

OFFICE OF THE CLERK
UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND
The Federal Center
380 Westminster St., 6th Floor
Providence, Rhode Island 02903
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Clerk of Court

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NOTICE OF PROPOSED AMENDMENTS TO LOCAL RULES

Pursuant to 28 U.S.C. § 2071, Fed. R. Civ. P. 83, Fed. R. Bankr. P. 9029 and U.S. District Court for the District of Rhode Island General Rule 109(h)(1) authorizing the Bankruptcy Court to make and amend local rules, the U.S. Bankruptcy Court for the District of Rhode Island hereby provides notice that it proposes to amend the Local Rules as follows:

EFFECTIVE DATE OF: 1/28/2013

Local Rule 1005-1 (amended)
Local Rule 4003-2 (amended)
Local Rule 9013-3(b) (amended)

Pursuant to 28 U.S.C. § 2071(b), **the U.S. Bankruptcy Court for the District of Rhode Island invites public comment** on the Proposed Amendments to these Local Rules. Copies of the proposed amendments are available at the Clerk's office or on our website at www.rib.uscourts.gov. Additions are in *italic and bold* print; deletions are in ~~strike-out~~ print. **Comments on the proposed rules should be received by January 18, 2013. Comments can be made on-line at www.rib.uscourts.gov or in writing addressed to:**

Susan M. Thurston, Clerk
U.S. Bankruptcy Court for the District of Rhode Island
380 Westminster St., 6th Floor
Providence, Rhode Island 02903

Dated: 12/19/12

/s/ 
Susan M. Thurston, Clerk

Redlined Version

RULE 1005-1 FILING PAPERS - REQUIREMENTS [Modified __/__/13]

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~~(e) Filings Made on Day of Court.~~ An intended filing related to a matter on the day set for hearing shall be filed in open court, and not with the clerk's office.

Late Filed Documents. Any response, objection, status report or other document filed after the applicable deadline provided under these local rules and/or as established by Order of the Court, must be accompanied by a separate Motion to File Out of Time, setting forth the reasons why the document was not timely filed and why permitting a late filing is warranted. Any such late filed documents not accompanied by the separate Motion to File Out of Time will be stricken, and may result in the granting of the document that was not timely responded to, without further hearing.

(f) 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 proposing to add creditors to the case shall be accompanied with the appropriate filing fee, and, *if a non-electronic filing*, a supplemental diskette containing only the names and addresses of the added creditors. See also, R.I. [LBR 1009-1](#).

RULE 4003-2 LIEN AVOIDANCE [Modified __/__/13]

(a) Content of Motion. A motion to avoid a lien pursuant to 11 U.S.C. § 522(f), other than one contained in a Chapter 13 plan, shall:

- (1) identify the holder of the judicial lien sought to be avoided,*
- (2) state the principal amount of the lien as of the date of the filing of the bankruptcy petition, and the date the lien was obtained;*
- (3) identify the property against which the lien is fixed, and the value of the debtor's interest in the property;*
- (4) identify the holders of all other liens against the property, listing them in order of their priority, and state the amount of each such lien and the total of amount of all liens against the property;*
- (5) state whether debtor(s) previously avoided a lien against the property;*
- (6) state whether the debtor(s) elected exemptions under 11 U.S.C. § 522(b)(2) or 11 U.S.C. § 522(b)(3);*
- (7) identify the applicable statutory provision for the exemption claimed and the amount of the exemption that is allegedly impaired by the liens sought to be avoided;*
- (8) provide the calculation under the formula set forth in 11 U.S.C. § 522(f)(2)(A); and*

(9) state whether the entire lien is voidable, or if the lien can only be partially avoided, the amount of the surviving lien.

(b) Motion; Service. Service of Motion. *All such motions must be served upon ~~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, utilizing to the extent applicable, the addresses listed on the most recent ECF Mailing Labels by Case¹ report as of the date service will be made in accordance with LBR 9013-3. With respect to judicial liens against the property, if bankruptcy counsel for any such judicial lienholders is not known, then service shall also be made by first class mail upon counsel that represented any such judicial lienholders in the non-bankruptcy action in which the lien was obtained. If there was no counsel in such non-bankruptcy action, then the Certificate of Service must expressly indicate that review of the non-bankruptcy action was undertaken and no counsel was listed for the judicial lienholder.* Movant shall file a certificate of service in accordance with [LBR 9013-3](#).

¹*In the next release of ECF, the term "Mailing Labels by Case" will be changed to "Mailing Matrix by Case".*

RULE 9013-3 CERTIFICATE OF SERVICE - MOTIONS; NOTICE OF HEARING
[Modified __/__/13]

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(b) Contents of Certificate of Service.

(1) 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.

(2) When any pleading, motion, other document or notice is required to be served on creditors and/or parties in interest, the party effectuating such service shall:

(A) Serve such parties and/or creditors at the addresses listed on the most recent Mailing Label by Case¹ available on the Court's ECF system as of the date service will be made; and

(B) Attach to the certificate of service filed with the Court a copy of the Mailing Label used to effectuate service. If the Mailing Label lists multiple addresses for a single creditor or party in interest, service shall be made on all such addresses listed unless counsel is aware that a particular address is ineffective. If counsel has received notice that an address on the Mailing Labels by Case is no longer valid, counsel can indicate same on the certificate of service and Mailing Labels attached

¹ *In the next release of ECF, the term "Mailing Labels by Case" will be changed to "Mailing Matrix by Case".*

and need not serve any such address. Where the Mailing Labels by Case indicates that an entity has specified a preferred mailing address, counsel only needs to serve the entity at the preferred address. Service shall also be made on counsel for any such parties in interest and creditors who have entered an appearance in the case through the Court's ECF system, or if such counsel is not a participant in the Court's ECF system, then by first class mail.

(C) *In addition to the above, with respect to the following types of filings, service shall also be made on any address specified in a proof of claim, unless otherwise included on the Mailing Labels by Case list:*

- (i) A Motion to Modify Secured Claim contained in a chapter 13 plan or by separate motion;*
- (ii) A Motion to Avoid Lien contained in a chapter 13 plan or by separate motion;*
- (iii) A Motion to Compel or*
- (iv) A Request for Loss Mitigation*

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