

OFFICE OF THE CLERK  
**UNITED STATES BANKRUPTCY COURT**  
DISTRICT OF RHODE ISLAND  
The Federal Center  
380 Westminster St., 6<sup>th</sup> Floor  
Providence, Rhode Island 02903  
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Susan M. Thurston  
Clerk of Court

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**NOTICE OF PROPOSED AMENDMENTS TO**  
**LOCAL RULES AND FORMS**

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, Forms and Appendices as follows:

**EFFECTIVE DATE OF 12/1/2014**

**Local Rule 1005-1(e) (amended)**  
**Local Rule 4001-3 (amended)**  
**Local Rule 7037-1 (amended)**  
**Local Rule 7054-1 (new)**  
**Local Rule 9011-1 (new)**


**In light of the extensive changes to the Part VIII rules of the Fed.R.Bank.P. regarding appellate practice scheduled to go into effect on December 1, 2014, the following rules and forms are being eliminated:**

**Local Rule 8001-1 (eliminate)**  
**Local Form S (eliminate)**

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 and Forms. Copies of the proposed amendments are available at the Clerk's office or on our website at [www.rib.uscourts.gov](http://www.rib.uscourts.gov). **Comments on the proposed rules and forms should be received by November 7, 2014. Comments can be made on-line at [www.rib.uscourts.gov](http://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., 6<sup>th</sup> Floor  
Providence, Rhode Island 02903

Dated: October 1, 2014

/s/   
Susan M. Thurston, Clerk

## Redlined Version

### 1005-1 (amended)

#### RULE 1005-1 FILING PAPERS - REQUIREMENTS [Modified-4/1/14]

##### (e) Late Filed Documents:-

(1) Any response, objection, status report or other document filed after the applicable deadline provided under the Federal Rules of Bankruptcy Procedure, 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.

(2) Motions to File Out of Time shall not include subsection (d) objection language. See LBR 1005-1(d)(2)(M). The Court will establish a deadline for any response to the motion if, in its discretion, it is warranted by the circumstances.

(3) Any such late filed documents not accompanied by the separate Motion to File Out of Time will be stricken and treated as if never filed, and may result in the granting of the document that was not timely responded to, without further hearing unless the required Motion to File Out of Time and previously stricken document is filed within 3 calendar days of the entry striking the document.

(4) For documents that are timely filed but stricken as defective, provided that the corrected document is filed within 3 calendar days of the entry striking the document, the corrected document will relate back to the original filing date and no Motion to File Out of Time is required.

### 4001-3 (amended)

#### RULE 4001-3 OBTAINING CREDIT [Modified-4/1/14]

(a) **Borrowing or Refinancing of Estate Property.** Any motion for approval of a borrowing or refinancing shall include all the material terms of the proposed credit arrangement and shall be accompanied by a proposed form of order as specified by Fed. R. Bankr. P. 4001(b)(1)(A). A copy of any borrowing agreement shall also be attached to the motion.

(b) **Chapter 13 Cases.** If, as a result of a borrowing, refinance or loan modification agreement, there is a change in the Debtor's income or expenses, the Debtor shall file Supplemental Schedules I and J within 14 days of the Court's approval of such agreement.

## 7037-1 (amended)

### 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](#).

(c) **Motions for Sanctions.** Any motion requesting the imposition of sanctions as provided for in Fed. R. Bankr. P. 7037 shall comply with LBR 9011-1.

## 7054-1 (new)

### RULE 7054-1 ATTORNEYS' FEES

A motion for attorneys' fees shall be accompanied by an affidavit of counsel that includes:

(A) an itemized statement of all time expended by each attorney, together with a brief description of the services performed during each period of time itemized;

(B) a statement of the reason(s) why these services were reasonably necessary;

(C) the hourly fee customarily charged by counsel in like cases;

(D) a description of any fee agreement made with counsel's client regarding the case; and

(E) any other pertinent factors set forth in Rule 1.5 of the Rules of Professional Conduct promulgated by the Rhode Island Supreme Court.

## 8001-1 (eliminate)

### ~~RULE 8001-1 MANNER OF TAKING APPEAL [Modified 4/1/09]~~

~~**Election to Proceed to District Court.** Upon the filing of a Notice of Appeal with the Clerk of the Bankruptcy Court, an Appellant who wishes to have an appeal heard by the U.S. District Court shall also complete and file an "Election to Proceed to District Court" indicating that the appeal is being taken to the U.S. District Court. A sample copy of an Election to Proceed to District Court is included as R.I. Bankr. Form S to these LBR's.~~

## **9011-1 (new)**

### **RULE 9011-1 - MOTIONS FOR SANCTIONS**

Any motion requesting the imposition of sanctions against an attorney, law firm or party shall (1) comply with any applicable Federal Rule of Bankruptcy Procedure and (2) identify with specificity the sanctions requested. If the sanctions requested include the payment of attorneys' fees, then the motion shall comply with LBR 7054-1.

~~UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF RHODE ISLAND~~

~~\*~~

~~In re: :~~

~~Debtor(s)~~

~~BK No.~~

~~Chapter~~

~~\*~~

**APPELLANT ELECTION FORM**

~~Appeal of Order or Judgment of U.S. Bankruptcy Court, District of Rhode Island dated \_\_\_\_\_, Doc. No. \_\_\_\_\_.~~

<del>APPELLANT(S)</del>	<del>APPELLEE(S)</del>
<del>Attorney</del> <del>(Firm Name, Address, and Telephone No.)</del>	<del>Attorney (if known)</del>

~~I ELECT TO HAVE THIS APPEAL HEARD BY THE BANKRUPTCY APPELLATE PANEL FOR THE FIRST CIRCUIT~~

~~I ELECT TO OPT OUT OF THE BANKRUPTCY APPELLATE PANEL FOR THE FIRST CIRCUIT AND REQUEST THAT THIS APPEAL BE HEARD BY THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF RHODE ISLAND~~

~~By: \_\_\_\_\_~~

~~Dated:~~

~~Signature of Attorney (or Appellant, if pro se)~~