect Creditors Filed within Ten (10) days of the Confirmation Hearing.

- (1) **The Amended Plan.** Where an amendment to a plan adversely affects creditors, the Debtor shall file with the Court an amended plan and those parts of the amended plan that are changed from the previous plan shall be clearly identified.
- (2) **Service.** The Debtor shall serve a copy of the amended plan on the Chapter 13 trustee, all creditors, and all parties and attorneys who filed appearances and request for service of all pleadings in the case. The amended plan shall be accompanied by a certificate of service.
- (3) **Time to Object and Effect on Confirmation Date.** If the confirmation hearing is scheduled to occur within ten (10) days of the filing of the amended plan, said hearing shall be continued to the next available hearing date assigned by the Clerk's office. It shall be the responsibility of the Debtor's attorney, or debtor, if pro se, to serve notice of the rescheduled confirmation hearing date on all creditors and on all parties and attorneys who have filed appearances or requests for service of pleadings in the case. The hearing notice shall be accompanied by a certificate of service filed with the Clerk's office.

(c) Amendments to Plan After Confirmation.

- (1) **Motion to Amend Plan Required.** A debtor who seeks to amend a Chapter 13 plan after confirmation shall do so by filing a motion to amend the plan with a copy of the proposed amended plan attached. The motion to amend shall include a summary and statement of the reason for the amendment and those parts of the amended plan that are changed from the previous plan shall be clearly identified.
- (2) **Updated Schedules I and J Required.** In conjunction with the motion to amend, the Debtor shall file updated Schedules I and J if plan payments are changing under the terms of the amended plan. The Chapter 13 trustee, in his or her discretion, may schedule a new Section 341 meeting with respect to the amended plan.

- (3) **Service.** The Debtor shall serve a copy of the motion, amended plan and updated Schedules I and J (if applicable) on the Chapter 13 trustee, all creditors, and parties and attorneys who have filed appearances and requests for service of pleadings in the case. In the event that the Debtor proposes more than one amended plan, each amended plan shall be titled "First Amended Plan," "Second Amended Plan," and so on, as may be appropriate.
- (4) **Hearing on Amended Plan.** Approval of an amended plan after confirmation of a prior plan may be granted without a hearing if no objections are timely filed. Objections to an Amended Plan shall be filed no later than ten (10) days from the date of service of the motion to amend. The Chapter 13 trustee shall provide the court with a written statement of his position on all motions to amend the plan after confirmation, within the ten (10) day objection period. In the event that no objections to the motion are timely filed, the Court may, in its discretion, grant the motion to amend, without an actual hearing. If a party in interest files a timely objection to the motion, the Court shall set the motion and objection for hearing.
- (d) **Form of Order.** R.I. Bankr. Form X shall serve as the form of order for all Chapter 13 confirmations, with such modifications thereof as appropriate. The Chapter 13 trustee is responsible for preparation of the proposed order confirming an amended plan. Service and submission of the proposed order shall be in accordance with R.I. LBR 9072(b)-1.
- (e) **Modification of Secured Claim -- Separate Motion Required.** A debtor who, as part of a Chapter 13 plan, proposes to modify a secured claim pursuant to 11 U.S.C. §§506 shall file a separate motion to that effect. The motion shall be served on the claimant with a copy of the proposed Plan, shall contain the language required by R.I. LBR 1005-1(d) and shall contain, inter alia:
- (1) the name and address of the claimant;
 - (2) an identification of the security held by the claimant; and
 - (3) a description of the manner in which the secured claim is proposed to be treated under the plan.

- (a) **Pre-Confirmation Conference with Chapter 13 Trustee.** At least forty-eight (48) hours prior to the hearing on confirmation, the debtor's attorney, the debtor, if pro se, and any objector to the Chapter 13 plan are required to confer with the Chapter 13 trustee regarding the proposed plan, its feasibility and permissibility, and any objections to the proposed plan.
- (b) **Objections to Confirmation.**
- (1) **Deadline for filing.** Any objections to confirmation of a Chapter 13 plan shall be filed no later than seven (7) days before the hearing date on confirmation.
 - (2) **Service of objections.** An objection to confirmation shall be filed with the Court and served on the Chapter 13 trustee, the debtor, the debtor's attorney, and any other party or attorney who has filed an appearance and requested service of pleadings. The objection shall be accompanied by a certificate of service evidencing compliance with this requirement.
- (c) **Scope of the Confirmation Hearing.** At the hearing on confirmation of a Chapter 13 plan, the Court may consider objections to claims, motions filed pursuant to Fed. R. Bankr. P. 4003, motions for valuation of secured claims, motions to modify secured claims, reasonableness of attorney's fees, and any timely filed objections to confirmation of the debtor's plan.
- (d) **Order Confirming Chapter 13 Plan.** R.I. Bankr. Form X shall serve as the form of order for all Chapter 13 confirmations, with such modifications thereof as appropriate. The Chapter 13 trustee is responsible for preparation of the proposed order confirming the plan. Service and submission of the proposed order shall be in accordance with R.I. LBR 9072(b)-1.
- (e) **Confirmation of Plan Denied.** If confirmation is denied, the Court may enter an order dismissing the Chapter 13 case, unless, within eleven (11) days after entry of the order denying confirmation:
- (1) the debtor files a modified plan;
 - (2) the debtor moves to convert the case to one under another chapter of the Code;
 - (3) the debtor files a motion for reconsideration;
 - (4) the debtor appeals the order denying confirmation; or
 - (5) the Court otherwise orders.

Report of Chapter 11 Trustee. A chapter 11 trustee shall file a report, within sixty (60) days of appointment, or such other date as the Court may otherwise direct, addressing:

- (a) whether a plan can reasonably be formulated, and if not, the reasons why the trustee believes a plan cannot be formulated;
or
- (b) a recommendation that the case be converted to another chapter or dismissed.

RULE 3016-2 DISCLOSURE STATEMENT - GENERAL

Modification or Amendments to Filed Disclosure Statement and/or Plan. Any amendments to a chapter 9 or 11 plan and/or disclosure statement shall be incorporated into the original of such documents and the revised document must be filed with the Court in its entirety identified as the "First, Second, (etc.) Amended." All amendments shall be highlighted by underlining, bold type, or other conspicuous means to underscore and identify the amendment to the initially filed document. Two copies of the amended document(s) containing the highlighted modifications to the original document(s) and one original of the amended document(s) without highlighting of the modifications must be filed. Copies of the highlighted document(s) must be served on the local office of the U.S. trustee, and on any other party who requests a copy.

RULE 3017-1 CHAPTER 9 AND 11 DISCLOSURE STATEMENT - APPROVAL

Transmission of Notices Regarding Disclosure Statement. After approval of the disclosure statement, the proponent of the plan under chapters 9 or 11 shall transmit all notices and documents required by Fed. R. Bankr. P. 3017. The proponent shall obtain the appropriate notice(s) as required by Fed. R. Bankr. P. 3017 from the Clerk of the court, and transmit the same, with any other documents required to be sent in accordance with said Bankruptcy Rule, to all creditors and equity security holders entitled to vote on the plan, and to all other parties as required by said Bankruptcy Rule.

RULE 3018-1 BALLOTS - VOTING ON CHAPTER 9 AND 11 PLANS

At least seven (7) days prior to the hearing on confirmation, the proponent of the plan shall certify the number of allowed claims in each class accepting or rejecting the plan and the amount of allowed interests in each class accepting or rejecting the plan. Such certification shall be in the form provided as **R.I. Bankr. Form I**. The original certification shall be filed with the Clerk, and copies shall be provided to the local office of the United States trustee, all creditors holding secured claims, counsel for the official unsecured creditors committee, and

any other committees appointed and serving in the case under 11 U.S.C. § 1102. **R.I. Bankr. Form J** is a sample ballot that may be used by the proponent of the plan for voting purposes.

RULE 3018-2 **ACCEPTANCE/REJECTION OF CHAPTER 9 AND 11 PLANS**

Any claimant requesting a hearing to temporarily allow the claim or interest in an amount which the Court deems proper for the purpose of accepting or rejecting a plan shall make such a motion in writing, and filed with the completed ballot, at least ten (10) days prior to confirmation. Such motions shall be heard at the confirmation hearing, unless otherwise ordered.

RULE 3019-1 **AMENDMENTS TO CHAPTER 9 AND 11 PLANS AFTER ACCEPTANCE BUT PRIOR TO CONFIRMATION**

A plan proponent seeking to amend a chapter 9 or 11 plan after acceptance but prior to confirmation shall conform to R.I. LBR 3016-2.

RULE 3020-1 **CHAPTER 9 AND 11 - CONFIRMATION**

- (a) **Documents Required Seven Days Prior to Confirmation Hearing.** Not less than seven (7) days prior to the hearing on confirmation, the plan proponent shall provide the following to the Court, the local office of the United States trustee, and any other party specified by the Court:
- (1) A report on ballots in substantially the same form as **R.I. Bankr. Form I**;
 - (2) A proposed order of distribution in substantially the same form as **R.I. Bankr. Form K.1**, shall be filed with the Court and copies served on the local office of the United States trustee, any committee appointed and serving in the case under 11 U.S.C. § 1102 and on the Debtor and counsel (if not the plan proponent). Additionally, the plan proponent shall either serve a copy of the proposed order of distribution (**R.I. Bankr. Form K.1**), or a

“Notice of Filing of Proposed Order of Distribution” in substantially the same form as **R.I. Bankr. Form K.2** on all creditors, at least fourteen (14) days before the hearing on confirmation. A certificate of service evidencing compliance with this LBR shall be filed with the Clerk;

- (3) A fully completed chapter 9 or 11 confirmation worksheet and certification in substantially the same form as **R.I. Bankr. Form L**;
- (4) A certification that: the approved disclosure statement, the latest amended plan, the order approving disclosure statement, and ballots for acceptances or rejections were mailed to all creditors at least twenty-five (25) days prior to the date set for the hearing on confirmation, or the date set by the Court;
- (5) A proposed order including proposed findings of fact regarding confirmation of the plan in substantially the same form as **R.I. Bankr. Form M**;
- (6) A certification of compliance with the requirements of 11 U.S.C. § 1129, or in the alternative, evidence of such compliance at the hearing; and
- (7) Any other documents necessary to plan confirmation.

- (b) **Proof of Deposit Due Three Days Prior to Confirmation Hearing.** Proof of deposit shall be filed with the Clerk of court at least three (3) days prior to the hearing on confirmation. A copy of the bank statement showing the amount on deposit in accordance with Fed. R. Bankr. P. 3020(a) is required. The amount of the deposit must be equal to the initial distribution for all classes on the effective date of the plan. Any party waiving payment from funds on deposit must file a written waiver within the time indicated herein.
- (c) Failure to timely file the documents set forth in subdivisions (a) and (b) of this LBR may result in the vacating of the hearing on confirmation, and it will be the responsibility of the

plan proponent to notify all creditors and interested parties thereof.

RULE 3022-1 **FINAL REPORT/DECREE**

- (a) **Six Month Deadline.** Pursuant to 11 U.S.C. § 1106 and Fed. R. Bankr. P. 3022, within six months of the entry of the order of confirmation, or, if sooner, upon the substantial consummation of the plan of reorganization and full administration of the estate, the proponent of the plan shall file with the Clerk of court, and serve upon all interested parties, a final report and request for final decree in substantially the same form as **R.I. Bankr. Form N**.
- (b) **Requirements of Final Report.** The final report must:
 - (1) identify all payments to creditors, interest holders, expenses of administration and issuance of stock under the plan;
 - (2) state that the plan has been fully or substantially consummated and that the estate is fully administered; and
 - (3) request entry of a final decree.
- (c) **Status Report in Lieu of Final Report.** If after the expiration of six months the plan proponent does not believe the plan has been substantially consummated, a status report must be filed with the Court and served on interested parties to inform them of:
 - (1) the progress and current status of the plan;
 - (2) why the filing of the final report and request for final decree cannot be made at this time; and
 - (3) the date that the final report and request for final decree will be or is anticipated to be filed.

RULE 4001-1 **RELIEF FROM AUTOMATIC STAY** Modified 12/1/02

- (a) **Motion.** A party seeking relief from the automatic stay provided by 11 U.S.C. § 362(a) shall file, in accordance with Fed. R. Bankr. P. 9014, a motion specifically setting forth the basis for such relief.
- (b) **Service.** All documents filed pursuant to this rule shall be served in accordance with Fed. R. Bankr. P. 4001(a) and 9006(d)-(f) upon all

parties who have filed appearances and requested service of all notices and pleadings. Additionally, any party filing a motion for relief from the automatic stay shall serve copies of the motion on the following parties:

- (1) the debtor;
- (2) debtor's counsel;
- (3) the trustee if one has been appointed;
- (4) any official committee appointed and serving in the case under 11 U.S.C. §1102;
- (5) all parties with liens of record or any other party known to the movant claiming a lien in the property;
- (6) parties requesting notice;
- (g) in a Chapter 11 case, the local office of the United States trustee;

(c) **Response.** A party opposing a motion for relief from the automatic stay must file an opposition to the motion within ten (10) days, and an additional three (3) days if you were served by mail as provided in Fed. R. Bankr. P. 9006(f), after service of the motion. The opponent shall either admit, deny or state that the opponent has insufficient knowledge to admit or deny each and every allegation of the motion, shall state specifically why the motion should not be granted, and shall state the terms of any offer of adequate protection made by the debtor or trustee. If value is at issue, the respondent shall set forth its position regarding value and shall comply with R.I. LBR 3012-1. If the motion is scheduled for an expedited hearing before the expiration of the ten (10) day period, then the opposition shall be filed before the expedited hearing.

(d) **Exhibits.** Documents supporting a motion for relief from the stay shall not be attached to the original motion filed with the Court. Counsel shall make reference to each such exhibit, attachment or schedule in the body of the motion so that upon request for their production by the Court, said document(s) may be identified. However, the moving party shall attach all exhibits, attachments and schedules to the copy of the motion served on all other parties.

(e) **Liens, Mortgages and Security Interests.** If the movant seeks leave to foreclose upon the mortgage, security interest or other lien upon any interest of the debtor or of the estate in property, the basis for entitlement to relief must be stated with particularity in the motion. At a minimum, the motion shall set forth:

- (1) the value of the subject property and shall comply with R.I. LBR 3012-1;
- (2) the nature of the movant's interest in the property;

- (3) the manner in which the movant perfected its interest in the property;
 - (4) all other material liens and encumbrances on the property;
 - (5) the amount of the movant's claim as of the date of the petition; and
 - (6) a specification of pre-petition and post-petition arrearage, costs and interest accruals.
- (f) **Disposition Without a Hearing.** In the absence of a timely filed opposition and upon evidence of proper service, the Court, pursuant to R.I. LBR 9013-2, without a hearing, may allow or deny the motion after the expiration of the opposition period set forth in section (c). The Court may deny a motion for relief from stay without a hearing if the moving party fails to comply with section (e).
- (g) **Position of Estate Representative.** If the estate representative fails to file a response within the time prescribed in section (c), then the estate representative shall be deemed to have assented to the motion.
- (h) **Hearing.** Upon the expiration of the response deadline set forth in paragraph (c), and if the matter is contested, the Court will notify the parties of a hearing date within the time prescribed by 11 U.S.C. § 362(e). A preliminary hearing on a motion for relief from the automatic stay will be a consolidated preliminary and final nonevidentiary hearing unless at the conclusion of the preliminary hearing the Court schedules a final evidentiary or nonevidentiary hearing. If the Court schedules a final evidentiary hearing, the parties shall file a Joint Pre-Trial Order complying with the requirements of section (j), three (3) business days before the final evidentiary hearing date.
- (i) **Motions to Continue the Consolidated Preliminary Hearing.** Whenever a party seeks to continue the consolidated preliminary hearing beyond the time prescribed in 11 U.S.C. § 362(e), the movant must obtain and include an affirmation in the motion that creditor consents to the extension of the time limit set forth in 11 U.S.C. § 362(e).
- (j) **Joint Pre-Trial Orders**
- (1) **Filing Requirement.** In all cases where a joint pre-trial order is due prior to the final evidentiary hearing, the movant shall deliver by hand, mail, facsimil, or other agreed upon electronic means, a draft of the joint pre-trial order, in compliance with R.I. LBR

9014-1, and **R.I. Bankr. Form O**, to the respondent within five (5) days of the conclusion of the preliminary hearing. The respondent shall then submit to the movant, by hand, mail, facsimile, or other agreed upon electronic means, any comments or revisions within three (3) business days in order to finalize the document. The joint pre-trial order must be filed with the Court no less than three (3) business days prior to the date set for the final evidentiary hearing.

(2) **Content.** If “adequate protection” is at issue, the respondent shall explain the character of any adequate protection offered in lieu of relief from stay. If the issue of whether the property is necessary to an effective reorganization is in dispute, the debtor must affirmatively state whether a reorganization plan is in prospect and, to the extent possible, provide a summary of the plan expected to be filed.

(3) **Failure to File.** If the movant fails to timely file the joint pre-trial order with the Court, the motion for relief from stay will be denied without prejudice and the matter will be removed from the calendar. A new motion for relief and filing fee will be required to reinstate the matter. If either party fails to perform timely under these local rules, any aggrieved party may file a motion to adjudge the other party in default in accordance with R.I. LBR 9014- 1.

(k) **Setoff of Prepetition Tax Obligations.** The Internal Revenue Service is granted relief from stay in individual Chapter 7, 11 and 13 cases for the limited purpose of offsetting refunds for pre-petition years against prepetition tax indebtedness. The IRS shall amend their claims to reflect any such offset. In addition, nothing in this rule shall prejudice or limit the right of any party to object to a refund or offset of such refund as described herein or to any claim filed by the Internal Revenue Service

RULE 4001-2 USE OF CASH COLLATERAL

(a) **Service.** Contemporaneous with the filing of any motion for use of cash collateral, said motion shall also be served by the

movant, either by hand or facsimile mail, on the following parties:

- (1) any entity claiming an interest in the cash collateral;
 - (2) the trustee if one has been appointed;
 - (3) any official committee appointed and serving in the case under 11 U.S.C. §1102; or if none, on
 - (4) the twenty largest unsecured creditors, and
 - (5) the local office of the United States trustee.
- (b) **Responses.** Unless a shorter period is ordered by the Court, interested parties must file all objections and responses to any motions seeking use of cash collateral within two (2) business days from the date of service.
- (c) **Service of Order.** After the debtor obtains an order from the Court allowing use of cash collateral, the debtor shall serve copies of the order on all parties entitled to notice under subdivision (a) above, the twenty largest unsecured creditors, and any other party requesting notice.

RULE 4001-3 OBTAINING CREDIT

~~Borrowing or Refinancing of Estate Property. Any motion for approval of borrowing or refinancing shall include the terms of the proposed credit arrangement. A copy of any borrowing agreement shall be attached to the motion.~~

RULE 4002-1 DEBTOR - DUTIES

In addition to any other duties imposed upon the debtor or its counsel under the Bankruptcy Code, Rules, these LBRs, or any other applicable law, the debtor shall have the following duties:

- (a) Debtor, and debtor's officers and agents, if any, shall hold and manage debtor's assets as fiduciaries for the estate in strict compliance with orders of this Court and Bankruptcy Code §§ 363 and 1108;
- (b) Debtor shall take all steps reasonably necessary to prevent any significant depletion of the assets of the estate during the

pendency of the case and shall advise the Court immediately of any significant depletion or anticipated depletion of assets of the estate; and

- (c) If, at any time during the pendency of the case, the debtor becomes aware of facts indicating that the continued operation of its business is not in the best interest of the creditors or of the estate, the debtor and/or counsel shall immediately advise the Court.

RULE 4002-2 **ADDRESS OF COUNSEL TO THE DEBTOR**

Change of Attorney Address. Upon the filing of a change in an attorney's address, or other indicia of such a change, the Clerk's office shall forward a notice to the attorney requesting a designation of those cases that will *not* be noticed to the new address and said designation shall be filed with the Clerk within twenty (20) days thereafter. *See R.I. Bankr. Form P.1* A copy of the notice will also be mailed to the attorney's former law firm, when applicable. A Notice of Substitute Counsel must be filed for all cases listed on the designation. *See R.I. Bankr. Form P.2.* Said notice must be signed by the withdrawing attorney as well as the new attorney of record. If the attorney fails to timely file the required designation, or the notice of substitute counsel, all cases in which the attorney is counsel of record will be noticed to the new address only.

RULE 4003-1 **EXEMPTIONS** Modified 3/3/03

- (a) **Specificity.** A debtor's claim of exemptions shall be specific and shall, as to each item or category of items claimed as exempt, designate by title, section and subsection, the statutory basis for the claim. The schedules must disclose the debtor's exemption claims with meaningful particularity and the debtor must be prepared to provide detailed information regarding assets claimed as exempt at the meeting of creditors. In joint cases, exemptions claimed by each debtor shall be listed separately.
- (b) **Objections.** An objection to an exemption(s) shall contain the notice language set forth in LBR 1005-1(e) with a ten day response time, and shall appear below the signature block of the objecting party, or otherwise be conspicuously set forth within the objection.

RULE 4003-2 **LIEN AVOIDANCE**

Motion; Service. Upon the filing of a motion to avoid a lien, a copy must be served on the case trustee, the local office of the United States trustee, the lienholder and the lienholder's counsel, if known. Movant shall file a certificate of service in accordance with LBR 9013-3.

RULE 4008-1 **REAFFIRMATION**

- (a) **General Requirements.** Subject to the Court's discretion to require additional detail, reaffirmation agreements secured by personal property must include specific information as to: a description of the collateral, including, where appropriate, the make, year, model and any other pertinent information; the balance currently owed to the creditor; the current market value of the collateral; the interest rate; the rate of payment (amount to be paid monthly/weekly); and the present and anticipated user(s) of the collateral and whether the property is insured.
- (b) **Review Procedures.** The Court independently reviews all reaffirmation agreements not involving real property. Where the debtor is represented by counsel who has signed an affidavit that the agreement will not impose an undue hardship on the debtor and his/her dependents, and it appears based upon the income and expense schedules (I and J) that the debtor is not financially capable of honoring the proposed reaffirmation agreement, the Court will issue an order against debtor and debtor's counsel to show cause why the affidavit should not be stricken.
- (c) **Defective Reaffirmation Agreements.** If a reaffirmation agreement is filed with the Court that is not in compliance with § 524(d), Fed. R. Bankr. P. 4008, or these LBRs, the agreement is deemed invalid and unenforceable.
- (d) **Mandatory Reaffirmation Agreement Form.** All reaffirmation agreements filed with the court must use Reaffirmation Agreement Form B240. *See, R.I. Bankr. Form U.*

RULE 5001-2 **CLERK'S OFFICE**

- (a) **Public Hours.** The Clerk's Office is located at 380 Westminster Mall, Sixth Floor, Providence, Rhode Island 02903, (401) 528-4477. Unless otherwise ordered by the

Court, the office of the Clerk shall be open to the public from 8:30 a.m. to 4:30 p.m., Monday through Friday, except federal holidays and holidays recognized by the U.S. District Court (which may include state holidays).

- (b) **Non Public Hours.** In accordance with Fed. R. Bankr. P. 5001(a), filings before 8:30 a.m. or after 4:30 p.m. weekdays, or on weekends and holidays may be made, for cause shown, by advance appointment or in emergency circumstances with the Judge, the Clerk, or the Clerk's designee.

RULE 5003-1 **REQUEST FOR SEARCH OF COURT RECORDS**

- (a) A search of the court records and/or a certification of information in the official record, will be made only upon written request, and upon prior payment of the applicable search fee. *See* Bankruptcy Court Miscellaneous Fee Schedule issued in accordance with 28 U.S.C. § 1930(b).
- (b) The Clerk is authorized to establish policy on the imposition of search fees in accordance with the Guidelines established by the Judicial Conference of the United States. The Clerk's Written Policy on Imposition of Search Fees is appended hereto as **Appendix V**.

RULE 5003-2 **COURT PAPERS - REMOVAL OF**

- (a) **Review Procedures.** Court files and other public records may be reviewed by the public during the official business hours of the clerk's office. Any person requesting to review a file must record in the clerk's office their name, telephone number, case number(s) of the file(s) reviewed, the date, and the time taken out and returned. Review of files is limited to the public area of the clerk's office and all files must be returned in their original condition. Files may be photocopied in the clerk's office public area, and all pages shall be replaced in their original order, in document number sequence. Failure to abide by this rule could result in suspension of the privilege to review files.
- (b) Court files may not be removed from the clerk's office for any reason, without prior Court permission.

RULE 5005-1

FILING OF PAPERS Modified 3/3/03

- (a) **Transmittal by Electronic/Facsimile Means.** The Court will accept documents transmitted by facsimile, electronic or similar device only by filers not registered for electronic filing and only if such documents constitute: (1) a motion requesting emergency relief, and only where the nature of the emergency is clearly defined and explained; (2) an opposition or objection to a motion transmitted under (1) above; (3) a withdrawal of a motion or opposition previously filed; or (4) any other document which the Court specifically authorizes or requests be transmitted by facsimile or other electronic means. Even in these instances however, the faxed document is not docketed, but is received by the Court for emergency review. In order to have the faxed paper deemed “filed” and docketed in the case, the party filing the document must forward the original to the clerk’s office within forty-eight (48) hours thereafter. The clerk’s office will not retain any faxed documents without the original being timely supplied. Any document faxed to the Court shall also be either faxed or hand delivered to opposing parties.
- (b) **Cover Sheet.** A cover sheet in the required form shall be filed with all bankruptcy petition filings, all adversary proceeding filings, and all notice of appeal filings.
- (c) **Discovery Not Filed.** Depositions, interrogatories, answers to interrogatories, requests for production or inspection, responses to those requests, notices of deposition, and other discovery material shall not be filed with the Clerk. When any such document is needed in connection with a pre-trial proceeding, those portions which are relevant shall be submitted to the Court as an exhibit to a motion or answer thereto. Any such material needed at trial or hearing shall be introduced as provided in the Federal Rules of Civil Procedure, the Federal Rules of Evidence, and the Federal Rules of Bankruptcy Procedure.

RULE 5005-2

FILING OF PAPERS - CORPORATE DISCLOSURE STATEMENT

Statement Required. In this court, any corporate (non-governmental) party to an action shall file a statement identifying all of its parent corporations and listing any publicly held company that owns 10% or more of said party's stock. A party shall file the statement with its initial pleading filed in the court and shall supplement the statement within a reasonable time of any change in the information.

RULE 5005-4 ELECTRONIC FILING

- (a) **Acceptance of Electronically Filed Pleadings.** The Court will accept for filing documents submitted, signed, or verified by electronic means that are consistent with technical standards, that the Judicial Conference of the United States may establish and that comply with the “Administrative General Order Establishing Procedures for Filing, Signing, Maintaining, and verifying Pleadings and Other Documents in the Electronic Case Filing System (ECF)” established by the Bankruptcy Court for its Case Management/Electronic Case Filing System, which is referred to as the “CM/ECF System.”
- (b) **Waiver of Notice and Service.** Registration with the Court as a filing user of the CM/ECF system will constitute:
 - (1) waiver of the right to receive notice by first class or certified mail and consent to receive notice electronically; and
 - (2) waiver of the right to service by personal service, first class or certified mail and consent to electronic service, except with regard to service of a summons and complaint under Fed. R. Bankr. P. 7004. Waiver of service and notice by first class or certified mail applies to notice of the entry of an order or judgment under Fed. R. Bankr. P. 9022.
- (c) **Service of Documents by Electronic Means.** Each Filing User of the CM/ECF system who electronically files a pleading or other document will automatically receive a “Notice of Electronic Filing” generated by the System and this Notice of Electronic Filing will automatically be transmitted by the System to all parties who are registered users of the System. Electronic transmission by the Court of the “Notice of Electronic Filing” generated by the CM/ECF System will constitute service or notice of the filed

document. Parties not deemed to have consented to electronic notice or service are entitled to receive a paper copy of any electronically filed pleading or other document, and service or notice by the Filing User must be made in accordance with the Federal Rules of Bankruptcy Procedure and these local rules.

(d) **Official Court Record.** The Case Management/Electronic Case Filing System (CM/ECF) shall constitute the official Court record in electronic form. The electronic filing of a pleading or other paper in accordance with the CM/ECF System procedures, or the conventional filing of a document which is subsequently imaged by the Court and placed into the System, shall constitute entry of that pleading or other papers on the docket kept by the Clerk pursuant to Rule 5003. The Court will not maintain paper with the following exceptions:

- (1) Documents filed under seal.
- (2) Pro se debtors' petitions, lists, schedules, statements, amendments, pleadings, affidavits, and other documents which contain the signature of a pro se debtor.

RULE 5007-1 **INTERPRETERS; SERVICES FOR PERSONS WITH COMMUNICATIONS DISABILITIES**

- (a) **Right to an Interpreter.** The Court will provide interpreter services only in proceedings initiated by the United States or for persons with communications disabilities.
- (b) **Certification.** There is no requirement that an interpreter provided by a party be federally certified.
- (c) **Notice Required for Interpreter Services.** A party who requires the services of an interpreter shall make arrangements therefor, at that party's expense, and shall file a written notice not later than eleven (11) days prior to the proceeding in which the interpreter's services will be used. The notice shall include:
 - (1) the name and credentials of the interpreter;
 - (2) the name of the witness or witnesses requiring such services; and

- (3) the reason the service is needed.
- (d) **Who may not serve as Interpreter.** Relatives or acquaintances of a witness are not eligible to serve as interpreter.

RULE 5011-1 **WITHDRAWAL OF REFERENCE**

- (a) **Filing of a Motion to Withdraw the Reference.** A motion for withdrawal of the reference shall be filed with the Clerk of the Bankruptcy Court and shall indicate that the filer is seeking relief from the United States District Court and must also contain the required response time language specified in LBR 1005-1(d)(1). Such motion shall be accompanied by a properly completed United States District Court cover sheet, the prescribed filing fee, and a certificate of service.
- (b) **Transmittal to the U.S. District Court.** Upon expiration of the objection period, the Clerk shall transmit the motion and any responses or objections thereto to the U.S. District Court. Counsel are responsible for advising the Bankruptcy Clerk of any additional documents for transmittal with the motion to withdraw, and are required to make all necessary copies. After transmittal of the record to the District Court, any further pleadings pertaining to the Withdrawal of Reference must be filed with the U.S. District Court.

RULE 5071-1 **CONTINUANCES**

All requests for continuance of matters set for hearing or trial must be requested in writing prior to hearing, shall set forth the reason(s) for the request, and served upon opposing counsel in such manner as will ensure actual receipt prior to the scheduled hearing date. Absent a written request, all interested parties are required to appear at the scheduled hearing and, if necessary, make an oral request for a continuance at that time. Employees of the clerk's office, including the calendar clerk, are not authorized to grant continuances.

RULE 5072-1 **COURTROOM DECORUM**

- (a) **Announcement of Representation.** Upon the call of the case, counsel or if appropriate, a pro se litigant, shall announce his/her name for the record and the name of the party or parties he/she represents.
- (b) **One Counsel per Party.** Unless leave of Court is obtained in advance, only one counsel for each separate interest shall conduct the examination of any one witness, present argument, or make objections with respect to the testimony of that witness.
- (c) **Offer and Marking Exhibits.** Before referring to, using, or offering into evidence any exhibit, counsel shall first have the proposed exhibit marked for identification with a copy to opposing counsel.
- (d) **Courtroom Security.** Security personnel, including the United States Marshal, a Deputy Marshal, or a deputized court security officer, shall inspect all objects carried by persons entering the premises. No one shall enter or remain on the premises without submitting to such an inspection. Security personnel may search the person of anyone entering the premises or any space in it. Anyone who refuses such a search shall be denied entry.
- (e) **Cellular Telephones, Laptop Computers, and Beepers.** Anyone entering the courtroom is required to turn off all cellular phones and noise emitting beepers before entering the courtroom. Laptop computers will be allowed in the courtroom only upon prior request and approval of the Court, except while in use at counsel table.
- (f) **Courtroom Attire.** All persons appearing before the Court or attending Court are expected to dress in appropriate attire. The Court reserves the right to dismiss individuals from the courtroom if they are dressed inappropriately.

RULE 5075-1

CLERK - DELEGATED FUNCTIONS OF

- (a) The Clerk or clerk's designees are authorized to perform such functions on the Court's behalf, including the

endorsement and entry of orders, as are specifically delegated by written order.

- (b) The Clerk is authorized to promulgate regulations governing administrative matters including the submission of forms, content and format of creditor mailing lists, mode of payment of filing fees and disposition of records. Such regulations shall be available for public reference and shall be included in such publications and at such intervals as the clerk deems appropriate.

RULE 5077-1 **TRANSCRIPTS**

- (a) Any party wishing to order a transcript of a hearing or other recorded court session shall make such request to the electronic court recorder operator (ECRO) either in person, by telephone or in writing.
- (b) Once the transcript order is placed, a confirmatory letter will be sent to the requester advising: (1) the name and address of the transcription service; (2) the approximate date the transcript will be completed; and (3) confirmation of the type of order placed, e.g., expedited or regular service
- (c) Upon completion of the transcript, the original is mailed to the requester and a copy is retained by the Court, docketed, and placed in the court file.
- (d) If the transcript is designated as an item related to an appeal, the designating party must supply a separate copy to be included with the record on appeal. The court copy shall not be used for such purpose.
- (e) Any party wishing to order a copy of a tape of a hearing for unofficial purposes should contact the ECRO and pay the applicable Miscellaneous Fee.

RULE 5078-1 **FEES - GENERALLY**

- (a) **Authority.** The fees charged for services to be performed by clerks of the Bankruptcy Court are contained in the Bankruptcy Court Miscellaneous Fee Schedule

promulgated by the Judicial Conference of the United States, in accordance with 28 U.S.C. § 1930(b). Except as provided in the Miscellaneous Fee Schedule, neither the Clerk of court nor his/her designees have authority to waive the payment of any prescribed fee.

- (b) **Treatment where fee not timely paid.** The prescribed fee shall be paid in advance of service being performed by the clerk's office. Any paper filed with the Court which requires, but does not include a filing fee, shall be "received" stamped only. Upon receipt of the prescribed fee, the paper will then be stamped "filed" with the clerk, on the date the fee is paid.

RULE 5079-1 **FEES - FORM OF PAYMENT**

Manner of Payment. The fees prescribed in the Miscellaneous Fee Schedule shall be paid in cash, by cashier's check or money order, made payable to "Clerk, U.S. Bankruptcy Court." Payment by personal check or credit card will be accepted, except from current debtors, unless a debtor in possession under Chapter 11. A \$25.00 fee shall be assessed and shall be payable to the "Clerk, U.S. Bankruptcy Court" for any dishonored check. The Clerk of the court shall maintain a list of persons or businesses whose checks have been dishonored, may refuse to accept the checks of such persons or businesses, and, if circumstances warrant, may report the person or business to the appropriate authorities.

RULE 5080-1 **JUDGES - VISITING AND RECALLED**

Judge Assigned from Outside the District. Whenever a Bankruptcy Judge from outside the District is assigned a Rhode Island bankruptcy case or proceeding, the original of all papers shall continue to be filed with the Rhode Island Bankruptcy Clerk's office, but the required two copies of all papers shall be contemporaneously mailed (or faxed if allowed) by the party filing the paper directly to the Bankruptcy Judge from outside the District assigned the case or proceeding. The certificate of service shall confirm the date and method of service on the assigned Bankruptcy Judge from outside the District.

RULE 5081-1 **SIGNATURES - JUDGES**

Use of Judge's Endorsement Stamp or Electronic Signature. The Clerk, and/or his/her designees, are authorized to use the Bankruptcy Judge's endorsement stamp, or a computer generated or electronic signature, which shall serve as the original signature of the Court, on orders entered in accordance with the July 12, 1996 Order Delegating Authority to Clerk to Act on Court's Behalf in Matters Specifically Delineated, or any subsequent amendments/modifications/additions thereto, and as further authorized in R.I. LBR 5075-1.

RULE 6004-1 **SALE OF PROPERTY NOT IN THE ORDINARY**
COURSE OF BUSINESS

- (a) **Motion/Notice of Proposed Sale of Property (Subject to Liens or Free and Clear of Liens).** The proponent of the sale shall give notice in accordance with Fed. R. Bankr. P. 2002(a)(2) and 6004(c), and R.I. LBR 2002-1, when proposing to sell property other than in the ordinary course of business, and shall file with the Clerk a certificate of service.
- (b) **Scope and Content of Notice.** The motion/notice shall include a summary of the terms and conditions of the proposed sale, a statement of the aggregate amount of liens or encumbrances known to movant, and a statement that the proposed sale price is at least equal to or more than the value of the property. The notice may provide that, absent timely objection, the proposed sale be considered without a formal hearing.
- (c) **Notice of Sale in Chapter 11 Cases.** In chapter 11 cases in which all or substantially all of the assets of the debtor are being sold, except sales under a confirmed chapter 11 reorganization plan, an advertisement of said sale shall be placed in a local newspaper of general circulation. Upon application to the Court, this requirement of advertising may be waived in appropriate circumstances.
- (d) **Sale of Estate Property in Chapter 13 Cases.**
 - (1) Any sale of the property of the estate outside the ordinary course of business in Chapter 13, including but not limited to, the Debtor's principal residence, real property,

or other property being sold for \$2,000 or more must be approved by the Court after notice and a hearing. A motion for such approval shall be made in accordance with 11 U.S.C. § 363, Fed. R. Bankr. P. 4001 or 6004, and subsections (a) and (b) of this rule, as applicable. The motion to sell shall include a proposed distribution of the proceeds of the sale. All motions to sell shall be served on the Chapter 13 trustee, all creditors, all parties who have filed appearances and any other entity as the Court may direct.

- (2) If an appraiser or real estate broker is involved in the sale, the Debtor must obtain court authority to employ the appraiser or broker by way of application. The application must be accompanied by an affidavit of disinterestedness signed by the broker, and shall also comply with the requirements of R.I. LBR 2014-1 and 6005-1.

RULE 6005-1 **APPRAISERS AND AUCTIONEERS -**
PUBLIC AUCTIONS

- (a) **Court Authorization.** The estate representative may, with prior Court approval, sell estate property at public auction. Subsequent confirmation by the Court of the auction is not required unless such confirmation is a condition of the initial approval. The notice of intended public sale shall be substantially similar to **R.I. Bankr. Form Q**. The estate representative shall file a motion to sell the estate assets, and state why a public, rather than a private sale is

requested. Any auction advertisement placed by an auctioneer or estate representative shall conspicuously state the bankruptcy case name and number.

(b) **Estate Representative.** For the purposes of this LBR, the term estate representative shall include a chapter 7 trustee, chapter 11 trustee, chapter 11 debtor in possession, chapter 12 trustee, and chapter 13 debtor.

(c) **Qualification of Auctioneer.**

(1) An auctioneer shall not be authorized to conduct a public auction of property of an estate without first obtaining approval of his or her employment, filing with the Court a bond in an amount fixed by the United States trustee, and furnishing the United States trustee with a copy of said bond. The bond shall be conditioned on the faithful performance of the auctioneer's duties and the auctioneer's accounting for all money and property of the estate that comes into his or her possession.

(2) To avoid the necessity of filing separate bonds for smaller auction sales, the auctioneer may file with the Court a blanket bond similarly conditioned in a base amount fixed from time to time by the United States trustee to cover various cases in which the auctioneer may act. The auctioneer shall also provide the United States trustee with a copy of the blanket bond. If at any time the aggregate value of goods in the auctioneer's custody exceeds the amount of the blanket bond, then the auctioneer shall obtain a separate bond or bonds so that the full amount of all goods of various bankruptcy estates in the auctioneer's custody is covered.

(3) As a condition of the employment of an auctioneer in any bankruptcy estate, the auctioneer shall file a sworn representation

to evidence the auctioneer's compliance with the requirement that all goods of bankruptcy estates in his or her custody be fully covered at all times by separate bonds or blanket bonds or both.

(4) Auctioneers shall not introduce non-bankruptcy estate items at auctions without the Court's prior approval. An auctioneer employed by an estate representative shall not bid on property of the estate. No buyer's premium shall be charged. Failure to comply with this paragraph shall result in denial of all compensation and/or issuance of sanctions.

(d) **Attendance at Auction Sale.** The estate representative or a representative of the trustee shall be present at the commencement of the auction sale to respond to questions and to resolve disputes, and is required to remain thereafter only as circumstances warrant and as the trustee deems appropriate.

(e) **Expenses and Compensation.** Except in special circumstances and by order of the Court, the auctioneer shall bear all expenses of an auction (including labor, cleaning, setting up, lotting, tagging, etc.), except a reasonable expense for advertising. Even when special circumstances have been demonstrated, the only additional expenses that will be allowed are those for which the auctioneer has applied in advance with a set dollar ceiling, unless the additional expenses could not have been reasonably anticipated.

(1) **Property Other than Real Property.** Except in special circumstances and by order of the Court, with respect to sales of personal property, the auctioneer shall be allowed reasonable compensation not to exceed the following percentages of gross proceeds:

- (A) 10% of the first ten thousand dollars (\$10,000) or part thereof;
- (B) 7% of the next ten thousand dollars (\$10,000) or part thereof;
- (C) 6% of the next thirty-five thousand (\$35,000) or part thereof; and
- (D) 5% of the balance.

The above percentage schedule merely sets the upper limit on the auctioneer's compensation and does not define his or her allowable compensation. The Court shall allow only reasonable compensation and may change the percentage amounts. The Court may require the auctioneer to include with his or her application for compensation an itemization of time spent and expenses incurred in connection with the sale.

- (2) **Real Property.** The personal property percentage schedule set forth in paragraph (1) above shall not apply to real estate auctions. With respect to sales of real property, the auctioneer's compensation shall be fixed by the Court and shall reflect the fact that the estate's interest in the sale is limited to the equity over the amount owed to secured creditors. The Court will use as a guide in determining the auctioneer's fair and reasonable compensation the following schedule:

- (A) 10% of the first fifty thousand dollars (\$50,000) realized in excess of the amount of encumbrances; and

- (B) 2.5% of the balance of the equity, with a minimum fee of \$500.00, plus pre-approved expenses.

RULE 6007-1 **NOTICE OF ABANDONMENT OF PROPERTY**

- (a) **Limited Notice.** Unless otherwise ordered by the Court, the trustee shall provide notice of abandonment only to the debtor, the debtor’s attorney, the local office of the United States trustee, lienholder, any party known or believed to hold or claim an interest in the property to be abandoned, and to any party-in-interest who has entered an appearance pursuant to R.I. LBR 9010-1(e)(2).
- (b) **Notice where value \$5,000 or greater.** Unless otherwise ordered by the Court, if the value of the property to the estate is \$5,000 or greater, the trustee shall provide notice of abandonment to all creditors and parties in interest as directed by Fed. R. Bankr. P. 6007.

RULE 7001-1 **APPLICABILITY OF THE LOCAL RULES OF THE U.S. DISTRICT COURT FOR THE DISTRICT OF RHODE ISLAND TO ADVERSARY PROCEEDINGS**

To the extent a procedural matter is not covered by these LBRs, the Local Rules of the United States District Court for the District of Rhode Island shall apply. *See* R.I. LBR 1001-1(b).

RULE 7003-1 **COMMENCEMENT OF ADVERSARY PROCEEDING**

- (a) **Pleadings.** *See* R.I. LBR 5005-1.
- (b) **Adversary Proceeding Cover Sheet.** *See* R.I. LBR 5005-1(c). A sample copy of an adversary proceeding

cover sheet is included as **R.I. Bankr. Form R** to these LBR's.

RULE 7004-1 SERVICE OF ADVERSARY PROCEEDING COMPLAINT

In addition to service of the summons and complaint on the defendant(s) named in the complaint as prescribed by Fed. R. Bankr. P. 7004, the plaintiff(s) shall also, contemporaneous with service on the defendant(s), serve a copy of the summons and complaint on the attorney representing the debtor in the bankruptcy case and on the trustee.

RULE 7007-1 PAPERS FILED IN ADVERSARY PROCEEDINGS

All motions and other papers filed with the Bankruptcy Court in an adversary proceeding shall comply with R.I. LBR 1005-1.

RULE 7008-1 GENERAL RULES OF PLEADING -- JURY TRIALS

- (a) **Jury Demand.** In any case in which a party asserts a right to trial by jury, the jury trial demand shall be set forth in accordance with Fed. R. Civ. P. 38.
- (b) **Consent to Have Trial Conducted by Bankruptcy Judge.** If the right to a jury trial applies, a timely demand has been filed, and the bankruptcy judge has been specially designated by the District Court to conduct the jury trial, the parties may consent to have a trial by jury conducted by a bankruptcy judge under 28 U.S.C. § 157(e) by jointly filing a statement of consent no later than thirty (30) days following the date the last responsive pleading is required to be filed.
- (c) **Lack of Mutual Consent to have Jury Trial Conducted by the Bankruptcy Judge.** Where a jury trial is timely demanded and the bankruptcy judge has been specially designated by the District Court to conduct the jury trial, but not all of the parties consent to such a trial being conducted before a bankruptcy judge, the

proceeding shall be referred to the District Court for a determination of the right to a trial by jury and where and how such trial should be conducted.

RULE 7016-1 **PRE-TRIAL PROCEDURE; FORMULATING ISSUES**

- (a) **Scheduling Conference.** Unless otherwise ordered or unless an affirmative request is made by a party, the Court will not conduct a scheduling or pretrial conference in an adversary proceeding.
- (b) **Joint Pre-Trial Order.** In all adversary proceedings, a joint pre-trial order conforming to the standards set forth in R.I. LBR 9014-1 and **R.I. Bankr. Form O** shall be filed within twenty (20) days after the close of discovery.
- (c) **Scheduling Order.** A scheduling order shall issue from the Court within 45 days after the appearance of the defendant, unless the Court directs otherwise.

RULE 7026-1 **DISCOVERY - GENERAL**

- (a) **Disclosure Requirements.** Unless otherwise ordered, the disclosure requirements contained in Federal Rule of Bankruptcy Procedure 7026 apply to all adversary proceedings pending in this district.
- (b) **Time Limit for Rule 7026(f) Conference.** Within 21 days before the scheduling order is due under R.I. LBR 7016-1(c), the parties shall meet and confer pursuant to Federal Rule of Bankruptcy Procedure 7026(f).
- (c) **Contents of Discovery Plan.** Pursuant to Federal Rule of Bankruptcy Procedure 7026(f), within 14 days of the parties meeting, the parties shall file a discovery plan with the Court containing the information required by Rule 26(f)(1)-(4) (including the deadline for the close of discovery) and the following additional information:
 - (1) A proposed deadline to join other parties or amend the pleadings;

- (2) A proposed deadline for filing dispositive and pre-trial motions;
- (3) A proposed deadline for filing a Joint Pre-trial Order; and
- (4) A statement whether the parties believe that referral of the dispute for mediation would be helpful and whether or not both parties agree to such a referral.

The Discovery Plan shall substantially comply with the form found in **R.I. Bankr. Form O.2.**

(d) **Affidavit of Noncompliance.** If either party fails to perform as required herein, the aggrieved party shall file an affidavit stating the facts which constitute the failure to cooperate. Upon consideration of an affidavit of noncompliance and any response thereto, the Court may order that the adversary proceeding proceed as a defaulted matter:

- (1) When a matter brought by a plaintiff is in default as to the holding of the Fed.R.Bankr.P. 7026(f) conference or the filing of the discovery plan or any of the requirements specified in Fed.R.Bankr.P. 7026(f) and R.I. LBR 7026-1, the Clerk shall dismiss the matter for want of diligent prosecution. The party in default may have the matter reinstated only upon showing special circumstances, by motion, filed within ten (10) days of the dismissal.
- (2) When a matter is in default by the defendant as to the holding of the Fed.R.Bankr.P. 7026(f) conference or the filing of the discovery plan or any of the requirements specified in Fed.R.Bankr.P. 7026(f) and R.I. LBR 7026-1, the defendant will not be allowed to present its defense at trial, except by leave of court, for cause shown.

(e) **Discovery Materials Shall Not Be Filed with the Court.** *See* R.I. LBR 5005-1(d).

RULE 7037-1

FAILURE TO MAKE DISCOVERY

Discovery Motions

- (a) **Conference.** Prior to the filing of a motion relating to discovery pursuant to Fed. R. Bankr. P. 7026 through 7037, counsel shall confer in a good faith effort to eliminate the necessity for filing the motion or to eliminate as many discovery disputes as possible. Counsel to the moving party shall arrange for the conference. The Clerk shall not calendar for hearing any such motion until the moving party certifies that such a conference has taken place or certifies that reasonable efforts have been made to hold such a conference, and that counsel have been unable to arrange such conference or to resolve the dispute.
- (b) **Cooperation Required.** Since these procedures for the resolution of discovery motions require the cooperation of counsel, the failure of any attorney to cooperate in such procedures may result in the imposition of sanctions, including, but not limited to, the sanctions provided in Fed. R. Bankr. P. 7037.

RULE 8001-1 MANNER OF TAKING APPEAL

Cover Sheet Required. Upon the filing of a Notice of Appeal with the Clerk of the Bankruptcy Court, Appellant shall also complete and file an Appeal Cover Sheet indicating whether the appeal is being taken to the U.S. District Court or to the First Circuit Bankruptcy Appellate Panel. **A sample copy of an Appeal Cover Sheet is included as R.I. Bankr. Form S to these LBR's.**

**RULES 8002 through 8019 APPEALS TO DISTRICT COURT OR
BANKRUPTCY APPELLATE PANEL**

At this time, with the exception of R.I. LBR 8001-1, the Court has not adopted other local rules governing procedures for appeals to the U.S. District Court or to the First Circuit Bankruptcy Appellate Panel. At such time as additional local rules governing appellate procedure become necessary, upon promulgation in accordance with 28 U.S.C. § 2071 and Fed. R. Bankr. P. 9029, such additional Part VIII appellate rules will be added to these local rules.

RULE 9003-1 EX PARTE CONTACT

Any correspondence to the Judge shall be served on all interested parties, with evidence thereof provided to the Court.

RULE 9004-2 **CAPTION - PAPERS, ADVERSARY PROCEEDINGS**

See R.I. LBR 1005-1(a), 5005-1(c) and 7003-1(b).

RULE 9009-1 **OFFICIAL LOCAL FORMS**

Use of the Official Local Forms appended to these Rhode Island Local Bankruptcy Rules in cases and/or proceedings before this Court, with modifications as appropriate, shall be deemed to be in substantial compliance with these rules, the Federal Rules of Bankruptcy Procedure and the Bankruptcy Code.

RULE 9010-1 **ATTORNEYS - ADMISSION TO PRACTICE,
REPRESENTATION AND APPEARANCES** Modified 12/1/02

- (a) **Admission to Practice.** An attorney who is in good standing of the bar of the Supreme Court of Rhode Island and is admitted to practice in the United States District Court for the District of Rhode Island shall be deemed admitted to practice in this Court.
- (b) **Admission Pro Hac Vice.** A member in good standing of the bar of any state and the bar of any other U.S. District Court may, upon motion, be permitted to argue or try a particular cause in whole or in part as counsel. Local Rule 5(c) of the Local Rules for the U.S. District Court, District of Rhode Island (as amended on January 21, 1997 and as may be further amended from time to time), see Appendix VI, and subdivisions (c) and (d)(1) below shall govern procedures for admission Pro Hac Vice in this Court.
- (c) **Local Counsel Not Required In Uncontested Matters .** With the exception of representation as counsel to a debtor or trustee, an attorney may appear pro hac vice without a local attorney if the matter is uncontested. If, however, the matter is or becomes contested, then local counsel must enter an appearance at least five days before the scheduled hearing. An attorney who appears before the Court pursuant to this LBR

agrees to observe and to be bound by the local rules and orders of this Court and the Rhode Island Rules of Professional Conduct.

(d) Representation:

- (1) Motion for Admission Pro Hac Vice.** An attorney who is not a member of the Bar of the United States District Court for the District of Rhode Island, but who is a member in good standing in every jurisdiction where the attorney has been admitted to practice and is not subject to pending disciplinary proceedings as a member of the Bar in any jurisdiction, and subject to the limitations above, may appear in this Court by leave of Court. The attorney shall file a Motion for Admission Pro Hac Vice to appear before this Court, substantially similar to R.I. Bankr. Form T, which Motion shall set forth the attorney's compliance with this LBR and Local Rule 5(c) of the U.S. District Court.
- (2) Counsel Required/Pro Se Appearance.** No person, other than an individual representing himself/herself, shall appear or practice before this Court except through representation of counsel.
- (3) Filing Proofs of Claim/No Representation Required.** A corporation, partnership or trust, by or through an officer, agent, or person authorized by a power of attorney, may file a proof of claim or an application for payment of unclaimed funds due such entity, without representation of counsel. Otherwise, such entities shall appear only through counsel.
- (4) No Entry of Appearance Required.** An attorney need not obtain leave of Court to appear and practice in a particular case merely to file a request for service or a proof of claim on behalf of a client.

(e) Appearances:

- (1) Filing Constitutes Appearance.** The filing of any pleading or other paper shall constitute an appearance in the case or proceeding in which the pleading or paper is filed by the attorney who signs it, unless the pleading or paper states otherwise.
- (2) Request for Service of Papers.** If an attorney wishes to receive copies of filed papers, the attorney must file a formal entry of appearance containing the attorney's name, bar identification number, firm name, mailing address and telephone and facsimile number of the person entering the appearance, specifically

requesting to be so served, and a copy of such request must be served on the debtor's attorney, or debtor if pro se, the case trustee, and the local office of the United States trustee; otherwise, the attorney will receive only those papers that deal directly with said attorney's client, as required by the Federal Rules of Bankruptcy Procedure. With respect to notices and copies of orders served by the Court, the attorney will receive only those notices and orders that deal directly with said attorney's client as required by the Federal Rules of Bankruptcy Procedure, these LBRs or as otherwise ordered by the Court.

- (3) **Appearance List. The Clerk shall maintain a general appearance list in each case, which shall** be available to any attorney upon request. The Clerk shall also maintain such list on the Court's electronic records system (PACER), to the extent technically possible.
- (4) **Withdrawal of Attorney.**
- (A) **Leave of Court Not Required.** An attorney representing a party may withdraw from a case or proceeding without leave of court by filing a Notice of Withdrawal with the Court, provided that:
- (i) such notice is accompanied by a Notice of Appearance of other counsel;
 - (ii) there are no motions pending before the Court; and
 - (iii) no trial or hearing date has been scheduled.
- (B) **Service of Notice of Withdrawal.** The Notice of Withdrawal shall be served on:
- (i) the client;
 - (ii) the local office of the United States trustee;
 - (iii) any trustee serving in the case;
 - (iv) in cases under chapter 11, any committee that has been appointed and is serving in the case under 11 U.S.C.

§§1102, or upon counsel or the authorized agent for such committee;

(v) in adversary proceedings, all parties to the proceeding; and

(vi) all other persons or parties as the Court may require.

(C) Leave of Court Required. If any of the requirements contained in subparagraph (A) is lacking, a written motion for leave to withdraw, with service on the parties listed in subparagraph (B) is required. Until an order granting withdrawal is entered, counsel remains the attorney of record in the case or proceeding.

(5) Representation, Appearance and Argument by Eligible Law Students:

- (A)** An eligible law student, with the written consent of the Debtor(s), may, under the direct supervision of an attorney admitted to practice in this Court:
- (i) assist in consulting with debtors, confer with opposing parties, research and draft correspondence, pleadings, discovery, and provide other non-documentary assistance to the Debtor(s);
 - (ii) assist in the research and preparation of the petition, schedules and other documents to be filed in this Court, but all such documents must be signed by an attorney admitted to practice in this Court who thereby agrees to become attorney of record. Names of students participating in the preparation of briefs may, however, be noted on the briefs.
 - (iii) participate in oral argument with leave of the Court, but only in the presence of an attorney of record.
- (B)** A Supervising Attorney (as defined in paragraph C below), the student and the faculty member conducting the relevant law school course must execute and file a written statement containing the information and representations required by this Rule in substantially the form attached as R.I. Bankr. Form T.2 with the Clerk at the time a petition, pleading or other document is filed with this Court.

- (C) A Supervising Attorney, for purposes of this rule, must be a member of the bar of this Court who agrees to assume personal professional responsibility for the law student's work and for supervising the quality of the law student's work. A Supervising Attorney shall assume personal professional responsibility for the student's work, assist the student to the extent necessary, appear with the student in all proceedings before this Court and be prepared to supplement any written or oral statement made by the student to this Court or opposing counsel and execute and file with this Court the attorney's written consent to supervise the student and be considered the attorney of record in substantially the form attached as **R.I. Bankr. Form T.2.**
- (D) The faculty member conducting the relevant law school course must be teaching a clinical course in bankruptcy for academic credit at a law school approved by the American Bar Association (the "Law School") and if serving as the supervising attorney, be admitted to practice in this Court; agree to act as attorney of record in the event the supervising attorney and/or the student are not available to do so; and execute and file the written statement containing the information and representations required by this Rule in substantially the form attached as **R.I. Bankr. Form T.2.**

RULE 9013-1

MOTIONS, BRIEFS AND MEMORANDA OF LAW

- (a) **Supporting Memorandum Required with all Written Motions and Responses.** The party filing a motion, application, petition [not including bankruptcy petition], objection to claim or objection to exemption (the "paper"), excluding those motions set forth in subdivision (d) below, and the party(ies) responding to any such paper, shall include with or within the paper a supporting memorandum containing the points and authorities in support of said party's position, together with any verified statement or unsworn declaration or other material in support of said paper. Specific reference to the applicable provisions of the Bankruptcy

Code, the Federal Rules of Bankruptcy Procedure, the Rhode Island General Laws or other controlling authorities is required.

- (b) **Length and Form of Memoranda.** Except with leave of Court, initial briefs and memoranda of law shall be limited to twenty (20) pages, and reply briefs shall be limited to ten (10) pages. All memoranda/responses shall contain the full caption of the case, including the bankruptcy case number, the adversary proceeding number, if applicable, and the chapter of the case. All text shall be double spaced, on 8 ½" x 11" paper, and the type set (font size) in the body of the memoranda shall not be less than 11 point. Footnotes shall not be less than 10 point, and may not contain material that belongs in the body of the text or argument, i.e., footnotes may not be used to circumvent the page limit imposed by this Rule.
- (c) **Response Time Required on All Motions.** See R.I. LBR 1005-1(d).
- (d) **Excepted Motions Where No Memorandum Required, Unless Otherwise Ordered:**
- (1) Motion to extend time or continue hearing date;
 - (2) Motion to assign for hearing;
 - (3) Motion to add creditor(s), except in reopened cases;
 - (4) Motion to amend schedules;
 - (5) Motion to compel.
- (e) **Motions to be Excused from Court.** Whenever an attorney seeks to be excused from court, a motion shall be made in accordance with this local rule. The following information shall be included in the motion:
- (1) Motion shall be in pleading format. The motion shall substantially comply with the form found in **R.I. Bankr. Form Y**, and shall include a heading at the top and a signature line at the bottom;
 - (2) The motion shall clearly state the time period sought for excusal from court;
 - (3) The motion shall state the reason for the excusal request;

- (4) The motion shall contain the following language, “I have no matters schedule for hearing in the Bankruptcy Court during said time period”. If movant does have a matter scheduled for hearing, he/she must *first* file a Motion to Continue the hearing. If the continuance is granted, movant may then file the Motion to be Excused. Alternatively, movant may indicate that he/she has made arrangements for a substitute attorney to appear in their absence (substitute attorney must be a member of the RI federal bar);
- (5) An order granting a motion to be excused **ONLY** excuses counsel from court appearances during the period requested. Said order does not excuse counsel from court filing deadlines or from attendance at any Section 341 Meeting of Creditors. Excusal from a Section 341 meeting must be given by the trustee conducting the meeting;
- (6) Failure to comply with the requirements contained in this rule will result in the issuance of a notice of defective pleading and will delay the disposition of the motion.

RULE 9013-2

MOTION PRACTICE

- (a) **Action Without Hearing.** The Court may act upon a motion without a hearing under appropriate circumstances, including the following:
 - (1) **Absence of Objection.** If no objections are filed to a motion, petition [not including bankruptcy petition], application, objection to claim or objection to exemption within the time prescribed in R.I. LBR 1005-1(d) or such other time as provided in the Federal Rules of Bankruptcy Procedure or established by the Court, the paper will be deemed unopposed and will be granted, unless:
 - (A) the requested relief is prohibited by law;
 - (B) the requested relief is against public policy; or

- (C) in the opinion of the Court, the interest of justice requires otherwise.
- (2) **Other Circumstances.** The Court may act on a motion, petition [not including bankruptcy petition], application or objection to claim prior to or after the expiration of the objection period without a hearing in appropriate circumstances, including but not limited to:
 - (A) Non-adversarial motions of a routine nature;
 - (B) Motions to which parties-in-interest have consented;
 - (C) Motions that are frivolous in light of the law and the established facts of the case;
 - (D) Motions that are opposed only by objections which are, considering the law and the established facts of the case, frivolous; or
 - (E) Where, upon consideration of the written submissions, the Court does not believe a hearing is necessary or will assist with the disposition of the matter.
- (b) **Scheduling of Motion for Hearing.** If, in the opinion of the Court, a motion, petition [not including bankruptcy petition], application, objection to claim or objection to exemption, and any objections or responses thereto, is required to be or should be scheduled for hearing, the movant will be notified by the Clerk's office of the scheduled hearing date and will be required to serve on all interested parties a copy of the Notice of Hearing. Absent a request for expedited or emergency hearing, or by other order of the Court, the Clerk will schedule the matter for hearing no less than ten (10) days from the date the hearing notice is issued. In cases where the Federal Rules of Bankruptcy Procedure provide for a notice period in excess of ten (10) days, their provisions control, absent a motion seeking, and an order granting, shortening of the notice period.
- (c) **Joint Pretrial Order Requirement.** If the Court determines that the filing of a Joint Pretrial Order is necessary, the contesting parties

will be notified and ordered to file a Joint Pretrial Order by a date certain. Failure to comply with said Order may result in action by the Court in accordance with R.I. LBR 9014-1(c).

(d) **Expedited Hearings/Shortening Time.** If movant seeks to have a motion considered by the Court on an expedited basis (e.g., before the objection period expires), the movant shall file a separate paper entitled “Motion for Expedited Hearing.”

(1) **Contents of Motion for Expedited Hearing or to Shorten Time.** The motion shall set forth in detail the facts and circumstances which justify expedited treatment of the underlying motion. To the extent the Court is able to accommodate requests for expedited consideration, it will make every effort to do so. Where, however, the expedited nature of the request is due to lack of diligence by a party or counsel, or because of a deadline imposed by agreement, the Court may refuse to grant expedited consideration.

(2) **Limited Notice.** If the facts and circumstances supporting the request for expedited hearing warrant limited notice, the motion for expedited hearing shall include a request that notice be limited to designated recipients and shall, in addition, recommend a practical manner of notice reasonably calculated to inform affected parties of the pending motion and that a hearing will take place on an expedited basis. It is the duty of the party seeking expedited hearing and limited notice to make a good faith effort to advise all affected parties of the pending motion and of the time and date of the hearing. Such good faith efforts may include providing notice of the substance of the motion and of the date and time of the hearing by telephone or by facsimile transmission.

(3) **Responses to Expedited Motions.** Written responses are required to expedited motions within five business days. *See* R.I. LBR 1005-1(d)(2)(E). The content of responses to expedited motions shall, to the extent possible, include the information required for responses to non-expedited motions.

- (4) **Hearings on Expedited Motions.** The Court shall set the conditions for hearing, and shall schedule and conduct the hearing, telephonically or otherwise, as appropriate under the circumstances.
- (e) **Emergency Motions.** If a movant seeks to have a motion considered by the Court earlier than five business days after the motion is filed, it shall file a separate motion entitled “Motion for Emergency Hearing,” and shall call the Clerk’s attention to the emergency filing.
- (1) **Contents of Motion for Emergency Hearing.** The motion shall set forth in detail the facts and circumstances which justify emergency treatment of the underlying motion. To the extent the Court is able to accommodate requests for emergency consideration, it will make every effort to do so. Where, however, the emergency nature of the request is due to lack of diligence by a party or counsel, or because of a deadline imposed by agreement, the Court may refuse to grant emergency consideration.
- (2) **Limited Notice.** If the necessity of an emergency hearing precludes the movant’s ability to provide notice in the manner and to the parties otherwise required by these LBR’s or the Federal Rules of Bankruptcy Procedure, the motion for emergency hearing shall include a request that notice be limited to designated recipients and shall, in addition, recommend a practical manner of notice reasonably calculated to inform affected parties of the pending motion and that an emergency hearing will take place. It is the duty of the party seeking an emergency hearing to make a good faith effort to advise all affected parties of the motion and of the time and date for hearing. Such good faith efforts may include providing notice of the substance of the motion and of the date and time of hearings by telephone or by facsimile transmission. Such efforts may, and in appropriate circumstances should, include attempts to provide notice of the motion and hearing in advance of filing the motion or prior to entry of an order limiting notice.

- (3) **Responses to Emergency Motions.** Written responses are required to emergency motions within the time established by the Court. If no response time is established by the Court, responses may be filed up to the time that the hearing is convened.
- (4) **Hearings on Emergency Motions.** The Court shall set the conditions for the emergency hearing, and shall schedule and conduct the hearing, telephonically or otherwise, as appropriate under the circumstances.
- (5) **Duty of the Movant and Counsel to Be Available.** Upon the filing of a request for emergency treatment of a motion, the movant and his/her/its counsel have a duty to be available, and to remain available, for immediate hearing or contact by the Court with respect to the emergency request.
- (f) **Ex Parte Motions.** A motion seeking ex parte relief may be filed only in circumstances in which immediate action is required to maintain the status quo until an appropriate hearing on notice can be conducted. A motion for ex parte relief shall be verified or supported by affidavit and shall set forth specific facts and circumstances necessitating ex parte relief. The motion shall include a statement as to why proceeding under this LBR's procedures for expedited or emergency hearing is not practical. All orders or proposed orders providing ex parte relief shall include the finding that the relief requested could not be delayed and that affected parties may request a hearing on the subject matter addressed by the ex parte motion by filing a motion for review of the ex parte relief. The Court shall schedule a hearing on such a post-order motion, if appropriate, as soon as practicable.

RULE 9013-3

CERTIFICATE OF SERVICE - MOTIONS; NOTICE OF HEARING Modified 12/1/02

- (a) **Service of Motions.** In all instances not otherwise covered by the Federal Rules of Bankruptcy Procedure or these local rules, all motions filed with the Court shall be served on the following parties:

- (1) the local office of the U.S. Trustee, with the exception of motions for relief from stay in Chapter 7 cases and all motions filed in Chapter 13 cases;
 - (2) any case trustee;
 - (3) any other party affected by the motion or having requested notice in the case (see Clerk's office service list); and
 - (4) the Debtor's attorney or debtor, if pro se, except for motions for relief from stay which are served by summons. See, R.I. LBR 4001-1(a).
- (b) **Contents of Certificate of Service.** The Certificate of Service shall reflect how and when service was made and shall include the names and addresses of all persons served and the name and address of the person certifying such service.
- (c) **Filing and Service of Certificate of Service.**
- (1) **Conventional Filings.** When a certificate of service is required, it shall be filed with the Clerk contemporaneous with the motion or other paper, **if the document is filed conventionally.** Failure to timely file the certificate of service with the Clerk will result in the motion or other paper being treated as a defective filing, and a notice to correct the deficiency will be given.
 - (2) **Electronic Filings.** Where a certificate of service is required, and the document is filed electronically, the certificate of service must be filed within two (2) business days of the filing of the motion or other paper. Failure to timely file the certificate of service with the Clerk will result in the automatic denial of the motion/application or striking of the objection/response, as applicable.
- (d) **Notice of Hearing.** Upon receipt of a hearing notice from the Court with instructions to serve other parties, counsel (or a pro se party) shall forthwith, and within any applicable notice deadlines contained in the Federal Rules of Bankruptcy Procedures, these local rules or established by the Court, serve said clerk in the manner provided for in subdivision (a).

- (a) **Rule 9013 Governs Procedure.** In any contested matter, motion practice shall be governed by R.I. LBR 9013-1 and 9013-2.
- (b) **Rule 7026 Shall Not Apply.** Federal Rule of Bankruptcy Procedure 7026 shall not apply to contested matters governed by Rule 9014, unless otherwise ordered by the court.
- (c) **Service and Certificate of Service.** Unless another manner of service is ordered by the Court, the movant shall serve the motion by mail in the manner provided by Fed. R. Bankr. P. 7004. Except for relief from stay motions, no summons is required. The movant shall file with the Clerk a certificate of service which complies with R.I. LBR 9013-3.
- (d) **Duty to File Joint Pretrial Order.** Where the Court determines that the filing of a Joint Pretrial Order will facilitate and expedite the hearing of a contested matter, the parties will be directed to file a Joint Pretrial Order within the time established by the Court, and in accordance with the requirements set forth in paragraphs (1) and (2) below and in the form described in **R.I. Bankr. Form O**.
 - (1) **Initial Draft by Plaintiff/Movant.** In all instances that require the filing of a Joint Pretrial Order, it is the plaintiff/movant's responsibility to prepare the initial draft of the Joint Pretrial Order and to serve it on opposing counsel at least four business days before the order is due in the Clerk's office. The opposing party must submit to the movant any comments or revisions within two (2) business days, to finalize the Order. If either party fails to perform as required herein, the aggrieved party shall file an affidavit stating the facts which constitute the failure to cooperate.
 - (2) **Affidavit of Noncompliance.** Upon consideration of an affidavit filed in accordance with paragraph (1) above and any response thereto, the Court may order that the motion or adversary proceeding proceed as a defaulted matter:

- (A) When a matter brought by a plaintiff/movant is in default as to the filing of the Joint Pretrial Order or any of the requirements specified therein, the Clerk shall dismiss the matter for want of diligent prosecution. The party in default may have the matter reinstated only upon showing special circumstances, by motion, filed within ten (10) days of the dismissal.
 - (B) When a matter is in default by the defendant/respondent as to the filing of a Joint Pretrial Order or any of the requirements specified therein, the defendant/respondent will not be allowed to present its defense at trial, except by leave of court, for cause shown.
- (e) **Duty to Confer Prior to Evidentiary Hearing.** Prior to commencement of an evidentiary hearing on a contested matter, counsel shall confer in a good faith effort to resolve the dispute, and must represent that they have so conferred (unsuccessfully), prior to the presentation of evidence. The plaintiff, the movant or the party objecting to a claim shall initiate the settlement conference.

RULE 9019-1 STIPULATIONS

Stipulations - Signed Writing Required. All stipulations affecting a case or proceeding before the Court, except stipulations made in open court and recorded by the Court reporter, shall be in writing, signed by all affected parties and filed with the Court. No stipulations shall have the effect of relieving a party from a prior order of the Court, including a scheduling order, unless the stipulation is approved by the Court, in writing.

RULE 9019-2 ALTERNATIVE DISPUTE RESOLUTION

At this time, the Court has no established procedure for the use of Alternate Dispute Resolution. At such time as a procedure is adopted in this District, it will be included as Appendix VII to these LBRs.

RULE 9020-1 CONTEMPT

An order of contempt entered by a Bankruptcy Judge pursuant to Fed. R. Bankr. P. 9020 may, at the Bankruptcy Court's discretion, be treated as if objections thereto had been filed in accordance with Fed. R. Bankr. P. 9020(c). If so designated, the Clerk will certify the order in accordance with Fed. R. Bankr. P. 9033(b) to the United States District Court for the District of Rhode Island.

RULE 9022-1 **JUDGMENTS AND ORDERS**

- (a) **Service by the Clerk.** The Clerk shall provide notice by mail of the entry of a judgment or order to the contesting parties, the local office of the U.S. trustee and the case trustee only. In adversary proceedings, the Clerk shall provide notice by mail of the entry of a judgment or order only to contesting parties, unless the U.S. trustee or case trustee specifically request notice or the court otherwise orders. Any other party wishing to receive notice of the entry of judgments or orders of the Court is responsible for monitoring the case for the entry of such orders and judgments, and shall obtain copies at their own expense. If the Court orders that notice of the entry of a judgment or order be given to entities other than the contesting parties, the U.S. trustee and case trustee, the Clerk is authorized to designate the party responsible for providing notice by mail of the entry of a judgment or order to such other entities.
- (b) **Service of Court Orders or Judgments on Noncontesting Parties.** Upon receipt of a Court Order or Judgment with instructions to serve other noncontesting parties, counsel (or a pro se party) shall forthwith serve a copy of said order or judgment upon all persons designated by the Clerk to receive service, or if none, on those persons who have filed their appearances and requested service of all notices in the case. A certificate of service shall be filed with the Clerk in the manner provided for in LBR 9013-3.

RULE 9027-1

REMOVAL AND REMAND

- (a) Within ten (10) days after filing a notice of removal of an action from a state or federal court to this Court pursuant to Fed. R. Bankr. P. 9027, the party filing the notice shall file with the Clerk of the Bankruptcy Court, true and accurate copies of all pertinent papers filed in the court from which removal is sought, and a certified or attested copy of all docket entries in such action.
- (b) Any party removing a civil action to this Court shall file with the Bankruptcy Clerk a list containing the name of each party to the removed case, and the names, addresses and telephone numbers of their counsel, or the party, if pro se.
- (c) Service of the notice of removal or remand shall be served on all parties to the removed or remanded case, in the manner provided for in Fed. R. Bankr. P. 7004.

RULE 9036-1

NOTICE BY ELECTRONIC TRANSMISSION

Notice shall be given by electronic transmission to any entity entitled to receive the bankruptcy notice if: (1) a written request is made by the entity for electronic notice; (2) the entity executes an electronic noticing agreement with the Bankruptcy Noticing Center and otherwise meets the system requirements for electronic noticing; and (3) the Clerk's office is capable of transmitting the notices electronically. The terms and procedures for electronic noticing are detailed in **Appendix VIII**.

RULE 9070-1

EXHIBITS

- (a) **Exhibits Shall Be Filed with Joint Pretrial Order.**
Where a Joint Pretrial Order is required, the parties to an adversary proceeding or contested matter shall file three copies of all exhibits with the Joint Pretrial Order(s). These copies are in addition to copies previously exchanged between counsel. Each set of exhibits shall be accompanied by an exhibit list, using **R.I. Bankr Form O**. The moving party/plaintiff's exhibits shall be marked alphabetically (A-Z), and the respondent/defendant's exhibits shall be marked numerically (1-100).

- (b) **Exhibits Where No Joint Pretrial Order Required.** In contested matters where a Joint Pretrial Order is not required, each party shall bring to the hearing three copies of all exhibits to be offered at the hearing. These copies are in addition to copies previously exchanged between counsel. Each set of exhibits shall be accompanied by an exhibit list using **R.I. Bankr Form O**.
- (c) **Form of Exhibits**
Copies of exhibits intended to be offered as exhibits in a contested matter or hearing shall be legible, and copies of photographs shall be in color, unless the original photograph is black and white. Exhibits submitted in violation of this rule will not be admissible into evidence.
- (d) **Release of Exhibits After Trial.** At the conclusion of the hearing, exhibits shall remain in the custody of the Court. If there is no appeal from the Court's decision after the time for filing a notice of appeal has elapsed, or after any appeal has been finally determined, the Clerk shall notify the parties that the exhibits should be withdrawn within thirty (30) days, and that if they are not removed within that time, the Clerk will dispose of them. If the exhibits are not removed or another arrangement made with the Clerk within thirty (30) days, the Clerk may, without further notice, destroy or otherwise dispose of them. If a notice of appeal is filed, the Clerk shall make the exhibits available to the parties for duplication for the record on appeal. After any appeal has been finally determined the Clerk shall make any disposition of the exhibits required by the Clerk, or order of the appellate court, or as otherwise permitted under this rule.

RULE 9072-1

ORDERS - PROPOSED

- (a) **Orders in Open Court.** Unless otherwise ordered, orders announced in open court shall be prepared and submitted by the prevailing party, and contemporaneously served upon opposing counsel, within ten (10) days of the hearing.

- (b) **Preparation of Orders and Judgments.** Unless otherwise ordered by the Court, orders and judgments prepared by an attorney will not be signed by the Court unless they have been approved as to form by counsel for all affected parties. If no objection is received within five (5) days of service, the Court may enter the order. In the event an objection to the form of the order is filed within such five (5) day period, the Court may require counsel to appear and be heard, or may sign or modify the proposed form of order or judgment, as appropriate.
- (c) **Failure to Submit and Serve Orders.** If, after hearing, the Court has assigned responsibility for preparation of an order to counsel, or if counsel has volunteered to submit an order, or subdivision (a) applies, and responsible counsel fails to prepare the order, serve it on interested parties and file it with the Court within ten (10) days of the hearing, the Court may take such action as it deems appropriate, including, but not necessarily limited to entry of its own order, imposing sanctions, overruling objections or denying the relief sought.

RULE 9074-1

TELEPHONE CONFERENCES AND HEARINGS

- (a) **Request for Telephonic Proceedings.** A movant, plaintiff or applicant desiring a telephonic hearing or conference may make a request for same at the time the motion or application is filed, or at the time the adversary proceeding is scheduled for trial. Respondents and other parties in interest may request, not less than three (3) days in advance, that a hearing or conference be conducted by telephone. Any party requesting a telephonic hearing or conference shall advise the Clerk whether or not other parties agree to conducting the matter by telephone. The Court shall determine whether to grant the request on the basis of, *inter alia*, conservation of the time and resources of the parties and the Court.
- (b) **Reliance on Written Submissions and Use of Exhibits.** Copies of any written submissions or exhibits to be considered in connection with a matter scheduled for

telephonic hearing or conference, shall be filed with the Clerk and served upon the parties in timely fashion in accordance with R.I. LBR 9070-1.