UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

2012 LOCAL BANKRUPTCY RULES

Last Updated July 29, 2016

Colleen A. Brown, United States Bankruptcy Judge
Jeffrey S. Eaton, Acting Clerk of Court

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In re:

THE VERMONT LOCAL
BANKRUPTCY RULES

APPROVAL OF LOCAL RULES

Pursuant to Rule 9029(a)(1) of the Federal Rules of Bankruptcy Procedure, the attached local rules, captioned as "The Vermont Local Bankruptcy Rules," are hereby approved. They are effective as of October 15, 2012.

September 13, 2012
Rutland, Vermont

Christina Reiss
Chief Judge, U.S. District Court

September 17, 2012
Burlington, Vermont

William K. Sessions, III
Judge, U.S. District Court

9/19, 2012
Brattleboro, Vermont

J. Garvan Murtha
Senior Judge, U.S. District Court

Sept 21, 2012
Burlington, Vermont

Colleen A. Brown
Chief Judge, U.S. Bankruptcy Court

For further procedural information, the Clerk's Office may be contacted at

Clerk, U.S. Bankruptcy Court
District of Vermont
151 West Street
P.O. Box 6648
Rutland, VT 05702-6648
(802) 776-2000

The Vermont Local Bankruptcy Rules and additional information are also available from the Court's website: http://www.vtb.uscourts.gov

VT. LBR 1002-1. PETITION – GENERALLY 1
(a) Electronic Filings of Petition. 1
(b) Original Petition and Schedules to be Brought to § 341 Meeting. 1
(c) E-Mail Filings. 1
(d) Non-Electronic Filings. 1
(e) Corporate Resolution/LLC Authority. 1
VT. LBR 1005-1. PETITION – CAPTION 2
VT. LBR 1006-1. FEES – RESTRICTIONS ON DEBTORS; INSTALLMENT PAYMENTS; WAIVER OF FILING FEE 2
(a) Restrictions on Debtors. 2
(b) Installment Payments. 2
(c) Waiver of Filing Fee. 2
VT. LBR 1007-1. LISTS, SCHEDULES, STATEMENTS, & OTHER DOCUMENTS; TIME LIMITS 2
(a) Schedules of Assets in All Chapters. 2
(1) All Assets Must be Disclosed. 2
(2) Business Inventory or Equipment. 3
(b) Schedules of Debts in All Chapters 3
(c) Motion to Enlarge Time 3
(d) Payment Advices Cover Sheet 3
(e) Certificate from Approved Nonprofit Budget and Credit Counseling Agency Regarding Pre-Petition Credit Counseling. 3
(f) Official Form 121, Statement About Your Social Security Numbers. 3
(g) Definition of "Submitted." 4
(h) Debtor's Affidavit to be Filed in Chapter 11 Case. 4
(i) Additional Information Required if a Business Continues Operating. 4
(j) When to File Additional Business Information. 5
(k) Waiver of Requirements. 5
(l) Chapter 13 Wage Withholding 5
VT. LBR 1007-2. DISMISSAL FOR FAILURE TO FILE REQUISITE DOCUMENTS ... 5
VT. LBR 1007-3. MAILING LIST 5
(a) Master Mailing List. 5
(b) Additional Mailing List in Cases Filed Under Chapter 9 or Chapter 11 6
(c) Formatting Generally. 7
(d) Formatting for Cases Filed Electronically 7
VT. LBR 1007-4. OTHER DOCUMENTS REQUIRED 7
VT. LBR 1009-1. AMENDMENTS TO LISTS AND SCHEDULES 7
(a) Amendments Generally. 7
(b) Form to Use When Filing Amendments to Lists and Schedules. 7
(1) Amending pre-December 2015 Lists and Schedules. 7

(2) Amending post-December 2015 Lists and Schedules. 8
(c) How to Amend Lists or Schedules. 8
(d) Notification of New Creditors. 8
(e) Mailing Lists. 8
(f) Correcting Debtor's Social Security Number. 8
VT. LBR 1015-1. JOINT ADMINISTRATION/CONSOLIDATION 9
(a) Case Filed by Married Debtors. 9
(b) Joint Administration of Related Cases. 9
(1) Clerk's Duties. 9
(2) Mailing List. 9
(3) Additional Copies. 10
(c) Substantive Consolidation of Related Cases. 10
(1) Motion. 10
(2) Mailing List. 10
(3) Caption, Docket Entries, and Filing. 10
(d) Termination of Substantive Consolidation. 10
VT. LBR 1017-1. DISMISSAL OF CASES 10
(a) Effect on Related Adversary Proceedings and Contested or Other Matters. 10
(b) Special Provisions Required in Motions to Dismiss Chapter 13 Cases. 11
(1) When the Debtor is the Movant. 11
(2) When a Creditor or the Case Trustee is the Movant. 11
VT. LBR 1017-2. CONVERSIONS 11
(a) Conversion from Chapter 7 to Chapter 13 11
(b) Conversion from Chapter 11 to Chapter 7 11
VT. LBR 1020-1. CHAPTER 11 – DESIGNATION OF SMALL BUSINESS CASES 11
(a) Effect of Designation. 11
(b) Rescission of Designation. 11
VT. LBR 1072-1. LOCATION OF COURT HEARINGS AND WHERE TO FILE DOCUMENTS 12
(a) Hearing Location. 12
(b) Filing Location. 12
VT. LBR 1074-1. CORPORATIONS 12
VT. LBR 2002-1. NOTICE TO CREDITORS AND PARTIES IN INTEREST 12
(a) Duty to Provide Notice. 12
(b) Chapter 13 Plans. 12
(c) Mailing List. 12
(d) Method of Service. 12
(e) Service on the Office of the United States Trustee by Parties Not Registered for CM/ECF 12
(f) Forms of Service. 13
(g) Service of Motions to Determine Value 13
VT. LBR 2002-2. NOTICE TO UNITED STATES OR A FEDERAL AGENCY 13

VT. LBR 2003-1. MEETING OF CREDITORS AND EQUITY SECURITY HOLDERS13
(a) Waiver of Debtor's Appearance. 13
(b) Documents Required at § 341 Meeting of Creditors. 13
VT. LBR 2003-2. CHAPTER 11 – CREDITORS' COMMITTEE DUTY TO PROVIDE INFORMATION 13
(a) Duty Generally; Applicable Standard. 13
(b) Method for Requesting Information; Committee's Notification of Preferred Method of Communication. 13
(c) Confidential Information. 14
(d) Privileged Information. 14
(e) Motion to Compel Disclosure. 14
VT. LBR 2014-1. EMPLOYMENT OF PROFESSIONALS 14
(a) Retention Procedure. 14
(b) Applications for Retention. 14
(1) Notice; Content. 14
(2) Previous or Current Representation. 15
(3) Timing of Ruling. 15
(c) Proposed Order to Accompany Application for Retention. 15
(d) Applications for Compensation. 15
VT. LBR 2015-2. DEBTOR-IN-POSSESSION – CHAPTER 13 BUSINESS DEBTOR OPERATING ORDERS 15
VT. LBR 2016-1. COMPENSATION OF PROFESSIONALS 15
(a) Fee Application Guidelines. 15
(b) Applications for Compensation of $1,000 or Less. 16
(c) Applications for Compensation Greater than $1,000. 16
(d) Certification Required. 16
(e) Retainers. 16
(f) Requirement to File Fee Applications. 16
(g) Real Estate Brokers. 17
(h) Scope of Duties to be Performed by Debtor's Attorney for Flat Fee Charged. 17
(i) Unbundled Legal Services. 18
VT. LBR 2016-2. PAYMENT OF CHAPTER 13 DEBTOR'S ATTORNEY'S FEES 18
(a) Presumed Reasonable Fee in Chapter 13 Case. 18
(b) Payment of Debtor's Attorney's Fees in Chapter 13 Case. 19
(d) Presumed Reasonable Fees for Certain Motions. 19
(e) Duties of Applicant Seeking Compensation for Post-Petition Services. 19
(f) Consideration of Fees at Time of Dismissal. 20
VT. LBR 2090-1. ATTORNEYS – ADMISSION TO PRACTICE 20
(a) Admission of Attorneys Generally 20
(b) Admission of Attorneys *Pro Hac Vice* 20
(1) Application for Admission. 20

(2) Revocation. 21
(3) Local Counsel. 21
(4) Filing Documents Prior to Entry of Order Granting *Pro Hac Vice* Admission. 21
(5) *Pro Hac Vice* Admission for State Government Counsel. 21
(6) Waiver 21
(c) Interns and Law Clerks 22
(1) Initial Requirements. 22
(2) Supervising Attorney. 22
(3) Additional Requirements for Law Student Intern. 22
(4) Additional Requirements for Law Clerk 22
(5) Limitations on Role 23
(6) One-Year Limit. 23
VT. LBR 2090-2. ATTORNEYS – DISCIPLINE AND DISBARMENT 23
VT. LBR 2091-1. ATTORNEYS – WITHDRAWALS 23
(a) Withdrawal of Attorney for the Debtor. 23
(b) Substitution of Attorney for the Debtor. 23
(c) Withdrawal or Substitution of Other Attorneys 24
VT. LBR 3001-1. CLAIMS AND EQUITY SECURITY INTERESTS – NO ASSET CASES 24
VT. LBR 3007-1. CLAIMS – OBJECTIONS 24
(a) Attachment of Proof of Claim to Objection. 24
(b) Objections to Claims in Chapter 12 and 13 Cases. 24
(c) Objections to Claims in Chapter 11 Cases. 24
VT. LBR 3008-1. CLAIMS – RECONSIDERATION 24
VT. LBR 3012-1. VALUATION OF COLLATERAL AND ESTABLISHMENT OF INTEREST RATE 24
(a) Motion Required 24
(b) Rebuttable Presumption of Valuation of Motor Vehicles 25
(c) Other Valuation 25
VT. LBR 3013-1. MOTION TO STRIP LIEN OR MORTGAGE THAT IS WHOLLY UNSECURED 25
(a) Caption of a Motion to Strip a Wholly Unsecured Lien or Mortgage under § 506(a). 25
(b) Contents of the Motion. 25
(c) Orders Granting Motions to Strip Mortgages or Other Liens. 25
VT. LBR 3013-2. CLASSIFICATION OF CLAIMS AND INTERESTS – CHAPTER 1226
Secured and Priority Claims. 26
VT. LBR 3013-3. CLASSIFICATION OF CLAIMS AND INTERESTS – CHAPTER 1326
Secured and Priority Claims. 26
VT. LBR 3014-1. CHAPTER 11 – § 1111(B) ELECTION 26
VT. LBR 3015-1. CHAPTER 13 – PLAN 26

(a) Mandatory Fee Disclosure and Payment through the Plan.....26
(b) Format of Plan.....26
(c) Content of Plan.....27
(d) Other Plan Requirements: Minimum Monthly Payments and Maximum Sale Period.....27
(e) Treatment of Pre-Petition Claims.....27
(f) Payment of Secured Claims.....28
(g) Bifurcation of Claims.....28
(h) Payment of Short-Term Secured Debts.....28
(i) Amended Plan.....28
(j) Motion to Enlarge Time.....28
VT. LBR 3015-2. CHAPTER 13 – CONFIRMATION.....28
(a) Court's § 1324(b) Determination.....28
(b) Court's § 1324(b) Determination is Rebuttable Presumption.....29
(c) Preference for Written Objections to Confirmation.....29
(d) Creditors' Duty to Review, and Opportunity to Object to, Plans and Amended Plans.....29
(e) Filings Considered in Connection with the Confirmation Hearing.....29
(f) Attendance at Confirmation Hearing.....29
(g) Requests to Postpone Confirmation Hearing.....29
(1) Request to Postpone the Initial Confirmation Hearing. 29
(2) Request to Postpone a Continued Confirmation Hearing. 30
(3) Untimely Request to Continue Confirmation Hearing; Appearance at Confirmation Hearing Required.....30
(4) Rebuttable Presumption of Unreasonable Delay. 30
(h) Confirmation Orders. 30
(i) Sale Plans. 31
(j) Conduit Mortgage Payments.....31
(1) Local Bankruptcy Forms.....31
(2) Definitions. 31
(3) Post-Petition Mortgage Payments.....32
(4) Duties of the Debtor.....34
(5) Duties of the Chapter 13 Trustee 35
(6) Duties of the Mortgage Creditor 37
(7) Post-Petition Changes and Additional Charges 39
(8) "Payments Current Order" at Completion, Dismissal, and Conversion of Chapter 13 Case.....40
(9) Jurisdiction.....42
VT. LBR 3015-3. CHAPTER 13 – REQUESTING EXTENSION OF APPLICABLE COMMITMENT PERIOD 42
VT. LBR 3015-4. CHAPTER 13 – MOTIONS TO MODIFY CONFIRMED CHAPTER 13 PLANS 42
(a) Modification of a Confirmed Chapter 13 Plan.....42
(b) Content of a Motion to Modify Plan.....42
(c) Additional Requirements When Filing a Motion to Modify Plan.....43
VT. LBR 3016-1. CHAPTER 11 - SMALL BUSINESS CASES – PLAN 43

VT. LBR 3016-2. CHAPTER 11 - DISCLOSURE STATEMENTS AND PLANS – AMENDMENT 43

VT. LBR 3017-1. CHAPTER 11 – DISCLOSURE STATEMENT – APPROVAL 43

VT. LBR 3018-1. CHAPTER 11 – BALLOTS 43

VT. LBR 3018-2. CHAPTER 11 – ACCEPTANCE AND REJECTION OF PLAN – PRE-FILING SOLICITATION 43

VT. LBR 3018-3. CHAPTER 11 – CERTIFICATION OF ACCEPTANCE AND REJECTION OF PLAN 43

VT. LBR 3020-1. CHAPTER 11 – CONFIRMATION 44

(a) Confirmation Requirements. 44

(b) "Cram Down" under § 1129(b). 44

(c) Order Confirming Chapter 11 Plan. 44

(d) Conspicuous Identification of the Plan Being Confirmed. 45

(e) Fees Due to the Office of the United States Trustee. 45

VT. LBR 3022-1. CHAPTER 11 – FINAL REPORT AND DECREE 45

(a) Report of Substantial Consummation 45

(b) Time for Filing Report of Substantial Consummation in Non-Individual Debtor Chapter 11 Cases. 46

(c) Affidavit of Post-Confirmation Disbursements 46

(d) Final Report Form. 46

VT. LBR 3070-1. CHAPTER 13 – PAYMENTS 47

(a) Payments to the Chapter 13 Trustee. 47

(b) Minimum Plan Payment Amount. 47

(c) Chapter 13 Trustee's Percentage Fee upon Dismissal or Conversion 47

VT. LBR 3071-1. SECURED CREDITORS' OBLIGATION TO PROVIDE ACCOUNT INFORMATION AND STATEMENTS TO DEBTORS POST-PETITION 47

(a) Definitions. 47

(b) Purpose; Protection Assured to Secured Creditor. 48

(c) Additional Communication a Secured Creditor May Have with a Debtor Without Violating the Automatic Stay 48

(d) Applicability of Rule Generally 48

(e) Possible Further Applicability 48

(f) Applicability to Debt Secured by a Mortgage on Real Property and Monthly Statements 48

(g) Additional Monthly Statement Information upon Request. 49

(h) Optional 49

(i) Applicability to Other Secured Debts 49

(j) Optional Monthly Statement from Non-Mortgage Creditors. 49

(k) Forms of Communication Generally 50

(l) Waiver of Strict Compliance 50

(m) Motion to Compel Compliance 50

VT. LBR 4001-1. AUTOMATIC STAY – RELIEF FROM 50
(a) Motion Contents Generally. 50
(b) Additional Requirements for Motions Alleging Post-Petition Payment Default and for Objections Thereto. 51
(1) Requirement of Pre-Motion Default Notification. 51
(2) Motions. 51
(3) Objections. 51
(4) Secured Creditor's Additional Obligations When a Chapter 13 Debtor Objects; Consequence of Failure to Meet Additional Obligations. 51
(c) Service of Motion. 52
(d) Stipulation for Relief from Stay. 52
(e) Final Hearing. 52
(f) Evidentiary Hearing. 52
(g) Order Granting Relief from Stay 53
(1) Required Language in Orders Authorizing Sale of Collateral. 53
(2) Required Language Regarding Subordinate Lien Holders. 53
(3) Separate Order Required. 53
(h) Conditional Relief from Stay. 53
VT. LBR 4001-2. AUTOMATIC STAY – DEBTOR'S ASSERTION OF EXCEPTION FOR LEASE OF RESIDENTIAL PROPERTY UNDER § 362(L) 53
(a) Filing Initial Certification, Official Form 101A. 53
(b) Clerk's Notification upon Receipt of Official Form 101A. 54
(c) Lessor's Consent, Objection, or Non-Response to Official Form 101A. 54
(d) Filing Second Certification, Official Form 101B 55
(e) Lessor's Objection to Official Form 101B. 55
(f) Debtor's Failure to File Official Form 101A or 101B 55
VT. LBR 4001-3. AUTOMATIC STAY – CONTINUATION; IMPOSITION; VERIFICATION 55
(a) Motion for Continuation of Automatic Stay. 55
(b) Motion for Imposition of Automatic Stay 55
(c) Motion for Verification that Automatic Stay Is Not in Effect. 56
VT. LBR 4001-4. CASH COLLATERAL 56
(a) Motion Contents 56
(b) Interim Hearing on Use of Cash Collateral. 56
(c) Final Hearing on Use of Cash Collateral. 56
(d) Stipulation for Use of Cash Collateral. 56
VT. LBR 4001-5. OBTAINING CREDIT 57
(a) Generally. 57
(b) Purchase of a Motor Vehicle During a Chapter 13 Case. 57
(1) Request for $15,000 or Less 57
(2) Request for More than $15,000 or Where the Chapter 13 Trustee Declines to Approve Borrowing 57
(c) Extraordinary Expenditure to Support Health and General Welfare During a Chapter 13

Case **57**
(1) Request for $5,000 or Less 58
(2) Request for Greater than $5,000 or Where the Chapter 13 Trustee Declines to Approve Borrowing 58

VT. LBR 4001-6. USE, SALE OR LEASE OF PROPERTY **58**

VT. LBR 4001-7. MORTGAGE MEDIATION AND LOSS MITIGATION PROGRAM **58**

(a) Availability of Mediation in Bankruptcy Cases. **58**

(b) The Mediation Process. **59**

(c) Time Frame for the Mediation Process. **60**

(d) Required Documents. **63**

(e) Cost of Mediation. **64**

(f) Post-Mediation Requirements and Obligations. **65**

(g) Preclusion on Mediator Testifying. **66**

(h) Criteria for Eligibility as a Mediator in Bankruptcy Court Mediations. **66**

(i) Retention of Jurisdiction. **66**

(j) Service. **66**

VT. LBR 4002-1. DEBTOR'S DUTIES – GENERALLY **66**

(a) Filing Certificate from Approved Nonprofit Budget and Credit Counseling Agency. **66**

(b) Waiver of § 109(h)(1) Requirement. **66**
(1) Temporary Waiver 67
(2) Permanent Waiver 67

(c) Filing Payment Advice Cover Sheet. **67**

(d) Document Production Prior to § 341 Meeting of Creditors. **67**

(e) Chapter 11 Debtor's Books and Records. **69**

(f) Chapter 11 Debtor's Monthly Operating Reports. **69**

(g) United States Trustee Operating Guidelines **69**

VT. LBR 4002-2. DEBTOR'S DUTIES – FURTHER REQUIREMENTS REGARDING TAX RETURNS **69**

(a) Creditor's Request for Tax Return **69**

(b) Debtor's Response to Request for Tax Return. **69**
(1) Compliance 69
(2) Objection. 70
(3) Consequences of Failure to Respond; Motion to Compel. 70

(c) Request that a Debtor File Tax Returns with Court. **70**

(d) Request for Access to Tax Returns Filed with Court. **70**

(e) Duties of Chapter 11 Small Business Debtors. **71**

VT. LBR 4002-3. DEBTOR'S DUTIES – CONSEQUENCES OF FAILURE TO FILE REQUISITE DOCUMENTS **71**

(a) Motion Requesting Dismissal under § 521 ..... **71**

(b) Service of § 521(i)(2) Motion to Dismiss. **71**

(c) Objection to § 521(i)(2) Motion to Dismiss. **71**

(d) Case Trustee's § 521(i)(4) Motion to Prevent Dismissal. **71**

(e) Sequence of Adjudicating Multiple Motions to Dismiss 71

VT. LBR 4002-4. CURRENT CONTACT INFORMATION 72

(a) Debtors 72

(b) *Pro Se* Parties 72

VT. LBR 4003-1. EXEMPTIONS 72

VT. LBR 4003-2. AVOIDING JUDICIAL LIENS THAT IMPAIR AN EXEMPTION ... 72

(a) Motion to Avoid a Lien under § 522(f). 72

(b) Identification of Liens Subject to Avoidance in a Chapter 12 or 13 Plan. 73

(c) Orders Granting Motions to Avoid Liens. 73

VT. LBR 4004-2. DISCHARGES 73

(a) Official Form 423 Required to be Filed Before Entry of Discharge 73

(1) Deadline for Filing Official Form 423 74

(2) Motion to Enlarge Filing Deadline 74

(3) Motion to Reopen Case to Enlarge Time for Filing of Official Form 423 and Enter Discharge 74

(4) Waiver of Requirement to File Official Form 423. 74

(b) Certification of Compliance and Motion for Entry of Discharge Order pursuant to 11 U.S.C. § 1228(a). 74

(1) Contents of Motion. 74

(2) Service of the Debtor's Certification and Motion. 75

(3) Consequences of Failure to File the Certification and Motion. 75

(4) Debtor Attorney's Certification. 75

(c) Certification of Compliance and Motion for Entry of Discharge Order pursuant to 11 U.S.C. § 1328(a) 75

(1) Contents of Motion. 75

(2) Service of the Debtor's Certification and Motion. 76

(3) Consequences of Failure to File the Certification and Motion. 76

(4) Debtor Attorney's Certification. 76

(d) Entry of Discharge in Chapter 12 and 13 Cases. 77

(e) Request for Early Entry of Discharge in Chapter 12 and 13 Cases. 77

(f) *Sua Sponte* Denial of Discharge 77

(g) Motion for Entry of Hardship Discharge pursuant to 11 U.S.C. §§ 1228(b) or 1328(b). 77

VT. LBR 4008-1. REAFFIRMATIONS 78

(a) General Requirements; Form to Use 78

(b) Separate Certification Required. 78

(c) Additional Requirement When Debtor Identifies a Third Party as Additional Source of Funds. 78

(d) Hearing on Motion for Approval of Reaffirmation Agreement 78

(e) When Motion and Order Not Required 79

(f) Presumed Unenforceability for Non-Compliance. 79

(g) Motion to Defer Entry of Discharge 79

(h) Motion to Vacate Discharge 79

VT. LBR 4070-1. INSURANCE 80

VT. LBR 4071-1. VIOLATION OF THE AUTOMATIC STAY OR DISCHARGE INJUNCTION 80

VT. LBR 5001-2. CLERK – OFFICE HOURS; LOCATION; WEBSITE 80

(a) Hours and Place for On-Site Filing and Access to Records. 80

(b) Mailing Address, E-Mail Address, and Telephone Number. 80

(c) Website. 80

VT. LBR 5001-3. CLERK – PUBLIC ACCESS TO RECORDS 81

(a) Hours of Electronic Filing and Public Access to Court Electronic Records 81

(b) Request for Limiting Access to Sensitive Information. 81

(c) Personal Data Identifiers. 81

(1) Requirement to Redact 81

(2) Filer Responsible for Redacting. 82

(3) Request for Redacted Information 82

VT. LBR 5003-1. CLERK – DUTY TO MAINTAIN RECORDS 82

(a) General Duty to Maintain All Records. 82

(b) Official Form 121, Statement About Your Social Security Numbers. 83

VT. LBR 5003-3. CLAIMS REGISTER 83

VT. LBR 5003-4. REQUIREMENTS FOR SUBMITTING AND SEALING DOCUMENTS 83

(a) Order Required to Seal Documents. 83

(b) Motion Required. 83

(c) Document for Which Sealing is Sought. 83

(d) The Effect of Electronic Filing. 83

VT. LBR 5003-5. DEPOSIT AND INVESTMENT OF REGISTRY FUNDS 83

(a) Receipt of Funds. 83

(b) Investment of Registry Funds 84

(c) Deduction of Fees 84

VT. LBR 5005-1. FILING DOCUMENTS – FORMAT REQUIREMENTS 85

(a) Size and Format. 85

(b) Identification of Attorney and Party Being Represented. 85

(c) Identification of Filings. 85

(d) Affidavits. 85

(e) Removed Actions. 85

(f) Parties Must File Current Official and Local Forms Without Deletion or Modification. 86

VT. LBR 5005-2. FILING DOCUMENTS – GENERALLY 86

(a) CM/ECF System. 86

(b) Consequences of Electronic Filing. 86

(c) Official Record and Deemed Filing Date. 86

(d) Filing Deadline Not Altered 87

(e) Relief Due to Technical Failures. 87

VT. LBR 5005-3. FILING DOCUMENTS VIA THE CM/ECF SYSTEM – REGISTRATION REQUIREMENTS 87
(a) Registration and Passwords for Electronic Filings. 87
(1) For Attorneys. 87
(2) For Non-Attorneys. 87
(3) Limited Appearance Exception. 87
(b) Waiver of Service and Notice by Mail. 87
(c) Passwords and Their Security 88
VT. LBR 5005-4. FILING DOCUMENTS VIA OTHER ELECTRONIC MEANS 88
(a) Filing Documents by E-Mail. 88
(b) Service of Documents on the United States Trustee. 88
(c) Form of Payment. 88
VT. LBR 5007-1. RECORD OF PROCEEDINGS AND TRANSCRIPTS; ENSURING PRIVACY IN TRANSCRIPTS 88
(a) Recording of Proceedings and Hearings. 88
(b) Audio Record of Court Hearings. 88
(c) Telephonic and Emergency Hearings. 89
(d) Official Written Transcript. 89
(e) Procedures for Protecting Privacy. 89
(1) Temporary Restriction Period 89
(2) Information Subject to Redaction 89
(3) Filing a Request for Redaction 90
(4) Form of Redaction 90
(5) Request for Redaction of Other Information 90
(6) Lifting of Temporary Restriction 90
(f) Parties' Responsibilities as to Personal Data Identifiers. 90
(1) Limiting Solicitation of Personal Data Identifiers in Hearings. 90
(2) Other Responsibilities 91
(3) Sanctions. 91
VT. LBR 5010-1. REOPENING CASES 91
(a) Generally 91
(b) Motion to Reopen a Case to File Official Form 423 91
VT. LBR 5070-1. COURT CALENDARS AND SCHEDULING HEARINGS 91
VT. LBR 5071-1. CONTINUANCES 91
VT. LBR 5072-1. COURTROOM DECORUM 91
VT. LBR 5073-1. PHOTOGRAPHY, RECORDING DEVICES; CELLULAR TELEPHONES, LAPTOP COMPUTERS; RECORDING AND BROADCASTING BY THE COURT 92
(a) Prohibition against Certain Devices. 92
(b) Limited Permission for Attorneys 92
(c) Recording and Broadcasting by the Court. 92
VT. LBR 5081-1. FEES – FORM OF PAYMENT 93

(a) Payments from Debtors **93**
(b) Acceptable Forms of Payment **93**
(c) Payment by Credit Card **93**
(d) Request for Refund of Overpayment by Credit Card. **93**
(e) Effect of Non-Payment. **93**
(f) Payment of Filing Fee in Installments; Waiver of Filing Fee; Waiver of Other Fees. **93**
VT. LBR 5091-1. JUDGE'S SIGNATURE **93**
VT. LBR 6003-1. FIRST DAY MOTIONS. **93**
(a) Notice of Preliminary Hearing on First Day Motions. **93**
(b) Notice of Final Hearing on First Day Motions. **94**
VT. LBR 6004-1. SALE OF ESTATE PROPERTY **94**
(a) Sales Free and Clear of Liens. **94**
(1) Contents of Motion. 94
(2) Notice. 94
(3) Hearings. 95
(4) Potential Consequence of Noncompliance. 95
(b) Other Sales Outside the Ordinary Course of Business. **95**
(c) Notice of Intent to Sell and Order. **95**
(d) Form of Orders Approving Sales. **95**
(e) Sale or Refinance of Property in Chapter 12 and 13 Cases **96**
(1) Approval Procedures. 96
(2) Chapter 12 or 13 Trustee's Approval. 96
(3) Sale Plans. 96
(4) Broker's Commissions; Closing Costs. 96
(5) Payment of Secured Claims. 97
(f) Mortgage Modification **97**
(1) Approval Procedures. 97
(2) Debtor's Retention of Funds Available as a Result of the Modification. 97
(g) Chapter 11 – Additional Requirements **97**
VT. LBR 6005-1. APPRAISERS & AUCTIONEERS **98**
(a) Purchase Prohibited. **98**
(b) Bond. **98**
(c) Disposition of Proceeds of Sale. **98**
(d) Report of Sale. **98**
(e) Application for Commissions and Expenses **99**
(1) Notice of Application; Inclusion of Report. 99
(2) Calculation of Commission. 99
(3) Reimbursement of Expenses. 99
VT. LBR 6006-1. EXECUTORY CONTRACTS AND UNEXPIRED LEASES **100**
VT. LBR 6007-1. ABANDONMENT **100**
Notice of Proposed Abandonment or Disposition of Property **100**
VT. LBR 6008-1. REDEMPTION **100**

(a) Motion Generally **100**
(b) Joint Motion. **100**
VT. LBR 7004-2. SUMMONS **100**
(a) Obtaining a Summons. **100**
(b) Serving a Summons. **101**
(1) Method of Service. 101
(2) Order to be Included. 101
VT. LBR 7005-1. CERTIFICATE OF SERVICE **101**
VT. LBR 7007-1. MOTION PRACTICE IN ADVERSARY PROCEEDINGS **101**
Amendments to Pleadings or Motions **101**
VT. LBR 7008-1. CORE/NON-CORE DESIGNATION (COMPLAINT) **101**
(a) Statement Regarding Consent to Entry of Orders or Judgment in Core Proceeding **101**
(b) Non-Core Proceedings **101**
(c) Lack of Consent to Bankruptcy Court's Entering Final Orders **101**
VT. LBR 7012-1. CORE/NON-CORE DESIGNATION (RESPONSIVE PLEADING) **102**
VT. LBR 7016-1. PRE-TRIAL PROCEDURES **102**
(a) Scheduling Conference **102**
(b) Notice; Appearance. **102**
(c) Telephone Participation in Pre-Trial and Status Conferences. **102**
(d) Pre-Trial Statements. **102**
(e) Motion to Modify Scheduling Order **102**
VT. LBR 7024-2. UNCONSTITUTIONALITY, CLAIM OF **103**
VT. LBR 7026-1. DISCOVERY **103**
(a) Initial Disclosure **103**
(b) Limits on Interrogatories **103**
(c) Limits on Depositions **103**
(d) Requirement of a Writing. **103**
(e) Objections to Discovery Process. **103**
(f) Mandatory Consultation among Counsel. **103**
(g) Motion to Compel. **103**
(h) Other Discovery Motions. **104**
(i) Responses to Discovery. **104**
(j) Compliance with Discovery Orders **104**
(k) Failure to Comply with Order. **104**
(l) Unnecessary Discovery Motions or Objections. **104**
VT. LBR 7041-1. DISMISSAL OF ADVERSARY PROCEEDINGS – CONDITION FOR VOLUNTARY DISMISSAL OF A § 727 COMPLAINT **104**
VT. LBR 7052-1. OBJECTIONS TO THE COURT'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW **104**

VT. LBR 7055-1. DEFAULT 105
(a) Overview. 105
(b) Application for Entry of Default. 105
(c) Entry of Default. 105
(d) Application for Default Judgment by the Clerk. 105
(e) Entry of Default Judgment by the Clerk. 105
(f) Application for Default Judgment by the Court. 106
(g) Hearing on Application for Default Judgment by the Court. 106
VT. LBR 7056-1. SUMMARY JUDGMENT – GENERALLY 106
(a) Summary Judgment Motions 106
(1) Statement of Undisputed Facts. 106
(2) Opposition; Statement of Disputed Facts 106
(3) Facts Admitted 106
(4) Time for Filing. 106
(b) Tolling. 107
(c) Consideration and Ruling by the Court. 107
(d) Special Notice Required to *Pro Se* Litigants 107
VT. LBR 7056-2. SUMMARY JUDGMENT – MEMORANDUM OF LAW REQUIREMENTS 107
(a) Memorandum of Law; Response in Opposition; Reply; Request for Oral Argument. 107
(b) Oral Argument. 107
VT. LBR 8006-1. DESIGNATION OF RECORD ON APPEAL 108
VT. LBR 8007-1. COMPLETION OF RECORD ON APPEAL 108
VT. LBR 8008-1. FILING PAPERS ON APPEAL 108
VT. LBR 9001-1. DEFINITIONS 108
VT. LBR 9003-1. *EX PARTE* CONTACT 108
VT. LBR 9004-1. PAPERS – REQUIREMENTS OF FORM 108
VT. LBR 9004-2. CAPTION – PAPERS, GENERALLY 108
VT. LBR 9006-1. TIME PERIODS 108
VT. LBR 9010-2. POWERS OF ATTORNEY 109
VT. LBR 9011-1. ATTORNEYS – DUTIES, RETENTION OF DOCUMENTS, AND ELECTRONIC SIGNATURES 109
(a) Acceptance of Employment 109
(b) Attorney's Duty to Retain Certain Originals of Electronically Filed Documents. 109
(c) Electronic Signatures and Identification. 109
(d) Unauthorized Use of Password (Electronic Signature) Prohibited. 109
VT. LBR 9011-2. *PRO SE* PARTIES – REQUIREMENTS, RETENTION OF DOCUMENTS, USE OF CM/ECF 109
(a) Signature and Contact Information Required by *Pro Se* Parties. 109

(b) *Pro Se* Filer's Duty to Retain Certain Originals of Documents Filed by E-Mail.....109
(c) *Pro Se* Use of the CM/ECF System. 110
VT. LBR 9011-3. SANCTIONS 110
VT. LBR 9011-4. SIGNATURES 110
(a) Signing of Documents Generally.....110
(b) Electronic Signatures of Attorneys. 110
(c) Signatures of Non-Attorneys Generally. 110
(d) E-Mail Signatures.....110
(1) Requirements for Attorneys. 110
(2) Requirements for Non-Attorneys. 111
(e) Signatures of Multiple Persons on a Single Document. 111
(f) Signature Designating 111
VT. LBR 9013-1. MOTION PRACTICE – GENERALLY 111
(a) Form of Motion; Content of Motion. 111
(b) Mandatory Consultation of Counsel Prior to Filing a Motion. 111
(c) Affidavits. 112
(d) Exhibits and Attachments Filed with Motions 112
(e) Motion for Conversion 112
(f) Stipulated Motions. 112
(g) *Ex Parte* Motions under Seal 112
(h) Motions Seeking Expedited Relief or Shortening of Notice Period 113
(i) Proposed Orders. 113
(j) Stipulated Proposed Order Eliminating the Need for a Hearing. 113
VT. LBR 9013-2. HEARINGS – ON MOTIONS GENERALLY 113
(a) Scheduling a Hearing on a Motion 113
(b) Routine, Non-Evidentiary Motions 113
(1) In a Bankruptcy Case. 113
(2) In an Adversary Proceeding 114
(c) Form of Hearing Notice. 114
(1) Hearing Dates/Times. 114
(2) Hearing Sites. 114
(3) Response Deadline; Mandatory Language. 114
(4) Minimum Notice. 114
(d) Multiple Motions. 115
(e) Attendance at Hearings. 115
(f) Stipulations. 115
(g) Rescheduling Hearings. 115
VT. LBR 9013-3. HEARINGS – ROUTINE MOTIONS – NOTICE UNDER CONVENTIONAL PROCEDURE 115
(a) Meaning of Conventional Procedure. 115
(b) Form of Hearing Notice 115
(1) Title of Notice. 115

(2)Response Deadline. 115
(3)Mandatory Language. 116

VT. LBR 9013-4. HEARINGS – ROUTINE MOTIONS – NOTICE UNDER DEFAULT PROCEDURE 116

(a) Meaning of Default Procedure. 116

(b) Relief Available Through Use of the Default Procedure. 117

(c) Form of Hearing Notice. 119

(1)Title of Notice. 119
(2)Response Deadline. 119
(3)Mandatory Language. 119

VT. LBR 9013-5. MEMORANDA OF LAW 120

(a) Memoranda of Law Generally Required. 120

(b) Motions Not Requiring Memoranda of Law. 120

VT. LBR 9013-6. SERVICE AND CERTIFICATES OF SERVICE 121

(a) Service Generally 121

(b) Service of Documents Filed Electronically: 121

(1)Notice of Electronic Filing ("NEF") 121
(2)Service on Registered Users. 121
(3)Service on Non-Registered Parties. 121

(c) Certificate of Service: Requirement to File; Contents; Consequences of Non-Compliance. 121

(d) Service through CM/ECF. 122

(e) Docketing of a Certificate of Service When not Filed as a Separate Document. 122

(f) Consequences of Failing to File a Proper and Complete Certificate of Service. 122

VT. LBR 9014-1. CONTESTED MATTERS 122

(a) Core/Non-Core Designation (Objections to Claim) 122

(b) Attendance of Witnesses. 122

(1)Court Designated Evidentiary Hearing. 122
(2)How to Request an Evidentiary Hearing. 123
(3)Additional Time and/or Witness(es). 123
(4)Stipulation. 123
(5)Court's Discretion. 123

VT. LBR 9015-1. JURY TRIALS 123

(a) Applicability of Certain Federal Rules of Civil Procedure. 123

(b) Consent to Have Jury Trial Conducted by Bankruptcy Court. 124

(c) Time for Filing a Demand for Jury Trial after Removal 124

(d) *Voir Dire.* 124

VT. LBR 9016-1. SUBPOENAS AND RULE 9014(E) NOTICES OF EVIDENTIARY HEARINGS 124

VT. LBR 9019-1. ALTERNATIVE DISPUTE RESOLUTION 124

(a) Generally. 124

(b) The District Court's Early Neutral Evaluation Process and Goals. 124

VT. LBR 9021-1. MEMORANDA OF DECISION, JUDGMENTS, AND ORDERS 124

VT. LBR 9022-1. DECREES, JUDGMENTS, AND ORDERS – NOTICE OF 125

VT. LBR 9023-1/VT. LBR 9024-1. MOTION TO RECONSIDER 125

VT. LBR 9027-1. REMOVAL/REMAND. 125

(a) Notice of Removal. 125

(b) Procedure after Removal. 125

(c) Remand. 125

(d) Consent in Core Proceeding 125

VT. LBR 9029-1. LOCAL RULES – GENERALLY 126

(a) Scope and Title. 126

(1) Local Rules 126

(2) Appendices and Forms. 126

(b) Making and Amending these Rules. 126

(c) Matters Not Covered by These Rules. 126

(1) Consistent Practice. 126

(2) Suspension of Rules. 126

(3) Good Cause. 126

VT. LBR 9029-2. LOCAL RULES – STANDING ORDERS 126

VT. LBR 9033-1. PROPOSED FINDINGS AND CONCLUSIONS IN CERTAIN CORE PROCEEDINGS 127

VT. LBR 9036-1. NOTICE BY ELECTRONIC TRANSMISSION (NEF) 127

(a) Generally. 127

(b) Noticing Agreements. 127

(c) Electronic Notice of Court Orders and Judgments. 127

VT. LBR 9070-1. EXHIBITS IN EVIDENTIARY HEARINGS – PRODUCTION, RETENTION AND CUSTODY OF 127

(a) Marking of Exhibits. 127

(b) Retention of Exhibits by Attorneys. 127

(c) Retrieval of Exhibits from the Clerk. 127

(d) Appeal. 128

(e) Photocopy Size. 128

VT. LBR 9071-1. STIPULATIONS 128

VT. LBR 9072-1. ORDERS – PROPOSED 128

(a) When Required. 128

(b) Filing of Proposed Orders. 128

(c) Allowed Endorsement Orders 128

(d) Settled Orders. 128

(e) Format of Signature Line on Proposed Orders 128

(f) Lift Stay Relief. 128

VT. LBR 9074-1. PROCEDURE FOR, AND LIMITATIONS ON, TELEPHONIC PARTICIPATION IN COURT HEARINGS AND CONFERENCES. 128

VT. LBR 9075-1. EMERGENCY MATTERS 129
(a) Defining an Emergency Matter. 129
(b) Procedures for Seeking Relief in an Emergency Matter. 129
(1) Filing Requirements. 129
(2) Telephonic Notice to Clerk's Office. 129
(3) Notice Requirements. 129
(4) Hearing. 129
(5) Waiver of Filing Requirements and/or Hearing. 129
VT. LBR 9076-1. STATUS CONFERENCES AND CASE MANAGEMENT CONFERENCES 129
(a) In General. 129
(b) Request for Conference. 130
(1) Generally. 130
(2) In a Chapter 11 Case. 130
(c) Notice of Conference. 130
INDEX 131

PART I

VT. LBR 1002-1. PETITION – GENERALLY

(a) Electronic Filings of Petition. A petition commencing a case under the Bankruptcy Code may be filed by electronic means through the Case Management/Electronic Case Filing System (hereinafter, "CM/ECF System" or "CM/ECF"), in accordance with the requirements set forth in these Rules. When a case is commenced electronically, the debtor is not required to file the original petition, schedules, and statements with the Clerk of the Court (hereinafter, the "Clerk").

(b) Original Petition and Schedules to be Brought to § 341 Meeting. The debtor or the debtor's attorney must bring the original, signed petition, schedules, and statements to the meeting of creditors held pursuant to § 341.[1] At the meeting, the case trustee will verify the debtor's signature and require the debtor to verify the accuracy of the petition, schedules, and statements. See also Vt. LBR 4002-1(d) (providing list of documents a debtor is required to present to the case trustee prior to the § 341 meeting of creditors).

(c) E-Mail Filings. The Clerk's Office will accept documents submitted via e-mail for filing provided they are in portable document format (PDF) and are accompanied by appropriate credit card authorization. See Vt. LBR 5005-1 (providing detailed instructions on proper formatting of documents). Such documents are to be e-mailed to: efiling@vtb.uscourts.gov. A document submitted for filing via e-mail is deemed filed as of the date and time it is entered into the CM/ECF System by the Clerk's Office, not as of the time the email was transmitted or received. The filing party is bound by the document as e-mailed. See also Vt. LBR 9011-4(d) (providing further instructions on required e-mail signatures).

(d) Non-Electronic Filings. To commence a case by the filing of a petition on paper (i.e., by mail, submission at the Clerk's Office, or delivery directly to the Clerk), the filing party must file an original petition and master mailing list. The petition, together with the schedules and statements, should be held together with a paper clip or binder clip, and should not be bound or stapled. The mailing list should be attached by paper clip or binder clip to the end of the petition, schedules, and statements. A petition mailed to the Clerk's Office for filing is deemed filed as of the date and time it is entered into the CM/ECF System by the Clerk's Office, not as of the time of receipt. A petition submitted at the Clerk's Office or delivered directly to the Clerk will likewise be deemed filed as of the date and time it is entered into the CM/ECF System by the Clerk's Office, not as of the time of receipt.

(e) Corporate Resolution/LLC Authority. A voluntary petition filed by a corporation must be accompanied by a copy of the corporate resolution or other appropriate authorization, duly attested to, authorizing the bankruptcy filing. A voluntary petition filed by a limited liability company must be accompanied by a copy of the appropriate authorization, duly attested to, authorizing the bankruptcy filing.

[1] All statutory citations refer to Title 11, U.S. Code (the "Bankruptcy Code"), unless otherwise indicated.

See also Vt. LBR 5005-2(c) (official record and deemed filing date for all documents); Vt. LBR 9075-1(b)(1) (filing requirements related to emergency filings).

VT. LBR 1005-1. PETITION – CAPTION

The caption on the petition, including other names used, must be complete and accurate. All documents filed in the case must contain a caption containing information identical to that included in the caption on the petition. A case filed by an individual debtor should not show any corporate names in the case caption unless the relationship between the debtor and the corporation is clearly articulated in the caption (e.g., John Doe, President of ABC Corporation). Any reference to the debtor's social security number or other identifying number must be in redacted form (e.g., for a social security number, only the last four digits should be included, such as: XXX-XX-1234). See Vt. LBR 5001-3(c) (providing instructions on redacting personal data identifiers).

VT. LBR 1006-1. FEES – RESTRICTIONS ON DEBTORS; INSTALLMENT PAYMENTS; WAIVER OF FILING FEE

(a) Restrictions on Debtors. Debtors may not pay the petition filing fee, or any portion thereof, with their own checks or with their own debit or credit cards. See Vt. LBR 5081-1(a).

(b) Installment Payments. Upon order of the Court granting an application on Official Form B103A ("Application for Individuals to Pay the Filing Fee in Installments"), an individual debtor may pay the filing fee in installments. The debtor may make installment payments in the form of cash, certified check, bank draft, or money order only. The Official Form B103A – with related instructions – is available through a link on the Court's website, http://www.vtb.uscourts.gov/.

(c) Waiver of Filing Fee. An individual Chapter 7 debtor who cannot afford to pay the filing fee either in full at the time of filing the petition or in installments may request a waiver of the fee. This request must be made on application to the Court using Official Form B103B ("Application to Have the Chapter 7 Filing Fee Waived"). The Court will determine whether the debtor qualifies for a waiver of the filing fee. A waiver of the filing fee may be granted only if the debtor demonstrates: (1) income less than 150% of the official poverty line applicable to the debtor's family size; and (2) an inability to pay the filing fee in installments. See 28 U.S.C. § 1930(f); see also Fed. R. Bankr. P. 1006(c); Vt. LBR 5081-1(f) (regarding waiver of other fees). The Official Form B103B—with related instructions—is available through a link on the Court's website, http://www.vtb.uscourts.gov/.

VT. LBR 1007-1. LISTS, SCHEDULES, STATEMENTS, & OTHER DOCUMENTS; TIME LIMITS

(a) Schedules of Assets in All Chapters.

(1) **All Assets Must Be Disclosed.** The debtor must list all assets in which the debtor has any interest (regardless of where the asset is located), the nature of the debtor's interest, or whether the debtor believes the asset to be within the definition of property of the estate. The debtor must describe all assets with sufficient specificity to allow for easy identification of the assets. The debtor must provide an addendum to Official Form 106

A/B or Official Form 206 A/B, separately describing and listing any and all individual items worth more than $1,500.

(2) **Business Inventory or Equipment.** When business inventory or equipment is scheduled, the debtor must provide an addendum to Official Form 106 A/B or Official Form 206 A/B that includes, at a minimum, the following: a general description, a list of present items, a brief explanation of the exact location of the item(s), the name and address of the custodian, the protection being given to such property, and the amount and duration of fire and theft insurance, if any.

(b) Schedules of Debts in All Chapters. All schedules of debts filed in conjunction with a petition must be complete and include the date and nature of the consideration for each debt. The debtor must list all debts, including disputed debts and debts owed to creditors whom the debtor does not expect will file proofs of claim.

(c) Motion to Enlarge Time. If a debtor files a motion to enlarge the time to file schedules and seeks to file the schedules within seven days before the initial § 341 meeting of creditors, the debtor must obtain the trustee's consent. See also Vt. LBR 4002-1(d)(1).

(d) Payment Advices Cover Sheet. In addition to complying with the requirements of § 521(a)(1)(B)(iv), a debtor must also file the local payment advices cover sheet (Vt. LB Form B), certifying under penalty of perjury that:

(1) copies of all existing payment advices are attached to the payment advices cover sheet and indicating: (A) the total number of payment advices attached; (B) the period covered by those payment advices; and (C) the number of employers who issued those payment advices**;** or

(2) no payment advices are attached to the payment advices cover sheet because the debtor had no income from any employer within the 60-day period prior to the date of the filing of the petition; or

(3) some or all of the payment advices are not attached to the payment advices cover sheet together with an explanation as to why**.**

The physical signature of the debtor must be affixed to the payment advices cover sheet. If the case is a joint one, the joint debtor must also certify under penalty of perjury which of the three options outlined in the payment advices cover sheet applies. See also Vt. LBR 9011-4(c) (outlining signature requirements for non-attorneys).

(e) Certificate from Approved Nonprofit Budget and Credit Counseling Agency Regarding Pre-Petition Credit Counseling. See Vt. LBR 4002-1(a) & (b); see also Vt. LBR 4004-2(a) (regarding filing certification evidencing completion of post-petition financial management education).

(f) Official Form 121, Statement About Your Social Security Numbers. Every individual debtor must complete and sign Official Form 121, "Statement About Your Social Security Numbers," as required by Fed. R. Bankr. P. 1007(f). If the debtor files the bankruptcy case on paper, the debtor must submit the completed and signed Official Form 121 with the

petition. If the debtor files the bankruptcy case electronically, the debtor's attorney must retain the completed and verified Official Form 121 for at least five years in accordance with Vt. LBR 9011-1(b). If the debtor is *pro se*, the debtor must retain the completed Official Form 121 for at least five years in accordance with Vt. LBR 9011-2(b). Official Form 121 should not be filed.

(g) Definition of "Submitted." The term "submitted" as used in Fed. R. Bankr. P. 1007(f) and in these Rules means that the document at issue is not filed in the case and is not part of the case docket or the public court record.

(h) Debtor's Affidavit to be Filed in Chapter 11 Case. All Chapter 11 debtors must file an affidavit setting forth:

(1) the nature of the debtor's business and a concise statement of the circumstances leading to the debtor's Chapter 11 filing;

(2) whether the case was originally filed under Chapter 7, 12, or 13 and, if so, the name and address of any trustee appointed in the case commenced under Chapter 7, 12, or 13;

(3) the names and addresses of the members of any committee organized prior to the order for relief in the Chapter 11 case, any attorney for such committee, and a brief description of the circumstances surrounding the formation of any committee and the date of its formation;

(4) the number of classes of shares of stock, debentures, or other securities of the debtor that are publicly held, and the number of holders of those interests, listing separately those held by the debtor's officers and directors and the amounts so held;

(5) a list of all property of the debtor in the possession or custody of a custodian, public officer, mortgagee, pledgee, assignee of rents, receiver, secured creditor, or the agent of any of these entities, giving the name, address, and telephone number of each and the court, if any, in which a related proceeding is pending;

(6) the nature and present status of each action or proceeding pending or threatened against the debtor or the debtor's property, including the court and identifying number within that court, and each opposing counsel's name, address, and telephone number, except for cases that fit within § 524(g); and

(7) a list of all the real estate the debtor owns, leases, or holds under other arrangements.

(i) Additional Information Required if a Business Continues Operating. If the Chapter 11 debtor is continuing to operate a business, the affidavit required under paragraph (h) above must also set forth:

(1) the estimated amount of weekly, bi-weekly, or monthly payroll and reimbursed expenses to employees, officers, partners, or other related individuals for the 30-day period following the filing of the Chapter 11 petition;

(2) an estimated schedule of cash receipts and disbursements, in 30-day increments, covering the debtor's business operations for 90 days following the Chapter 11 filing; and

(3) proof of all insurance.

(j) When to File Additional Business Information. In a voluntary Chapter 11 case, the debtor's affidavit referred to in paragraphs (h) and (i) above must accompany the petition. In an involuntary Chapter 11 case, the affidavit must be filed within 15 days after the entry of the order for relief, unless the Court orders otherwise.

(k) Waiver of Requirements. On application of the debtor showing that it is impracticable or impossible to furnish some or all of the foregoing information, and on notice to the Office of the United States Trustee, with seven days to object, the Court may waive, or enlarge the time for complying with, any of the foregoing requirements.

(l) Chapter 13 Wage Withholding.

(1) Each Chapter 13 debtor must file with the Chapter 13 plan:

(A) a form (Vt. LB Form Y-8) consenting to the Court's entry of an order instituting wage withholding, or automatic debits from a bank account if the debtor does not have income from an employer, and authorizing the trustee to modify or terminate the withholding or automatic debits to comport with any modification or amendment of the plan approved by the Court, without further or separate authorization or order; or

(B) a motion for waiver of the wage withholding requirement, setting forth cause for a waiver. See Vt. LBR 3070-1(a).

(2) If a debtor has an employer, and files a motion for waiver of the wage withholding requirement seeking to make plan payments via automatic debits from a bank account, and the trustee has consented to the waiver, the proposed order must include language conditionally authorizing plan payments by automatic debit from a bank account, and include the following provision:

In the event the debtor defaults on plan payments, the debtor may be required to make plan payments thereafter through a wage withholding order.

VT. LBR 1007-2. DISMISSAL FOR FAILURE TO FILE REQUISITE DOCUMENTS

See Vt. LBR 1007-1(m); see also Vt. LBR 4002-1; Vt. LBR 4002-2; Vt. LBR 4002-3.

VT. LBR 1007-3. MAILING LIST

(a) Master Mailing List. The master mailing list must include all creditors, any federal agencies and officers, and any state agencies and officers required to receive notice. The Clerk maintains a list of the names and addresses of federal entities voluntarily submitted by the entities. This list of addresses may be amended from time to time by the Clerk's Office, and is available on the Court's website at http://www.vtb.uscourts.gov and at the Court's public counter.

(1) The mailing list must include the United States in the following format under the following circumstances:

(A) in all Chapter 9 and 11 cases and in filings under Chapters 7, 12, or 13 in which the debtor owes, or potentially owes, a federal tax liability, the debtor must include the following address of the Internal Revenue Service:

Internal Revenue Service
P.O. Box 7346
Philadelphia, PA 19101-7346

(B) When a debt, potential claim or interest, other than taxes, exists regarding a federal department, agency or instrumentality, the mailing list must include both (i) the name and address of the federal department, agency or instrumentality; and (ii) the United States Attorney's Office, using the following address format:

[NAME OF FEDERAL AGENCY]
c/o United States Attorney
11 Elmwood Ave., 3rd Fl.
P.O. Box 570
Burlington, VT 05402-0570

(C) This rule supplements, but does not replace, Fed. R. Bankr. P. 2002(j).

(2) When a debt or potential claim or interest exists regarding the State of Vermont, the mailing list must include the following addresses:

(A) for a tax debt or potential tax claim:

Vermont Department of Taxes
Bankruptcy Unit, 3rd Fl.
109 State St.
P.O. Box 429
Montpelier, VT 05601-0429

(B) for a debt, potential claim or interest, other than taxes:

[NAME OF STATE AGENCY]
c/o VT Attorney General
109 State St.
Montpelier, VT 05609-1001

(3) Do not include the name and address of the debtor(s) or the attorney for the debtor(s) on the mailing list.

(b) Additional Mailing List in Cases Filed Under Chapter 9 or Chapter 11. In Chapter 9 or 11 cases, in addition to the master mailing list required by paragraph (a) above, the debtor must also attach a separate mailing list of the 20 largest unsecured creditors (excluding insiders) containing the name and complete mailing address of each of these creditors to ensure prompt noticing of the creditors' committee organizational meeting. When a debtor has shareholders, the debtor must provide a separate sheet with the name and complete

mailing address for each shareholder, to facilitate the prompt formation of a committee of equity security holders.

(c) Formatting Generally. Mailing lists must comply with the following guidelines:

(1) be typed in a font size of no less than 12, using one of the following typefaces: Arial, CG Times, Courier, or Times New Roman;

(2) be typed in a single column on each page, with margins no less than ¾" and, if on paper, the list must be on plain 8½" x 11" paper;

(3) be in both uppercase (capital) and lowercase letters;

(4) limit each name/address block to no more than five lines, with the first line setting forth the creditor/governmental agency name, the remaining lines for the address, and a blank line separating each name/address block from the previous name/address block;

(5) have no line exceeding 40 characters in length;

(6) have the nine-digit zip codes typed with a hyphen between the fifth and sixth digits;

(7) if needed, have any attention lines or account numbers typed on the second line of the name/address block, and not on the last line;

(8) if supplied, account numbers should be supplied in redacted format, identifying the last four digits only (e.g., XXXX-XXXX-XXXX-1234); and

(9) if submitted on paper, be free of staples.

(d) Formatting for Cases Filed Electronically. For cases filed electronically, the master mailing list must be formatted as a text file (*.txt) in ASCII format.

Vt. LBR 1007-4. OTHER DOCUMENTS REQUIRED

See, e.g., Vt. LBR 4002-2; Vt. LBR 4004-2; Vt. LBR 4008-1.

VT. LBR 1009-1. AMENDMENTS TO LISTS AND SCHEDULES

(a) Amendments Generally. All amendments to lists and schedules must include the case name (as set forth on the petition), case number, and chapter. The party filing the amendment must contemporaneously serve the amendment on the Office of the United States Trustee and the case trustee, if any, as well as on any other party entitled to notice. Individual debtors must complete and attach Official Form 106Dec (Declaration About an Individual Debtor's Schedules). Non-individual debtors must complete and attach Official Form 202 (Declaration Under Penalty of Perjury for Non-Individual Debtors).

(b) Form to Use When Filing Amendments to Lists and Schedules. An amended list or schedule should be filed on the same form on which the original list or schedule was filed.

(1) **Amending pre-December 2015 Lists and Schedules.** If the debtor is amending a list or schedule that was first filed prior to December 1, 2015, the debtor (1)

should indicate the changes using the version of the form that was in effect prior to December 1, 2015, and (2) must attach the local notice of amendment cover sheet and affix his/her original signature to it. See Vt. LB Form C ("Model Notice of Amendment").

(2) **Amending post-December 2015 Lists and Schedules.** If the debtor is amending a list or schedule that was first filed on or after December 1, 2015, the debtor must (1) indicate the changes on the version of the form that was in effect on the date the document as first filed, and (2) attach either Official Form 106Dec or Official Form 202.

(c) How to Amend Lists or Schedules. The entire page or pages that an amendment affects should be redrafted with the amendment redlined, underlined, or boxed in, and in such manner that the amended page(s) will be complete without referring to the page or pages that have been amended; it must be clear what the document originally stated and what changes have been made. When an amendment is filed electronically and the filing party uses the highlight function to indicate the amendment, the party should choose yellow highlighting to ensure the amendment continues to be easily identifiable if printed.

(d) Notification of New Creditors. The party making the amendment must serve a copy of the "Notice of Chapter [7, 11, or 13] Bankruptcy Case, Meeting of Creditors, and Deadlines" and the amended list or schedule on any new creditor or party in interest added by the amendment, and on any party or creditor whose claim or address was directly affected by the amendment, and promptly file a certificate of service with the Clerk.

(e) Mailing Lists. If the debtor becomes aware of a changed address for any creditor or party in interest, or determines that it is necessary to add to or delete from a mailing list a name and/or address, the debtor must amend the mailing list as follows: (1) for an addition or change, include only the added or changed name and address in an amended mailing list; (2) for a deletion, place an "X" through the information to be deleted from the mailing list. The amended mailing list must be filed with a notice of amendment.

(f) Correcting Debtor's Social Security Number. Where a debtor must amend a document due to an error in the debtor's social security number(s), the party filing the amendment must follow these procedures:

(1) If the error affects only the first five digits of the debtor's social security number, the debtor must:

(A) submit to the Clerk via paper copy (regardless of whether the case was commenced on paper or electronically) Official Form 121 along with either Official Form 106Dec or Official Form 202, reflecting the full and correct social security number, see Vt. LBR 5003-1(b);

(B) serve upon all creditors, the case trustee, and the Office of the United States Trustee the amended Official Form 121, reflecting the full and correct social security number; and

(C) file a certificate of service with the Clerk certifying service of the amended Form 121 upon all creditors, the case trustee, and the Office of the United States Trustee. The amended Official Form 121 should not be attached to the certificate of service because it should not become part of the public record.

(2) If the error affects the last four digits of the debtor's social security number, in addition to subparagraphs (1)(A) through (C) above, the debtor must also file with the Clerk an amended petition with the correct last four digits of the social security number.

VT. LBR 1015-1. JOINT ADMINISTRATION/CONSOLIDATION

(a) Case Filed by Married Debtors. An individual who may be a debtor and such individual's spouse commencing a joint case may file a joint petition and pay one filing fee. Married debtors filing jointly must file joint schedules and a joint statement of financial affairs. If an item on a schedule or statement requires a different response from each debtor, the responses must be labeled to indicate whether the responses refer to the individual debtor or to such individual's spouse. Each asset and liability listed on the schedules or statements of married debtors filing jointly will be considered joint in nature unless otherwise indicated. In all cases filed by an individual debtor and such individual's spouse under § 302, the Court will presume joint administration of the case, and, in an asset case, the consolidation of the assets and liabilities, unless and until a motion is made by a party in interest to terminate the consolidation.

(b) Joint Administration of Related Cases. Unless otherwise ordered by the Court, motions for joint administration must be presented in each of the subject cases, be served on all creditors and parties in interest, and designate which of the subject cases the debtors wish to have designated as the lead case.

(1) **Clerk's Duties.** Upon the entry of an order of joint administration, the Clerk will:

(A) designate one of the cases to be the lead case for purposes of docketing and filing;

(B) enter the original order of joint administration in the lead case;

(C) enter the order of joint administration simultaneously on the dockets of all other cases attested by the order; and

(D) thereafter, maintain only the lead case docket for all activity affecting any of the jointly administered cases, except that the Clerk will maintain a separate docket for each petition (and any amendments to the petition) and a separate claims register for each case.

(2) **Mailing List.** Within seven days of the entry of the order of joint administration, the party obtaining the order must file with the Clerk a consolidated mailing list constituting an aggregate mailing list of all interested parties in all the jointly administered cases without duplication. The mailing list must be in compliance with the requirements set forth in these Rules. See Vt. LBR 1007-3.

(3) **Additional Copies.** In jointly administered Chapter 9 or 11 cases, the Clerk may require the parties to file additional copies of documents.

(c) Substantive Consolidation of Related Cases.

(1) **Motion.** Unless otherwise ordered by the Court, motions for substantive consolidation must be presented in each of the subject cases, be served on all creditors and parties in interest, and specify which case the movant seeks designated as the lead case.

(2) **Mailing List.** Within seven days of the entry of the order of substantive consolidation, the party obtaining the order must file with the Clerk a consolidated mailing list constituting an aggregate mailing list of all interested parties in all the substantively consolidated cases without duplication. The mailing list must be in compliance with the requirements set forth in these Rules. See Vt. LBR 1007-3.

(3) **Caption, Docket Entries, and Filing.** Prior to the entry of an order of substantive consolidation, all documents must be filed with captions corresponding to the cases in which they are filed. Once the cases have been ordered substantively consolidated, they will be treated as one case for all purposes, with a single case number, caption, claims register, and docket.

(d) Termination of Substantive Consolidation. Parties seeking to terminate the substantive consolidation of cases must do so by motion as follows:

(1) in a Chapter 7 asset case, the motion must be filed no later than the date set for the hearing on the notice of filing of final account of the trustee;

(2) in a Chapter 12 or 13 case, the motion must be filed no later than 60 days after the last date for filing a proof of claim, provided that any creditor who files a proof of claim has 60 days after the claim is timely filed to file a motion to terminate the substantive consolidation; and

(3) in a Chapter 11 case, the motion must be filed prior to the entry of an order confirming the plan, unless the Court has entered an order allowing proofs of claim to be filed after confirmation, in which case the motion must be filed within the period specified for Chapter 12 or 13 cases.

Termination of substantive consolidation will apply retroactively, and post-petition acquisitions of the estate will be allocated accordingly, to the extent proceedings in the consolidated cases have not rendered that impossible.

VT. LBR 1017-1. DISMISSAL OF CASES

See generally Vt. LB Appendix II.

(a) Effect on Related Adversary Proceedings and Contested or Other Matters. Whenever a case is dismissed, any related adversary proceeding, contested matter or other pending matter will likewise be dismissed without prejudice, and without further order of the Court, unless the Court orders otherwise. Cases with pending appeals may be dismissed, but the dismissal of the case will not be deemed to deprive the parties of their right to pursue the appeal. A

party to an adversary proceeding that is deemed dismissed under this Rule may have the adversary proceeding reinstated upon the filing of a motion within 30 days of entry of the order dismissing the underlying bankruptcy case, and a showing that dismissal of the case does not render the adversary proceeding moot.

(b) Special Provisions Required in Motions to Dismiss Chapter 13 Cases. A party filing a motion to dismiss a Chapter 13 case must set forth the status of the debtor's payment of attorney fees to the debtor's attorney or state that this information is not available to the movant.

(1) **When the Debtor is the Movant.** When the debtor is the movant, the motion to dismiss must include:

(A) the total fee the debtor agreed to pay the attorney for the Chapter 13 case;

(B) the amount paid to the debtor's attorney to date;

(C) the amount the debtor's attorney has earned to date; and

(D) whether the debtor's attorney has agreed to refund any portion of the fee the attorney has been paid or waive any portion of the unpaid balance upon dismissal of the case.

(2) **When a Creditor or the Case Trustee is the Movant.** When a creditor or the case trustee is the movant, the motion to dismiss must specify whether the movant seeks to have the debtor's attorney disgorge a portion of the fee the attorney has been paid or waive a portion of the unpaid balance upon dismissal of the case. See also Vt. LBR 2016-2(d).

VT. LBR 1017-2. CONVERSIONS

See generally Vt. LB Appendix II

(a) Conversion from Chapter 7 to Chapter 13. See Vt. LBR 9013-1(e).

(b) Conversion from Chapter 11 to Chapter 7. If a Chapter 11 debtor seeks to convert to Chapter 7, the debtor may seek this relief by filing an *ex parte* motion affirming that the requirements of § 1112(a) have been met and serving a copy of the motion on the Office of the United States Trustee.

VT. LBR 1020-1. CHAPTER 11 – DESIGNATION OF SMALL BUSINESS CASES

(a) Effect of Designation. Small business cases will proceed in an expedited manner as set forth in the Bankruptcy Code. See §§ 1116, 1121(e), 1125(f), and 1129(e).

(b) Rescission of Designation. Any party in interest or the Office of the United States Trustee may, at any time during the pendency of the case, file a motion requesting that the Court rescind a Chapter 11 small business case designation. See Fed. R. Bankr. P. 1020(a). The Court may at any time, with or without motion or notice, order that a Chapter 11 small business designation be rescinded for cause.

VT. LBR 1072-1. LOCATION OF COURT HEARINGS AND WHERE TO FILE DOCUMENTS

(a) Hearing Location. The Court will convene hearings in both Rutland, Vermont, and Burlington, Vermont, at least once each month. Movants must schedule hearings in the location where the § 341 meeting of creditors is scheduled, unless otherwise agreed to by the interested parties or due to exigent circumstances as determined by the Court. All hearing notices must specify the location of the hearing. See Vt. LBR 9013-2(c)(2)-(4).

(b) Filing Location. Except by leave of the Court or a showing of exigent circumstances, any non-electronic documents filed in connection with a hearing must be filed with the Clerk, regardless of where the hearing is to be held.

VT. LBR 1074-1. CORPORATIONS

See Vt. LBR 1002-1(e).

PART II

VT. LBR 2002-1. NOTICE TO CREDITORS AND PARTIES IN INTEREST

(a) Duty to Provide Notice. Unless otherwise directed by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or these Rules, the Clerk is authorized to designate the parties who must serve notice on creditors and other parties in interest when notice is required under the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or these Rules. Unless otherwise specified by the Court, the movant must give at least seven days' notice of any hearing, and file a certificate of service prior to the deadline for the filing of objections. See Vt. LBR 9013-6(c). Failure to serve timely and proper notice may result in dismissal of the motion, no action on the motion, and/or an order directing the movant to pay costs if a party is prejudiced by the movant's failure to serve the motion timely and properly.

(b) Chapter 13 Plans. The Clerk will give notice of the time fixed for objecting to a proposed plan. The debtor's attorney (or the debtor, if *pro se*) must give notice of the time fixed for objecting to any proposed amended plan or proposed modified plan.

(c) Mailing List. Upon request, the Clerk will provide a party with a mailing list when these Rules require or permit a party other than the Clerk to give notice to creditors and other parties in interest.

(d) Method of Service. Notices and documents required to be sent by a party other than the Clerk may be served: (1) personally; (2) by e-mail if the recipient has consented to e-mail service; (3) by fax if the recipient has consented to fax service; (4) by regular, first-class mail; or (5) by certified mail. But see Vt. LBR 9013-2(b). In emergency situations and with Court approval, notice may be provided by telephone, fax, or e-mail. See also Vt. LBR 9075-1(b)(3).

(e) Service on the Office of the United States Trustee by Parties Not Registered for CM/ECF. Parties who are not yet registered users of the CM/ECF System must serve the Office of the United States Trustee with all notices of motion, together in the same envelope with the motion, supporting affidavits, exhibits, and a copy of the certificate of service.

Unless the Court orders otherwise, all *ex parte* applications (including the required affidavits and exhibits) must be served upon the Office of the United States Trustee at the time they are filed in the Clerk's Office. See Vt. LBR 4002-1(f) (regarding Chapter 11 monthly operating reports).

(f) Forms of Service. Where service is not via the CM/ECF System and a motion consists of several documents, the movant must serve all parties entitled to service of the motion papers with the motion, exhibits, and notice of hearing to an email address designated by the Office of the United States Trustee or by U.S. mail in a single envelope.

(g) Service of Motions to Determine Value. When a debtor files a motion to determine value in a Chapter 12 or 13 case on or before the date on which the original plan is filed, the Clerk will serve the motion with the plan. However, the Clerk will effectuate service only by a means equivalent to first-class mail (i.e., mail or e-mail, depending on the recipient's prior request). If a party is entitled to an elevated level of service, e.g., per Fed. R. Bankr. P. 7004(h), or if the motion to determine value is not filed with the original plan, the movant must serve the motion. See also Vt. LBR 3012-1.

VT. LBR 2002-2. NOTICE TO UNITED STATES OR A FEDERAL AGENCY

See Vt. LBR 1007-3(a)(1).

VT. LBR 2003-1. MEETING OF CREDITORS AND EQUITY SECURITY HOLDERS

(a) Waiver of Debtor's Appearance. On application by or on behalf of a debtor setting forth an adequate showing of exigent circumstances, and with the filed consent of the case trustee, the Court may excuse or otherwise waive a debtor's attendance at a duly noticed § 341 meeting of creditors on such terms as approved by the case trustee. This application does not require notice or a hearing.

(b) Documents Required at § 341 Meeting of Creditors. The debtor or the debtor's attorney must bring the original, executed petition, schedules, and statements to the § 341 meeting of creditors. Failure to do so may result in the debtor and the debtor's attorney being required to appear at subsequent § 341 meetings of creditors. See also Vt. LBR 1002-1(b); Vt. LBR 4002-1(d); Vt. LBR 4002-2.

VT. LBR 2003-2. CHAPTER 11 – CREDITORS' COMMITTEE DUTY TO PROVIDE INFORMATION

(a) Duty Generally; Applicable Standard. An official committee of general unsecured creditors (hereinafter, a "Creditors' Committee" or "Committee") is required to provide certain information to those creditors represented by the Creditors' Committee. See § 1102(b)(B)(3)(A). A Creditors' Committee should use its reasonable business judgment to determine the appropriate content, scope, and method of communicating this information.

(b) Method for Requesting Information; Committee's Notification of Preferred Method of Communication. Until notified otherwise, a creditor represented by a Committee may request information from a Committee by telephone or in writing (via e-mail or first-class mail). A Committee must provide creditors with access to documents, pleadings, and other materials by any means the Committee determines will provide a relevant, informative, and

complete response to the creditor's request. No later than 21 days after appointment of its counsel, a Committee must notify all creditors it represents of its preferred method of receiving inquiries**.**

(c) Confidential Information. The Creditors' Committee is not authorized to provide any creditor with access to any confidential information of the debtor or of the Committee. "Confidential information" (1) includes any non-public information (A) that is the subject of a written confidentiality agreement between the Committee and the debtor or between the Committee and another entity; or (B) the confidentiality of which is necessary in order to successfully perform its duties and was (i) otherwise furnished, disclosed, or made known to the Committee by the debtor, whether intentionally or unintentionally, and in any manner; or (ii) developed by professionals employed by the Committee, the disclosure of which the Committee reasonably believes would impair the performance of its duties; and (2) excludes any information or portion thereof that (A) is or becomes generally available to the public or is or becomes available to the Committee on a non-confidential basis, in each case to the extent that such information became so available other than by a violation of a contractual, legal, or fiduciary obligation to the debtor; or (B) was in the possession of (i) the Committee prior to its disclosure by the debtor, or (ii) professionals employed by the Committee, and is not subject to any other duty or obligation to maintain confidentiality.

(d) Privileged Information. A Creditors' Committee is not required to provide access to any of its privileged information to any creditor. "Privileged information" means any information subject to the attorney-client privilege or any other state, federal, or other privilege, whether such privilege is controlled solely by a Creditors' Committee or is a joint privilege with the debtor or some other party. However, a Committee is permitted to provide access to privileged information to any party as long as (1) such privileged information is not confidential information, and (2) the relevant privilege is held and controlled solely by the Committee**.**

(e) Motion to Compel Disclosure. Where a Creditors' Committee fails or refuses to provide a creditor it represents with information, a creditor may file a motion to compel the Committee to produce the requested information. The motion will be treated as a discovery dispute. See Vt. LBR 7026-1(g).

VT. LBR 2014-1. EMPLOYMENT OF PROFESSIONALS

(a) Retention Procedure. Whenever a party employs a professional whose employment requires court approval under the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure, it is the duty of primary counsel for the employing party to ensure that such approval is properly sought and to advise the professional of the requirements and risks, if any, pertaining to the professional's ability to subsequently obtain compensation and reimbursement of expenses from the estate.

(b) Applications for Retention.

(1) **Notice; Content.** A professional must file an application for retention on 14 days' notice to the Office of the United States Trustee. All applications for retention, whether made

directly by a professional or on behalf of a professional, must include the professional's name, complete mailing and street addresses, telephone number, and e-mail address.

(2) **Previous or Current Representation.** If a debtor or trustee seeks to employ a professional who currently represents, or has previously represented, any creditor of the debtor, the application must include the following:

(A) whether the professional represented any creditor against the debtor in the instant case;

(B) the percentage of total annual revenues the professional's firm earned during the past year from these clients (or former clients) who are creditors of the debtor; and

(C) a statement by the professional acknowledging the continuing duty to exercise due diligence, monitor the reported revenue from these clients, and notify the Court if the above information changes, through addenda to the professional's Rule 2016(b) disclosure statement.

(3) **Timing of Ruling.** The Court will consider the application ripe for a ruling upon the earlier of (1) the filing of a response by the Office of the United States Trustee, or (2) the expiration of the 14-day notice period. Unless otherwise ordered by the Court, no hearing is necessary on an application for retention of a professional.

(c) Proposed Order to Accompany Application for Retention. In addition to the application for retention, the applicant must submit a proposed retention order that includes a provision stating that the professional's compensation is subject to Court approval and specifies the Bankruptcy Code section under which the professional is employed (generally § 327). See also Vt. LBR 9072-1(b) (directing that proposed orders be filed as attachments to applications and motions).

(d) Applications for Compensation. See Vt. LBR 2016-1; see also Vt. LBR 2016-2.

VT. LBR 2015-2. DEBTOR-IN-POSSESSION – CHAPTER 13 BUSINESS DEBTOR OPERATING ORDERS

The Court will not issue Chapter 13 operating orders as a matter of course in every Chapter 13 case involving a business debtor. Where the debtor is operating a business and/or where the debtor's primary assets and/or debts are business-related, a business operating order may be issued by the Court on its own initiative, upon a motion by the Chapter 13 trustee, or upon a motion by any other interested party. A Chapter 13 operating order will include such terms as the Court deems appropriate in each case.

VT. LBR 2016-1. COMPENSATION OF PROFESSIONALS

(a) Fee Application Guidelines.

(1) Except as set forth in subsection (2) below, any entity seeking interim or final compensation for professional services rendered, or for reimbursement of actual and necessary expenses, must comply with Fed. R. Bankr. P. 2016, the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of

Expenses Filed Under 11 U.S.C. § 330, Appendix A to 28 C.F.R. § 58 ("United States Trustee Guidelines"), and applicable case law. See also Vt. LBR 6005-1 (regarding appraisers and auctioneers).

(2) When the debtor's petition lists $50 million or more in assets and $50 million or more in liabilities, any entity seeking interim or final compensation for professional services rendered must comply with Fed. R. Bankr. P. 2016, the United States Trustee Fee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases, 78 Fed. Reg. 36248 and 78 Fed. Reg. 40507 ("United States Trustee Guidelines for Larger Cases"), and applicable case law.

(b) Applications for Compensation of $1,000 or Less. Where a professional seeks compensation in an amount equal to or less than $1,000, the professional must file an application for compensation on 14 days' notice to the Office of the United States Trustee. Such applications for compensation, whether made directly by a professional or on behalf of a professional, must include the professional's name, complete mailing and street addresses, telephone number, and e-mail address. The Court will consider such applications ripe for ruling upon the earlier of (1) the filing of a response by the Office of the United States Trustee, or (2) the expiration of the 14-day notice period. The Court may schedule a hearing on the application if it deems a hearing is necessary.

(c) Applications for Compensation Greater than $1,000. Where a professional seeks compensation in an amount greater than $1,000, the professional must follow the procedures described in Fed. R. Bankr. P. 2002(a) and may use the default procedures described in Vt. LBR 9013-4.

(d) Certification Required. Whenever a trustee or debtor (or, in a corporate case, the appropriate officer of the debtor) seeks approval of fees for a professional, the party must specify in the application (or in a separate certification) that the party has reviewed and supports the application for fees as filed or, if the party opposes the application to any extent, the party must so specify. Where a professional other than one retained by a debtor or trustee (e.g., a professional retained by an official or unofficial committee) seeks compensation from the estate, the executive officer or chairperson of the retaining entity must file a statement supporting or opposing the application.

(e) Retainers. In a Chapter 11 or 12 case, a professional may not draw down, or take a payment from, a retainer until the professional has an order of the Court authorizing the professional to do so, notwithstanding any agreements to the contrary between a debtor and the debtor's professionals. Such retainer funds must be segregated in a separate interest-bearing account for the benefit of the debtor to the extent this is consistent with state IOLTA regulations.

(f) Requirement to File Fee Applications. The Court, in its discretion, may order any debtor's attorney to file a fee application in any case pending under the Bankruptcy Code and may direct disgorgement of all or part of the fee if the Court finds the fee to be unreasonable or paid in violation of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or these Rules. See § 329.

(g) Real Estate Brokers. If approved in a retention order, a real estate broker may be paid the customary commission at closing, as defined in Vt. LBR 6004-1(e)(4), subject to disgorgement in the event the Court determines either the commission is unreasonable under the particular circumstances of the case or the estate is administratively insolvent.

(h) Scope of Duties to be Performed by Debtor's Attorney for Flat Fee Charged. Except as provided in subsections (h)(4) and (i), the flat fee charged by a Chapter 7 or 13 debtor's attorney will encompass the following services:

(1) In both Chapter 7 and 13 cases:

(A) analyzing the putative debtor's financial situation, and advising and assisting the putative debtor in determining whether to file a petition under the Bankruptcy Code;

(B) preparing and filing the petition, and all required lists, schedules, and statements;

(C) filing the certificate received by the debtor from an approved nonprofit budget and credit counseling agency for pre-petition credit counseling;

(D) filing the debtor's payment advices together with the "Payment Advices Cover Sheet" form (Vt. LB Form B);

(E) representing the debtor at the § 341 meeting of creditors;

(F) amending lists, schedules, statements, and/or other documents required to be filed with the petition to comport with developments that occurred before or at the § 341 meeting of creditors;

(G) where appropriate, preparing and filing motions under § 522(f) to avoid liens on exempt property;

(H) where appropriate, preparing and filing motions, such as motions for abandonment or to clear title to real property owned by the debtor;

(I) removing garnishments or wage assignments;

(J) compiling and forwarding to the case trustee documents required by Vt. LBR 4002-1; and

(K) preparing and filing the debtor's certification of completion of instructional course concerning personal financial management (hereinafter, "Official Form 423").

(2) In addition to the tasks identified in subparagraph (1), above, in each Chapter 7 case, where warranted by the facts of the case, the duties the retained attorney must perform in consideration of the flat fee will include:

(A) negotiating, preparing, and filing reaffirmation agreements; and

(B) preparing and filing motions under § 722 to redeem exempt personal property from liens.

(3) In addition to the tasks identified in subparagraph (1) above, in each Chapter 13 case, where warranted by the facts of the case, the duties required of the retained attorney will include:

(A) attending confirmation hearings and addressing all objections to confirmation;

(B) where a debtor seeks to modify the amount of a secured claim pursuant to § 506(a), filing a valuation motion in accordance with Fed. R. Bankr. P. 3012, and, where necessary, introducing evidence as to the value of the collateral securing the subject claim (typically at or in connection with the confirmation hearing);

(C) where warranted, preparing and filing a motion to strip a wholly unsecured mortgage under § 506; and

(D) preparing and filing a motion for entry of the discharge order.

(4) **Applications to Limit the Scope of Legal Services in Certain *Pro Bono* and Reduced Fee Cases.** Where a debtor is represented by an attorney retained through the Vermont Volunteer Lawyers Project or Legal Services Law Line, on either a *pro bono* or reduced fee arrangement, the attorney may file an application to limit the scope of employment and reduce the scope of legal services to exclude certain items enumerated in paragraphs (h)(1) – (3). A debtor's attorney seeking this relief must file the application within 21 days of the filing of the petition, must serve it on the debtor, case trustee, and the Office of the United States Trustee, and may use the default procedure.

(i) Unbundled Legal Services. In a Chapter 7 case, the Court will allow unbundled legal services with respect to a filing fee waiver application when:

(1) the Vermont Volunteer Lawyers Project or Legal Services Law Line has referred, and an attorney has accepted, a case for *pro bono* or reduced fee legal representation;

(2) the Court has set a hearing on the debtor's application for waiver of the Chapter 7 filing fee in that case; and

(3) a representative from the Vermont Volunteer Lawyers Project or Legal Services Law Line is willing to appear at the hearing to represent the debtor with respect to the filing of a fee waiver application.

VT. LBR 2016-2. PAYMENT OF CHAPTER 13 DEBTOR'S ATTORNEY'S FEES

(a) Presumed Reasonable Fee in Chapter 13 Case. Unless an objection is filed and sustained, or the Court *sua sponte* determines otherwise, the following debtor's attorney's fees will be presumed reasonable and may be allowed as an administrative expense in a Chapter 13 case:

(1) a fee of up to $2,500 for a simple Chapter 13 case (e.g., where the plan pays only unsecured claims and attorney's fees);

(2) a fee of up to $3,500 for a Chapter 13 case where ongoing monthly mortgage payments are paid directly (i.e., outside the plan), as follows: up to $2,700 for pre-confirmation services, plus up to $800 for post-confirmation services; and

(3) a fee of up to $4,300 for a Chapter 13 case where ongoing monthly mortgage payments are paid through the plan (i.e., as Conduit Mortgage Payments, see Vt. LBR 3015-2(j)), as follows: up to $3,700 for pre-confirmation services, plus up to $600 for post-confirmation services.

(b) Payment of Debtor's Attorney's Fees in Chapter 13 Case. Attorney's fees set forth in the Rule 2016(b) disclosure statement that are not paid in full prior to the filing of the case must be paid through the debtor's plan, and may be paid ahead of other creditors if that treatment is both set forth in the plan and approved by the Court. Any attorney's fees incurred after the initial Rule 2016(b) statement must be disclosed promptly in an amended Rule 2016(b) statement, may be charged to the debtor only after approval by the Court, and must also be paid through the plan.

(c) Applications for Fees in Excess of the Presumed Reasonable Fee. If a debtor's attorney seeks a fee higher than the presumed reasonable fee in a Chapter 13 case, both the plan and the attorney's Rule 2016(b) statement must set forth the reason the higher fee is warranted in the case, and the attorney must be prepared to file a fee application. Attorneys must maintain time records and be prepared to demonstrate the reasonableness of all fees charged to debtors regardless of whether the amount charged is below, at, or above the presumed reasonable figure.

(d) Presumed Reasonable Fees for Certain Motions. For certain routine motions, there is a rebuttable presumption that a fee is reasonable if it does not exceed the amounts specified below. An attorney may request fees as part of a motion or application where the fees do not exceed the presumed reasonable fee for the motion or application.

(1) **Motions to Modify a Confirmed Plan and Confirmation Order.** The presumed reasonable fee for a motion to modify a confirmed plan and confirmation order is a fee of up to $700.

(2) **Motions for Relief from Stay.** The presumed reasonable fee for a motion for relief from stay to proceed against real estate is a fee of up to $700 if no hearing is necessary, and is a fee of up to $950 if the movant needs to appear at a hearing to have the motion adjudicated. The presumed reasonable fee for a motion for relief from stay against assets other than real estate is a fee of up to $500 if no hearing is necessary, and is a fee of up to $750 if the movant needs to appear at a hearing to have the motion adjudicated.

(3) Applicability of Presumed Reasonable Fees. Counsel may seek a fee higher than the presumed reasonable fee by filing a fee application in compliance with these Rules. The availability of a presumed reasonable fee does not entitle counsel to seek a fee that exceeds the value of the time actually spent on the motion or relieve counsel of the obligation to keep accurate, contemporaneous records of time spent.

(e) Duties of Applicant Seeking Compensation for Post-Petition Services. Except as provided in this Rule, if an attorney renders services post-petition for which he or she wishes to be compensated, the attorney must file (1) a fee application in a form and manner consistent with these Rules, (2) an amended Rule 2016(b) statement, (3) a motion to modify the plan to (A) increase the funds being paid to the Chapter 13 trustee, (B) extend the term of

the plan, (C) include an alternate funding source, or (D) diminish the dividend to some creditors, if the funds being paid into the confirmed plan are not sufficient to fund the payment of fees sought, (4) a notice of motion, and (5) a certificate of service. Attorney's fees for legal services relating to post-petition mediation must be approved by the Court.

(f) Consideration of Fees at Time of Dismissal. All motions to dismiss a Chapter 13 case must contain a request that the Court consider whether any fees paid or due to the debtor's attorney should be allowed based upon the timing of the dismissal (i.e., pre- or post-confirmation) and the work the attorney has performed through the date of the granting of the motion. See also Vt. LBR 1017-1(b).

VT. LBR 2090-1. ATTORNEYS – ADMISSION TO PRACTICE

(a) Admission of Attorneys Generally. The District Court Local Rules generally govern admission of attorneys to the Bankruptcy Court except when inconsistent with these Rules. However, attorneys must register for this Court's CM/ECF System as a pre-requisite to filing documents in this Court unless, upon motion, the Court waives the registration requirement. See Vt. LBR 5005-3; see generally Vt. LBR 9011-1. Additionally, any notice of appearance filed by an attorney who is not registered for this Court's CM/ECF System must include a statement of consent to service by e-mail and include the filer's e-mail address.

(b) Admission of Attorneys *Pro Hac Vice*.

(1) **Application for Admission.** Any attorney who is a member in good standing of the Bar of any federal court or of the highest court of any state may apply for *pro hac vice* admission to this Court by fulfilling the following requirements:

(A) **Motion.** Only a member in good standing of the Bar of this Court who is actively associated with the applicant in the subject case or proceeding may move for the applicant's *pro hac vice* admission;

(B) **Supporting Affidavit.** The applicant must attach to the motion an affidavit containing the following information:

(i) the applicant's office mailing address, e-mail address, and telephone number;

(ii) a list of the courts to which the applicant has been admitted to practice, the dates of admission, and the applicant's bar identification number(s);

(iii) a statement that the applicant is in good standing and eligible to practice in those courts, if applicable;

(iv) a statement that the applicant is not currently suspended or disbarred in any jurisdiction, if applicable;

(v) a statement describing the nature and status of any past or pending disciplinary matters involving the applicant;

(vi) an affirmation that the applicant has read the District Court Local Rules and these Rules;

(vii) a statement that the applicant has registered to use the CM/ECF System in this District or in another district with comparable CM/ECF training, or a statement that the applicant will complete CM/ECF training and be registered within 28 days of the Court granting *pro hac vice* admission, and that the movant will effectuate electronic filings until the applicant is so registered;

(viii) a statement designating the movant as the applicant's agent for service of process and this Court as the forum for the resolution of any dispute arising from the applicant's *pro hac vice* admission; and

(ix) a statement that the applicant understands his or her obligation to file a notice with the Clerk if any fact underlying the foregoing statements changes during the pendency of the case (e.g., if the applicant is suspended or disbarred in any jurisdiction), within 14 days of such changes in circumstances.

(C) **Fee.** The current rate established for the *pro hac vice* admission fee must be paid to "U.S. Bankruptcy Court" and must accompany the motion. The fee is non-refundable. The Clerk will waive the admission fee for admission of federal government counsel. See also Vt. LBR 5081-1.

(2) **Revocation.** The Court may revoke *pro hac vice* admission for good cause at any time and without a hearing, including for an attorney's failure to disclose a material change to the affirmations made in support of the attorney's application for admission *pro hac vice*.

(3) **Local Counsel.** Unless excused by the Court for good cause, an attorney admitted *pro hac vice* must remain at all times associated in the action with a member of the Bar of this Court ("local counsel") upon whom all process, notices, and other papers must be served, who must sign all filings, and whose attendance is required at all hearings. (An attorney may be local counsel without having an office or residence in Vermont.)

(4) **Filing Documents Prior to Entry of Order Granting *Pro Hac Vice* Admission.** An attorney who is not admitted may file documents once the *pro hac vice* application is filed (and prior to entry of the order granting *pro hac vice* admission), but the time period for the opposing party to file the responsive pleading does not commence until local counsel files a notice of appearance.

(5) ***Pro Hac Vice* Admission for State Government Counsel.** A state government attorney who desires to appear in a case or proceeding pending before this Court may apply for admission under this Rule.

(6) **Waiver.** An attorney need not be admitted *pro hac vice* to file either a motion for relief from stay under § 362 or a proof of claim. However, unless waived by the Court, *pro hac vice* admission is required if litigation is necessary to adjudicate a motion for relief from stay or to determine the allowance of a proof of claim.

(c) Interns and Law Clerks.

(1) **Initial Requirements.** An eligible law student intern ("intern") or graduate of an approved law school who is not currently admitted to practice ("law clerk") may appear on behalf of a party if he or she:

(A) registers under the requirements of the Vermont Supreme Court's Rules of Admission to the Bar (see Parts II and III of the Rules of Admission to the Bar of the Vermont Supreme Court);

(B) is acting under the supervision of a member of the Bar of this Court; and

(C) has written consent from the party being represented.

(2) **Supervising Attorney.** The attorney who supervises an intern or law clerk must:

(A) be a member of the Bar of this Court;

(B) assume professional responsibility for the intern or law clerk's work;

(C) oversee and assist the intern or law clerk to the full extent necessary;

(D) introduce the intern or law clerk to the Court at his or her first appearance and appear with the intern or law clerk at all subsequent court appearances unless the Court waives the supervising attorney's presence;

(E) file a written agreement to supervise the intern or law clerk under these Rules; and

(F) notify the Court in writing when the intern or law clerk's eligibility has terminated under the provisions of subparagraph (6) below.

(3) **Additional Requirements for Law Student Intern.** To appear pursuant to these Rules, an intern must:

(A) be enrolled in good standing at a law school approved by the American Bar Association;

(B) have completed legal studies amounting to at least two semesters of credit, or the equivalent, in a law school approved by the American Bar Association; and

(C) not be employed or compensated by a client.

This Rule does not prevent an attorney, legal aid bureau, law school, public defender, or other agency from compensating a law student intern.

(4) **Additional Requirements for Law Clerk.** To appear pursuant to these Rules, a law clerk must:

(A) (i) be a graduate of a law school approved by the American Bar Association; or

(ii) pursuant to the Vermont Supreme Court Rules of Admission to the Bar, have completed Vermont's four-year law office studies program; and

(B) not be employed or compensated by a client.

This Rule does not prevent an attorney, legal aid bureau, law school, public defender, or other agency from compensating a law clerk.

(5) **Limitations on Role.** An intern or law clerk supervised in accordance with these Rules may:

(A) appear as counsel in Court or at other proceedings upon the filing of the written consent of the client and supervising attorney referred to above at paragraphs (c)(1) and (c)(2), and upon the Court's approval of the intern or law clerk's request to appear; and

(B) prepare and sign motions, petitions, answers, briefs, and other documents in connection with any matter in which the intern or law clerk has met the conditions of subparagraph (5)(A) above, provided each such filed document is also signed by the supervising attorney.

(6) **One-Year Limit.** A law clerk's approval to appear under these Rules expires one year after the date he or she graduated from an approved law school (or completed the four-year law office studies program as required by the Vermont Supreme Court's Rules of Admission to the Bar).

VT. LBR 2090-2. ATTORNEYS – DISCIPLINE AND DISBARMENT

When circumstances warrant discipline in this Court, this Court will enforce the disciplinary rules set forth in the District Court Attorney Disciplinary Rules.

VT. LBR 2091-1. ATTORNEYS – WITHDRAWALS

(a) Withdrawal of Attorney for the Debtor. Except as described in paragraph (b) below, an attorney who has appeared as attorney of record for a debtor may withdraw only upon order of the Court. No order of withdrawal will be issued without a hearing, unless the Court, in its discretion, waives the hearing upon receipt of a written stipulation of withdrawal signed by both the attorney and debtor. An order granting withdrawal of debtor's attorney must be served on all other parties in the case or proceeding in the manner set forth in paragraph (c) below.

(b) Substitution of Attorney for the Debtor. The Court may issue an order allowing substitution of attorney for the debtor without a hearing if a stipulation or substitution of counsel agreement (with the signature of the debtor, the withdrawing attorney, and the substituting attorney) is filed with the application for withdrawal. However, in its discretion, the Court may schedule a hearing to determine whether to approve the substitution (e.g., where the substitution request is filed within seven days of a hearing on a contested matter or within seven days of a trial). If issued, the order granting the substitution must be served on all other parties in the case or proceeding in the same manner as is set forth in paragraph (c) below. An attorney commencing employment in the case as substitute counsel must file a Rule 2016(b) disclosure statement and otherwise fully comply with Vt. LBR 2016-1 and these Rules.

(c) Withdrawal or Substitution of Other Attorneys. Notice of withdrawal or substitution of attorneys other than debtor's counsel will be deemed effective upon filing, and must be served upon all parties in the case or the proceeding, the case trustee, and the Office of the United States Trustee. An attorney who has appeared solely for the purpose of filing a proof of claim or a motion for relief from stay under § 362 need not seek Court approval to withdraw from representing a creditor.

PART III

VT. LBR 3001-1. CLAIMS AND EQUITY SECURITY INTERESTS – NO ASSET CASES

Every Chapter 7 case will be treated as a "No Asset" case unless and until the case trustee files a "Notice of Asset Case." Upon the case trustee's filing of this notice, the Court will set a deadline for the filing of proofs of claim and issue a "Notice to File Claims" as required by Fed. R. Bankr. P. 2002(f). Proofs of claim filed in Chapter 7 cases not designated as asset cases will be accepted by the Clerk for filing, but no action will be taken upon them at that time.

VT. LBR 3007-1. CLAIMS – OBJECTIONS

(a) Attachment of Proof of Claim to Objection. Each objection to claim must include a copy of the subject proof of claim as an exhibit.

(b) Objections to Claims in Chapter 12 and 13 Cases. In a Chapter 12 or 13 case, the case trustee, debtor, or any party in interest may file an objection to the allowance of a claim. The objection may be directed at either the entire claim or a portion of the claim and may address either the amount or classification of the claim, provided the amount or classification of the claim has not already been determined through a valuation motion. See Vt. LBR 3012-1. Objections to general unsecured claims must be filed no later than 60 days prior to the date the trustee will begin distributing to the general unsecured creditors. See also Fed. R. Bankr. P. 3007.

(c) Objections to Claims in Chapter 11 Cases. Any objection to a claim in a Chapter 11 case must be filed and served prior to the hearing held to consider and approve a disclosure statement, unless otherwise ordered by the Court.

Vt. LBR 3008-1. CLAIMS – RECONSIDERATION

See Vt. LBR 9023-1; see also Vt. LBR 9024-1.

VT. LBR 3012-1. VALUATION OF COLLATERAL AND ESTABLISHMENT OF INTEREST RATE

(a) Motion Required. A debtor seeking to modify the amount of a secured claim pursuant to § 506(a) must file a valuation motion in accordance with Fed. R. Bankr. P. 3012. See Vt. LB Form D-1 (model valuation motion). The debtor should file the valuation motion no later than the date the debtor's plan is filed, and the motion should be filed in time for the hearing on the motion to be held on the same date as the Chapter 12 or 13 confirmation hearing. Unless the debtor seeks to have the hearing held earlier, the Clerk will set the hearing date to coincide with the date of the initial confirmation hearing. If the debtor files the motion on or before the date on which the original plan is filed, the Clerk will serve the notice of motion

on the Chapter 12 or 13 trustee and any creditor with an interest in the subject collateral by a means equivalent to regular first class mail. See Vt. LBR 2002-1. If the debtor serves the motion and wishes to proceed using the Court's default procedure, he or she must file the motion in accordance with the requirements of Vt. LBR 9013-4. See also Vt. LB Form D-2 (model order granting valuation motion).

(b) Rebuttable Presumption of Valuation of Motor Vehicles. As a starting point, the valuation of motor vehicle collateral will be presumed to be the midpoint between the National Automobile Dealers Association average trade-in value and clean retail value unless (1) the parties agree to a different value, (2) the debtor or secured creditor presents an appraisal undisputed by the other party, or (3) the value is fixed by the Court as a result of an evidentiary hearing held specifically to determine the value of the particular vehicle.

(c) Other Valuation. The movant must specify the basis of any proposed valuation and attach documents that support the proposed valuation.

VT. LBR 3013-1. MOTION TO STRIP LIEN OR MORTGAGE THAT IS WHOLLY UNSECURED

(a) Caption of a Motion to Strip a Wholly Unsecured Lien or Mortgage under § 506(a). A motion under § 506(a) must conspicuously specify in the caption that it seeks to strip the lien or mortgage, identify the lien or mortgage holder, and specify that the lien or mortgage is wholly unsecured.

(b) Contents of the Motion. A § 506(a) motion to strip a wholly unsecured lien or mortgage in a Chapter 12 or 13 case must be filed in time to be heard at or before the date of the confirmation hearing. The movant must attach to the motion a copy of the lien or mortgage and the motion must:

(1) include a clear description of the property subject to the lien or mortgage in question;

(2) specify the value of the property;

(3) specify the basis for the property valuation;

(4) specify the name and address of each entity that holds a lien of record against the property and the recording reference for each lien (including town, book, page, and date of recording);

(5) specify the amount due on each lien; and

(6) affirm that there is no equity to which the subject lien or mortgage can attach; and

(7) request that the claim be disallowed as a secured claim and allowed as a wholly unsecured claim.

(c) Orders Granting Motions to Strip Mortgages or Other Liens. Unless the Court approves different terms after notice to the lien holder or mortgagee and the Chapter 12 or 13 trustee, a proposed order stripping a lien or mortgage in a Chapter 12 or 13 case must:

(1) specify that the lien or mortgage is stripped only if the plan is completed;

(2) state that if the case is dismissed, the order granting the motion to strip the lien or mortgage is void;

(3) provide that the order is conditional and is of no effect unless it contains a certification by the Chapter 12 or 13 trustee that the debtor satisfied all of his or her obligations in the case and the case was not dismissed; and

(4) include the following trustee certification language:

Certification of Chapter 12/13 Trustee

I, [name], the Chapter 12/13 Standing Trustee for the District of Vermont, hereby certify under penalty of perjury under the laws of the United States of America that the Debtor has completed his/her Chapter 12/13 Plan.

Dated: _____ *____[signature]_____*
Chapter 12/13 Trustee

VT. LBR 3013-2. CLASSIFICATION OF CLAIMS AND INTERESTS – CHAPTER 12

Secured and Priority Claims. The Chapter 12 trustee must pay all secured and priority claims the amount indicated in the proof of claim unless either the creditor affirmatively consents to a different treatment or an objection to the claim is filed and sustained. Where no proof of claim for a secured or priority debt is filed, the Chapter 12 trustee must pay the amount provided in the plan.

VT. LBR 3013-3. CLASSIFICATION OF CLAIMS AND INTERESTS – CHAPTER 13

Secured and Priority Claims. The Chapter 13 trustee must pay all secured and priority claims the amount indicated in the proof of claim unless either the creditor affirmatively consents to a different treatment or an objection to the claim is filed and sustained. Where no proof of claim for a secured or priority debt is filed, the Chapter 13 trustee must pay the amount provided in the plan.

VT. LBR 3014-1. CHAPTER 11 – § 1111(B) ELECTION

A class of secured creditors may make an election under § 1111(b) no later than 14 days before the confirmation hearing, unless a different date is set by the Court.

VT. LBR 3015-1. CHAPTER 13 – PLAN

(a) Mandatory Fee Disclosure and Payment through the Plan. Any unpaid debtor's attorney's fee must be disclosed and provided for in a Chapter 13 plan or an amendment to the plan, as well as in the Rule 2016(b) disclosure statement, and must be paid through the plan. All fees incurred by the debtor's attorney during the pendency of a Chapter 13 case must be approved by the Court, disclosed in an amended Rule 2016(b) statement, and paid through the plan. See also Vt. LBR 2016-2.

(b) Format of Plan. Debtors must file Chapter 13 plans using the local model plan. The local model plan is available in both PDF and spreadsheet formats on the Court's website, http://www.vtb.uscourts.gov. See also Vt. LB Form E. Plans filed not using the local model

plan may be subject to dismissal for failure to comply with the Rules unless the Debtor's attorney obtains prior Court approval waiving the requirement. Moreover, if the Court waives use of the local model plan in a particular case, the plan filed in that case must be in substantial compliance with the model plan and must include the elements enumerated in paragraph (c), below.

(c) Content of Plan. Each plan must clearly and conspicuously specify:

(1) the amount of the monthly payment;

(2) the source of the payment (e.g., wage deduction, automatic withdrawal, direct payment);

(3) the term (in months) of the plan;

(4) the total amount of all plan payments, including any lump sum payments;

(5) if property is to be sold to fund part of the payments to be made under the plan, the nature and location of the property (e.g., the address if real property, the vehicle identification number if a vehicle), the time frame within which the property will be sold (including the projected date of sale);

(6) if the debtor already has a contract for sale, how the property will be sold, and the projected amount and distribution of proceeds from the sale (including to whom the proceeds will be distributed and how much of the proceeds each creditor will be paid), see Vt. LBR 6004-1;

(7) the total to be paid to each secured creditor, including the amount of interest paid and the interest rate applicable to each secured claim;

(8) the total amount to be paid to each priority creditor;

(9) the total amount to be paid *pro rata* to the unsecured creditors and the estimated percentage dividend;

(10) any liens to be avoided (including each lien holder's name, the nature of each lien, and the balance due on each lien as of the Chapter 13 filing date);

(11) when property revests in the debtor;

(12) any executory contract to be assumed and the terms of the assumption; and

(13) any litigation to be commenced to effectuate the plan, including the name of the defendant(s), date by which the suit or motion will be filed, nature of the suit or motion, projected recovery, and projected disposition of recovery.

(d) Other Plan Requirements: Minimum Monthly Payments and Maximum Sale Period. Unless the Court orders otherwise, the minimum monthly plan payment is $50, and any sale to occur under the plan must close within one year of confirmation of the plan.

(e) Treatment of Pre-Petition Claims. All allowed pre-petition claims must be treated in the plan, regardless of the preference of any particular creditor or dischargeability of the debts.

(f) Payment of Secured Claims. When required by applicable bankruptcy or non-bankruptcy law, secured claims must be paid with interest unless a creditor affirmatively waives interest. Unless the parties agree otherwise, the trustee will recommend and the Court will set the risk factor to be used in computing interest in each case. The trustee should compute the interest rate to be applied if the debtor has not properly done so. Treatment of each secured claim, including the interest rate to be paid on the claim, must be clearly specified in both the plan and the confirmation order.

(g) Bifurcation of Claims. An undersecured claim will be allowed as a secured claim to the extent of the value of the collateral, as set by Court order, and allowed as an unsecured claim to the extent an allowed proof of claim asserts an amount due in excess of the value of the collateral. See Vt. LBR 3012-1(a) (requiring the filing of a valuation motion). Except to the extent the unsecured portion of the claim qualifies as a priority claim, the balance of the allowed claim will be a general unsecured claim, and will be included in the computation of the dividend to general unsecured creditors. The bifurcated treatment of undersecured claims must be clearly specified in the plan and confirmation order. If the holder of a wholly or partially secured claim that has been the subject of a valuation motion files a proof of claim for an amount that exceeds the amount set forth in the valuation order, the difference between the proof of claim and the allowed secured claim will be allowed as an unsecured claim without need of either an objection to claim or an amended proof of claim.

(h) Payment of Short-Term Secured Debts. Short-term secured debts (e.g., automobile loans, equipment loans, rent-to-own "leases," mortgages that must be paid in full during the term of a plan) may be paid through the plan applying the general rules for payment of secured claims set forth above, provided the holder of the short-term secured claim has notice of the treatment and either has not objected to such treatment or has had its objection overruled.

(i) Amended Plan. A debtor seeking to amend a proposed Chapter 13 plan (i.e., a plan that has not been confirmed) is not required to file a motion to do so. Rather, the debtor need only file an amended plan with the Clerk and serve it on all parties whose treatment is diminished from the treatment set forth in the original plan. An amended plan (with all necessary amended schedules) must be filed no later than seven days before the confirmation hearing, unless the debtor can demonstrate the information necessary for the amended plan (and the amended schedules) was not available prior to the date it was filed. See generally Vt. LBR 3015-2.

(j) Motion to Enlarge Time. If a debtor files a motion to enlarge the time to file the chapter 13 plan and the date requested for the extension is less than one week before the initial § 341 meeting, the debtor must obtain the trustee's consent.

Vt. LBR 3015-2. CHAPTER 13 – CONFIRMATION

(a) Court's § 1324(b) Determination. Based upon the local geography of Vermont, travel distances within the state, and the economic impact of holding the § 341 meetings of creditors and confirmation hearings on different dates, as well as the success of the practice of holding Chapter 13 § 341 meetings and confirmation hearings on the same day, the Court determines it is in the best interest of creditors of all Chapter 13 debtors and estates to

continue to hold confirmation hearings on the same day as the initial § 341 meetings of creditors. See also Vt. LBR 4002-1(d)(1).

(b) Court's § 1324(b) Determination is Rebuttable Presumption. The Court's § 1324(b) determination that it is best to hold the Chapter 13 § 341 meeting and confirmation hearing on the same day is a presumption that is rebuttable in any case. Any creditor or party in interest may file an objection to the presumptive determination showing it is in the best interest of the creditors and the estate for the confirmation hearing to be held not earlier than 20 days after the § 341 meeting of creditors in that case. Such objection, if in writing, must be filed no later than seven days before the § 341 meeting of creditors. However, where the creditor or party in interest does not have sufficient information to make the objection until after the § 341 meeting, such objection may be made orally at the confirmation hearing.

(c) Preference for Written Objections to Confirmation. Parties are encouraged to submit objections to the confirmation of a Chapter 13 plan in writing. Regardless of whether presented in writing or orally, objections must specify the factual and legal grounds for the objection. If in writing, the objection must be filed with the Clerk and served on the Chapter 13 trustee, the debtor, and the debtor's attorney at least three business days prior to the date set for the initial confirmation hearing on the proposed plan. Any response to a written objection must be filed within two business days of the filing of the objection.

(d) Creditors' Duty to Review, and Opportunity to Object to, Plans and Amended Plans. Creditors are charged with the duty to promptly review plans and amended plans, and to file any objections prior to the hearing on the plan that first includes the objectionable provision. The Court will only consider an objection to a plan term that is filed after the first hearing on the plan containing that term if the debtor and the Chapter 13 trustee consent to timing of the objection, or the objecting party demonstrates that (1) the import of the objectionable term was not clear until an amended plan was filed, (2) the tardiness of the filing does not prejudice any party, or (3) there is good cause for the Court to enlarge the time for filing of the objection.

(e) Filings Considered in Connection with the Confirmation Hearing. No document filed later than 10:00 a.m. on the last business day before the confirmation hearing will be considered by the Court in connection with the confirmation hearing; the confirmation hearing will proceed as if the late-filed document had not been filed. See also Vt. LBR 9013-1(j).

(f) Attendance at Confirmation Hearing. Absent exigent circumstances and a prior order of the Court, the debtor and the debtor's attorney, if any, are required to attend the confirmation hearing. The debtor must be in the courtroom promptly at the commencement of the confirmation hearing calendar. A debtor's failure to attend the confirmation hearing is grounds for dismissal of the case.

(g) Requests to Postpone Confirmation Hearing.

(1) **Request to Postpone the Initial Confirmation Hearing.** Any motion or stipulation to postpone an initial confirmation hearing must be filed at least seven days prior to the initial confirmation hearing date. The motion must set forth good cause for the

continuance and must be supported by the consent of the Chapter 13 trustee, which must also be filed at least seven days prior to the initial confirmation hearing date. The motion must be served on all creditors. The initial confirmation hearing will proceed—and the debtor's attorney must appear at the hearing—unless the Court finds the movant has set forth good cause for the continuance, the granting of the continuance will not prejudice creditors (recognizing that with greater notice there is less likelihood of prejudice), and the Court enters an order granting the continuance and canceling the initial confirmation hearing.

(2) **Request to Postpone a Continued Confirmation Hearing.** Any motion or stipulation to postpone a continued confirmation hearing must be filed by 10:00 a.m. on the last business day before the continued confirmation hearing, and set forth good cause for the continuance. The motion must be served on the Chapter 13 trustee, any party in interest who appeared at a prior confirmation hearing, and any party who filed an objection or response to the debtor's Chapter 13 plan. It must be supported by the consents of the Chapter 13 trustee, any party in interest who appeared at a prior confirmation hearing, and any party who filed an objection or response to the debtor's Chapter 13 plan. All required consents must also be filed by 10:00 a.m. on the last business day before the continued confirmation hearing. See Vt. LBR 9011-4(e) & (f); see also Vt. LBR 9013-1(f), (j). The continued confirmation hearing will proceed unless the Court finds (A) the movant has set forth good cause for the continuance; (B) where the movant is the debtor, the debtor has rebutted the presumption of unreasonable delay (see subparagraph (4), below); (C) the motion and the required consents were timely filed; (D) the granting of the continuance will not prejudice creditors; and (E) the Court enters an order granting the continuance and canceling the previously scheduled confirmation hearing.

(3) **Untimely Request to Continue Confirmation Hearing; Appearance at Confirmation Hearing Required.** A motion to postpone a confirmation hearing that is filed late will not be approved except under exigent circumstances. Where a party untimely files such a motion, the party must appear at the confirmation hearing to report on the status of the case. The Court will then rule on the request to postpone the confirmation hearing.

(4) **Rebuttable Presumption of Unreasonable Delay.** If a debtor's Chapter 13 plan is not ready for confirmation or the debtor has not fulfilled all of the pre-requisites for confirmation (e.g., filing of required tax returns, see Vt. LBR 4002-1(d)(1), presenting the Chapter 13 trustee with proof of insurance, see Vt. LBR 4070-1) within 30 days after the initially scheduled confirmation hearing, a rebuttable presumption will arise that the debtor caused unreasonable delay as that term is used in § 1307, and that presumption will be a basis for dismissing the case. In such an instance, it is the debtor's burden to show why the Chapter 13 case should not be dismissed.

(h) Confirmation Orders. Promptly after confirmation of a plan, and after any pre-conditions stated by the Court are satisfied, the Chapter 13 trustee shall file a proposed confirmation order. The confirmation order shall show the calculations upon which the plan is based, and verify the debtor's compliance with all requirements of § 521. If the Court grants any other relief at the confirmation hearing or in connection with the debtor's Chapter 13 reorganization (e.g., avoidance or stripping of liens, valuation of collateral, surrender of collateral, relief from the automatic stay), the party who prevailed on the underlying motion

for this relief must file a separate proposed order. This tangential relief is not to be included in the confirmation order. However, the confirmation order may include minor adjustments and additional provisions or revisions to terms of a plan.

(i) Sale Plans. The order confirming a plan that is funded in part from the sale of property must set forth the address of the real property, or the vehicle identification number of the vehicle, being sold, and unless the Court orders otherwise, the sale must be concluded within one year of confirmation of the plan. Additionally, whenever property is sold through a Chapter 13 case, the debtor must also file a separate motion to approve the sale. See Vt. LBR 6004-1.

(j) Conduit Mortgage Payments.

(1) **Local Bankruptcy Forms.** Paragraph (h) requires use of the following local bankruptcy forms: mortgage creditor checklist (Vt. LB Form Y-1); notice of conduit mortgage payment and authorization to release information to the Chapter 13 trustee (Vt. LB Form Y-2); model mortgage payment history (Vt. LB Form Y-5); and notice of transfer of claim (other than for security) (Vt. LB Form Y-6). All of these forms are available on the Court's website, http://www.vtb.uscourts.gov. Use of these forms is required, with the exception that if a Mortgage Creditor (as defined in subparagraph (2)(G)) is already using forms that substantially conform to these forms and provide all of the information included on the forms, the Mortgage Creditor may use its own forms unless and until the Court orders otherwise.

(2) **Definitions.** For purposes of this Rule, the following terms have the stated meanings:

(A) The "Administrative Arrearage" is the sum of the first two post-petition Regular Monthly Mortgage Payments due under the note, which the Chapter 13 trustee pays with the Pre-Petition Mortgage Arrearage.

(B) An "Administrative Arrearage Claim" is a claim that must be included in a Conduit Mortgage Payment Plan, which consists of at least the first two monthly mortgage payments that come due immediately after the filing of the Chapter 13 case. This claim is paid to the Mortgage Creditor during the term of the Chapter 13 plan and is intended to address the fact that payments of the Regular Monthly Mortgage Payment by the Chapter 13 trustee will not typically commence until approximately 30 to 60 days from the date the petition is filed. The purpose of including an Administrative Arrearage Claim in a Chapter 13 plan is to allow Conduit Mortgage Payments to start later than the first mortgage payment due date after the filing of the petition and for those payments to be brought current during the early months of the Chapter 13 plan.

(C) A "Conduit Mortgage Payment" is the Regular Monthly Mortgage Payment the debtor is obligated to pay to the Mortgage Creditor post-petition, which the Chapter 13 trustee disburses pursuant to the terms of this Rule.

(D) A "Conduit Mortgage Payment Plan" is a Chapter 13 plan that includes the payment of ongoing monthly mortgage payments on one or more mortgages, by the Chapter 13 trustee to the Mortgage Creditor from payments that are included in the debtor's Chapter 13 plan payments to the Chapter 13 trustee.

(E) The debtor is "Delinquent" when the debtor owes the Mortgage Creditor any past due payments or other charges as of the Filing Date. This term does not include a failure to make Regular Monthly Mortgage Payments that came due after the Filing Date.

(F) The "Filing Date" is the date the case was filed under, or converted to, Chapter 13.

(G) A "Mortgage Creditor" is an entity entitled to enforce an allowed claim secured by a properly perfected mortgage on the debtor's residential real property, or the servicer for that entity, as determined by which entity files a proof of claim for the mortgage debt. Wherever this Rule refers to notice on the Mortgage Creditor, or requires the Mortgage Creditor to file a document, it also refers to the Mortgage Creditor's attorney.

(H) The "Mortgage Payment Accounting" is a complete history of the Chapter 13 trustee's receipt of payments from the debtor and disbursement of payments to the Mortgage Creditor, with the disbursements showing separate entries for the Conduit Mortgage Payments, Administrative Arrearage, and Pre-Petition Mortgage Arrearage components.

(I) The "Plan Completion Date" is the date on which the debtor fulfilled the debtor's obligations under the Chapter 13 plan, as identified by the Chapter 13 trustee, or as determined by the Court in the event of a dispute.

(J) The "Post-Petition Mortgage Arrearage" is the sum of past due Regular Monthly Mortgage Payments the debtor owes to a Mortgage Creditor post-petition, excluding the first two post-petition Regular Monthly Mortgage Payments, which are treated as the Administrative Arrearage.

(K) The "Pre-Petition Mortgage Arrearage" is the sum of Regular Monthly Mortgage Payments the debtor owes to a Mortgage Creditor that came due prior to the Filing Date, without regard to any grace period that expires post-petition.

(L) A "Regular Monthly Mortgage Payment" is the sum of the principal, interest, taxes, insurance, administrative fees, and any other charges properly escrowed, charged, or assessed under a note and secured by a properly perfected mortgage on the debtor's residential real property, which is due each month.

(M) A "Waiver Order" is a Court order that waives the requirement to make Conduit Mortgage Payments to the Mortgage Creditor through a Chapter 13 plan.

(3) **Post-Petition Mortgage Payments.** A debtor is required to make Conduit Mortgage Payments as follows:

(A) **When the Debtor is Not Delinquent.**

(i) Except as provided in subsections (iii) and (iv), below, a debtor who is not Delinquent is not required to make Conduit Mortgage Payments.

(ii) A debtor who is not Delinquent may elect to make Conduit Mortgage Payments as outlined in this Rule, by so specifying in the Debtor's Chapter 13 plan.

(iii) If (a) a debtor has been making Regular Monthly Mortgage Payments directly to a Mortgage Creditor post-petition pursuant to section (i), (b) the Mortgage Creditor files a motion for relief from stay based at least in part upon the debtor's post-petition default in Regular Monthly Mortgage Payments, (c) the Court finds the debtor is in default on those payments, but (d) the Court either allows the debtor to retain the real property that secures the Mortgage Creditor's claim and conditionally maintains the automatic stay or denies the motion based upon the debtor's election to make Conduit Mortgage Payments, then the Mortgage Creditor must include in its proposed order provisions directing the debtor to make Conduit Mortgage Payments commencing with the first Regular Monthly Mortgage Payment due date following entry of the order, requiring the debtor to increase the monthly plan payments to an amount sufficient to include the Conduit Mortgage Payment, and directing the debtor to comply with all applicable provisions of this paragraph.

(iv) If (a) a debtor has been making Regular Monthly Mortgage Payments directly to a Mortgage Creditor post-petition pursuant to subsection (i), and (b) the debtor files a motion to modify the Chapter 13 plan based upon a post-petition default in Regular Monthly Mortgage Payments, the motion and corresponding proposed order must require the debtor to make Conduit Mortgage Payments commencing with the first Regular Monthly Mortgage Payment due date following entry of the order granting modification of the plan, and to increase the monthly Chapter 13 plan payment to an amount sufficient to include the Conduit Mortgage Payment.

(B) **When the Debtor is Delinquent.**

(i) Except as provided in subsection (ii), below, a debtor who is Delinquent is required to make Conduit Mortgage Payments.

(ii) A debtor who is Delinquent may obtain a Waiver Order only upon a showing of cause, based upon exigent circumstances.

(a) The debtor bears the burden of showing cause in any motion for a Waiver Order. The debtor must file the motion on notice to the Chapter 13 trustee and the Mortgage Creditor within seven days of the Filing Date, and may use the default procedure. See Vt. LBR 9013-4.

(b) The additional cost associated with the Chapter 13 trustee's fee on the Conduit Mortgage Payment will not constitute cause for entry of a Waiver Order unless the debtor shows that the additional cost would cause the Chapter 13 plan to fail.

(iii) A Mortgage Creditor or the Chapter 13 trustee may file a motion to revoke a Waiver Order if:

(a) the Mortgage Creditor files a motion for relief from stay based at least in part upon the debtor's post-petition default in Regular Monthly Mortgage Payments;

(b) the Court finds the debtor is in default of those payments;

(c) the outcome of the motion for relief from stay is the Court's entry of an order that either (1) allows the debtor to retain the real property that secures the Mortgage Creditor's claim and conditionally maintains the automatic stay, or (2) denies the motion for relief from stay based on the debtor's election to make Conduit Mortgage Payments; and

(d) the debtor has not filed a motion to modify the Chapter 13 plan to voluntarily commence making Conduit Mortgage Payments pursuant to section (A)(iv).

(4) **Duties of the Debtor.** A debtor who is Delinquent, is otherwise subject to the Conduit Mortgage Payment requirement, or voluntarily chooses to make Conduit Mortgage Payments, must fulfill the following duties:

(A) **Duty to Specify Components of Mortgage Creditor's Claim in Chapter 13 Plan.**

(i) In the Chapter 13 plan, the debtor must specify:

(a) the amount of the Conduit Mortgage Payment;

(b) the amount of the Pre-Petition Mortgage Arrearage and the Regular Monthly Mortgage Payments included in that arrearage figure; and

(c) the amount of the Administrative Arrearage and the Regular Monthly Mortgage Payments included in that figure.

(ii) The debtor must also file a wage withholding authorization (Vt. LB Form Y-8) with the Chapter 13 plan, unless the debtor files a motion for waiver of the wage withholding requirement.

(B) **Duty to Provide Forms to the Chapter 13 Trustee and Mortgage Creditor.** The debtor must complete the mortgage creditor checklist (Vt. LB Form Y-1) and the notice of conduit mortgage payment and authorization to release information to the Chapter 13 trustee (Vt. LB Form Y-2), and must provide both, along with a copy of the three most recent mortgage invoices or monthly payment vouchers the debtor has, to the Chapter 13 trustee, with a copy to the Mortgage Creditor, no later than seven days after the Filing Date.

(C) **Duty to Make Timely First Chapter 13 Plan Payment Directly to the Chapter 13 Trustee.** The debtor must make the first Chapter 13 plan payment, in an amount that includes the full Conduit Mortgage Payment, directly to the Chapter 13 trustee within 30 days of the Filing Date.

(D) **Duty to Make Sufficient Chapter 13 Plan Payments.** If the amount of the Regular Monthly Mortgage Payment increases during the term of the Chapter 13 plan, the

debtor must increase the amount of the Chapter 13 plan payment to the Chapter 13 trustee by an amount equal to the increase in the Regular Monthly Mortgage Payment due, plus the Chapter 13 trustee's fee allocable to that additional sum, and the Chapter 13 trustee must effectuate this via notice to the entity withholding the Chapter 13 plan payment. The increased Chapter 13 plan payment will be due on the effective date of the increase in the Regular Monthly Mortgage Payment. If the amount of the Regular Monthly Mortgage Payment decreases during the term of the Chapter 13 plan, the Chapter 13 plan payment will not change, and the Chapter 13 trustee must retain the additional funds and disburse them as set forth in subparagraph (7)(A)(iv), unless the debtor modifies the Chapter 13 plan to provide otherwise.

(E) **Penalty for Failure to Comply with Foregoing Requirements.** The debtor's failure to comply with the requirements of subparagraph (4) may result in the Court denying confirmation of the Chapter 13 plan.

(F) **Additional Duty to Object to Proof of Claim.** If the debtor believes that the Mortgage Creditor's proof of claim is inaccurate, the debtor must promptly file an objection to the proof of claim.

(i) If the debtor's objection is overruled, within seven days of the Court's ruling, (a) the Chapter 13 trustee must file a notice of increased Chapter 13 plan payment and serve that notice on the debtor's employer to increase wage withholding to reimburse the Mortgage Creditor for any post-petition shortfall and to make correct payments going forward to comport with the allowed proof of claim, and (b) if needed, the debtor should file a motion to amend or modify the Chapter 13 plan.

(ii) If the debtor's objection is sustained, the trustee must continue to disburse payments in the amount determined by the Court and file an amended proof of claim on behalf of the Mortgage Creditor consistent with the Court's order.

(5) **Duties of the Chapter 13 Trustee.**

(A) **Duty to Disburse Conduit Mortgage Payments.** Upon receipt of a mortgage creditor checklist (Vt. LB Form Y-1), notice of conduit mortgage payment and authorization to release information to the trustee (Vt. LB Form Y-2), and the first Chapter 13 plan payment, the Chapter 13 trustee must commence disbursing Conduit Mortgage Payments to the Mortgage Creditor in the amount specified in the debtor's Chapter 13 plan, unless the debtor has filed a motion requesting that no payments be made to the Mortgage Creditor until some future date (e.g., the filing of a proof of claim by the Mortgage Creditor, resolution of an objection to the Mortgage Creditor's proof of claim), and the Court enters an order granting the debtor's motion. If the Chapter 13 trustee makes payments to the Mortgage Creditor according to the Chapter 13 plan and it later becomes clear, by agreement or Court order, that the amount paid to the Mortgage Creditor was not due, either in whole or in part, the Mortgage Creditor must disgorge any such overpayments. See subparagraph (6)(B).

(B) **Duty to Pay Administrative Arrearage with Pre-Petition Mortgage Arrearage.**

The Chapter 13 trustee will pay the amount due for Administrative Arrearage with the amount due for Pre-Petition Mortgage Arrearage.

(C) **Duty Regarding Plan Payment Increases.** Upon receipt of a notice of mortgage payment change (Official Form B410S-1), pursuant to subparagraph (7)(A), the Chapter 13 trustee must:

(i) file with the Court notice of any required Chapter 13 plan payment increase;

(ii) serve a copy of such notice on the debtor and the debtor's attorney; and

(iii) if the debtor does not object, pursuant to subparagraph (7), within 14 days of service of the notice of mortgage payment change, then the Chapter 13 trustee must file a notice of increased Chapter 13 plan payment and promptly serve notice of increased wage withholding on the entity withholding the Chapter 13 plan payment, and must commence making Conduit Mortgage Payments in the new amount on the later of the date the Chapter 13 trustee begins receiving increased Chapter 13 plan payments or the effective date of the new payment.

(D) **Duty to Disburse Only Full Payments; Duty When Insufficient Funds Available.** The Chapter 13 trustee must disburse payments only in an amount equal to the Regular Monthly Mortgage Payment to the Mortgage Creditor as Conduit Mortgage Payments unless the Chapter 13 trustee is disbursing a final payment due to satisfaction of claim, conversion, or dismissal. If funds in the debtor's account with the Chapter 13 trustee are not sufficient to make a full Conduit Mortgage Payment and pay the corresponding Chapter 13 trustee's fee, then the Chapter 13 trustee must hold such funds until the Chapter 13 trustee receives from the debtor funds sufficient to do so. In such an event, within seven days of the date the Chapter 13 trustee intended to make the Conduit Mortgage Payment, the Chapter 13 trustee must notify by email the debtor, the debtor's attorney, and the Mortgage Creditor that there are insufficient funds to make full payment and the amount of additional funds needed to make a full payment.

(E) **Duty to Specify Proper Application of Payment.** The Chapter 13 trustee's payments to a Mortgage Creditor must include a voucher narrative:

(i) identifying the debtor's name, Chapter 13 case number, and the Mortgage Creditor's account number; and

(ii) indicating how to apply each payment to the Conduit Mortgage Payment, Administrative Arrearage, and Pre-Petition Mortgage Arrearage components of the Mortgage Creditor's allowed claim.

(F) **Duties upon the Debtor's Default.** If the debtor fails to make any timely or full Chapter 13 plan payment, including the first Chapter 13 plan payment, then the Chapter 13 trustee must take the following steps:

(i) The first time the debtor fails to make a timely or full Chapter 13 plan payment, the Chapter 13 trustee must file - and serve upon the debtor, the debtor's attorney,

and the Mortgage Creditor - a notice of delinquency specifying the due date and amount of the missed payment, and the amount needed to cure the plan payment default, within 14 days of the default. If the debtor does not cure the default or file a motion to modify the Chapter 13 plan, within 30 days of the filing of the Chapter 13 trustee's notice, then the Chapter 13 trustee must promptly file and serve upon all parties in interest a motion to dismiss the case based upon the payment default and any other grounds the Chapter 13 trustee deems warrant dismissal of the case.

(ii) The second time the debtor fails to make a timely or full Chapter 13 plan payment, within 14 days of the default, the Chapter 13 trustee must file and serve upon all parties in interest a motion to dismiss the case, specifying that it is the second Chapter 13 plan payment default and any other grounds the Chapter 13 trustee deems warrants dismissal of the case.

(iii) Nothing in this paragraph precludes a Mortgage Creditor, or any other party in interest, from filing a motion to dismiss the case or a motion for relief from stay based upon a debtor's default in Chapter 13 plan payments or other requirements of this paragraph, or other grounds set forth in § 1307.

(G) **Duty to Declare Plan Completion Date.** Within 21 days of the date the debtor has made his or her final Chapter 13 plan payment, the Chapter 13 trustee must make a docket entry identifying the Plan Completion Date.

(H) **Duty to File Motion to Declare the Debtor Current at Conclusion of Case.** See subparagraph (8).

(6) **Duties of the Mortgage Creditor.**

(A) **Duty to File a Proof of Claim as Soon as Practicable.** A Mortgage Creditor with a Pre-Petition Mortgage Arrearage claim is encouraged to file a proof of claim as soon as practicable after receipt of notice of the debtor's bankruptcy filing. The Mortgage Creditor should attach to the proof of claim a mortgage proof of claim attachment (Official Form 410A) to facilitate a prompt commencement of post-petition payments in the correct amount, and is further encouraged to provide the mortgage proof of claim attachment to the Chapter 13 trustee in advance of filing the proof of claim.

(B) **Duty to Disgorge.** If the Court determines that a payment the Chapter 13 trustee made to the Mortgage Creditor included an overpayment or was otherwise improper, the Mortgage Creditor must promptly disgorge that sum to the Chapter 13 trustee.

(C) **Duty to Apply Payments Properly.** The Mortgage Creditor must apply each Conduit Mortgage Payment disbursed by the Chapter 13 trustee to the earliest outstanding post-petition payment due under the Chapter 13 plan, as will be specified on the voucher narrative accompanying the payment. This will generally require the Mortgage Creditor to treat the sums due as the Administrative Arrearage as part of the Pre-Petition Mortgage Arrearage for purposes of applying payments, and to apply the first Conduit Mortgage Payment it receives to the third Regular Monthly Mortgage Payment due from the debtor post-petition.

(D) **Duty to Limit Late Fees.** The Mortgage Creditor may not charge the debtor a late fee unless:

(i) The tardiness of the payment was caused by the debtor's failure to make a full or timely Chapter 13 plan payment to the Chapter 13 trustee; and either

(a) the Chapter 13 trustee and the debtor consent to the assessment of a late fee; or

(b) the Court enters an order, which the Mortgage Creditor may seek through an emergency motion for expedited relief, authorizing the Mortgage Creditor to charge, and the Chapter 13 trustee to pay, a late fee, and directing a one-time increase in the plan payment amount to fund payment of the late fee and corresponding Chapter 13 trustee's commission; or

(ii) the Court enters an order authorizing the Mortgage Creditor to collect a late fee (e.g., in connection with a motion to dismiss or motion for relief from stay); or

(iii) the Mortgage Creditor obtains an order pursuant to subparagraph (7)(B).

(E) **Duty to Provide Annual Payment History.**

(i) During the pendency of the Chapter 13 case and using the model mortgage payment history form (Vt. LB Form Y-5), on or before March 1st of each year, the Mortgage Creditor must provide to the debtor, the debtor's attorney, and the Chapter 13 trustee, a summary of the 12-month mortgage payment history from January 1st through December 31st of the previous year, on the loan on which Conduit Mortgage Payments have been disbursed. If the case was filed or converted from another chapter on or after January 1st, the first summary must include activity on the account from the Filing Date through December 31st of the previous year.

(ii) The mortgage payment history summary is not to be filed with the Court unless authorized by the Court to do so or it is pertinent to a motion for relief from stay or a motion to dismiss, in which event it shall be filed as an attachment to the motion.

(F) **Duty to Provide Documents to the Debtor's Attorney and the Chapter 13 Trustee.** The Mortgage Creditor must provide to the debtor's attorney and the Chapter 13 trustee copies of all documents sent to the debtor post-petition, including correspondence, statements, payment coupons, escrow notices, and default notices, and any other documents, which disclose a change in:

(i) the name or identity of the Mortgage Creditor;

(ii) the monthly payment amount;

(iii) the interest rate or escrow requirements; or

(iv) the address to which mortgage payments are to be sent.

(G) **Duty to Attach Information to Motion for Relief from Stay.** A motion for relief from stay in a Conduit Mortgage Payment case must be accompanied by either a mortgage payment history summary (Vt. LB Form Y-5) setting forth the post-petition account history, or a print-out from the Chapter 13 trustee's website showing the debtor's Chapter 13 plan payment history, including the portion of the website report showing the date the data was last updated. If the Mortgage Creditor prevails on its motion for relief from stay, demonstrates that payments were not timely made, and a conditional or absolute order for relief is entered, the proposed order may authorize the Mortgage Creditor to collect late fees on past due payments, if the Mortgage Creditor requested that relief in the motion. See Vt. LBR 4001-1.

(7) **Post-Petition Changes and Additional Charges.**

(A) **Changes to Regular Monthly Mortgage Payment Amount.**

(i) If the mortgage documents authorize the Mortgage Creditor to modify the Regular Monthly Mortgage Payment amount, and the Mortgage Creditor files and serves a notice of mortgage payment change (Official Form B410S-1) pursuant to Fed. R. Bankr. P. 3002.1(b), then the debtor, Chapter 13 trustee, or any other party in interest shall have 14 days to file a response or objection to the notice of mortgage payment change. If no response in opposition or objection is timely filed, then the debtor is deemed to have accepted the mortgage payment change, and that amount will become the new Regular Monthly Mortgage Payment on the effective date provided in the notice of mortgage payment change.

(ii) If the plan payment will need to increase as a result of the increase in the Regular Monthly Mortgage Payment amount, the Chapter 13 trustee may arrange for the modification in withholding or bank account debit to satisfy the increase in the Regular Monthly Mortgage Payment amount. See subparagraph (5)(C).

(iii) If a modified plan is necessary as a result of the increase in the Regular Monthly Mortgage Payment amount and the debtor has not yet filed a motion to modify, the Chapter 13 trustee shall file a request for a status conference to address how the debtor will satisfy the obligations under the plan in light of the increase in the Regular Monthly Mortgage Payment amount.

(iv) When a modified Regular Monthly Mortgage Payment amount goes into effect pursuant to subparagraph 7(A)(i), the Chapter 13 trustee may disburse the new Conduit Mortgage Payment as of the effective date set forth in the notice of mortgage payment change, without an order of the Court.

(B) **Treatment of Post-Petition Charges Incurred.** If the Mortgage Creditor incurs post-petition attorney's fees, costs, or other charges, such as property inspection fees, persistent post-petition late charges not addressed as described in subparagraph (6)(C), or other items payable by the debtor under the terms of the loan documents (hereafter, collectively "charges"), then the following requirements will apply:

(i) To collect these charges, the Mortgage Creditor shall file a notice, in compliance with Fed. R. Bankr. P. 3002.1(c), itemizing all charges, accompanied by a

mortgage payment history summary (Vt. LB Form Y-5), within 180 days after the date the charge was incurred.

(ii) Not later than one year after service of the notice and mortgage payment history summary, the debtor or the Chapter 13 trustee may file a response or objection thereto.

(iii) To expedite a determination as to the allowance of the claimed charges, the Mortgage Creditor may file a motion, on notice to the debtor, the debtor's attorney, and the Chapter 13 trustee, requesting that the additional charges be paid post-petition. In that event, the Mortgage Creditor must file a notice of post-petition mortgage fees, expenses and charges (Official Form 410S-2) with a motion requesting that the debtor either amend the plan or make a separate additional payment to satisfy the allowed outstanding post-petition charges; the Mortgage Creditor may file this motion using the default procedure.

(C) **Post-Petition Changes to the Name, Identity, or Address of the Mortgage Creditor.** The Mortgage Creditor must notify the debtor, the debtor's attorney, and the Chapter 13 trustee immediately upon learning of a change in the name or identity of the Mortgage Creditor payee or a change of address to which Conduit Mortgage Payments should be made, using a notice of transfer of claim (other than for security) (Vt. LB Form Y-6). The Mortgage Creditor will be precluded from seeking late fees based upon the Chapter 13 trustee's failure to send payments to the correct party or correct address if that failure is reasonably attributable to the timing or content of the notice by the Mortgage Creditor.

(8) **"Payments Current Order" at Completion, Dismissal, and Conversion of Chapter 13 Case.**

(A) **In Completed Conduit Mortgage Payment Cases.** Within 30 days after the debtor completes all payments under the Chapter 13 plan, the Chapter 13 trustee must:

(i) file and serve the notice of final cure payment required by Fed. R. Bankr. P. 3002.1(f) (the "Rule 3002.1(f) notice");

(ii) as an exhibit to the Rule 3002.1(f) notice, attach a Mortgage Payment Accounting;

(iii) pursuant to Fed. R. Bankr. P. 3002.1(h), file a motion for a determination of whether the debtor has cured the mortgage default and paid all required post-petition amounts to the Chapter 13 trustee and any Mortgage Creditor, regardless of whether the Mortgage Creditor has filed a response to the Rule 3002.1(f) notice; and

(iv) articulate in that motion the relief or declaration the Chapter 13 trustee is seeking, and whether the Chapter 13 trustee is proceeding under Fed. R. Bankr. P. 3002.1(i).

(B) **In Completed Non-Conduit Mortgage Payment Cases Where the Debtor Paid a**

Mortgage Arrears Through the Plan.

(i) Within 30 days after the debtor completes all payments under the Chapter 13 plan, the Chapter 13 trustee must file and serve the Rule 3002.1(f) notice and provide the debtor with a copy of the Mortgage Payment Accounting (with respect to the payments the Chapter 13 trustee made to the Mortgage Creditor).

(ii) If the Mortgage Creditor does not respond to the Rule 3002.1(f) notice within 21 days of service, the debtor may serve a motion to obtain an order finding that the debtor is current on the mortgage debt ("payments current motion"), following the procedure set out in Fed. R. Bankr. P. 3002.1(g)–(i). To obtain an order declaring the debtor current on the mortgage as of the completion of the Chapter 13 plan (a "payments current order"), the debtor must serve a payments current motion on the Mortgage Creditor, all parties who claim an interest in the debtor's residential real property, and the Chapter 13 trustee, and attach copies of (a) the Mortgage Creditor's proof of claim, (b) the confirmation order, (c) the Mortgage Payment Accounting, and (d) copies of the debtor's cancelled checks (or other records) showing proof the debtor made all required payments to the Mortgage Creditor. A payments current motion must be filed using the conventional procedure on at least 28 days' notice. See Vt. LBR 9013-3.

(iii) If the Mortgage Creditor objects to entry of a payments current order, then the Mortgage Creditor must file an objection no later than seven days before the hearing date, setting forth specific grounds for its position, and attaching a mortgage payment history to show that the debtor is not current. If the Mortgage Creditor does not object, (a) it will be deemed to have acknowledged that the debtor is current with Regular Monthly Mortgage Payments through the Plan Completion Date, and that the debtor owes no other charges under the note, (b) will be precluded from separately objecting to the Chapter 13 trustee's final report with respect to whether the debtor is current on its mortgage debt, and (c) will be precluded from disputing that the debtor is current (as set forth in the payments current order) in any other proceeding.

(iv) Any other party in interest may file a response to the payments current motion, provided it is filed no later than seven days before the hearing date.

(v) Upon entry of a payments current order, the debtor will be: (a) deemed current on the mortgage as of the Filing Date, extinguishing any right of the Mortgage Creditor to recover any amount alleged to have arisen prior to the Filing Date or to declare a default under the note or mortgage based upon events prior to the Filing Date; and (b) deemed current post-petition through the Plan Completion Date, thereby extinguishing any right of the Mortgage Creditor to recover any amount alleged to have arisen between the Filing Date and Plan Completion Date or to declare a default under the note or mortgage based upon events between the Filing Date and Plan Completion Date.

(C) **In Completed Non-Conduit Mortgage Payment Cases Where the Debtor Did Not Pay a Mortgage Arrears through the Plan.** If the debtor made Regular Monthly

Mortgage Payments to a Mortgage Creditor directly during the pendency of the case, the debtor may file a Payments Current Motion to obtain an order that the debtor is current on the mortgage debt as of the Plan Completion Date. To obtain this relief, the debtor must proceed as set out in subparagraph (8)(B), above.

(D) **Determination of Status of the Debtor's Mortgage Payments.** Except as otherwise provided herein, the procedures set forth in Fed. R. Bankr. P. 3002.1 will govern determinations of the status of a debtor's mortgage payments.

(E) **Rights in Chapter 13 Cases that Are Not Completed.** Within 90 days of the date of conversion or dismissal of a chapter 13 case, the debtor may file a motion seeking an order declaring the status of the debtor's pre- and post-petition obligations to the Mortgage Creditor, on 21 days' notice, using the conventional procedure. See Vt. LBR 9013-3. The debtor may rely upon the Chapter 13 trustee's final report to demonstrate proof of payments. The debtor, the Mortgage Creditor, and the Chapter 13 trustee may proceed—and will have the same rights and duties—as set forth in subparagraph (8)(B), above.

(9) **Jurisdiction.** This Court retains jurisdiction over any order entered pursuant to this paragraph.

VT. LBR 3015-3. CHAPTER 13 – REQUESTING EXTENSION OF APPLICABLE COMMITMENT PERIOD

Where a Chapter 13 debtor's calculation of commitment period and disposable income directs a plan of no longer than three years, upon a showing of cause, the debtor may request an applicable commitment period of longer than three years, but no more than five years, for the debtor's Chapter 13 plan. The debtor must set forth cause for the requested extension either in a clear and specific provision of the debtor's Chapter 13 plan or in a separate sworn statement filed with the Chapter 13 plan. Approval of the extended applicable commitment period may be included in the proposed confirmation order. See § 1322(d)(2).

VT. LBR 3015-4. CHAPTER 13 – MOTIONS TO MODIFY CONFIRMED CHAPTER 13 PLANS

(a) Modification of a Confirmed Chapter 13 Plan. A debtor, the Chapter 13 trustee, or a holder of an allowed unsecured claim may move to modify a confirmed plan at any time after confirmation of the plan, but before the completion of payments under the plan. A Court order is required to modify a confirmed plan.

(b) Content of a Motion to Modify Plan. A motion to modify a confirmed Chapter 13 plan must clearly set forth:

(1) the date of confirmation;

(2) the specific provisions of the plan (identified by paragraph numbers) to be modified; and

(3) the treatment of the affected provisions under both the confirmed plan and the proposed modified plan.

(c) Additional Requirements When Filing a Motion to Modify Plan. The moving party must also:

(1) simultaneously file clean and redlined copies of the proposed modified plan, and a proposed order modifying the plan; and

(2) serve the motion, proposed modified plan, and proposed order on the Chapter 13 trustee and all affected creditors; the motion may be noticed under the Court's default procedure. See Vt. LBR 9013-4.

Vt. LBR 3016-1. Chapter 11 - Small Business Cases – Plan

At the confirmation hearing, the plan proponent must disclose and offer evidence of sufficient cash flow to fund the plan for three years or the life of the plan, whichever is shorter.

Vt. LBR 3016-2. Chapter 11 - Disclosure Statements and Plans – Amendment

Whenever a party files an amended disclosure statement or plan, that party must file both a clean copy and a redlined version of the amended document, clearly designating all additions and deletions.

Vt. LBR 3017-1. Chapter 11 – Disclosure Statement – Approval

An order approving a disclosure statement should be filed using Vt. LB Form P, or an order that substantially conforms thereto.

Vt. LBR 3018-1. Chapter 11 – Ballots

The plan proponent must place the corresponding mailing list label on each blank ballot for each party to whom a ballot is issued. Completed ballots are to be forwarded to the plan proponent or its designee, and should not be sent to the Clerk.

Vt. LBR 3018-2. Chapter 11 – Acceptance and Rejection of Plan – Pre-Filing Solicitation

A summary of all plan acceptances and rejections solicited before the commencement of a case must be filed with the Clerk contemporaneously with the petition and accompanied by copies of all materials used in soliciting acceptances or rejections. On request of a party in interest or the Office of the United States Trustee, the Court will hold a hearing to determine if the requirements of § 1126(b) have been met.

Vt. LBR 3018-3. Chapter 11 – Certification of Acceptance and Rejection of Plan

A plan proponent must file with the Clerk a summary report of all voted ballots certifying the amount and number of allowed claims of each class accepting or rejecting the plan, and the amount of allowed interests of each class accepting or rejecting the plan (hereinafter, "Summary Ballot Report and Certification"). See Vt. LB Form G (model Summary Ballot Report and Certification). The plan proponent must also serve a copy of the Summary Ballot Report and Certification on the debtor-in-possession, the Chapter 11 trustee (if any), the Office of the United States Trustee, and any committee, to be filed and received not less than three business days

before the confirmation hearing. The Court, debtor-in-possession, Chapter 11 trustee (if any), and/or the Office of the United States Trustee may request copies of the voted ballots received by the plan proponent, and, upon request, the plan proponent must promptly provide the requesting party with copies of the ballots. The Court may find that the plan has been accepted or rejected on the basis of the Summary Ballot Report and Certification. The confirmation hearing will not commence unless the Summary Ballot Report and Certification has been timely filed, unless for good cause the Court directs otherwise.

VT. LBR 3020-1. CHAPTER 11 – CONFIRMATION

(a) Confirmation Requirements. The plan proponent has the burden of proof at the confirmation hearing. At least three business days before the confirmation hearing, the plan proponent must file the following with the Clerk:

(1) a Summary Ballot Report and Certification;

(2) a motion for confirmation of the plan describing the proof that the plan proponent will offer for each of the elements of § 1129(a); and

(3) any other document necessary to achieve plan confirmation.

(b) "Cram Down" under § 1129(b). A motion for a "cram down" pursuant to § 1129(b) will be heard at the confirmation hearing only if a request for hearing is filed and served at least 14 days before the scheduled confirmation hearing on the following parties: the attorneys for all members of the non-accepting classes, or the members if they are not represented by counsel; the attorney for any committee, or the committee members if the committee is not represented by counsel; and the Office of the United States Trustee.

(c) Order Confirming Chapter 11 Plan. The proposed findings of fact and order confirming the plan must be in substantially the same form as the form entitled "Order Confirming Chapter 11 Plan" (Vt. LB Form H). The proposed order must provide that all outstanding fees plus interest, if any, due to the Office of the United States Trustee will be paid by a date certain and must contain affirmative decretal paragraphs directing compliance with Vt. LBR 3022-1(a), (c), and (d). The following language, or substantially similar language, must be included in the order:

> *ORDERED that the proponent of the plan or the disbursing agent defined in the plan must comply with Vt. LBR 3022-1 by filing the report of substantial consummation and the motion for final decree no later than 180 days after the entry of this Order confirming the plan, unless the Court, for cause shown, enlarges the time upon motion filed and served within this 180-day period; and it is further*
>
> *ORDERED that the proponent of the plan or the disbursing agent defined in the plan must file with the Court and serve on the Office of the United States Trustee an operating report showing all cash disbursements for each month after confirmation of the case. The operating report must be in a form acceptable to the United States Trustee and will be due on the last day of the month after the month reported. The duty to file the monthly operating report will cease upon the entry of the final decree, the conversion of the case to another chapter under Title 11 of the United States*

Code, or the dismissal of the case. The operating report must disclose all disbursements for the reorganized debtor by stating the total amount of payments made in that month pursuant to the plan, with a subtotal of payments for each class defined in the plan. The operating report will further disclose whether the total amount paid to each class complies with the terms of the plan, is in a lesser amount, or whether there is a good faith dispute about the amount owed, the administrative expenses paid, and a total of cash disbursements made in the ordinary course of the debtor's ongoing operations; and it is further

ORDERED that the debtor must continue to make timely quarterly payments to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930(a)(6) and pursuant to 31 U.S.C. § 3717, if applicable, until the entry of the final decree, the conversion of the case to another chapter under Title 11 of the United States Code, or the dismissal of the case.

(d) Conspicuous Identification of the Plan Being Confirmed. After the confirmation hearing at which a Chapter 11 plan is confirmed, the plan proponent shall file a copy of the final version of the plan (with whatever revisions the Court articulated at the confirmation hearing) as an attachment to the proposed confirmation order. However, the plan proponent is not required to serve a copy of the confirmed Chapter 11 plan with the confirmation order.

(e) Fees Due to the Office of the United States Trustee. Upon confirmation of the plan, the plan proponent must pay a sum certain determined by the Office of the United States Trustee, to the Office of the United States Trustee for fees due pursuant to 28 U.S.C. § 1930(a)(6), plus any applicable interest due pursuant to 31 U.S.C. § 3717.

VT. LBR 3022-1. CHAPTER 11 – FINAL REPORT AND DECREE

(a) Report of Substantial Consummation. The plan proponent or the disbursing agent defined in the plan must file a report of substantial consummation that provides a basis for the Court to find that the plan proponent has satisfied the criteria of § 1101(2).

(1) The report of substantial consummation must be accompanied by a motion for final decree on notice to all creditors and parties in interest.

(2) Unless otherwise ordered, the motion for final decree must request that the Court terminate jurisdiction over the case and direct the Clerk's Office to close the case and include as exhibits:

(A) the final report form in substantial compliance with paragraph (d) of this Rule; and

(B) photocopies of the front and back of each canceled check showing the distributions made pursuant to the confirmed plan from commencement of the distribution under the plan, pursuant to § 1101(2)(C).

(3) The items required by subparagraphs (A) and (B) of section (a)(2) of this Rule need not be served with the motion for final decree except that the Office of the United States Trustee must be served with a copy of the motion containing exactly the same items as were filed with the Clerk.

(b) Time for Filing Report of Substantial Consummation in Non-Individual Debtor Chapter 11 Cases. The Court may require that the report of substantial consummation be filed as soon as all checks issued for the first distribution under the plan have cleared. In no event may the report of substantial consummation be filed later than 180 days after entry of a final order confirming a plan unless, upon motion filed and served within the original 180-day period and for good cause shown, the Court enlarges the time.

(c) Affidavit of Post-Confirmation Disbursements.

(1) The plan proponent or the disbursing agent defined in the plan must file with the Clerk, and serve on the Office of the United States Trustee post-confirmation operating reports, as required by United States Trustee Guidelines, showing all cash disbursements for each month after confirmation of the plan.

(2) The operating reports are due on the 20th day of the month after the month reported. The duty to file the monthly operating reports will cease upon the entry of the filing of an affidavit of substantial consummation.

(3) The monthly operating report must disclose all disbursements by stating:

(A) the total amount of payments made in that month pursuant to the plan with a subtotal of payments for each class defined in the plan; whether the total amount paid to each class is in compliance with the terms of the plan; whether the amount paid is less than the amount required by the plan; and whether there is a good faith dispute about the amount owed;

(B) the administrative expenses paid; and

(C) a total of cash disbursements made in the ordinary course of the debtor's ongoing operations, if any.

(d) Final Report Form. The final report must be an affidavit and must include, but is not limited to, the following information:

	Allowed	Paid
(1) Administrative Expenses:		
Trustee's compensation (if any)	$_____	$_____
Trustee's attorney's compensation (if any)	$_____	$_____
Debtor's attorney's compensation	$_____	$_____
Other professionals' compensation	$_____	$_____
All other administrative expenses [specify]	$_____	$_____
Total Administrative Expenses	$_____	$_____
(2) Percentage and amount of claims paid: (for each defined class)		
Percentage of claims paid to class [X]	_____%	_____%
Amount paid to class [X]	$_____	$_____
Total Plan Payments	$_____	$_____

VT. LBR 3070-1. CHAPTER 13 – PAYMENTS

(a) Payments to the Chapter 13 Trustee. Chapter 13 debtors are required to make plan payments through wage deductions, automated clearing house (ACH) payments, electronic funds transfer (EFT), or a similar payment method that results in an electronic credit to the Chapter 13 trustee's account, except where the debtor obtains an order from this Court waiving the requirement for cause based upon exigent circumstances. Unless the Court waives this requirement, a debtor must obtain an order implementing a wage withholding or a direct debit to be eligible for plan confirmation. Until such order is in effect, the debtor must make all plan payments in the form of a cashier's check, certified check, bank draft, or money order payable to the "Chapter 13 Trustee," and mail the payments directly to the Chapter 13 trustee at an address that the trustee designates. The face of the payment instrument, as well as any electronic payment, must include the debtor's name and the case number.

(b) Minimum Plan Payment Amount. The minimum monthly plan payment is $50.00, and every Chapter 13 plan must require the debtor to make this payment each month the case is pending unless waived by Court order.

(c) Chapter 13 Trustee's Percentage Fee upon Dismissal or Conversion. In any Chapter 13 case that is dismissed or converted to another chapter prior to the confirmation of the plan, the Chapter 13 trustee may collect and retain from pre-confirmation payments made by the debtor the percentage fee pursuant to 28 U.S.C. § 586(e) as compensation.

VT. LBR 3071-1. SECURED CREDITORS' OBLIGATION TO PROVIDE ACCOUNT INFORMATION AND STATEMENTS TO DEBTORS POST-PETITION

(a) Definitions. For purposes of this Rule: (1) "Mortgage Creditor" includes any creditor who has a claim secured by a mortgage on real property; (2) "Creditor" includes any creditor who holds a claim secured by personal property and any lessor of assumed leases on personal property; (3) "Secured Creditor" is the collective term for Mortgage Creditor and Creditor;

and (4) "other secured debt" includes all debts secured by property other than the debtor's primary residence, and assumed leases on personal property.

(b) Purpose; Protection Assured to Secured Creditor. Secured Creditors are required to provide loan statements to debtors post-confirmation with respect to secured loans in any bankruptcy case where a debtor retains possession of the collateral and is required to make regular installment payments directly to a Secured Creditor. The Secured Creditor must also provide specific contact information to the debtor so the debtor may obtain accurate, up-to-date information on the status of the secured loan as needed. A Secured Creditor who complies with or makes a good faith attempt to comply with this Rule will not be found to have violated the automatic stay (provided that the Secured Creditor's communication with a debtor is not an attempt to collect pre-petition debt).

(c) Additional Communication a Secured Creditor May Have with a Debtor Without Violating the Automatic Stay. A Secured Creditor contacting a debtor to inquire or request proof as to the status of insurance coverage on property that is collateral for the Secured Creditor's claim does not violate the automatic stay, unless, in its communication with the debtor, the Secured Creditor also seeks to collect a debt.

(d) Applicability of Rule Generally. This Rule applies (1) in cases filed under Chapters 7, 12, and 13; (2) to consumer loan relationships; and (3) as long as the debtor is protected by the automatic stay. It does not apply to debts secured by non-consensual liens (e.g., tax liens, restitution liens).

(e) Possible Further Applicability. For cause shown and after proper notice and a hearing, the Court may direct parties to comply with this Rule with regard to commercial loans or in a Chapter 11 case.

(f) Applicability to Debt Secured by a Mortgage on Real Property and Monthly Statements. The Mortgage Creditor must provide monthly statements to each Chapter 12 or 13 debtor who has expressed an intent in his or her plan to retain the Mortgage Creditor's collateral and who has expressed an intent in his or her statement of intent to pay the Mortgage Creditor directly (i.e., outside the plan), and to each Chapter 7 debtor who has expressed an intent in his or her statement of intent (served on the Mortgage Creditor) to retain the Mortgage Creditor's collateral. The monthly statements must contain at least the following information concerning post-petition mortgage payments to be made directly from the debtor to the Mortgage Creditor:

(1) the date of the statement and the date the next payment is due;

(2) the amount of the current monthly payment and of the next payment due;

(3) the amount of the payment attributable to escrow, if any;

(4) the amount due for any post-petition arrears, and from what date;

(5) the amount of any outstanding post-petition charges;

(6) any other amount(s) due (e.g., for payment of taxes, insurance, attorney's fees, and/or

other expenses), together with an explanation of the "other amount due" and, if the Mortgage Creditor has already made a payment on this "other amount due," the date of the payment;

(7) the amount, date of receipt, and application of all payments received since the date of the last statement;

(8) a telephone number and contact information that the debtor or the debtor's attorney may use to obtain reasonably prompt information regarding the secured loan and recent transactions; and

(9) the address to which the next payment is to be sent and, if the address has changed since the last statement, a conspicuous statement notifying the debtor of the change of address.

(g) Additional Monthly Statement Information upon Request. Upon reasonable written request of the debtor, the Mortgage Creditor must provide the following additional information to the debtor;

(1) the principal balance of the secured loan;

(2) the original maturity date;

(3) the current interest rate;

(4) the current escrow balance, if any;

(5) the interest paid year-to-date; and

(6) the property taxes paid year-to-date, if any.

(h) Optional Monthly Statements from Mortgage Creditors. Mortgage Creditors are not required to send monthly statements to Chapter 12 and 13 debtors who make their post-petition mortgage payments via the case trustee (i.e., as Conduit Mortgage Payments, see Vt. LBR 3015-2(j)). However, to the extent they choose to do so, and such monthly statements comply with this Rule, Mortgage Creditors are entitled to the protection articulated in paragraph (b), above.

(i) Applicability to Other Secured Debts. The Creditor must provide monthly statements or other forms of invoicing (e.g., a coupon book) to each Chapter 12 and 13 debtor who has expressed an intent in his or her plan to retain the Creditor's collateral or assume the lease, and who has expressed an intent to pay the Creditor directly (i.e., outside the plan), and to each Chapter 7 debtor who has expressed an intent in his or her statement of intent (served on the Creditor) to retain the Creditor's collateral or assume the lease. The monthly statements or other forms of invoicing must contain the same or substantially similar information as that provided pre-petition.

(j) Optional Monthly Statement from Non-Mortgage Creditors. Creditors are not required to send monthly statements or other forms of invoicing to Chapter 12 and 13 debtors who make their post-petition payments via the case trustee (i.e., through the plan). However, to

the extent they choose to do so, and such monthly statements or other forms of invoicing contain the same or substantially similar information as that provided pre-petition, the Creditors are entitled to the protection articulated in paragraph (b), above.

(k) Forms of Communication Generally. A Secured Creditor is considered to have complied with this Rule when it has transmitted the requisite monthly statements, other forms of invoicing, or additional requested information to the debtor in the manner normally utilized by the Secured Creditor. However, the Secured Creditor and debtor may agree to a form of communication not routinely used by the Secured Creditor (e.g., e-mail rather than regular, first-class mail) to transmit documents to the debtor. It is the debtor's duty to provide the Secured Creditor with the debtor's current address and such contact information as is necessary to facilitate receipt of documents transmitted by the Secured Creditor.

(l) Waiver of Strict Compliance. If a Secured Creditor uses a billing system that provides monthly statements or other forms of invoicing that substantially comply with this Rule, but does not fully conform to all of its requirements, the Secured Creditor may request that the debtor accept such monthly statements or other forms of invoicing, and the debtor may do so. If the debtor declines to accept the non-conforming monthly statements or other forms of invoicing, a Secured Creditor may file a motion, on notice to the debtor and the debtor's attorney, if any, requesting a determination from the Court that cause exists to allow such non-conforming monthly statements or other forms of invoicing to satisfy the obligation of the Secured Creditor under this Rule. For cause shown, the Court may grant a waiver for an individual case or for multiple cases, and for either a limited or unlimited time period. However, no waiver will be granted unless the proffered monthly statements or other forms of invoicing substantially comply with this Rule and the Secured Creditor has demonstrated that it would be an undue hardship for it to strictly comply with the Rule.

(m) Motion to Compel Compliance. A debtor may file a motion to compel a Secured Creditor's compliance with this Rule where the debtor has evidence that a Secured Creditor has not complied with this Rule for at least 30 days. However, the debtor must first make a good faith effort to contact the alleged offending Secured Creditor to determine the cause for non-compliance, including inquiring about the status of the Secured Creditor's efforts to provide statements in compliance with this Rule. The debtor's motion to compel must include a description of (1) the debtor's pre-motion good faith effort(s), (2) any response by the Secured Creditor, and (3) any harm the debtor has suffered as a result of the Secured Creditor's non-compliance.

PART IV

VT. LBR 4001-1. AUTOMATIC STAY – RELIEF FROM

(a) Motion Contents Generally. A motion for relief from stay must comply with Vt. LBR 9013-1(a)–(d) and must include the following information to the extent applicable:

(1) the description of the property (e.g., the VIN, make, and model of a vehicle; the serial number for a mobile home or equipment; the name and docket number of a pending court action; the street address of real property and clerk's office address and volume/page number where title to and liens against real property are recorded);

(2) the names and purported interests of all parties known, or discovered after reasonable investigation, who claim to have an interest in the property;

(3) the amount of the outstanding indebtedness on each lien, the fair market value of the property, and the basis for the valuation;

(4) legible and complete copies of all relevant liens and security agreements, or initial and signature pages of these documents if voluminous;

(5) evidence of perfection of the movant's lien or interest; and

(6) copies of any prior orders of the Court upon which the motion relies.

(b) Additional Requirements for Motions Alleging Post-Petition Payment Default and for Objections Thereto.

(1) **Requirement of Pre-Motion Default Notification.** If a secured creditor believes the debtor has defaulted on any post-petition payment obligation, the secured creditor must send the debtor and the debtor's attorney, if any, a default notification setting forth with specificity the alleged post-petition default. The secured creditor must provide this notification at least 10 days before filing a motion for relief from the automatic stay.

(2) **Motions.** Where a secured creditor moves for relief from the automatic stay based upon allegations of a post-petition payment default, in addition to complying with the requirements of Vt. LBR 4001-1(a), the secured creditor's motion must also include the following: (A) in all cases, (i) a statement that the motion is based upon the debtor's default, and (ii) an affidavit specifically identifying, by date and amount, the payment(s) alleged to be in default; (B) in a Chapter 7 case, a statement that the secured creditor has responded promptly and thoroughly to the case trustee or debtor's reasonable request for account information; and (C) in a Chapter 13 case, a statement that the secured creditor has provided the debtor with the required account information and monthly statements in a timely fashion. See Vt. LBR 3071-1(e) & (f)**.**

(3) **Objections.** A debtor objecting to the secured creditor's motion must: (A) state with specificity those allegations of the secured creditor that the debtor disputes; (B) articulate the debtor's legal and factual basis for asserting that the secured creditor is not entitled to relief from stay; and (C) append to the objection an affidavit of the debtor. The debtor's affidavit must state: (i) each payment amount made; (ii) the date of each payment; (iii) the form and amount of each payment (e.g., check, money order); (iv) the means by which each payment was transmitted (e.g., regular, first-class mail, private courier service); and (v) the address where each payment was sent. The affidavit must also include copies of records showing proof of payment(s) on the obligation or include an explanation as to why those records are not appended and when they will be filed. The debtor's failure to meet these requirements constitutes cause for the Court to deny a request by the debtor for additional time to produce records and may result in the Court treating the motion as unopposed.

(4) **Secured Creditor's Additional Obligations When a Chapter 13 Debtor Objects; Consequence of Failure to Meet Additional Obligations.** When a Chapter 13 debtor

contests either the payment default or the secured creditor's application of the payment(s), and complies with the procedure delineated in subparagraph (3) above, the secured creditor must immediately transmit the debtor's payment history and a detailed accounting of how the secured creditor applied the debtor's payment(s) to the outstanding obligation, to debtor's counsel (or to the debtor directly, if not represented by counsel) in a manner ensuring the debtor has a reasonable opportunity to review this information before the hearing on the motion for relief from stay. In the event the secured creditor has not provided debtor's counsel (or the debtor, if not represented by counsel) with the required account information in a timely and complete fashion, the Court may deny the motion for relief from stay, deny the secured creditor's request for recovery of attorneys' fees and/or costs in connection with the motion, or grant such other relief it deems appropriate. The Court may also order the secured creditor to pay the debtor's reasonable attorneys' fees, if any, for responding to the motion.

(c) Service of Motion. A movant seeking relief from stay must file the motion with the Clerk, along with a certificate of service showing service of the motion on the debtor, the debtor's attorney, the case trustee (if any), any parties affected by the motion or having an interest in the property that is the subject of the motion, all parties in interest who have requested notice, and the Office of the United States Trustee. See also Vt. LBR 9013-6(a) & (c).

(d) Stipulation for Relief from Stay. A stipulation for relief from stay must describe the property or interest involved, state the property's fair market value, state the basis for valuation, and list any encumbrances against the property (by lien holder and amount). A stipulation for relief from stay must also include the statements, but need not include the supporting documents, required by paragraph (a), above. No affidavit is required if there are no facts in dispute. Notice required under Vt. LBR 9013-2(c) is waived for a stipulated motion for relief from stay when (1) all parties entitled to notice have been served with the motion and (2) all parties in interest have provided their consent. See Vt. LBR 9011-4(e) & (f). Additionally, no notice of a stipulation is required to be served if the motion for relief from stay was previously noticed for hearing and no party objected or the Court overruled any objection filed.

(e) Final Hearing. The Court will hold a hearing on the motion for relief from stay within 30 days after its filing, except in those instances where paragraph (d), above, is used or the motion is filed under the Court's default procedure. See Vt. LBR 9013-4. If a movant schedules a hearing on a motion for relief from stay for a date that is more than 30 days after the date the movant filed the motion, the movant must include an affirmative waiver of the termination of the stay after 30 days, see § 362(e), and the stay will continue pending the conclusion of a final hearing and determination by the Court under § 362(d). Likewise, when the parties agree to postpone the hearing, an equal extension of time will be deemed added to the 30-day period set forth in § 362(e).

(f) Evidentiary Hearing. The final hearing on a motion for relief from stay will be an evidentiary hearing unless the parties agree otherwise. Each party planning to present evidence must contact the courtroom deputy to ensure there is sufficient time for the presentation of evidence and must file and serve a Rule 9014(e) notice of evidentiary hearing at least seven days prior to the hearing, unless a shorter time is approved by the Court. See Vt. LBR 9014-1(b)(2); see also Vt. LB Form V.

(g) Order Granting Relief from Stay.

(1) **Required Language in Orders Authorizing Sale of Collateral.** If the order granting relief from stay authorizes sale of collateral, the order must specifically direct the secured creditor to deliver any surplus money to the case trustee promptly after the consummation of the sale and, if there is surplus money, serve the case trustee with an accounting of the sale promptly after its consummation. The order must also clearly identify the collateral that is the subject of the order granting relief from stay. Cf., e.g., paragraph (a)(1).

(2) **Required Language Regarding Subordinate Lien Holders.** Where other parties have subordinate liens on the subject property, the proposed order granting relief from stay shall include the following language, with identification of the subordinate lien holders:

> *This order also grants relief from the stay to any holder of a subordinate lien against the same property to allow such lien holder to pursue its rights, to bid at a sale, to redeem, and/or to enforce its lien in connection with any action taken by the movant against the subject property pursuant to this order. However, this Court makes no determination as to the validity, priority, or amount of the subordinate liens.*

(3) **Separate Order Required.** Whenever relief from stay is granted, the movant must file a separate proposed order granting that relief. Relief from stay (whether absolute or conditional) is not available through an ordering paragraph in a plan confirmation order or any other order that grants other relief.

(h) Conditional Relief from Stay. If an order granting conditional relief from stay, or a stipulation of the parties for conditional relief from stay, is silent on the issue of how much time a debtor has to rebut an affidavit of default filed in furtherance of the order, then the debtor will have seven days to rebut an affidavit of default. If the order (or stipulation) provides for a different time period, then the order (or stipulation) will control.

Vt. LBR 4001-2. AUTOMATIC STAY – DEBTOR'S ASSERTION OF EXCEPTION FOR LEASE OF RESIDENTIAL PROPERTY UNDER § 362(L)

(a) Filing Initial Certification, Official Form 101A. Where a state court judgment of eviction has been entered against a debtor pre-petition, the debtor seeks the benefit of the automatic stay with regard to that residential property, and the debtor resides in that property as of the petition date, the debtor must:

(1) file with the petition Official Form 101A ("Initial Statement About an Eviction Judgment Against You") with the "Certification About Applicable Law and Deposit of Rent" section of the form completed.

(2) file with the petition a copy of the pre-petition judgment of eviction; and

(3) deliver to the Clerk with the petition a deposit of one month's rent equal to the monthly rent due under the applicable rental agreement in the form of a bank check, attorney trust account check, or money order, payable to the debtor's lessor (i.e., the landlord).

If a debtor delivers the rent payment to the Clerk, but fails to file either a copy of the judgment of eviction or Official Form 101A, the Clerk will return the rent payment to the debtor with a notice informing the debtor that the Clerk will not accept or process the rent payment unless and until it is accompanied by the judgment of eviction and Official Form 101A.

When a debtor's case is filed electronically, the rent payment must be delivered to the Clerk by hand delivery, regular, first-class mail, or private courier service within three business days after filing the petition. If the Clerk receives the rent payment within the three-day period, the Clerk will treat the rent payment as if received with the petition, Official Form 101A, and a copy of the judgment of eviction, and will process it accordingly.

If the debtor fails to deliver the rent payment either with the petition or within three business days of filing the petition, the Clerk will make a notation on the docket of the filing deficiency. Thereafter, the Clerk will promptly serve upon both the debtor and the lessor a certified copy of the docket entry indicating the debtor's failure to make the requisite rent deposit and indicating the applicability of the exception to the stay under § 362(b)(22). (The Clerk will not charge a fee to issue or serve these certified copies.)

(b) Clerk's Notification upon Receipt of Official Form 101A. When the Clerk receives Official Form 101A together with the required copy of the judgment of eviction and the rent payment, the Clerk will:

(1) issue a notice to the lessor, stating that the Clerk has received (A) the debtor's Official Form 101A, (B) a copy of the judgment of eviction, and (C) a rent payment, and enclose copies of each with the notice;

(2) set a deadline of seven days after service of notice to the lessor within which time the lessor may either (A) consent to the inapplicability of the stay exception under § 362(b)(22) or (B) object to an averment made by the debtor in Official Form 101A and request the entry of an order stating that the § 362(b)(22) exception does apply; and

(3) notify the lessor that if the lessor files a consent, the Clerk will promptly transmit the rent payment to the lessor.

(c) Lessor's Consent, Objection, or Non-Response to Official Form 101A.

(1) **Consent.** If a lessor files consent to a debtor's certification in Official Form 101A, the consent must include a verification of the amount due for the one-month rental period and specify the address to which the lessor requests the rent payment to be sent. Upon receipt of the lessor's consent, the Clerk will promptly transmit the rent payment to the lessor at the address provided.

(2) **Objection.** If the lessor objects to any of the debtor's averments made in the certification in Official Form 101A, the Clerk will immediately set a hearing on the objection; the hearing will be held no later than 10 days after the filing of the objection. The lessor's objection must specifically identify which averment(s) in the debtor's certification the lessor disputes. If the Court overrules the lessor's objection(s), an order will be issued finding that the debtor is entitled to the stay; thereafter, the Clerk will promptly transmit

the rent payment to the lessor.

(3) **Non-Response.** If the lessor fails to file either a consent or an objection within the seven-day period set by the Court, and unless the Court finds otherwise, the lessor will be deemed to have waived the opportunity to object; promptly thereafter, the Clerk will transmit the rent payment to the lessor.

(d) Filing Second Certification, Official Form 101B. Within 30 days of filing the petition, the debtor must file with the Clerk and serve on the lessor Official Form 101B ("Statement About Payment of an Eviction Judgment Against You"), indicating that the debtor has cured, under applicable non-bankruptcy law, the entire monetary default that was the basis of the issuance of the Judgment of Eviction. The debtor's obligation to file Official Form 101B is not affected by an objection to or the pendency of a hearing on Official Form 101A. However, if the lessor is a public housing entity, the debtor does not need to file Official Form 101B. See Stolz v. Bratttleboro Hous. Auth, 315 F.3d 80 (2d Cir. 2002); In re Carpenter, No. 15-10046, 2015 WL 1956272 (Bankr. D. Vt. Apr. 29, 2015).

(e) Lessor's Objection to Official Form 101B. If the lessor objects to any of the debtor's averments made in the certification in Official Form 101B, the Clerk will immediately set a hearing on the objection; the hearing will be held no later than 10 days after the filing of the objection. The lessor's objection must specifically identify which averment(s) in the debtor's certification the lessor disputes.

(f) Debtor's Failure to File Official Form 101A or 101B. Where a debtor fails to file Official Form101A with the petition or fails to file Official Form 101B within 30 days of the filing of the petition, the Clerk will make a notation on the docket that the document has not been filed. Thereafter, the Clerk will promptly serve upon the debtor and the lessor a certified copy of the docket entry indicating the absence of the form(s) and indicating the applicability of the exception to the stay under § 362(b)(22). See also § 362(l)(4)(A). (The Clerk will not charge a fee to issue or serve these certified copies.)

Vt. LBR 4001-3. AUTOMATIC STAY – CONTINUATION; IMPOSITION; VERIFICATION

(a) Motion for Continuation of Automatic Stay. A party in interest seeking to continue the automatic stay pursuant to § 362(c)(3) must file a motion for that relief within 14 days of the filing of the petition and must demonstrate that the filing of the debtor's later case was in good faith as to those creditors to be stayed. The movant must also contact the courtroom deputy to schedule an evidentiary hearing with seven days' notice. See Vt. LBR 9014-1(b)(2). The movant must serve the motion and notice of hearing on the debtor, the debtor's attorney, if any, the case trustee, the Office of the United States Trustee, and all creditors. The movant and any other party in interest who wishes to join or oppose the motion must file a Rule 9014(e) notice of evidentiary hearing, see Vt. LB Form V, no later than three business days before the hearing. If the movant fails to timely file the requisite Rule 9014(e) notice, the movant will be limited to the admissible evidence, if any, submitted with the motion for continuation of the automatic stay**.**

(b) Motion for Imposition of Automatic Stay. A party in interest seeking to impose the automatic stay pursuant to § 362(c)(4) must move for that relief within 30 days of the filing

of the petition and must demonstrate that the filing of the debtor's later case was in good faith as to those creditors to be stayed. The movant must also contact the courtroom deputy to schedule an evidentiary hearing with seven days' notice. See Vt. LBR 9014-1(b)(2). The motion and notice of hearing must be served on the debtor, the debtor's attorney, if any, the case trustee, the Office of the United States Trustee, and all creditors. The movant and any other party in interest who wishes to join or oppose the motion must file a Rule 9014(e) notice of evidentiary hearing, see Vt. LB Form V, no later than three business days before the hearing. If the movant fails to timely file the requisite Rule 9014(e) notice, the movant will be limited to the admissible evidence, if any, submitted with the motion to impose a stay**.**

(c) Motion for Verification that Automatic Stay Is Not in Effect. A party in interest seeking verification pursuant to § 362(c)(4) that the automatic stay is not in effect must file a motion for an order verifying the status of the automatic stay, on notice to the debtor, the debtor's attorney, if any, the case trustee, the Office of the United States Trustee, and all creditors. The movant may notice the motion under the Court's default notice procedure. See Vt. LBR 9013-4(b).

VT. LBR 4001-4. CASH COLLATERAL

(a) Motion Contents. A motion for use of cash collateral pursuant to § 363 must (1) describe the adequate protection being offered to the secured creditor; (2) summarize all appraisals and projections; and (3) identify the amount and source of collateral to be used.

(b) Interim Hearing on Use of Cash Collateral. If, before the required 14-day notice period has expired, the debtor requests an interim hearing to obtain Court authorization to use only that amount of cash collateral as is necessary to avoid immediate and irreparable harm to the estate pending a final hearing, the debtor's motion for interim relief must provide: (1) the facts necessary for the Court to determine whether the debtor is at risk of immediate and irreparable harm; and (2) a detailed breakdown of the amount of cash requested and how it will be used. In exigent circumstances, the Court may authorize that the interim hearing be conducted by telephone without transcript or recording. See Vt. LBR 5007-1(c). The movant must serve all secured creditors whose collateral is subject to the motion with notice of the interim hearing in the manner directed by the Court. See also Vt. LBR 9075-1 (providing instructions for handling emergency matters in this Court).

(c) Final Hearing on Use of Cash Collateral. A final hearing on a motion to use cash collateral may be held no earlier than 14 days after service of the motion. However, if (1) the Court held an interim hearing on the motion where all parties in interest were present and where the Court approved the use of the cash collateral requested, and (2) the movant does not seek authorization to use additional cash collateral, then, in its discretion, the Court may cancel the final hearing. In such an instance, the Court may issue a final order on the motion after the 14-day notice period. In addition to the noticing requirements under the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure, the movant must provide all parties on the master mailing list and any other party who has an interest in the cash collateral with notice of the hearing and an opportunity to object.

(d) Stipulation for Use of Cash Collateral. A stipulation for use of cash collateral must include the same information that is required under paragraphs (a) and (b), above. Notice

required under Vt. LBR 9013-2 is waived for stipulated motions for use of cash collateral when (1) all parties entitled to notice have been served with the motion, and (2) all parties in interest stipulate to the relief, see Vt. LBR 9011-4(e) & (f).

VT. LBR 4001-5. OBTAINING CREDIT

(a) Generally. Except for Chapter 13 debtors seeking to borrow funds to purchase motor vehicles, see paragraph (b), below, or for extraordinary expenditures to support health and general welfare, see paragraph (c), below, parties seeking to obtain credit must follow the procedure set forth in Vt. LBR 4001-4.

(b) Purchase of a Motor Vehicle During a Chapter 13 Case. During the pendency of a Chapter 13 Plan, a debtor may borrow funds to purchase a motor vehicle only with approval of the Chapter 13 trustee or the Court, in accordance with the following procedure(s):

(1) **Request for $15,000 or Less.** The debtor must seek the Chapter 13 trustee's approval, using a loan approval request (Vt. LB Appendix VII). The debtor and the debtor's attorney, if any, must sign the request form. If the Chapter 13 trustee determines the request will not involve a material modification of the debtor's budget and is in the best interest of the debtor and the bankruptcy estate, the Chapter 13 trustee may approve the request and file the approved request form with the Clerk. No notice to creditors is required if the Chapter 13 trustee approves the request.

(2) **Request for More than $15,000 or Where the Chapter 13 Trustee Declines to Approve Borrowing.** The debtor must file a motion seeking the Court's approval where the debtor seeks to borrow more than $15,000 or where the Chapter 13 trustee has declined to approve the debtor's borrowing request. The motion must include:

(A) a description of the motor vehicle the debtor seeks to purchase (i.e., make, model, year, VIN);

(B) the motor vehicle's purchase price and name of seller;

(C) the proposed lender of the funds;

(D) the terms of financing;

(E) a description of how the debtor proposes to make any down payment on the purchase of the motor vehicle; and

(F) if the Chapter 13 trustee has not approved the requested borrowing, a copy of the denied request form.

The debtor must serve notice of the motion for Court approval on the Chapter 13 trustee, the Office of the United States Trustee, and all creditors, and may notice the motion under the Court's default procedure. See Vt. LBR 9013-4(b).

(c) Extraordinary Expenditure to Support Health and General Welfare During a Chapter 13 Case. During the pendency of a Chapter 13 case, a debtor may borrow and/or spend funds for an extraordinary, but necessary and reasonable, expense in order to maintain the

health and general welfare of the debtor (and/or the debtor's dependents), but only with approval of the Chapter 13 trustee or the Court, in accordance with the following procedure(s):

(1) **Request for $5,000 or Less.** The debtor must seek the Chapter 13 trustee's approval, using a loan approval request (Vt. LB Appendix VII) if the request is for $5,000 or less. The debtor and the debtor's attorney, if any, must sign the request form. If the Chapter 13 trustee determines the request will not involve a material modification of the debtor's budget, and is in the best interest of the debtor and the bankruptcy estate, the Chapter 13 trustee may approve the request and file the approved request form with the Clerk. The debtor is not required to serve any notice of this request on creditors if using this procedure.

(2) **Request for Greater than $5,000 or Where the Chapter 13 Trustee Declines to Approve Borrowing.** The debtor must file a motion seeking the Court's approval where the debtor seeks to borrow more than $5,000 or where the Chapter 13 trustee has declined to approve the debtor's borrowing request. The motion must set forth with specificity the nature of the expenditure, explaining why the debtor believes it is necessary and reasonable for the health and general welfare of the debtor and/or the debtor's dependents. If the Chapter 13 trustee has not approved the requested borrowing, the debtor must also file a copy of the denied request form with the motion. The debtor must serve notice of this motion on the Chapter 13 trustee, the Office of the United States Trustee, and all creditors, and may notice this motion under the Court's default procedure. See Vt. LBR 9013-4(b).

VT. LBR 4001-6. USE, SALE OR LEASE OF PROPERTY

See Vt. LBR 6004-1.

VT. LBR 4001-7. MORTGAGE MEDIATION AND LOSS MITIGATION PROGRAM

(a) Availability of Mediation in Bankruptcy Cases.

(1) In any case filed under Chapter 7, 11, 12, or 13, a party may file a motion for mortgage mediation/loss mitigation (hereinafter "mediation") (Vt. LB MM Form #1).

(2) Parties may seek mediation with respect to any mortgage on the debtor's primary residence provided the property has four units or less (regardless of whether the mortgage is subject to the HAMP guidelines).

(3) With the creditor's consent, mediation will be available at any time during the pendency of any Chapter 7, 11, 12, or 13 bankruptcy case.

(4) In the absence of the creditor's consent, the Court will not grant a debtor's motion for mediation if the Court has already entered either: (A) a discharge order; or (B) an order granting relief from stay to that creditor on the subject property.

(5) Mediation will not be permitted if the creditor objects and:

(A) mediation has already been completed, or was begun and abandoned by the debtor; or

(B) modification of the mortgage is essential to the confirmation of a plan and the debtor has failed to file a motion for mediation prior to the confirmation hearing; or

(C) the parties have filed a stipulation in the bankruptcy case with respect to the debtor's obligations under the subject mortgage.

(b) The Mediation Process.

(1) The parties engaged in mediation under this Rule shall cooperate in good faith under the direction of the mediator to produce the information required by this Rule in a timely manner so as to maximize the effectiveness of the mediation.

(2) The creditor must consider all available foreclosure prevention tools, including but not limited to reinstatement, loan modification, forbearance, and short sales.

(3) Where the creditor claims that a pooling and servicing or other similar agreement prohibits modification, the creditor must produce a copy of the agreement. All agreement documents are confidential and are not to be included in the mediator's report.

(4) The following persons must participate in any mediation conducted under this Rule:

(A) the creditor, or a person designated by the creditor or its servicer, who

(i) has authority to agree to a proposed settlement, loan modification, or pursuit of lift stay relief; and

(ii) has real-time access during the mediation to the creditor's account Information and to the records relating to consideration of the options available;

(B) counsel for the creditor, if any;

(C) the debtor and counsel for the debtor, if any; and

(D) the Court-appointed mediator.

(5) The case trustee and holders of other liens on the subject property may also participate, subject to the mediator's approval.

(6) The mediator, in the exercise or his or her discretion, may permit any party or attorney to participate in mediation by telephone or through video conferencing.

(7) All mediations conducted under this Rule will take place in a mutually convenient

location, as determined by the mediator.

(c) Time Frame for the Mediation Process.

(1) A debtor-mortgagor or creditor-mortgagee may file a motion for mediation (Vt. LB MM Form #1) that seeks an order directing the parties to engage in mediation, in compliance with the following procedures:

(A) the movant must serve the motion on 14 days' notice to all creditors who would claim an interest in the property and the case trustee, along with a notice of motion regarding the motion for mediation (Vt. LB MM Form #2), and may use the default procedure;

(B) in the motion, the movant must specify why mediation would be useful to the parties and how it would benefit the estate;

(C) any objection to the motion must specify why mediation is not likely to be useful to the parties or likely to be of benefit to the estate;

(D) if the motion is granted, the Clerk will promptly enter a mediation order (Vt. LB MM Form # 3) and then

(i) the Clerk will forthwith send the parties a list of all Bankruptcy Court approved mediators;

(ii) within seven days of the creditor's participation in the case, evidenced by the earlier of:

(aa) the creditor-mortgagee's filing of a proof of claim in the case;

(bb) the creditor-mortgagee appearing by counsel in the case; or

(cc) an individual creditor-mortgagee's appearing either by counsel or pro se, the parties may stipulate to the selection of a mediator; and

(iii) no party shall file a notice of selection of a mediator prior to the creditor-mortgagee's participation in the case (as defined in (ii) above).

(E) if the parties are unable to stipulate to the selection of a mediator within seven days of the events specified in part (D) above, the debtor shall file a motion asking the Court to designate a mediator; and

(F) the mediator will be deemed appointed on the date the parties file the list identifying the mediator they have selected, unless the Court orders otherwise.

(2) Within 14 days of the appointment of the mediator, the parties may file a stipulated

proposed scheduling order (on Vt. LB MM Form # 13). If they fail to do so, the parties shall be bound by the deadlines set out below.

(3) Within 21 days of the appointment of the mediator:

(A) the debtor must serve on the mediator and the creditor all documents set forth on the mediation document list, with the complete loan number set forth on each page, along with a notice of compliance (Vt. LB MM Form #5) with the mediation order, and file with the Court a copy of the notice (without attachments) and a certificate of service; and

(B) if the debtor determines that he or she cannot proceed with mediation until the debtor has obtained certain information from the creditor, the debtor must serve on the creditor and the mediator a demand for documents from the creditor (Vt. LB MM Form #9) that identifies the documents the debtor needs from the creditor (e.g., copy of the promissory note, copy of the loan history) and why, and file with the Court a copy of the demand for creditor documents.

(4) Within 45 days of the appointment of the mediator, the mediator must hold a pre-mediation telephone conference with the debtor and creditor to identify any missing documents, expedite exchange of any necessary documents, and address any impediments to moving forward or other pre-mediation issues. At the pre-mediation telephone conference, the mediator must, at a minimum, record the status of the parties' efforts, the progress the parties have made on the production and exchange of financial documents, any review of information that occurs during the conference, any request for additional information, the anticipated time frame for submission of any additional information and the creditor's review of the information, and the scheduling of the mediation session. The mediator may require the creditor's representative to participate in the pre-mediation telephone conference, and any other meetings the mediator deems appropriate in order to expeditiously conclude the mediation process.

(5) Within 21 days of the date the debtor filed the notice of compliance (Vt. LB MM Form #5):

(A) the creditor must serve the debtor and the mediator with a creditor's response to the adequacy of the debtor's mediation documents (Vt. LB MM Form #8) and file the same with the Court, with a certificate of service; or

(B) if the creditor finds the documents from the debtor to be incomplete, finds the debtor has not served all documents articulated on the list, or determines additional documents are necessary in this particular case, the creditor may file a motion to compel compliance with the mediation order (Vt. LB MM Form #4) in lieu of the response; and

(C) if the debtor files a demand for documents from the creditor (Vt. LB MM Form #9), the creditor must serve the documents requested by the debtor on the debtor and

mediator, along with a response to the demand for creditor documents, and file a copy of the response (without attachments) and a certificate of service with the Court.

(6) If the creditor serves a motion to compel compliance with the mediation order (Vt. LB MM Form #4), the debtor will have 14 days to file a response and serve upon the creditor any documents required to bring the debtor into compliance with the mediation order. A motion to compel is a non-routine motion for purposes of this Rule. Cf. Vt. LBR 9013-2(b), (c)(4). The creditor may set a hearing thereon, to be held shortly after the expiration of the debtors' response time; if the creditor does not set a hearing, the Court will do so if it deems a hearing necessary.

(7) The mediator must schedule the mediation session to be held within 21 days of the filing of the creditor's response, or of an order adjudicating the motion if the creditor files a motion in lieu of the creditor's response, whichever is later. The first mediation session must be held within 90 days of the appointment of the mediator, unless the Court grants a motion to enlarge the time. The mediation must conclude within 14 days of the first mediation session, unless the mediator determines there is good cause to extend the mediation period. The mediator shall have broad discretion and authority to manage the mediation process, including the authority to enlarge the 90-day time period between appointment of the mediator and the convening of the first mediation session, provided the mediator files (A) a statement setting forth the basis for enlarging this time period and (B) a precise and firm schedule for commencing and completing the mediation.

(8) If a modification is denied, the creditor must provide a written explanation at the time of denial as to why a modification is denied (including the input figures used in calculating eligibility for a modification). If the debtor believes the creditor denied the modification in bad faith, or reached a conclusion on the basis of erroneous facts or calculations, the debtor may file, within 14 days of the conclusion of the mediation, a motion to compel the creditor to participate in further mediation.

(9) The mediator must file a report of mediation (Vt. LB MM Form #6) within 14 days of the conclusion of the mediation. In lieu of Vt. LB MM Form # 6, the mediator may file a Vermont Foreclosure Mediation Report, as described in 12 V.S.A. § 4634.

(10) Unless, within 120 days of the date the mediator was appointed,

(A) the mediator files a statement and schedule, or a report (or interim report, Vt. LB MM Form # 12) of mediation, or

(B) the debtor files a stipulation between the debtor, creditor, and mediator deferring mediation due to a temporary payment plan, the Clerk shall set a status hearing for the next hearing date, at which the parties' representative and the mediator shall be required to appear and explain why the mediation has not been completed.

(11) Unless, after motion and a hearing (or a stipulation of the parties) the Court enters an order providing otherwise, the fact that the debtor is engaged in mediation shall not delay the entry of discharge.

(d) Required Documents. Unless waived by the creditor, the debtor must deliver the following documents to the creditor and mediator:

(1) a request for modification and affidavit or an alternative, analogous form required by the creditor;

(2) an IRS Form 4506T (with § 5 left blank);

(3) a fully completed financial worksheet for loan modification (Vt. LB MM Form #10) with all supporting information required by the worksheet;

(4) the two most recent bank statements for each account on which the debtor is a signatory (all pages; no computer printouts);

(5) the two most recently filed federal tax returns with affidavit affirming that the debtor has signed them and that these are true and correct copies of what the debtor has filed;

(6) a copy of the Schedules I & J filed with the bankruptcy petition, and, if the bankruptcy case has been pending more than 60 days, amended Schedules I & J showing income and expenses as of the date of the motion for mediation;

(7) a Dodd-Frank Certification;

(8) a debtor's hardship letter (Vt. LB MM Form #7, or the hardship form required by the creditor, if any) specifying the circumstances pertinent to the debtor;

(9) the debtor's two most recent electric utility bills;

(10) the debtor's current property tax bill;

(11) a copy of the debtor's current driver's license or a statement from the debtor affirming s/he does not have a driver's license;

(12) the debtor's homeowner's insurance declarations page;

(13) a contribution letter from each household member who, though not liable on the loan, has been contributing to loan payments, specifying the amount of any continuing contribution, along with other income information from that person and his or her consent to any credit check required by the creditor;

(14) the debtor's payment advices representing the most recent consecutive 30-day period;

(15) if the debtor is self-employed, profit and loss statements for the last two quarters and for

the year to date, and the most recent four months of business bank statements (all pages; no computer printouts);

(16) if the debtor receives social security, disability, pension, or other public assistance benefits, the award letter and the most recent benefit statement;

(17) if the debtor owns real property that the debtor rents, including rental of part of the property subject to the mediation, a copy of the current rental agreements (or an affidavit describing lease terms), a listing of monthly rental income, and two months' canceled rent checks;

(18) if the debtor is divorced, a copy of all divorce decrees and all separation agreements signed by the debtor in the past eight years, and a copy of any quitclaim deed to the occupant spouse;

(19) a statement describing any alimony and/or child support award paid to either debtor, if the debtor wishes to have that income considered; and

(20) a statement articulating whether the debtor is a member of a homeowners' association.

(e) Cost of Mediation.

(1) The mediator is entitled to a flat fee of $900 per mediation. This fee covers all services of the mediator, including but not limited to the pre-mediation telephone conference(s), communications with the parties, the filing of an interim and final report, and conduct of the mediation session(s).

(2) The fee for the mediator will be split equally among the parties to the mediation, except that the case trustee shall not be required to pay any portion of the mediator's fee, even if he participates.

(3) If the mediator or a party seeks any of the following relief, that person must file a motion with the Court, on 14 days' notice to all parties to the mediation and the case trustee, showing cause for such relief:

(A) a different fee for the mediator;

(B) a different allocation of the mediator's fee; or

(C) an assessment of costs against a party to the mediation.

(4) An application for any of these forms of relief must:

(A) show good cause for the relief sought, including an explanation of the circumstances giving rise to the application;

(B) be on notice to all parties to the mediation plus the case trustee; and

(C) include a specific breakdown of the time spent, any costs incurred, and a computation of the amount sought.

(f) Post-Mediation Requirements and Obligations.

(1) Within 14 days of the conclusion of the mediation, the mediator must file a report of mediation (Vt. LB MM Form #6) that:

(A) sets out the names and addresses of all persons who participated in the mediation session(s), identifying each person's role in the mediation, and specifying which representative of each party had decision-making authority;

(B) states whether any person required to participate in mediation failed to

(i) participate in the mediation,

(ii) make a good faith effort to mediate,

(iii) timely supply documentation, information, or input figures necessary to the mediation, or

(iv) timely supply responses, information, or data requested by the mediator;

(C) summarizes the results of the mediation, stating whether full or partial settlement was reached and appending any agreement of the parties, if available; and

(D) describes the circumstances if the mediation failed because a party (or parties) failed to follow through on a proposal or an instruction from the mediator.

(2) Within 14 days of the filing of the report of mediation, the party who filed the motion for mediation (Vt. LB MM Form #1) must file a post-mediation motion or stipulation, with a proposed order declaring mediation closed (Vt. LB MM Form #11), seeking entry of an order that:

(A) finds that the parties have had a full opportunity to mediate the subject mortgage;

(B) states whether the mediation proceeded in good faith;

(C) states whether an agreement was reached; and

(D) sets a status hearing for a date shortly after the conclusion of any trial modification period, or establishes a scheduled next step necessary to move the case forward.

(3) If the party who filed the motion for mediation fails to timely file a motion to close mediation, or if at any time during the mediation process, the party who initiated the mediation is not complying with this Rule, any party to the mediation may file a motion to close the mediation.

(g) Preclusion on Mediator Testifying. No mediator will be required to testify in any action relating to any mortgage or debt at issue in a mediation conducted pursuant to this Rule.

(h) Criteria for Eligibility as a Mediator in Bankruptcy Court Mediations. In order to be on the panel of approved bankruptcy mediators, an attorney must meet the minimum certification requirements of the Vermont state court mediation program and have significant bankruptcy experience.

(i) Retention of Jurisdiction. This Court retains jurisdiction to interpret and enforce any agreement reached through mortgage mediation conducted pursuant to this Rule or in a bankruptcy case in this District.

(j) Service. Whenever the debtor is required to serve the creditor under this Rule, the debtor must serve the creditor at the address set forth on the creditor's proof of claim in this case, or the address on record with the Clerk for such purposes. If the creditor has not filed a proof of claim in this case or given the Clerk a preferred service address, the debtor must serve the creditor by serving the attorney who represents the creditor in a pending foreclosure action against the subject property. If there is no foreclosure action pending and no other address on record, the debtor must serve the creditor as required by Fed. R. Bankr. P. 7004.

VT. LBR 4002-1. DEBTOR'S DUTIES – GENERALLY

(a) Filing Certificate from Approved Nonprofit Budget and Credit Counseling Agency. To comply with § 109(h), a debtor who is an individual must file with the petition:

(1) a certificate received from an approved nonprofit budget and credit counseling agency evidencing compliance with the requirements of § 109(h)(1);

(2) a certification made under penalty of perjury that, pursuant to § 109(h)(3), the debtor is seeking a temporary waiver of complying with § 109(h)(1), together with an explanation of the exigent circumstances warranting the temporary waiver, and stating that the debtor has requested the required credit counseling services during the seven-day period beginning on the date on which the debtor made the request, see Vt. LB Form K; or

(3) a certification made under penalty of perjury that, pursuant to § 109(h)(4), the debtor is seeking a permanent waiver of complying with § 109(h)(1), together with a representation that the debtor is either incapacitated, disabled, or in active military duty in a military combat zone (as those categories are more fully defined in § 109(h)(4)). See Vt. LB Form K; see also paragraph (b), below (providing further requirements for seeking permanent waiver).

(b) Waiver of § 109(h)(1) Requirement.

(1) **Temporary Waiver**. In order to obtain a temporary waiver of § 109(h)(1), the debtor must attach a separate sheet to the petition, explaining what efforts the debtor made to obtain briefing about credit counseling, why the debtor was unable to obtain it before filing for bankruptcy, and what exigent circumstances required the debtor to file for bankruptcy. The Court may hold an expedited hearing on three business days' notice to the parties. Where the Court grants a debtor's request for temporary waiver, the debtor will have 30 days to file a certificate evidencing compliance with the requirements of § 109(h)(1). The debtor may move for an additional 15-day extension upon a showing of cause. Failure to file a certificate from an approved nonprofit budget and credit counseling agency evidencing compliance with the requirements of § 109(h)(1) within the additional time allowed by the Court subjects the debtor's case to dismissal without further notice or hearing.

(2) **Permanent Waiver.** If a debtor seeks a permanent waiver of § 109(h)(1), the debtor must file a motion for an order granting permanent waiver of compliance with § 109(h)(1), that includes an affidavit setting forth the facts upon which the debtor relies. The debtor must serve the motion on the case trustee and all creditors, and may notice the motion under the Court's default procedure. See Vt. LBR 9013-4(b).

(c) Filing Payment Advice Cover Sheet. See Vt. LBR 1007-1(d).

(d) Document Production Prior to § 341 Meeting of Creditors. See also Vt. LBR 1002-1(b).

(1) If a debtor is unable to file the schedules and statements and other required documents, see subparagraphs (2)–(4) below, at least seven days before the date of the first § 341 meeting of creditors, the debtor must notify all creditors of this fact and, with the case trustee's consent, reschedule the § 341 meeting to the next available date, unless the debtor and the debtor's attorney, if any, appear at the § 341 meeting.

(2) In all Chapter 7 cases, to the extent applicable, each debtor must provide the case trustee with the following documents at least seven days before the first scheduled § 341 meeting of creditors:

(A) for each residence, condominium, cooperative apartment, mobile home, lot, real property or time-share owned or set forth on the debtor's schedules:

(i) a copy of the deed of title and all mortgage deeds showing recording information or stock certificates;

(ii) recent evidence of value (e.g., tax bill, grand list value) and copies of all appraisals performed within the last three years; and

(iii) current mortgage statements, including the pay-off amount on or near the date of filing;

(B) for each motor vehicle, snow machine, all-terrain vehicle, trailer, boat, airplane, piece of equipment or machinery, or other personal property that is titled or registered that the debtor owns or listed on the bankruptcy schedules:

(i) a copy of the current title or, if none, a copy of the current registration;

(ii) if the asset is collateral for a secured debt, the secured creditor's most recent statement of balance due; and

(iii) a copy of the most recent appraisal or valuation;

(C) for each bank account in which the debtor had an interest within three months prior to the filing, copies of the monthly bank statements for the three-month period prior to the date of the bankruptcy filing and through the date of filing;

(D) for each personal injury lawsuit or other lawsuit or cause of action in which the debtor has an interest, including all those set forth on Official Form 106 A/B or Official 206 of the debtor's schedules:

(i) the name and address of the attorney representing the debtor in the action; and

(ii) a copy of the complaint and any correspondence with respect to the status of the action;

(E) copies of completed federal and state income tax returns, including all schedules and attachments, for the two years prior to the year of the filing of the bankruptcy case, see also Vt. LBR 4002-2;

(F) for all asset transfers within one year prior to the bankruptcy filing, any documents evidencing those transfers, including copies of the bills of sale, closing statements, deeds, or divorce decrees;

(G) for all retirement plans, annuities, or life insurance policies in which the debtor has had an interest within one year prior to the bankruptcy filing:

(i) a statement of current value, and

(ii) statements showing all activities in each retirement plan, annuity, or insurance policy for the 12 months prior to the filing date;

(H) a copy of any decree of divorce entered within one year of the bankruptcy filing and any State of Vermont Form 813 "Affidavit of Income and Assets" filed during the course of the divorce proceedings, or equivalent inventory documents; and

(I) copies of all child support orders currently in effect or pending before a court.

(3) In Chapter 13 cases, each debtor must provide the Chapter 13 trustee with copies of those documents referenced in subparagraph (2), above, as well as proof of insurance on all improved real estate, mobile homes, motor vehicles, boats, or business assets, and if any of these assets are not insured, the debtor must as also provide a written statement indicating which of the debtor's assets are not insured and explaining why.

(4) The debtor must provide such additional documents (or copies thereof) as the case trustee reasonably requests and which the debtor has available.

(5) The debtor must also bring (A) a form of government-issued photo identification, and (B) the debtor's social security card or, in the event the debtor does not have a social security card, a medical insurance card if it includes the debtor's social security number, a recent payment advice if it includes the debtor's social security number, a current W-2 form, a current IRS Form 1099, or an original Social Security Administration report.

(e) Chapter 11 Debtor's Books and Records. Upon filing a bankruptcy petition, each Chapter 11 debtor must close and preserve its present books of account and its present bank accounts. Debtors-in-possession must open and maintain new books of account showing all income, expenditures, receipts, and disbursements, and all other necessary financial information of the debtor while a debtor-in-possession, and must open and maintain new bank accounts ensuring that each such account clearly designates the account holder as a debtor-in-possession.

(f) Chapter 11 Debtor's Monthly Operating Reports. Each Chapter 11 debtor must file original, signed monthly operating reports with the Clerk. Each Chapter 11 debtor must also provide timely paper copies, with original signatures, of monthly operating reports to the Office of the United States Trustee, unless the Office of the United States Trustee agrees to accept reports in a different format or medium.

(g) United States Trustee Operating Guidelines. A Chapter 11 debtor must comply with all operating guidelines issued by the Office of the United States Trustee, unless the Court, for good cause shown and after proper notice, modifies or waives the debtor's obligation to do so.

VT. LBR 4002-2. DEBTOR'S DUTIES – FURTHER REQUIREMENTS REGARDING TAX RETURNS

(a) Creditor's Request for Tax Return. A creditor may request a copy of a debtor's federal income tax return for the most recent tax year ending immediately before the commencement of the debtor's case. The request must:

(1) be in accordance with § 521(e)(2)(A)(ii);

(2) be made in writing, with such writing substantially conforming to the "Request for Copy of Debtor's Tax Returns Pursuant to § 521(e)(2)" (Vt. LB Form L-1);

(3) be made no fewer than 14 days before the § 341 meeting of creditors;

(4) contain a certificate of service indicating when and how the creditor's request was sent to the debtor, the debtor's attorney, if any, the joint tax filer, if the tax return is joint, the case trustee, and the Office of the United States Trustee; and

(5) be filed with the Clerk contemporaneously with service**.**

(b) Debtor's Response to Request for Tax Return.

(1) **Compliance. It is the debtor's responsibility to redact all personal data identifiers in the tax return prior to delivering it to** the requesting creditor. See Vt. LBR 5001-3(c). After complying with the creditor's request for a tax return, the debtor must file a

certification of compliance that substantially conforms to the "§ 521(e)(2) Debtor's Compliance Form" (Vt. LB Form L-2).

(2) **Objection.** If a debtor disputes that the requesting creditor is a creditor in the debtor's case, or disputes that the requesting creditor is entitled to see the tax return, the debtor may file an objection at least seven days prior to the § 341 meeting of creditors. The Court will set a hearing to determine whether the debtor is required to provide a copy of the debtor's tax return to the requesting creditor**.**

(3) **Consequences of Failure to Respond; Motion to Compel.** The debtor's failure to either timely comply with, or object to, the request subjects the debtor's case to dismissal. Further, where a debtor neither complies with nor objects to a creditor's request for copies of a tax return, the requesting creditor may move to compel the debtor to supply the requested tax return. If the Court deems it necessary, the Court will hold an expedited hearing on the motion to compel on three business days' notice to the parties. A motion to compel must include:

(A) the date of the creditor's request, see paragraph (a), above;

(B) an affirmation made pursuant to 28 U.S.C. § 1746 that (i) the creditor's request was timely and in compliance with the Bankruptcy Code and Federal Rules of Bankruptcy Procedure, and (ii) the requested tax return was not received by the creditor;

(C) a description of the creditor's status in the case;

(D) a description of the specific tax information sought;

(E) a statement that the creditor cannot obtain the information from any other source; and

(F) a statement demonstrating the creditor's need for the tax return.

(c) Request that a Debtor File Tax Returns with Court. If, pursuant to § 521(f), a party in interest or the Office of the United States Trustee seeks to compel an individual debtor to file tax returns with the Court, that party must file a motion for that relief on notice to the debtor, the debtor's attorney, if any, the case trustee, and the Office of the United States Trustee**.**

(d) Request for Access to Tax Returns Filed with Court. Any tax returns filed with the Court will be done under restricted access and will be available for inspection only upon request by motion and only to parties in interest. If a debtor stipulates to the relief sought in the motion, no hearing is required; otherwise, the motion must be noticed to the debtor, the debtor's attorney, if any, the case trustee, and the Office of the United States Trustee under the conventional noticing procedure. See Vt. LBR 9013-3. A motion requesting access to tax returns must**:**

(1) describe the movant's status in the case,

(2) specify the tax return sought,

(3) contain a statement that the movant cannot obtain the information from any other source, and

(4) contain a statement demonstrating movant's need for the tax return**.**

(e) Duties of Chapter 11 Small Business Debtors. A Chapter 11 debtor must file a paper copy of its most recent federal income tax return with the Court. The Clerk will file the tax return under seal. See Vt. LBR 5003-4. The debtor must also deliver a copy of its tax return to the trustee, if any, and otherwise to the Office of the U.S. Trustee.

VT. LBR 4002-3. DEBTOR'S DUTIES – CONSEQUENCES OF FAILURE TO FILE REQUISITE DOCUMENTS

(a) Motion Requesting Dismissal under § 521. Where a debtor has failed to file the requisite documents identified in § 521(a)(1), pursuant to § 521(i)(2), a party in interest may move for dismissal of the debtor's case after the later of:

(1) 15 days after the filing of the petition,

(2) the day after the expiration of any extension granted by the Court, or

(3) the day after any hearing held as a result of the debtor's failure to file the requisite documents.

(b) Service of § 521(i)(2) Motion to Dismiss. A motion to dismiss under § 521(i)(2) must be served upon the debtor, the debtor's attorney, if any, the case trustee, and the Office of the United States Trustee on seven days' notice, and must be labeled an emergency motion. The Court will schedule a hearing if it deemed it necessary, after the five-day objection period has run.

(c) Objection to § 521(i)(2) Motion to Dismiss. During the notice period of the § 521(i)(2) motion to dismiss, the debtor may either come into compliance with § 521(a)(1) or file an objection to the motion; any party in interest may join in the debtor's objection or file its own objection to the motion. In either event, all objections must be filed within five days' service of the motion. The Court will schedule a hearing within seven days of the filing of the objection. No order of dismissal will be entered, if any, until after the Court rules on any objection that has been filed.

(d) Case Trustee's § 521(i)(4) Motion to Prevent Dismissal. At any time prior to the expiration of the time period within which a debtor is required to file payment advices, the case trustee may file a motion pursuant to § 521(i)(4) requesting that the case not be dismissed notwithstanding the debtor's failure to file payment advices. To prevail on such a motion, the case trustee must establish both that (1) the debtor attempted in good faith to file copies of all payment advices, and (2) the best interest of the creditors will be served by the administration of the estate. The case trustee must serve this motion on all creditors on seven days' notice, pursuant to Vt. LBR 9013-3.

(e) Sequence of Adjudicating Multiple Motions to Dismiss. If a case trustee's § 521(i)(4) motion is pending at the time a party in interest files a § 521(i)(2) motion to dismiss, or if any two § 521 motions are pending simultaneously, the Court will defer consideration of the § 521(i)(2) motion until after an order is entered on the case trustee's § 521(i)(4) motion.

VT. LBR 4002-4. CURRENT CONTACT INFORMATION

(a) Debtors. Throughout one's bankruptcy case, a debtor has a continuous duty to maintain a current mailing address with the Clerk's Office. If a debtor's address changes during the course of the bankruptcy case, the debtor must promptly file a statement of address change with the Clerk. See Vt. LB Form M.

(b) *Pro Se* Parties. A debtor or creditor who appears in a bankruptcy case without an attorney (i.e., a *pro se* party) must provide the Clerk's Office with a current telephone number, if any, and a current e-mail address, if any. If the telephone number or e-mail address changes during the course of the debtor's bankruptcy case, the *pro se* party must promptly file a statement of change with the Clerk. See Vt. LB Form M.

VT. LBR 4003-1. EXEMPTIONS

Property claimed as exempt in Official Form B106C ("Schedule C – Property Claimed as Exempt") of a bankruptcy petition must be specific; general descriptions, such as "automobile," "various," or "common stock" are not sufficient. The debtor must set forth on Official Form B106C the statutory citations, including the relevant subsections, authorizing an exemption together with the value claimed as exempt. In a joint case, the debtor must separately identify the exemptions claimed by each debtor. See Vt. LBR 1015-1(a).

VT. LBR 4003-2. AVOIDING JUDICIAL LIENS THAT IMPAIR AN EXEMPTION

(a) Motion to Avoid a Lien under § 522(f). In a Chapter 7 case, a debtor seeking to avoid the fixing of a judicial lien on an interest of the debtor in property, to the extent the lien impairs an exemption, may file a motion under §522(f) for this relief, and must file any such motion before the case is closed. In a Chapter 12 or 13 case, a § 522(f) motion to avoid a judicial lien that impairs an exemption must be filed in time to be heard at or before the date of the confirmation hearing. Whether filed in a Chapter 7, 12, or 13 case, the motion to avoid lien must attach a copy of the judgment order with proof of perfection, and must also:

(1) include a clear description of the property subject to the lien in question,

(2) specify the value of the property,

(3) specify the basis for the property valuation,

(4) specify the name and address of each entity that holds a lien of record against the property and the recording reference for each lien (including town, book, page and date of recording),

(5) specify the amount due on each lien,

(6) specify the amount of the claimed exemption, and

(7) set forth the basis for alleging that the lien sought to be avoided is a judicial lien, and not a statutory lien.

(b) Identification of Liens Subject to Avoidance in a Chapter 12 or 13 Plan. The debtor must identify in the Chapter 12 or 13 plan any lien the debtor seeks to avoid pursuant to § 522(f), and the debt currently secured by such lien must be included in the amount of unsecured debt for purposes of projecting the minimum dividend for general unsecured creditors. The debtor must clearly specify the treatment of the lien and underlying debt in both the plan and the confirmation order. The debtor must file any motion to avoid a lien in time to be heard at or prior to the confirmation hearing. See paragraph (a), above.

(c) Orders Granting Motions to Avoid Liens. Unless the Court approves different terms after notice to the lien holder and the case trustee, a proposed order avoiding a lien under § 522(f) must:

(1) specify that the lien is avoided only if the case is not dismissed;

(2) state that if the case is dismissed, the order granting the motion to avoid the lien is void;

(3) provide that the order is conditional and is of no effect unless it contains a certification by the case trustee that the debtor satisfied all of his or her obligations in the case and the case was not dismissed; and

(4) include the following trustee certification language if the case is pending under Chapter 12 or 13 as of the date the proposed order is filed:

Certification of Chapter 12/13 Trustee

I, [name], the Chapter 12/13 Standing Trustee for the District of Vermont, hereby certify under penalty of perjury under the laws of the United States of America that the Debtor has completed his/her Chapter 12/13 Plan.

Dated: _____ *____[signature]_____*
Chapter 12/13 Trustee

See also Vt. LBR 3013-1.

Vt. LBR 4004-2. DISCHARGES

See also Vt. LBR 7041-1.

(a) Official Form 423 Required to be Filed Before Entry of Discharge. To evidence completion of the post-petition financial management course required of each individual Chapter 7, 11, and 13 debtor before entry of the discharge order, each such debtor must sign and file Official Form 423, entitled "Certification About a Financial Management Course." The physical signature of the debtor must be affixed to Official Form 423. This form is different from, and not a substitute for, the certification received from a pre-petition credit counseling provider and filed at the beginning of a case. See also Vt. LBR 9011-4(c) (outlining signature requirements for non-attorneys).

(1) **Deadline for Filing Official Form 423.** In a Chapter 7 case, each individual debtor must file Official Form 423 within 60 days after the first date set for the § 341 meeting of creditors. In a Chapter 11 or 13 case, each individual debtor must file Official Form 423 either by the date the last payment is due under the debtor's confirmed plan or the date the debtor files a motion for entry of a discharge order, whichever is earlier. If an individual debtor fails to timely file the Official Form 423, the debtor's case may be closed without entry of a discharge order.

(2) **Motion to Enlarge Filing Deadline.** If, prior to the closing of a case, an individual debtor who has failed to timely file Official Form 423 seeks to file Official Form 423, that debtor must first file a motion to enlarge the time *nunc pro tunc*. The motion must demonstrate cause to enlarge the time; it must also be accompanied by the debtor's affidavit or certification, be made under penalty of perjury, and explain the reason for the failure to timely file Official Form 423. The debtor must serve the motion on the case trustee, the Office of the United States Trustee, and any other parties the Court directs.

(3) **Motion to Reopen Case to Enlarge Time for Filing of Official Form 423 and Enter Discharge.** If, based on a debtor's failure to timely file Official Form 423, the case is closed without entry of a discharge order, the debtor must first move to reopen the case before moving for entry of discharge. In addition to the motion to reopen the case, the debtor must simultaneously file a motion to enlarge the time to file Official Form 423. See subparagraph (2), above. The debtor must serve the motion to reopen on the case trustee, the Office of the United States Trustee, and any other parties the Court directs, and must be accompanied by the appropriate filing fee.

(4) **Waiver of Requirement to File Official Form 423.** In order to obtain a waiver of the requirement to file Official Form 423, the debtor must file a motion, on notice to the case trustee, and obtain a court order. The motion must specify which provision of § 109(h) the debtor is seeking relief.

(b) Certification of Compliance and Motion for Entry of Discharge Order pursuant to 11 U.S.C. § 1228(a). In order to obtain a discharge under § 1228(a), a Chapter 12 debtor must file a certification of compliance with 28 U.S.C. § 1746 and a motion requesting entry of a discharge order.

(1) **Contents of Motion.** In the motion, the debtor must affirm that the debtor has:

(A) made all payments required under the confirmed Chapter 12 plan;

(B) fully complied with the terms of the plan;

(C) either (i) is not required by any judicial or administrative order or law to pay a domestic support obligation, or (ii) was required to pay a domestic support obligation during the Chapter 12 case and has made all required payments on the obligation due through the date of the motion; and

(D) either has not claimed a homestead exemption in excess of the cap described in § 522(q)(1), or has no reason to believe that there is any pending investigation or proceeding in which the debtor may be found guilty of:

(i) a felony involving the abuse of bankruptcy law;

(ii) any violation of federal or state securities law;

(iii) fraud, deceit or manipulation in a fiduciary capacity (where the debtor is responsible for managing someone else's monies, property or affairs) involving the purchase or sale of any securities;

(iv) any civil offense under 18 U.S.C. § 1964 (federal criminal laws); or

(v) any criminal act, any intentional harm to another or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding five years.

(2) **Service of the Debtor's Certification and Motion.** The debtor must serve the certification and motion upon any beneficiary of the debtor's domestic support obligation(s), the Chapter 12 trustee, the Office of the United States Trustee, and any parties who have appeared in the case, as can be found in CM/ECF by conducting a query by party within the case. The debtor may notice the certification and motion using the Court's default procedure. See Vt. LBR 9013-4(b).

(3) **Consequences of Failure to File the Certification and Motion.** If the debtor fails to file a certification and motion, the debtor will not be eligible for a bankruptcy discharge in the debtor's Chapter 12 case. Where the debtor does not file a certification and motion within a reasonable time after completion of the payments due under the plan, the Court may close the case without entry of a discharge order.

(4) **Debtor Attorney's Certification.** If the individual Chapter 12 debtor was represented by an attorney during the course of the Chapter 12 case, the debtor's attorney must certify that he or she has explained the requirements for a discharge to the debtor and that, to the best of the attorney's knowledge, the debtor qualifies for a discharge under §§ 521 and 1228(a) and (f). The attorney must file this certification with the debtor's certification and motion. See Vt. LB Form O-1.

(c) Certification of Compliance and Motion for Entry of Discharge Order pursuant to 11 U.S.C. § 1328(a). In order to obtain a discharge under § 1328(a), a Chapter 13 debtor must file a certification of compliance with 28 U.S.C. § 1746 and a motion requesting the entry of a discharge order.

(1) **Contents of Motion.** In the motion, the debtor must affirm that the debtor has:

(A) made all payments required under the confirmed Chapter 13 plan;

(B) fully complied with the terms of the plan;

(C) completed a post-petition instructional course concerning personal financial management as described in § 111 and has filed a copy of Official Form 423, see paragraph (a), above, either prior to the filing of the certification and motion or together with the certification and motion;

(D) either (i) is not required by any judicial or administrative order or law to pay a domestic support obligation, or (ii) was required to pay a domestic support obligation during the Chapter 13 case and has made all required payments on said obligation due through the date of the motion;

(E) has not received a discharge in any prior Chapter 7, 11, or 12 bankruptcy case in which the debtor was a debtor during the four-year period prior to the date that the debtor filed the present Chapter 13 case and has not received a discharge in any prior Chapter 13 case during the two-year period before filing the present case; and

(F) either has not claimed a homestead exemption in excess of the cap described in § 522(q)(1), or has no reason to believe that there is any pending investigation or proceeding in which the debtor may be found guilty of:

(i) a felony involving the abuse of bankruptcy law;

(ii) any violation of federal or state securities law;

(iii) fraud, deceit or manipulation in a fiduciary capacity (where the debtor is responsible for managing someone else's monies, property or affairs) involving the purchase or sale of any securities;

(iv) any civil offense under 18 U.S.C. § 1964 (federal criminal laws); or

(v) any criminal act, any intentional harm to another or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding five years.

(2) **Service of the Debtor's Certification and Motion.** The debtor must serve the certification and motion upon any beneficiary of the debtor's domestic support obligation(s), the Chapter 13 trustee, the Office of the United States Trustee, and any parties who have appeared in the case, as can be found in CM/ECF by conducting a query by party within the case. The debtor may serve notice of the certification and motion using the Court's default procedure. See Vt. LBR 9013-4(b).

(3) **Consequences of Failure to File the Certification and Motion.** If the debtor fails to file a certification and motion, the debtor will not be eligible for a bankruptcy discharge in the debtor's Chapter 13 case. Where the debtor does not file a certification and motion within a reasonable time after completion of the payments due under the plan, the Court may close the case without entry of a discharge order.

(4) **Debtor Attorney's Certification.** If the individual Chapter 13 debtor was represented by an attorney during the course of the Chapter 13 case, the debtor's attorney must certify that he or she has explained the requirements for a discharge to the debtor and that, to the best of the attorney's knowledge, the debtor qualifies for a discharge under §§ 521, 1308, and 1328(a), (g)(1), and (h). The attorney must file this certification with the debtor's certification and motion. See Vt. LB Form O-1.

(d) Entry of Discharge in Chapter 12 and 13 Cases. Except as specified in subparagraph (e) below, the Court will not enter a discharge order in a Chapter 12 or 13 case until:

(1) the Court has made the requisite findings that there is no reasonable cause to believe that (i) § 522(q)(1) may be applicable to the debtor, and (ii) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in § 522(q)(1)(A) or liable for a debt of a kind described in § 522(q)(1)(B); and

(2) the case trustee has filed his final report.

(e) Request for Early Entry of Discharge in Chapter 12 and 13 Cases. Typically, there is a 60-day period between the date of a debtor's last plan payment and the date of the filing of the case trustee's final report. If a debtor seeks entry of discharge before the filing of the case trustee's final report, either (i) the debtor must file a motion showing cause for the early entry of discharge or (ii) the debtor and case trustee must file a stipulation seeking entry of the discharge order prior to the filing of the final report. However, the Court will not enter a discharge prior to the completion of plan payments.

(f) *Sua Sponte* Denial of Discharge. The Court may *sua sponte* deny a discharge in a Chapter 7 or 13 case if a debtor fails to file all required documents. See, e.g., §§ 727(a)(11), 1328(g); Official Form 423. Further, in Chapter 7 cases, in addition to the grounds for denying a discharge itemized in Fed. R. Bankr. P. 4004(c), the Court may *sua sponte* deny a discharge if the debtor fails to appear and be examined at the § 341 meeting of creditors without leave of the Court or has violated any other order of the Court.

(g) Motion for Entry of Hardship Discharge pursuant to 11 U.S.C. §§ 1228(b) or 1328(b). If a Chapter 12 or Chapter 13 debtor is unable to make all of the payments required by their confirmed plan, and wishes to obtain a discharge, the debtor must file a motion requesting a hardship discharge under either § 1228(b) or § 1328(b), respectively, and may do so using the Court's default procedure. See Vt. LBR 9013-4(b)(12) & (13).

(1) **Contents of Motion.** In the motion, the debtor must:

(A) describe why the debtor is unable to make the plan payments and explain how the debtor's inability to make payments is properly attributable to circumstances beyond the debtor's control;

(B) assert that the value of property distributed to general unsecured creditors under the plan is not less than the amount those creditors would have received had the debtor filed a Chapter 7 as of the effective date of the plan;

(C) explain why modification of the plan is impracticable;

(D) affirm there is no reasonable cause to believe that § 522(q)(1) may be applicable to the debtor; and

(E) affirm there is no pending proceeding in which the debtor may be found (i) guilty of a felony of the kind described in § 522(q)(1)(A), or (ii) liable for a debt of a kind

described in § 522(q)(1)(B).

(2) **Service of the Debtor's Motion for Hardship Discharge.** The debtor must serve the motion upon the entire creditor matrix.

VT. LBR 4008-1. REAFFIRMATIONS

(a) General Requirements; Form to Use.

(1) Any reaffirmation agreement between a debtor and a creditor must comply with § 524 and be filed on the Official Form 2400A ("Reaffirmation Documents"). See also Vt. LB Appendix III ("Reaffirmation Agreement Flow Chart"); Vt. LB Appendix IV (" Reaffirmation Agreement Check List").

(2) When filing reaffirmation agreement documents, it is the date the case was filed that determines which reaffirmation form must be used. If the case was filed prior to December 1, 2015, the reaffirmation documents must be on Official Form B240A/B (in effect since December 2011). If the reaffirmation is being filed in a case that was filed on or after December 1, 2015, the reaffirmation agreement must be filed on Official Form 2400A and Official Form 427 (in effect as of December 1, 2015).

(b) Separate Certification Required. A party seeking approval of a reaffirmation agreement must complete and file both Official Form 2400A and a separate cover sheet, Official Form 427. The party seeking approval of a reaffirmation agreement must also complete Part 2 of Official Form 427. An Official Form 2400A that does not include this mandatory cover sheet will be considered defective; in such an instance, the Clerk's Office will send the filer a deficiency notice. The party seeking approval of the reaffirmation agreement must file and serve Form 2400A and the Official Form 427 cover sheet upon the debtor, the debtor's attorney, if any, and the Office of the United States Trustee.

(c) Additional Requirement When Debtor Identifies a Third Party as Additional Source of Funds. If a debtor seeking to overcome a presumption of undue hardship files a written statement that identifies a third party as an additional source of funds for making the payments under the reaffirmation agreement, the third party must either appear and present testimony affirming his or her commitment to provide such additional funding, or file an affidavit or certification made under penalty of perjury indicating (1) the third party's relationship to the debtor, (2) the third party's ability and willingness to assist the debtor, (3) the assistance of the third party is a voluntary commitment and is not a guarantee or promise of payment in favor of the creditor, and (4) the third party understands that his or her assistance may be a basis for the Court's approval of the reaffirmation agreement.

(d) Hearing on Motion for Approval of Reaffirmation Agreement. Where one of the following circumstances is present, the Court will set a hearing to determine whether to approve the reaffirmation agreement:

(1) the debtor is not represented by an attorney;

(2) the debtor's stated monthly expenses exceed his or her stated monthly income;

(3) in "Part D" of Form 2400A, the debtor's net monthly income available to make all required payments is less than the amount of the payment due on the proposed reaffirmed debt and there is either no explanation or an insufficient explanation as to how the debtor can afford to make the required payment on the proposed reaffirmed debt;

(4) the monthly income and monthly expenses listed in "Part D" of Form 2400A do not match the debtor's monthly income listed in Official Form 106I ("Schedule I: Your Income") and monthly expenses listed in Official Form 106J ("Schedule J: Your Expenses"); or

(5) the monthly expenses listed in "Part D" of Form 2400A do not reflect payments due under other reaffirmation agreements the debtor has filed.

(e) When Motion and Order Not Required. No motion for approval of a reaffirmation agreement is necessary for reaffirmation of debt (1) secured by real property; or (2) held by a credit union (as "credit union" is defined in § 19(b)(1)(a)(iv) of the Federal Reserve Act, codified at 12 U.S.C. § 461b). However, if a party files a motion for an order approving reaffirmation of either of these types of debt, the party must fully comply with § 524 and this Rule. If the reaffirmation agreement does not comply with those requirements, the Court will set a hearing on the motion if the Court deems it necessary.

(f) Presumed Unenforceability for Non-Compliance. Any reaffirmation agreement filed with the Court that does not comply with § 524 is presumed unenforceable.

(g) Motion to Defer Entry of Discharge. Reaffirmation agreements must be made before the entry of discharge. A debtor may file a motion to defer the entry of discharge until after entry of an order approving a reaffirmation agreement to ensure compliance with § 524(c)(1) without notice to any party and may use an endorsement form of order. See also Vt. LBR 9072-1(c).

(h) Motion to Vacate Discharge.

(1) **By the Debtor.** A debtor seeking to file an otherwise enforceable reaffirmation agreement that was made after the entry of the discharge order may file a motion to vacate the discharge order before filing the reaffirmation agreement; no notice or hearing is required.

(2) **By a Creditor.** A creditor may also file a motion to vacate a debtor's discharge to file an otherwise enforceable reaffirmation agreement that was made after the entry of the discharge order. In such an instance:

(A) if the debtor consents to the creditor's motion, no hearing is required;

(B) if the creditor does not seek the debtor's consent or the debtor refuses to consent, the movant must set a hearing on the motion, on notice **to the debtor, the case trustee and the Office of the United States Trustee, and** may notice it under the Court's default procedure, see Vt. LBR 9013-4(b).

(3) **Required Language in Proposed Order.** The following language must be included in any proposed order granting a motion to vacate a discharge:

The Court will re-enter the discharge promptly after the entry of a determination by the Court as to the subject reaffirmation agreement.

See also Vt. LBR 9072-1(c).

Vt. LBR 4070-1. INSURANCE

Unless specifically waived by the Court, a debtor in a Chapter 11, 12, or 13 case must (a) have, and continue to maintain throughout the duration of the case, insurance on all property of the estate; (b) present proof of insurance to the case trustee before or at the first § 341 meeting of creditors, see also Vt. LBR 4002-1(d); and (c) within seven days of a request, present proof of insurance to a creditor whose claim is secured by a lien on the subject property.

Vt. LBR 4071-1. VIOLATION OF THE AUTOMATIC STAY OR DISCHARGE INJUNCTION

Before granting a motion to impose sanctions for a violation of the automatic stay or discharge injunction, the movant must establish it has effectuated proper notice on the party against whom sanctions are sought and must present sufficient evidence to warrant imposition of sanctions against that party. Ordinarily, this will require an evidentiary hearing. However, where the Court determines that proper notice has been provided and sufficient evidence has been presented in the record, in its discretion, the Court may impose sanctions without a hearing.

PART V

VT. LBR 5001-2. CLERK – OFFICE HOURS; LOCATION; WEBSITE

(a) Hours and Place for On-Site Filing and Access to Records. Petitions and all other documents may be filed or reviewed on-site in the Clerk's Office. Petitions and all other documents may also be reviewed in the U.S. District Court Clerk's Office at 151 West Street, Rutland, Vermont. Office hours in both locations are Monday through Friday, between 8:30 a.m. and 5:00 p.m., except on federal holidays.

(b) Mailing Address, E-Mail Address, and Telephone Number. The mailing address for the Clerk's Office is P.O. Box 1663, Burlington, VT 05402-1663. The physical location of the Clerk's Office is 11 Elmwood Avenue, Room 240, Burlington, VT 05401. The general e-mail address for the Clerk's Office is webmaster@vtb.uscourts.gov. The telephone number for the Clerk's Office is (802) 657-6400.

(c) Website. Information about the Clerk's Office, these Rules, issued decisions of this Court, electronic case filing and the CM/ECF System, instructions for how to schedule a hearing, as well as other useful information can be found on the Court's website, http://www.vtb.uscourts.gov. All information on the Court's website may be viewed on-line in the Clerk's Office during normal business hours. See paragraph (a), above.

VT. LBR 5001-3. CLERK – PUBLIC ACCESS TO RECORDS

(a) Hours of Electronic Filing and Public Access to Court Electronic Records. The Clerk accepts electronically filed documents and makes the content of these documents available on the Court's website via PACER, 24 hours per day, seven days per week. Any PACER subscriber is able to read, download, store, and print the full content of all filed documents remotely, 24 hours per day, seven days per week, unless sealed pursuant to Court order. See Vt. LBR 5003-4. Court records regarding closed or pending cases are also available on the CM/ECF System. However, only parties who are registered for CM/ECF may file documents or access information through the CM/ECF System. Documents may be filed, downloaded, or viewed electronically, remotely, 24 hours per day, seven days per week, in compliance with the procedures set forth in these Rules. Federal law prohibits use of the information posted on the CM/ECF System or otherwise made available by the Clerk's Office in ways that are inconsistent with the privacy of any person.

(b) Request for Limiting Access to Sensitive Information. Any party in interest may file a motion for an order limiting electronic access to, or prohibiting the electronic filing of, sensitive information in a case upon a showing that public access to such material infringes upon privacy rights, electronic access to such sensitive information is likely to be prejudicial, and denial of public access is warranted. See Vt. LBR 5003-4.

(c) Personal Data Identifiers.

(1) **Requirement to Redact.** In compliance with the policy of the Judicial Conference of the United States and the E-Government Act of 2002, and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties must refrain from including, or must partially redact where inclusion is necessary, the following personal identifiers from all evidence presented at hearings and from all documents filed with the Clerk, including exhibits thereto, whether filed electronically or non-electronically, unless otherwise ordered by the Court:

(A) **Names of Minor Children.** If the existence of a minor child is required to be disclosed in a court filing or at a court hearing, the child must be identified only by his or her initials;

(B) **Dates of Birth.** If an individual's date of birth is required to be disclosed in a court filing, it must be disclosed by the year of birth only;

(C) **Social Security Numbers.** If an individual's social security number is required to be included in a court filing, only the last four digits of that number should be used; however, this Rule does not apply to Official Form 121;

(D) **Taxpayer Identification Numbers.** The taxpayer identification number of any non-debtor identified in a debtor's filings must be redacted except for the last four digits; and

(E) **Financial Account Numbers.** If financial account numbers are required to be disclosed in a court filing or at a court hearing, they must be disclosed by the last four digits only of such account numbers, unless the Court specifically orders otherwise.

(2) **Filer Responsible for Redacting.** In all instances, the responsibility for redacting these personal data identifiers rests with the party who files the document or introduces the testimony which includes that information. As a corollary, the responsibility for protecting personal information of the debtor, and preventing dissemination of personal information relating to individuals and others affiliated with the debtor, rests with the party who files the document or presents the testimony which contains information about those individuals.

(A) The Clerk will not review each document filed to verify redaction of personal data identifiers. However, to the extent the Clerk observes that a filed document contains personal data identifiers, the Clerk will restrict access to that document.

(B) When the Clerk restricts access to a document due to the inclusion of personal data identifiers, the Court will issue an Order directing the party who filed the document to

(i) file a motion to redact, accompanied by the $25 fee, and a copy of the document in redacted form, by a date certain, and

(ii) appear at a hearing to show cause why sanctions should not be imposed for the party's inclusion of personal data identifiers in the document (the "Redaction Order"). Potential sanctions include monetary penalties and the striking of the document from the Court record.

(C) If an individual or entity asserts harm based upon the publication of personal data identifiers in a bankruptcy case or proceeding, or by a party's failure to redact a document in response to a Clerk's notice, the complaining party may bring a motion for sanctions in the case or proceeding.

(D) If the document with personal identifier information may be filed by one of multiple parties (e.g., a proof of claim may be filed by the creditor, debtor, or trustee), any one of those parties may file a motion to redact the document in response to the Redaction Order, and if the movant is not the party who filed the document, the movant may ask the Court to waive the fee, as authorized by the Miscellaneous Fee Schedule.

(3) **Request for Redacted Information.** If a party determines it needs any of the above-enumerated redacted information, the party may contact the debtor's attorney (or the debtor if the debtor is proceeding *pro se*) to request it. If the debtor or debtor's attorney does not grant the request, the party may then move the Court for a determination of whether grounds exist to compel the debtor to provide the requested information to the party and in what form.

VT. LBR 5003-1. CLERK – DUTY TO MAINTAIN RECORDS

(a) General Duty to Maintain All Records. The Clerk will maintain all official records of the Court. All documents filed after April 1, 2002 are maintained as electronic records. When the Clerk accepts any documents on paper or by e-mail, the documents are scanned into the appropriate case record. Thereafter, these documents will be maintained electronically, and the Clerk will dispose of the paper or e-mail version received from the filer.

(b) Official Form 121, Statement About Your Social Security Numbers. The Clerk will retain any Official Form 121 a party submits for a minimum of five years. The Official Form 121 is not to be filed in, or become part of, any bankruptcy case records.

Vt. LBR 5003-3. Claims Register

The claims register is maintained, and is accessible, electronically. A creditor may file a claim using the CM/ECF System, without retaining counsel, if the creditor registers for limited participation in the CM/ECF System. Instructions on limited participant CM/ECF registration are available on the Court's website, http://www.vtb.uscourts.gov.

Vt. LBR 5003-4. Requirements for Submitting and Sealing Documents

(a) Order Required to Seal Documents. All official records in possession of the Clerk are considered to be public documents available for inspection, both at the Clerk's Office and electronically, see, e.g., Vt. LBR 5001-3(a), unless otherwise ordered. By Court order, cases, documents, and proceedings may (1) be excluded from the public record, (2) have restricted access, or (3) be sealed. Any order that seals a document shall also specify when, under what circumstances, and by what procedure the document will be unsealed and made available to the public via CM/ECF, if at all.

(b) Motion Required. A party requesting that the Court seal or restrict access to a document pursuant to § 107(b) or (c) and Fed. R. Bankr. P. 9018 must file a motion to seal. See paragraph (c), below; see also Vt. LB Appendix V. In either instance, the movant must also indicate in the motion the reason the subject document(s) should be excluded from the public record and the length of time the party seeks to have the document(s) excluded.

(c) Document for Which Sealing is Sought. The movant must contact the Clerk's Office to arrange delivery of the document sought to be sealed (for the Court's *in camera* review and its final determination whether an order will be issued authorizing the sealing of the document).

(d) The Effect of Electronic Filing. The motion to seal will be filed electronically and will be part of the public record. But see Vt. LBR 9013-1(g) (regarding *ex parte* motions). Further, the Court's order authorizing the filing of a document under seal will be filed electronically and will be part of the public record. However, the document authorized to be filed under seal will be retained in electronic format, inaccessible to the public or any party outside those designated in the order.

Vt. LBR 5003-5. Deposit and Investment of Registry Funds

(a) **Receipt of Funds.**

(1) No money may be sent to the Clerk for deposit in the Court's registry without a Court order in the case or proceeding.

(2) The party making the deposit or transferring funds to the Court's registry must serve the order permitting the deposit or transfer on the Clerk.

(3) Unless provided for elsewhere in this Rule, all monies ordered to be paid to the Court in any case pending or adjudicated must be deposited with the Treasurer of the United States in the name and to the credit of this Court pursuant to 28 U.S.C. § 2041 through depositories designated by the Treasury to accept such deposit on this Court's behalf.

(b) Investment of Registry Funds.

(1) Where, by order of the Court, funds on deposit with the Court are to be placed in an interest-bearing account, the Court Registry Investment System ("CRIS"), administered by the Administrative Office of the United States Courts under 28 U.S.C. § 2045, will be the only investment mechanism authorized.

(2) The Director of Administrative Office of the United States Courts is designated as the custodian for CRIS. The Director or the Director's designee will perform the duties of the custodian. Funds held in the CRIS remain subject to the control and jurisdiction of the Court.

(3) Money from each case deposited in the CRIS will be pooled together with those on deposit with Treasury to the credit of other courts in the CRIS and used to purchase Government Account Series securities through the Bureau of Public Debt, which will be held at Treasury, in an account in the name and to the credit of the Director of Administrative Office of the United States Courts. The pooled funds will be invested in accordance with the principals of the CRIS Investment Policy as approved by the Registry Monitoring Group.

(4) An account for each case will be established in the CRIS titled in the name of the case giving rise to the investment in the fund. Income generated from fund investments will be distributed to each case based on the ratio each account's principal and earnings has to the aggregate principal and income total in the fund. Reports showing the interest earned and the principal amounts contributed in each case will be prepared and distributed to each court participating in the CRIS and made available to litigants and/or their counsel.

(c) Deduction of Fees.

(1) The custodian is authorized and directed by this Rule to deduct the investment services fee for the management of investments in the CRIS and the registry fee for maintaining accounts deposited with the Court.

(2) The investment services fee is assessed from interest earnings to the pool according to the Court's Miscellaneous Fee Schedule and is to be assessed before a pro rata distribution of earnings to court cases.

(3) The registry fee is assessed by the custodian from each case's pro rata distribution of the earnings and is to be determined on the basis of the rates published by the Director of the Administrative Office of the United States Courts as approved by the Judicial Conference of the United States.

VT. LBR 5005-1. FILING DOCUMENTS – FORMAT REQUIREMENTS

Parties filing documents in this Court, whether electronically or non-electronically, must comply with the following presentation criteria:

(a) Size and Format. Filings and attachments must conform to these specifications:

(1) be on an 8½" x 11" page;

(2) be plainly legible, whether typed, handwritten, or duplicated;

(3) have margins of no less than ¾", exclusive of page numbers;

(4) be consecutively paginated, with page numbers on the bottom of the page;

(5) use 1.5 or 2.0 line spacing, except for quoted material and footnotes;

(6) use footnotes sparingly; and

(7) if filed on paper, except for mailing lists, be stapled or otherwise attached, but not permanently bound.

(b) Identification of Attorney and Party Being Represented. The attorney's name, current office address, e-mail address, telephone number, and the name of the party the attorney is representing, must appear below the signature line of all filings, whether filed electronically or non-electronically. Where the Official Form asks for the attorney's bar number, the attorney should use his/her state bar number.

(c) Identification of Filings. All filings must contain:

(1) the caption of the case, including the debtor's full name as stated on the petition and the chapter under which the case is currently proceeding, but excluding the debtor's social security number;

(2) the case number, except for documents filed with or before the petition, when no case number has yet been assigned;

(3) a title describing the filing's contents and/or the relief sought;

(4) the name of the party on whose behalf it is filed;

(5) signatures that comply with the current requirement regarding original, e-mail, and electronic filing; and

(6) the title or function in the case of all persons named in the filed document.

(d) Affidavits. An affidavit must identify the filing it relates to by indicating that document's title and date of filing. An affidavit must be filed in support of any document seeking a factual determination by the Court.

(e) Removed Actions. This Rule does not apply to documents filed in actions removed to this Court or to the transmission of the record from another court.

(f) Parties Must File Current Official and Local Forms Without Deletion or Modification.

(1) Effective December 1, 2015, old versions of Official Forms or Local Forms will not be accepted for filing except with respect to (i) amended statements or schedules, when the original of the form was filed before December 1, 2015, and (ii) reaffirmation agreements in cases that were filed before December 1, 2015, as set out in Vt. LBR 1009-4(b) and 4008-1(a), respectively.

(2) Parties may not delete or modify the text of an Official Form to reduce the scope of information provided without prior Court approval; no Court approval is necessary to supplement or provide additional information beyond what is required on the Official Forms.

VT. LBR 5005-2. FILING DOCUMENTS – GENERALLY

(a) CM/ECF System. Parties are strongly encouraged to file all petitions, pleadings, and other documents by electronic means directly into the CM/ECF System. Instructions and procedures for electronic filing via CM/ECF are posted on the Court's website, http://www.vtb.uscourts.gov, and are available from the Clerk's Office upon request. All documents filed electronically must be filed, signed, and verified by means that are consistent with these Rules. See also Vt. LBR 9011-1(c); Vt. LBR 9011-4.

(b) Consequences of Electronic Filing. Electronic transmission of a document to the Clerk through the CM/ECF System consistent with these Rules, together with the transmission of a notice of electronic filing (NEF), constitutes the filing of the document for all purposes of the Federal Rules of Bankruptcy Procedure and these Rules, and constitutes entry of the document on the docket kept by the Clerk pursuant to Fed. R. Bankr. P. 5003.

(c) Official Record and Deemed Filing Date.

(1) **Electronic Filings.** When a document has been filed electronically, the official record is the electronic recording of the document maintained by the Clerk, and the filing party is bound by the document as filed. A document filed electronically is deemed filed at the date and time entered into the CM/ECF System.

(2) **E-Mail Filings.** A document submitted for filing via e-mail is deemed filed as of the date and time the Clerk's Office enters it into the CM/ECF System, not the time of the transmission of the e-mail. The party is bound by the document as e-mailed.

(3) **Non-Electronic Filings.** A document submitted for filing on paper by mail, submission at the Clerk's Office, or delivered directly to the Clerk is deemed filed as of the date and time the Clerk's Office enters it into the CM/ECF System, not the time of receipt. The party is bound by the document as submitted.

See also Vt. LBR 1002-1 (deemed filing date for petition); Vt. LBR 9075-1(b)(1) (filing requirements related to emergency filings).

(d) Filing Deadline Not Altered. When filing a document electronically, the filer must enter the document into the CM/ECF System before midnight in order to have effectuated the filing that day.

(e) Relief Due to Technical Failures. A party whose electronic filing is rendered untimely as a result of a technical failure may seek relief from the Court**.**

VT. LBR 5005-3. FILING DOCUMENTS VIA THE CM/ECF SYSTEM – REGISTRATION REQUIREMENTS

(a) Registration and Passwords for Electronic Filings. Attorneys admitted to the Bar of this Court (including those admitted *pro hac vice*) must register to use the Court's CM/ECF System. United States Trustees and their assistants, bankruptcy administrators and their assistants, private trustees, creditors, and others as the Court deems appropriate, may also register to use the Court's CM/ECF System.

(1) **For Attorneys.** Attorneys must register using the form prescribed by the Clerk, which requires the registrant's name, address, telephone number, e-mail address, and both (A) a declaration that the attorney is admitted to the Bar of this Court; and (B) consent to service through the CM/ECF System. Further, prior to electronically filing documents in this Court, each attorney must enter a current e-mail address into his or her CM/ECF user profile. The maintenance and control of the "Email Information" section of a user's CM/ECF account (in the "Utilities" menu of the CM/ECF System) is the responsibility of the registered user and not the responsibility of the Clerk; the information entered into this section will govern how a user will receive e-mail notifications and to which e-mail address(es) notifications will be sent.

(2) **For Non-Attorneys.** Upon Court approval, and after being trained by a member of the Clerk's Office, a party to a pending case, proceeding, or motion who is not represented by an attorney may register to use the CM/ECF System in that particular matter. Registration is in the form prescribed by the Clerk and requires identification of the case, proceeding, or motion in which the party seeks to participate electronically, as well as the name, address, e-mail address, and telephone number of the party. If, during the course of the case, proceeding, or motion, the party retains an attorney who appears on the party's behalf, the attorney must file a notice of appearance.

(3) **Limited Appearance Exception.** Any party may file a notice of appearance, request for notice in a case, proof of claim, notice of transfer of claim, withdrawal of claim, or motion for relief from stay without having registered to use the CM/ECF System. See also Vt. LBR 2090-1(b)(6).

(b) Waiver of Service and Notice by Mail. Registration with the Clerk to file using the CM/ECF System constitutes (1) a waiver of the right to service by personal service or by regular, first-class mail and consent to electronic service, except for service of a summons and complaint under Fed. R. Bankr. P. 7004; and (2) a waiver of the right to receive notice by regular, first-class mail and consent to receive notice electronically. Waiver of service and notice by mail applies to all documents filed in the case, including notice of entry of an order or a judgment under Fed. R. Bankr. P. 9022. Pleadings and other documents filed

electronically are deemed served upon all CM/ECF participants who are parties to the case or proceeding, unless the NEF indicates otherwise. While non-registered attorneys may be served via e-mail, they will not receive automatic e-mail notification through the CM/ECF System.

(c) Passwords and Their Security. Once a party completes the registration process, the registrant will receive a user log-in and password. Persons registered to use the CM/ECF System must protect the security of their passwords and immediately notify the Clerk if they learn that their password has been compromised. CM/ECF access may be revoked and other sanctions imposed if a registered user fails to comply with this obligation.

Vt. LBR 5005-4. Filing Documents Via Other Electronic Means

(a) Filing Documents by E-Mail. The Clerk accepts documents received by email for filing. However, filing via CM/ECF is preferred. The appropriate e-mail address to use in filing documents by email is efiling@vtb.uscourts.gov. The documents to be filed must be PDF attachments to the transmittal e-mail. Parties filing documents by e-mail are required to simultaneously attempt service on all parties in interest via e-mail and immediately thereafter e-mail a certificate of service (as a PDF attachment) to the Clerk. Exhibits to pleadings, motions, and other documents that are filed by e-mail must be clearly marked as exhibits. If documents are e-mailed, the original of those documents should not be transmitted to the Clerk by other means. Court fees required at the time of filing must be paid pursuant to the provisions set forth in paragraph (c) of this Rule. See also Vt. LBR 1002-1(d); Vt. LBR 9011-4(d).

(b) Service of Documents on the United States Trustee. To the extent documents other than monthly operating reports are filed electronically, the Office of the United States Trustee will be served and notified electronically, making service by regular, first-class mail unnecessary. Monthly operating reports are still to be served on the Office of the United States Trustee by hand-delivery, regular, first-class mail, or private courier service. See Vt. LBR 4002-1(f) (directing that paper copies with original signatures be served on the Office of the United States Trustee). The Office of the United States Trustee will not accept service of any documents by fax. But see Vt. LBR 9013-1(g).

(c) Form of Payment. A party must make payments due in connection with documents filed by electronic means with a credit card. See Vt. LBR 5081-1(c).

Vt. LBR 5007-1. Record of Proceedings and Transcripts; Ensuring Privacy in Transcripts

(a) Recording of Proceedings and Hearings. Except as provided in paragraph (b) of this Rule, all trials and court proceedings, other than emergency hearings, will be recorded by a court reporter or an electronic recording system.

(b) Audio Record of Court Hearings. Digital audio recordings will be available on PACER for all hearings and trials conducted on or after November 1, 2011. A recording will appear on the docket as a PDF document with an MP3 file embedded and will generally be available within two hours of the conclusion of that day's hearings, but, in any event, will be available no later than the next business day after the conclusion of the hearings. The official record of

any Court hearing remains the written transcript. See paragraph (d), below. Attorneys (and *pro se* parties) involved in the hearing seeking to restrict public access to the digital audio recording of a hearing must file an application showing good cause for restriction at least one full day prior to the commencement of the hearing, on notice to all attorneys (and *pro se* parties) involved in the hearing, the case trustee, and the Office of the United States Trustee. The burden is on the applicant to demonstrate grounds, pursuant to § 107, warranting restriction.

(c) Telephonic and Emergency Hearings. Telephonic hearings and hearings on limited or no notice may be conducted when exigent circumstances require and with Court approval. See, e.g., Vt. LBR 9074-1; Vt. LBR 9075-1. A party wishing to have a transcript of a telephonic or emergency hearing that the Court would not otherwise record must provide a court reporter or other means of recording the hearing, notify the Clerk in advance of the hearing of the party's intent to record the hearing, and file a transcript of the hearing within seven days of the conclusion of the hearing.

(d) Official Written Transcript. When a court reporter has recorded a hearing, a party must contact the court reporter directly to request a copy of the official transcript of the hearing. When an electronic recording system has been used to record a hearing, a party requesting an official transcript makes the request directly to the transcription service of its choice. The Clerk will provide a recording of the hearing to the designated transcription service upon the transcription service's request. In either instance, the requesting party (1) will be responsible for paying all expenses for preparing the transcript; and (2) must file a copy of the transcript with the Clerk promptly upon receipt. If the Court deems a transcript necessary, the Court may order a transcript and assign the transcription cost to the parties.

(e) Procedures for Protecting Privacy. See also Vt. LBR 5001-3(c).

(1) **Temporary Restriction Period.** Transcripts filed with the Clerk will be temporarily restricted to court users and case participants only; this temporary restriction period will afford attorneys (and any *pro se* parties) involved in the hearing the opportunity to review the transcript to determine if redaction of personal data identifiers is necessary to protect the privacy of witnesses or parties. The temporary restriction period will expire 21 days after the date the transcript was filed unless, upon motion for good cause shown, the Court orders the restriction period enlarged.

(2) **Information Subject to Redaction.** The personal data identifiers a party may seek to redact include:

(A) names of minor children,

(B) dates of birth,

(C) home addresses of individuals other than the debtor,

(D) social security numbers,

(E) taxpayer identification numbers, and

(F) financial account numbers.

(3) **Filing a Request for Redaction.** Upon review of the transcript and during the temporary restriction period, a party seeking redaction must file a request for redaction (Vt. LB Form R) with the Clerk and serve a copy on the transcriber. On the request for redaction, the party must identify the category or type of information to be redacted and provide the location of the information in the transcript. Parties should not include the specific information sought to be redacted, as the request for redaction is a public filing.

(4) **Form of Redaction.** The transcriber must redact personal data identifiers in the following manner:

(A) names of minor children must be limited to their initials only,

(B) dates of birth must be limited to years of birth only,

(C) home addresses of non-debtor individuals must be limited to city and state only,

(D) social security numbers must be limited to the last four digits,

(E) taxpayer identification numbers must be limited to the last four digits, and

(F) financial account numbers must be limited to the last four digits.

(5) **Request for Redaction of Other Information.** Upon a motion for good cause shown, a party may request that information other than that listed in subparagraph (4), above, be redacted from the transcript. See Vt. LBR 5003-4 (articulating requirements for filing documents under seal). The motion must be noticed to those attorneys (or *pro* se parties) who were present at the hearing from which the transcript was produced.

(6) **Lifting of Temporary Restriction.**

(A) **No Request or Motion Filed.** If no request for redaction or motion for other redaction is filed within the temporary restriction period, the Court will conclude the parties to the hearing have no objection to the transcript. Therefore, at the expiration of the temporary restriction period, the temporary restriction on the transcript will be lifted, making the transcript available to the general public, unless the Court determines that the restriction should not be lifted.

(B) **Request or Motion Filed.** If a request or motion for redaction is filed, the temporary restriction on the transcript will not be lifted until the later of the completion of the redactions by the transcriber or a ruling on the motion by the Court or as otherwise ordered by the Court.

(f) Parties' Responsibilities as to Personal Data Identifiers.

(1) Limiting Solicitation of Personal Data Identifiers in Hearings. Attorneys should make all reasonable efforts to avoid introducing personal identifier information into the record.

(2) Other Responsibilities. It is the responsibility of the parties to a hearing to (A) monitor the docket of the case to be aware when the transcript is filed, and (B) file a timely objection to the inclusion of any personal data identifiers in the record.

(3) Sanctions. A party who causes personal data identifiers to be included in the record may be required to pay the cost of any redactions, and shall be subject to such other sanctions as the Court deems appropriate under the circumstances.

VT. LBR 5010-1. REOPENING CASES

(a) Generally. A motion to reopen a case must comply with Fed. R. Bankr. P. 7004. The movant must serve and give notice of the motion in the same manner as any other contested matter, except where the party files a motion to reopen a case to file Official Form 423.

(b) Motion to Reopen a Case to File Official Form 423. See Vt. LBR 4004-2(a)(3).

VT. LBR 5070-1. COURT CALENDARS AND SCHEDULING HEARINGS

(a) The courtroom deputy will schedule pre-trial conferences, dismissal motions in adversary proceedings, summary judgment motions, evidentiary hearings, trials, disclosure statement hearings, and Chapter 11 confirmation hearings. Attorneys must schedule all other hearings through the CM/ECF System.

(b) When setting a hearing, the movant must select the location where the § 341 meeting of creditors is scheduled (Rutland or Burlington), unless otherwise agreed between the interested parties or due to exigent circumstances as determined by the Court.

(c) Counsel must make arrangements through the courtroom deputy if they wish to use a computer screen or other audio-visual aid, and must make the request sufficiently in advance of the hearing to allow for set-up of the requested equipment during hours when the Court is not in session.

(d) Counsel wishing to appear by telephone must obtain Court approval in advance and make arrangements for the telephonic connection with the courtroom deputy at least one full business day in advance of the time set for the hearing. See Vt. LBR 9074-1.

VT. LBR 5071-1. CONTINUANCES

No continuance, postponement, or rescheduling will be granted except upon a motion or stipulation showing good cause, and upon such terms and conditions as the Court may impose. Agreement of counsel alone does not constitute good cause. A request for a continuance based on a conflicting engagement must be accompanied by proof that the other matter was scheduled first and must be filed timely with the Clerk. A motion to continue a trial must contain a certification that the party on whose behalf the request has been filed and opposing counsel have been notified of the request for a continuance. See Vt. LBR 9013-2(g).

VT. LBR 5072-1. COURTROOM DECORUM

The following procedures are to be adhered to in all matters in open court:

(a) all persons in the courtroom are to be treated with dignity and respect;

(b) counsel must address all persons by their surname during all court hearings;

(c) there will be no oral confrontation or dialog directly between opposing attorneys or among parties;

(d) all persons addressing the Court must stand;

(e) counsel must make all objections to questions posed by opposing counsel with specificity, prior to offering any argument or explanation of same;

(f) during the testimony of a witness, attorneys may not approach the witness box, bench, or court reporter without the Court's prior approval;

(g) counsel and their clients, if present, must be seated in the courtroom while waiting for their case to be called, be prepared to proceed when their case is called, and refrain from talking while court is in session;

(h) counsel must dress professionally and advise their clients to dress appropriately for court hearings, and remove overcoats before taking a seat in the courtroom; and

(i) all persons in the courtroom must be attentive to the court hearings and refrain from reading newspapers or books while court is in session.

VT. LBR 5073-1. PHOTOGRAPHY, RECORDING DEVICES; CELLULAR TELEPHONES, LAPTOP COMPUTERS; RECORDING AND BROADCASTING BY THE COURT

(a) Prohibition against Certain Devices. The use of cameras, radios, cellular telephones, and all other electronic devices is expressly prohibited in any court facility, except with the Court's permission. Failure to follow this Rule will be grounds for refusal of admission to court facilities and may subject the offender to (1) detention, arrest, and prosecution as provided by law, or (2) sanctions imposed by the Court.

(b) Limited Permission for Attorneys. Attorneys may bring cellular telephones and laptop and/or tablet computers into the courtroom if necessary for effective participation in a hearing, or with Court approval. An attorney may use this equipment for work purposes during hearings if the equipment is silent and does not interfere with the attorney being ready to proceed when his or her matter is called. However, if use of such equipment disrupts or delays court proceedings, the Court may impose such sanctions as it deems appropriate. Further, if the permitted equipment has the capability of functioning as a prohibited device (e.g., one that can take photographs), the attorney must disclose this capability to a court security officer and refrain from using it in the court facility unless the Court grants the attorney specific permission to do so.

(c) Recording and Broadcasting by the Court. Upon motion and for good cause, the Court may permit electronic or photographic preservation of evidence and perpetuation of the record. The Court may also permit broadcasting, televising, or photographing of investiture or ceremonial proceedings; however, the broadcasting or televising of Court matters is prohibited.

VT. LBR 5081-1. FEES – FORM OF PAYMENT

(a) Payments from Debtors. A debtor must pay the bankruptcy petition filing fee with cash, certified check, bank draft, or money order. For services other than the filing of a petition, the Clerk may accept personal checks, credit cards, or debit cards as payment from debtors, but the Clerk has both the discretion and authority to reject any of these forms of payment from debtors.

(b) Acceptable Forms of Payment. Except as provided by paragraph (a) above, any of the following are acceptable forms of payment: cash, check, money order, debit card, or credit card issued by VISA, MasterCard, American Express, Discover, or Diners Club.

(c) Payment by Credit Card. Fees may be paid by: (1) physically presenting a credit card; (2) providing a written statement authorizing that the fee will be paid by credit card and requesting that the clerk phone the party to obtain the credit number and other relevant information; or (3) processing the credit card online through Pay.gov. Credit card information provided in accordance with this Rule will remain confidential. Authorization is required for each transaction.

(d) Request for Refund of Overpayment by Credit Card. If a filing party pays the incorrect fee, the party may seek a refund upon application to the Court setting forth the amount of the overpayment and the basis for the request.

(e) Effect of Non-Payment. Except where the Court orders otherwise, the Clerk may not be required to render service for which a fee is prescribed by statute unless the fee is paid in advance.

(f) Payment of Filing Fee in Installments; Waiver of Filing Fee; Waiver of Other Fees. An application for permission to pay the filing fee through installment payments may be filed pursuant to Fed. R. Bankr. P. 1006(b). See Vt. LBR 1006-1(b). An application for a waiver of the filing fee may be filed pursuant to Fed. R. Bankr. P. 1006(c). See Vt. LBR 1006-1(c). Where the Court grants an individual Chapter 7 debtor a fee waiver and other bankruptcy court fees subsequently become due, the Court will consider waiving the other fees only upon an affirmative showing of the continued inability of the debtor to pay those fees. See 28 U.S.C. § 1930(f).

VT. LBR 5091-1. JUDGE'S SIGNATURE

Any order signed and filed electronically has the same force and effect as if the Judge had affixed the Judge's original signature to a paper copy of the order and the Clerk had entered it on the docket in a non-electronic manner. See Vt. LBR 9036-1(c).

PART VI

VT. LBR 6003-1. FIRST DAY MOTIONS.

(a) Notice of Preliminary Hearing on First Day Motions. A Chapter 11 debtor seeking relief at the outset of the case must provide notice of the preliminary hearing on the first day motions to the Office United States Trustee, committee of unsecured creditors, if any,

and otherwise to the 20 largest unsecured creditors, as well as any other parties directly affected by the motions. The debtor may serve notice by electronic mail, hand delivery, or such other means as the Court approves.

(b) Notice of Final Hearing on First Day Motions. The debtor must serve notice of the final hearing on first day motions on all creditors, unless the Court orders otherwise.

VT. LBR 6004-1. SALE OF ESTATE PROPERTY

(a) Sales Free and Clear of Liens. A party seeking to sell property free and clear of liens under § 363(f) must file a motion and obtain a Court order approving the sale.

(1) **Contents of Motion.** The motion must include:

(A) a detailed description of all property to be sold;

(B) an itemized valuation of all property to be sold together with the basis for each valuation;

(C) a listing setting forth the holders and amounts of all secured claims against each property to be sold such that the Court may determine whether the proposed sale price for each property is sufficient to pay the loans secured by each such property;

(D) the terms of the bidding, including acceptable methods of bidding (e.g., whether and how parties may bid via telephone or electronic means during the auction);

(E) the date, time, and location of the hearing to approve the sale procedure, if applicable;

(F) the date, time, and location of the proposed sale;

(G) the date, time, and location of the hearing to approve the results of the sale, if applicable;

(H) a listing of all methods used to advertise the sale;

(I) a description of the due diligence undertaken to identify and provide notice to (i) all parties with an interest in the property being sold, and (ii) all potential bidders; and

(J) an affirmation that the proposed sale complies with § 363(f), with a specific explanation of how it complies.

(2) **Notice.** The notice of sale must set forth the information outlined in subparagraph (1) above and may do so in summary form. The notice of sale must also make clear that the sale is subject to Court approval and that even if the case trustee deems a bid to be the highest and best bid, the Court may still deny approval of the bid if it finds the bid is not in the best interest of the estate or finds it is not in compliance with the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure. The notice of sale and notice of motion must be served on all secured creditors, the Office of the United States Trustee, all parties who have (or are identified on public record as claiming to have) an interest in the property being sold, all other parties listed on the master mailing list, and all parties that the movant, through due diligence, determines to be potential bidders.

(3) **Hearings.** If a movant seeks Court approval of a proposed sale procedure, a hearing to approve the proposed sale procedure must be set at least seven days before the proposed sale, unless the Court approves a shorter time. The movant must also set a hearing to approve the sale within seven days of the sale, unless the Court approves a longer time.

(4) **Potential Consequence of Noncompliance.** Failure to comply with the requirements of this Rule may result in the sale being denied or postponed. Further, any costs incurred by other parties due to the movant's noncompliance may be assessed against the movant or movant's counsel.

(b) Other Sales Outside the Ordinary Course of Business. The debtor-in-possession or case trustee may seek approval of a sale outside the ordinary course of business through a notice of intent to sell, if the movant is not seeking to sell property free and clear of liens and the aggregate value of the estate's property being sold is less than $2,500. A motion or notice of intent to sell outside the ordinary course of business must include:

(1) the type of sale and known prospective purchasers;

(2) the terms of sale, including but not limited to: the location and condition of the items to be sold, bidding procedures, and minimum bid, if any; whether the sale is subject to higher and better offers, the funds required at approval of the sale, the form of funds required at approval of the sale and at closing of the sale, and a proposed date for both the sale and closing of the sale;

(3) identification of the property (e.g., the VIN, make, model, serial number of a vehicle; volume/page number and town where ownership of real property is recorded; street address of real property), as applicable;

(4) the names and purported interests of all parties known, or discoverable after reasonable investigation, to claim an interest in the property;

(5) the fair market value of the property, the basis for valuation, and the amount of any outstanding indebtedness secured by the property;

(6) a copy of the contract or a summary of the terms of sale; and

(7) any other information that provides due process to all parties in interest and is likely to maximize the sale price.

(c) Notice of Intent to Sell and Order. The Court will enter an order approving sale of estate property by the case trustee submitted in conjunction with a notice of intent to sell, as referenced in paragraph (b), provided the proposed order contains all the information set forth in the notice, indicates that no objections were filed within the time required under the applicable Federal Rules of Bankruptcy Procedure, and contains sufficient specificity to provide the Court with all information necessary to make a determination that the statutory requirements of § 363(b)(1) have been met.

(d) Form of Orders Approving Sales. All orders approving sales must state the name and address of the buyer, identify the property sold, specify the amount paid, and disclose the net

proceeds to the estate. If the property sold is different from the property listed on the notice of sale, the proposed order must identify and explain any differences.

(e) Sale or Refinance of Property in Chapter 12 and 13 Cases.

(1) **Approval Procedures.** No sale or refinance of the debtor's principal residence or other real property may take place while a Chapter 12 or 13 case is pending unless (A) the Court approves the sale or refinance after notice to all parties in interest, see Fed. R. Bankr. P. 2002(a)(2), or (B) the debtor obtains the Chapter 12 or 13 trustee's approval using the procedure described in subparagraph (2) below.

(2) **Chapter 12 or 13 Trustee's Approval.** If the debtor wishes to use the proceeds of a sale or refinance of property to fund a Chapter 12 or 13 plan, the debtor may request a "Certificate of Approval" from the Chapter 12 or 13 trustee on seven days' notice to all parties in interest, as long as one of the following conditions is met:

(A) to the extent there are proceeds, all proceeds will be dedicated to fund the Chapter 12 or 13 plan;

(B) the confirmed Chapter 12 or 13 plan provides a dividend of no less than 15% to all unsecured creditors holding allowed claims; or

(C) to the extent the confirmed Chapter 12 or 13 plan does not provide at least a 15% dividend to all unsecured creditors holding allowed claims, the proceeds of the sale or refinance are used to create such a dividend, and any proceeds the debtor retains must be claimed exempt as permitted by applicable law.

The debtor's request for a Certificate of Approval must indicate which of the three conditions will be met if the sale or refinance is approved, list all debts secured by the property, and itemize how the debtor proposes to distribute the proceeds. If no objections are timely filed, then after the expiration of the notice period, the Chapter 12 or 13 trustee may issue a Certificate of Approval authorizing the debtor to use the proceeds of the sale or refinance of the property to fund the Chapter 12 or 13 plan in accordance with the debtor's request. If a timely objection is filed, then the matter will be set for a hearing.

(3) **Sale Plans.** Even if the Chapter 12 or 13 plan sets forth the contents of a sale motion as required by paragraph (a) or (b), above, the Chapter 12 or 13 plan is confirmed, and the confirmation order includes reference to the sale, the debtor must file a separate motion to approve the sale, and obtain an order granting that motion, prior to consummating the sale.

(4) **Broker's Commissions; Closing Costs.** Where a Chapter 12 or 13 plan calls for the sale of real or personal property and a broker's commission is payable as part of the sale, the broker may collect a commission of up to 6% (or up to 10% for vacant land or commercial property) of the sale price without a Court order, absent unusual circumstances. The Court must be made aware of any unusual circumstances prior to the sale. Customary closing costs do not need prior Court approval for disbursement, provided they have been set forth in the plan.

(5) **Payment of Secured Claims.** If there is a mortgage or other claim secured by the property being sold and it is to be paid from the sale proceeds, the secured creditor must be paid directly, except that any pre-petition arrearage due must be paid through the Chapter 12 or 13 trustee, unless the Court orders a different treatment of the secured claim.

(f) Mortgage Modification in Chapter 12 and 13 Cases.

(1) **Approval Procedures.** No mortgage, whether secured by the debtor's principal residence or other real property, may be modified by agreement of the parties, outside the plan, while a Chapter 12 or 13 case is pending unless a modification agreement is signed by both the debtor(s) and the lender (or the debtor obtains an order approving the modification without both signatures, based upon a description of the efforts the debtor made to obtain the lender's signature), and includes a provision that the modification agreement is not effective without Court approval, and either:

(A) the Court approves the mortgage modification after notice to all parties in interest, pursuant to Fed. R. Bankr. P. 2002(a)(2); or

(B) the mortgage modification is approved as part of the plan confirmation process.

(2) Debtor's Retention of Funds Available as a Result of the Modification. If a debtor files a motion to approve a mortgage modification and seeks to retain the differential between the prior monthly payment and the current, lower monthly payment on the debtor's secured claim, rather than apply the differential to fund a higher dividend to unsecured creditors, the debtor must set forth in the motion facts to support the request, and must file with the motion an amended Schedule J showing the new payment and current monthly expenses.

(g) Chapter 11 – Additional Requirements. If a chapter 11 debtor-in-possession or trustee seeks authority to sell all or substantially all of the assets of the estate under § 363(b) prior to the entry of a confirmation order, the motion to sell must contain the following:

(1) a clear and conspicuous statement to that effect;

(2) the terms of sale, including but not limited to: the location and condition of the items to be sold, the bidding procedures and minimum requirements for bidding, whether the sale is subject to higher and better offers, the funds required to be paid at the time the sale is approved, the form of funds required at approval of the sale and at closing of the sale, and a proposed date for both the sale and closing of the sale;

(3) the information required under Fed. R. Bankr. P. 2002(c);

(4) the extent to which the proceeds of sale will be used to benefit each class of creditors;

(5) the extent of the debtor's liabilities;

(6) the net value of the debtor's remaining assets, if any, not subject to the proposed sale; and

(7) the business justification for disposing of estate assets before a disclosure statement has been approved or a plan confirmed.

VT. LBR 6005-1. APPRAISERS & AUCTIONEERS

(a) Purchase Prohibited. Neither an auctioneer nor any officer, director, stockholder, other insider, relative, agent, or employee of an auctioneer may purchase, directly or indirectly, or have a financial interest in the purchase of, any property of the estate.

(b) Bond.

(1) **Requirement—Generally.** An auctioneer employed with Court approval may not act until a surety bond in favor of the United States of America is provided in each estate at the auctioneer's expense, to be approved by and be in such sum as may be fixed by the Court, conditioned upon:

(A) the faithful and prompt accounting of all monies and property which may come into the possession of the auctioneer;

(B) compliance with all rules, orders, and decrees of the Court; and

(C) the faithful performance of duties in all respects.

(2) **Blanket Bond.** In lieu of a bond in each case, an auctioneer may file a blanket bond covering all cases in which the auctioneer may act. A blanket bond must be:

(A) the expense of the auctioneer;

(B) in favor of the United States of America; and

(C) in an amount sufficient to cover the aggregate appraised value of all property to be sold.

(c) Disposition of Proceeds of Sale. Unless otherwise ordered by the Court, the proceeds of sale less the auctioneer's reimbursable expenses must be turned over to the trustee or deposited in a separate interest-bearing account no later than 21 days after the date of sale. No commission or reimbursement may be paid to the auctioneer until approved by the Court as provided in paragraph (e) below. The Court retains jurisdiction to review the auctioneer's reimbursable expenses for validity and reasonableness. In the event the Court determines that a portion of the expenses deducted from the proceeds of sale is inappropriate or unreasonable, the auctioneer will be required to return such funds to the trustee immediately.

(d) Report of Sale. The auctioneer must file a report with the Clerk and serve a copy of the report on the Office of the United States Trustee and the case trustee, if any, within 90 days after the conclusion of the sale. The report of sale must set forth:

(1) the time, date, and place of sale;

(2) a statement of the manner and extent of advertising for the sale and the availability of the items for inspection prior to the sale;

(3) the terms and conditions of sale read to the audience immediately prior to the commencement of the sale;

(4) the sign-in sheet that lists the people who attended the sale;

(5) the names of all purchasers and the items purchased by each of them;

(6) the gross amount realized from the sale;

(7) the amount of sales tax collected;

(8) an itemized statement of commissions sought under this Rule and disbursements made, including the name of the payee and the original receipts or canceled checks, or copies thereof, substantiating the disbursements. If the canceled checks are not available at the time the report is filed, then the report must so state, and the canceled checks must be filed as soon as they become available. Where labor charges are included, the report must specify the names of the persons employed, the hourly wage for each employee, and the number of hours worked by each employee;

(9) where the auctioneer has a blanket bond covering all sales conducted, an explanation of how the bond expenses charged to the estate were allocated;

(10) the disposition of any items for which there was no bid; and

(11) such other information as the Court or the Office of the United States Trustee may reasonably request.

(e) Application for Commissions and Expenses.

(1) Notice of Application; Inclusion of Report. An auctioneer must apply to the Court for approval of commissions and expenses on not less than 21 days' notice. That application will not be granted unless the report referred to in paragraph (d), above, has been filed.

(2) **Calculation of Commission.** The maximum allowable commissions on the gross proceeds of each sale are as follows:

(A) 10% of any gross proceeds of sale on the first $100,000 or less;

(B) 5% of any amount in excess of $100,000, but not in excess of $200,000; and

(C) 2.5% of any amount in excess of $200,000.

(3) **Reimbursement of Expenses.** The auctioneer will be reimbursed for reasonable and necessary expenses directly related to the sale including the bond (or blanket bond) premium and costs attributable to the sale (including labor, printing, advertising, and insurance, but excluding worker's compensation, social security, unemployment insurance, or other payroll taxes). Unless the Court orders otherwise, an auctioneer will be reimbursed for a blanket bond at a rate of $100 per case or 10% of the gross proceeds from an auction, whichever is less, less any amounts previously reimbursed

for the bond. If the case trustee directs the auctioneer to transport goods, the auctioneer will also be reimbursed for the costs associated with that transport.

VT. LBR 6006-1. EXECUTORY CONTRACTS AND UNEXPIRED LEASES

The Court will not approve a debtor's motion to assume a lease in a chapter 7 case unless the case trustee has either consented or filed a Trustee's Final Report.

VT. LBR 6007-1. ABANDONMENT

Notice of Proposed Abandonment or Disposition of Property; Order Granting Abandonment. The Court will enter an order of abandonment filed by the case trustee in conjunction with a notice of intent to abandon as referenced in Fed. R. Bankr. P. 6007, provided the notice (a) clearly identifies the subject property, (b) provides satisfactory proof of the value of the property and of any liens or encumbrances against the property, and (c) contains all the information that would be required in a motion to abandon so that the Court has the information necessary to make a determination as to whether the property is burdensome or of inconsequential value and benefit to the estate. The proposed order of abandonment must identify the property in the same terms as set forth in the notice of intent to abandon, indicate that service has been properly effectuated, and affirm that no objections were filed within the time period set forth in the applicable Federal Rules of Bankruptcy Procedure.

VT. LBR 6008-1. REDEMPTION

(a) Motion Generally. A motion for approval of a redemption agreement may be filed using the default procedure under Vt. LBR 9013-4. The Court has discretion to set the matter for hearing and require attendance by the creditor, the creditor's counsel, the debtor's counsel, and/or the debtor.

(b) Joint Motion. The signature of the debtor on a redemption agreement will be deemed authorization for the creditor to file a joint motion for approval of the redemption agreement. A motion to approve a redemption agreement must include:

(1) a copy of the redemption agreement;

(2) a copy of the instruments creating and perfecting the security interest; and

(3) a complete description of the property, including: the present location and condition of the property, the date of purchase, the original purchase price, the amount paid to date, the outstanding balance still due, and any other information necessary for the Court to determine the appropriateness of the redemption agreement.

PART VII

VT. LBR 7004-2. SUMMONS

(a) Obtaining a Summons. The Court will issue a summons, which an attorney may obtain electronically through PACER and then serve in connection with any adversary proceeding pending in this Court. The Clerk's Office will mail a copy of a summons to any plaintiff who is not represented by counsel. The summons will contain the electronic signature of the

Clerk and will have the same force and effect as if it had been executed in a non-electronic manner.

(b) Serving a Summons.

(1) **Method of Service.** Unless the Federal Rules of Bankruptcy Procedure provide otherwise, a summons must be served in the conventional manner.

(2) **Order to be Included.** A plaintiff is required to serve an "Order on Pre-Trial Deadlines" with its summons and complaint. See Vt. LBR 7016-1(a).

VT. LBR 7005-1. CERTIFICATE OF SERVICE

See Vt. LBR 9013-6(c).

VT. LBR 7007-1. MOTION PRACTICE IN ADVERSARY PROCEEDINGS

Amendments to Pleadings or Motions. A party moving to amend a pleading or motion must attach both a clean copy and a redlined version of the proposed amendment to the filing, clearly designating all additions and deletions. Any amendment, whether filed as a matter of course or upon a motion to amend, must reproduce the entire pleading or motion as amended and may not incorporate any prior filing by reference, except with leave of the Court.

VT. LBR 7008-1. CORE/NON-CORE DESIGNATION (COMPLAINT)

(a) Statement Regarding Consent to Entry of Orders or Judgment in Core Proceeding. In all adversary proceedings, in addition to statements required by Fed. R. Bankr. P. 7008(a), if the complaint, counterclaim, cross-claim, or third-party complaint contains a statement that the proceeding or any part of it is core, it must specify whether the party consents to entry of final orders or judgment by the Bankruptcy Court if it is determined that the Bankruptcy Court, absent consent of the parties, cannot enter final orders or judgment consistent with Article III of the United States Constitution.

(b) Non-Core Proceedings. The Bankruptcy Court may hear all non-core proceedings related to a case filed under the Bankruptcy Code. In all adversary proceedings, as to each cause of action, the complaint must specify whether the party considers the cause of action to be core or non-core, and if non-core, whether the party consents to entry of a final judgment by the Bankruptcy Court.

(c) Lack of Consent to Bankruptcy Court's Entering Final Orders. When the parties do not consent to the Bankruptcy Court's entry of final orders regarding a non-core cause of action, the Bankruptcy Court may also, in addition to proposed findings of fact and conclusions of law, file recommendations concerning whether a review of the matter should be expedited and whether other matters in the bankruptcy case should be stayed pending the District Court's adjudication of the non-core matter. The Clerk will serve copies of the Bankruptcy Court's proposed findings of fact and conclusions of law and recommendations, if any, on the parties.

VT. LBR 7012-1. CORE/NON-CORE DESIGNATION (RESPONSIVE PLEADING)

All responsive pleadings in an adversary proceeding must specify whether the party considers the cause of action to be core or non-core, and if non-core, whether the party consents to entry of a final judgment by the Bankruptcy Court. In addition to statements required by Fed. R. Bankr. P. 7012(b), if a responsive pleading states that a cause of action is core, it must specify whether the party consents to entry of final orders or judgment by the Bankruptcy Court if it is determined that the Bankruptcy Court, absent consent of the parties, cannot enter final orders or judgment consistent with Article III of the United States Constitution.

VT. LBR 7016-1. PRE-TRIAL PROCEDURES

(a) Scheduling Conference. The Clerk will provide the plaintiff with an "Order on Pre-Trial Deadlines" upon the filing of the complaint. The plaintiff is responsible for serving the order, along with the summons and complaint, on each defendant. The courtroom deputy will set and notify all counsel and *pro se* parties of the Rule 7026(f) scheduling conference shortly after the expiration of the time period for filing timely responses.

(b) Notice; Appearance. All counsel and *pro se* parties are required to appear at the scheduling conference unless (1) the parties file a joint proposed scheduling order within the time frame set in the Order on Pre-Trial Deadlines, (2) the Court enters a scheduling order prior to the scheduling conference date, and (3) the Court cancels the scheduling conference. All counsel and *pro se* parties are required to attend all pre-trial conferences. If an attorney or a *pro se* party fails to appear at a pre-trial conference, or otherwise fails to abide by the requirements of this Rule or the scheduling order, the Court will take such action as it deems appropriate, which may include the imposition of sanctions or dismissal of the adversary proceeding.

(c) Telephone Participation in Pre-Trial and Status Conferences. Counsel and *pro se* parties may participate in pre-trial and status conferences by telephone if approved by the Court, and scheduled with the courtroom deputy, at least one business day in advance. See also Vt. LBR 9074-1; but see Vt. LBR 9076-1.

(d) Pre-Trial Statements. Parties must file a joint pre-trial statement at least seven days before a trial is scheduled to begin. If the parties are not able to agree on the terms of a joint pre-trial statement, then each party must file and serve a separate pre-trial statement with an affirmation that the party has made diligent, good faith efforts to produce a joint pre-trial statement, but was unable to do so. All pre-trial statements must comport with the Court's "Format for Pre-Trial Statements" (Vt. LB Appendix VI).

(e) Motion to Modify Scheduling Order. A motion to modify a scheduling order must include a proposed order with the following provisions:

(1) Based upon a stipulation of the parties, the due dates set forth in the scheduling order dated [date] are modified as follows: [list of all requirements that have new due dates, with new dates listed].

(2) The following dates for future performances as set in that scheduling order remain unchanged and in effect: [list of all requirements whose due dates are not changing, with the original due dates listed].

VT. LBR 7024-2. UNCONSTITUTIONALITY, CLAIM OF

If, at any time prior to the trial of an adversary proceeding in which the United States, an individual state, an agency, officer, or employee of either the state or federal government is not a party, a party to the proceeding draws into question the constitutionality of an Act of Congress or a state statute affecting the public interest, that party must notify the Court in writing of the constitutional question, specifically identifying the statute and the respects in which it is claimed to be unconstitutional in order to provide the Court with the information it needs to comply with the requirements of 28 U.S.C. § 2403(a) and (b).

VT. LBR 7026-1. DISCOVERY

(a) Initial Disclosure. Pursuant to Fed. R. Bankr. P. 7026, the provisions of Fed. R. Civ. P. 26(a)(1) apply to all adversary proceedings pending in this District, unless the Court orders otherwise.

(b) Limits on Interrogatories. No party may serve any other party, at any one time or cumulatively, more than 25 written interrogatories, including all discrete sub-parts. Exceptions to this Rule may be granted by the Court upon written motion showing good cause. Interrogatories should not be filed with the Clerk.

(c) Limits on Depositions. No party may take more than 10 depositions, whether upon oral examination under Fed. R. Bankr. P. 7030 or upon written questions under Fed. R. Bankr. P. 7031. Exceptions to this Rule may be granted by the Court upon written motion showing good cause. Transcripts of depositions should not be filed with the Clerk.

(d) Requirement of a Writing. All objections to interrogatories, depositions, requests, applications under Fed. R. Bankr. P. 7037, and all motions and responses concerning discovery matters must be in writing and recite with specificity the offending interrogatory, deposition, request, or application. If time does not permit the filing of a written motion, the Court may, in its discretion, waive this requirement.

(e) Objections to Discovery Process. A Rule 7037 objection to any interrogatory, deposition, request, or application must be filed within 28 days after service of the offending interrogatory, deposition, request, or application, unless otherwise ordered by the Court. The filing of an objection will not enlarge the time within which the objecting party must otherwise answer or respond to any discovery matter not specifically included in the objection.

(f) Mandatory Consultation among Counsel. In addition to the mandatory Rule 7026(f) conference, counsel are encouraged to participate in non-court, pre-trial discovery conferences to decrease the filing of unnecessary discovery motions. A motion concerning a discovery dispute should not be filed until counsel have explored all possibilities of resolving the discovery matter(s) in controversy. The Court will not consider any motion concerning a discovery matter unless the motion is accompanied by a statement of counsel that a good faith effort has been made by counsel to resolve the discovery matter(s) at issue.

(g) Motion to Compel. If a party timely objects to, or fails to timely comply with, a discovery request, and the parties are not able to resolve the issue after compliance with paragraph (f),

above, it is the responsibility of the party initiating discovery to place the matter before the Court in a timely manner. To compel an answer, production, designation, or inspection, a motion must be filed pursuant to Fed. R. Bankr. P. 7037 unless a motion to quash has been granted. A party properly noticed of a deposition must appear and submit to the deposition.

(h) Other Discovery Motions. Motions for protective orders pursuant to Fed. R. Bankr. P. 7026(c) and motions to compel physical or mental examination pursuant to Fed. R. Bankr. P. 7035 must comply with paragraph (f) above. See also Vt. LBR 9013-1; Vt. LBR 9013-2.

(i) Responses to Discovery. All responses to discovery motions must be filed within 14 days after service of such motions, unless otherwise ordered by the Court.

(j) Compliance with Discovery Orders. After the Court has ruled on a discovery motion, any response or answer, production, designation, inspection, or examination required by the Court must be done within 14 days after the entry of the order of the Court, whether oral or written, unless otherwise ordered by the Court.

(k) Failure to Comply with Order. If a party fails to comply with an order of the Court concerning a discovery motion, it is the responsibility of the objecting party to place the matter before the Court for supplementary relief.

(l) Unnecessary Discovery Motions or Objections. A party who presents the Court with unnecessary discovery motions or requests, or unwarranted opposition to proper discovery motions or requests, may be subject to sanctions, including the imposition of costs and attorney fees.

VT. LBR 7041-1. DISMISSAL OF ADVERSARY PROCEEDINGS – CONDITION FOR VOLUNTARY DISMISSAL OF A § 727 COMPLAINT

A motion for voluntary dismissal of a complaint objecting to the debtor's discharge must be accompanied by affidavits executed by the plaintiff(s) and the debtor(s) stating that no consideration has been promised or given to effectuate the dismissal or, if some consideration has been promised or given, the nature, terms, and amount thereof. All motions for voluntary dismissal must be adjudicated at a court hearing, on notice to all creditors, unless the Court orders otherwise.

Vt. LBR 7052-1. OBJECTIONS TO THE COURT'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Any party to an adversary proceeding who objects to the Court's the proposed findings of fact and conclusions of law must file their objection within 14 days of service of the proposed findings and conclusions. Failure to file an objection within that timeframe will be deemed consent to the entry of an order by the Court directing that the proposed findings of fact and conclusions of law be made final. In the event of an objection, the Clerk will transmit all relevant parts of the record, including the Court's proposed findings of fact and conclusions of law and the objection(s), to the District Court, for entry of a final order.

VT. LBR 7055-1. DEFAULT

(a) Overview. Securing a default judgment is a two-step process. Parties seeking a default judgment must first obtain an entry of default from the Clerk and then apply for a default judgment from either the Clerk or the Court, following the procedure outlined below.

(b) Application for Entry of Default. To obtain the Clerk's entry of default, the applicant must file:

(1) an application for entry of default; and

(2) an affidavit in support of the application for entry of default that includes:

(A) the date the summons was issued;

(B) a statement of whether the Court fixed a deadline for the filing of an answer or motion, and if not, what the deadline is and what rule fixes the deadline;

(C) the date the complaint was served;

(D) the date the certificate of service was filed;

(E) a statement that no answer or motion was filed within the time limit fixed by the Court or by Fed. R. Bankr. P. 7012(a);

(F) a statement that the party against whom judgment is sought is neither an infant, an incompetent person, nor in the military service;

(G) a statement that the judgment amount sought is justly due and owing and that no part thereof has been paid except as stated; and

(H) if applicable, a statement that any disbursement sought to be taxed has been made in the action or will necessarily be made or incurred.

(c) Entry of Default. Upon verification of the facts contained in the affidavit referred to in paragraph (b)(2) above, the Clerk will execute and file the entry of default.

(d) Application for Default Judgment by the Clerk. A party seeking default judgment by the Clerk must file the following:

(1) an application for default judgment,

(2) an affidavit of the amount due and of any costs or disbursements due,

(3) a reference to the document number of the entry of default by the Clerk as listed on the docket, and

(4) a proposed default judgment order.

(e) Entry of Default Judgment by the Clerk. The Clerk may enter a default judgment when

(1) a party is entitled to judgment under a statute other than §§ 523 or 727,

(2) the party seeks a judgment for a sum certain (or for a sum which, by computation, can be made certain), and

(3) the opposing party has failed to appear.

If the party in default has appeared in the proceeding, the party seeking a default judgment must apply to the Court for entry of default judgment, rather than to the Clerk. See paragraph (f) below.

(f) Application for Default Judgment by the Court. A party seeking default judgment by the Court must file the following:

(1) a motion for default judgment,

(2) an affidavit containing a statement of the damages being requested and the basis for them,

(3) a reference to the document number of the entry of default by the Clerk as listed on the docket, and

(4) a proposed default judgment order.

(g) Hearing on Application for Default Judgment by the Court. If the party against whom entry of default judgment is sought has appeared in the action or the Court determines that evidence is necessary to fix the amount due, compute damages or establish the truth of any averment, the Court will set a hearing. If the underlying action (i) objects to discharge, (ii) objects to the dischargeability of a debt, or (iii) raises an allegation of fraud, the Court will set a hearing, unless it finds sufficient evidence in the record to enter a default judgment without a hearing.

VT. LBR 7056-1. SUMMARY JUDGMENT – GENERALLY

(a) Summary Judgment Motions.

(1) **Statement of Undisputed Facts.** In addition to satisfying the requirements of Vt. LBR 7056-2, a party moving for summary judgment must file a separate, short, and concise statement of undisputed material facts with the motion for summary judgment. A movant's failure to submit this statement constitutes grounds for denial of the motion.

(2) **Opposition; Statement of Disputed Facts.** A party opposing a motion for summary judgment must file a written opposition no more than 21 days after the motion is served, and must simultaneously file a separate, short, and concise statement of disputed material facts which is responsive to the movant's statement.

(3) **Facts Admitted.** The respondent is deemed to have admitted all facts in the movant's statement of material undisputed facts except to the extent that party controverts them in a statement of disputed material facts.

(4) **Time for Filing.** Summary judgment motions must be filed by the date specified in the scheduling order.

(b) Tolling. Although Fed. R. Bankr. P. 7056(b) allows a defending party to move for summary judgment at any time, this does not toll the time within which to answer pursuant to Fed. R. Bankr. P. 7012(a); a party must also file a timely answer or file a motion under Fed. R. Bankr. P. 7012(b).

(c) Consideration and Ruling by the Court. Parties who want the Court to refer to or review portions of the record in connection with a motion for summary judgment must make specific reference to those portions of the record. To expedite a decision or for other good cause, and on notice to all parties, the Court may rule on a motion for summary judgment before the expiration of the 21-day period ordinarily permitted for the filing of opposition papers.

(d) Special Notice Required to *Pro Se* Litigants. In addition to serving a *pro se* litigant with a motion for summary judgment (together with all required documents), the movant must also simultaneously serve the *pro se* litigant with a special notice designed to inform that litigant of the potential consequences of not responding to the movant's motion, together with a reprint of Fed. R. Civ. P. 56 (attached to the required special notice). See Vt. LB Form T (Notice to *Pro Se* Litigant Served with a Motion for Summary Judgment).

VT. LBR 7056-2. SUMMARY JUDGMENT – MEMORANDUM OF LAW REQUIREMENTS

(a) Memorandum of Law; Response in Opposition; Reply; Request for Oral Argument. Each summary judgment motion must be accompanied by a written memorandum of law and state whether the movant requests oral argument. Failure to submit a memorandum of law may be deemed sufficient cause to deny the motion. Unless otherwise ordered by the Court, each response in opposition to a motion for summary judgment must include a memorandum of law. The movant may file a reply memorandum within seven days of the date the opposition is filed. The reply should assume familiarity with the movant's initial memorandum and the opposition, and should be confined to addressing points within the scope of the opposition (including any evidentiary matter introduced by the opposing party) that were not addressed in the movant's initial memorandum. Memoranda of law must comply with the requirements and restrictions set forth in Vt. LBR 9013-5(a).

(b) Oral Argument. The parties to a motion for summary judgment must specify in each pleading whether they request oral argument. After the motion is fully submitted, the Clerk will notify the parties whether the Court will require oral argument.

PART VIII

VT. LBR 8006-1. DESIGNATION OF RECORD ON APPEAL

Each party preparing a "Designation of Record on Appeal" must include a marked docket sheet indicating those documents to be contained in the record. The marked docket sheet will serve as an index for the Record on Appeal.

VT. LBR 8007-1. COMPLETION OF RECORD ON APPEAL

Prior to the transmission of the Record on Appeal to the District Court, the Court may review the record and verify the accuracy of the transcript of any order appealed.

VT. LBR 8008-1. FILING PAPERS ON APPEAL

After the Clerk of the District Court has given notice to all parties of the date on which the appeal was docketed, all subsequently filed documents related to the appeal must bear the civil case number assigned by the District Court, in addition to the bankruptcy case number(s) (and adversary proceeding number(s), if pertinent), and should be filed only with the District Court Clerk.

PART IX

VT. LBR 9001-1. DEFINITIONS

The terms "document," "motion," "paper," and "pleading" (and the plural thereof) as used in these Rules include those filed electronically and non-electronically.

VT. LBR 9003-1. *EX PARTE* CONTACT

No attorney, accountant, party in interest, or any of their employees may engage in any *ex parte* meetings or communications with the Bankruptcy Judge, Chambers staff, Clerk, or Clerk's Office staff concerning any disputed issue of fact or law in a particular case, contested matter, or adversary proceeding. This Rule does not limit or prohibit the filing of *ex parte* emergency motions or *ex parte* applications contemplated by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or these Rules, or meetings regarding administrative matters.

VT. LBR 9004-1. PAPERS – REQUIREMENTS OF FORM

See generally Vt. LBR 5005-1.

Vt. LBR 9004-2. CAPTION – PAPERS, GENERALLY

See generally Vt. LBR 1005-1.

VT. LBR 9006-1. TIME PERIODS

Unless otherwise specified in these Rules, the term "days" means calendar days.

VT. LBR 9010-2. POWERS OF ATTORNEY

Any party proceeding by authority of a power of attorney is limited to those powers specifically articulated in the authorizing power of attorney, see 14 V.S.A. § 3501 *et seq.*, and must file a copy of the power of attorney upon which the party is relying.

VT. LBR 9011-1. ATTORNEYS – DUTIES, RETENTION OF DOCUMENTS, AND ELECTRONIC SIGNATURES

(a) Acceptance of Employment. An attorney who accepts employment by a debtor in connection with the filing of a case under the Bankruptcy Code has the duty to render complete and competent services. See, e.g., Vt. LBR 2016-1(h).

(b) Attorney's Duty to Retain Certain Originals of Electronically Filed Documents. The debtor's attorney must retain paper originals of all documents that are filed electronically and require original signatures (other than that of the party registered to use the CM/ECF System) for five years from the date of the filing of the document. The Clerk will retain petitions, statements, and schedules filed non-electronically as required by Judicial Conference policy. On request or order of this Court or any other court, the party registered to use the CM/ECF System and retaining the documents must provide original documents for review.

(c) Electronic Signatures and Identification. The user log-in and password required to submit documents into the CM/ECF System serve as the signature of the party registered to use the CM/ECF System on all electronic documents filed with the Clerk. They also serve as a signature for purposes of Fed. R. Bankr. P. 9011, as well as all other Federal Rules of Bankruptcy Procedure, these Rules, and any other purpose for which a signature is required in connection with matters before the Court. Electronically filed documents must set forth the attorney's name, current office address, e-mail address, telephone number, and the name of the party the attorney represents. In addition, the name of the party registered to use the CM/ECF System under whose log-in and password the document is submitted must be preceded by an "/s/" and typed in the space where the signature would otherwise appear (e.g., "/s/ John Doe").

(d) Unauthorized Use of Password (Electronic Signature) Prohibited. No party registered to use the CM/ECF System or other person may knowingly permit or cause to permit a password to be used by anyone other than an authorized agent of the party registered to use the CM/ECF System.

VT. LBR 9011-2. *PRO SE* PARTIES – REQUIREMENTS, RETENTION OF DOCUMENTS, USE OF CM/ECF

(a) Signature and Contact Information Required by *Pro Se* Parties. Unless the Court orders otherwise, parties not represented by an attorney, i.e., *pro se* parties, must sign all documents, see Vt. LBR 9011-4(c), and set forth their mailing address, residence address, e-mail address, if any, and telephone number on all documents they file with the Clerk. See also Vt. LBR 4002-4.

(b) *Pro Se* Filer's Duty to Retain Certain Originals of Documents Filed by E-Mail. A *pro se* party filing documents by e-mail must retain for five years the originals of all documents

that contain original signatures. On request or order of this Court or any other court, the *pro se* filer must provide original, signed documents for review.

(c) *Pro Se* Use of the CM/ECF System. See Vt. LBR 5005-3(a)(2).

Vt. LBR 9011-3. SANCTIONS

A party seeking an order imposing sanctions must demonstrate that proper notice has been provided to the party against whom sanctions are sought and present evidence to warrant imposition of sanctions against that party. Ordinarily, this will require presentation of evidence at an evidentiary hearing. However, where the Court determines that the movant has effectuated proper notice and presented sufficient evidence, the Court may in its discretion, impose sanctions without a hearing.

VT. LBR 9011-4. SIGNATURES

(a) Signing of Documents Generally. All documents, motions, pleadings and other papers that are submitted for filing must be signed by an attorney of record in the attorney's own name or, if there is no attorney, by the party, except that petitions, schedules, and statements must always be signed by the debtor(s).

(b) Electronic Signatures of Attorneys. When filing a document electronically, an attorney must use "/s/ [attorney's name]"; this will constitute the signature of the attorney for purposes of Fed. R. Bankr. P. 9011, all other Federal Rules of Bankruptcy Procedure, these Rules, and any other purpose for which a signature is required in connection with matters before the Court. The attorney or party who files the document must retain the original signed copy of the filing for at least five years, if it contains the signature of anyone other than the filer. Any password required for electronic filing may be used only by the attorney to whom the password is assigned and by authorized members and employees of the attorney's firm. The attorney will be responsible for all consequences that flow from documents filed under his or her electronic signature, as if he or she signed them, regardless of who actually filed them.

(c) Signatures of Non-Attorneys Generally. All documents submitted for filing by a non-attorney must be signed in ink (the "original signature") by the non-attorney. An electronic image of the non-attorney's original signature is acceptable and may be deemed the original signature for purposes of Fed. R. Bankr. P. 9011, all other Federal Rules of Bankruptcy Procedure, these Rules, and for any other purpose for which a signature is required in connection with matters before the Court. Further, below his or her original signature, the signing party must print or type his or her name, mailing address, e-mail address, if any, and telephone number. See Vt. LBR 9011-2(a).

(d) E-Mail Signatures.

(1) Requirements for Attorneys. Attorneys submitting documents via e-mail for filing must comply with Vt. LBR 9011-4(b) regarding electronic signatures. See also Vt. LBR 1002-1(c).

(2) **Requirements for Non-Attorneys.** Any non-attorney e-mailing a PDF document for filing with the Court must include an electronic image of his or her original signature on the document (e.g., a scanned image of the signature page containing the party's original signature); the electronic image of the signature will be deemed the original signature for purposes of Fed. R. Bankr. P. 9011, all other Federal Rules of Bankruptcy Procedure, these Rules, and any other purpose for which a signature is required in connection with matters before the Court. Documents received for filing via e-mail must also set forth the filer's name, mailing address, e-mail address, if any, and telephone number. All other non-attorney signatories to the document must also comply with this Rule.

(e) Signatures of Multiple Persons on a Single Document. When a document requires the signatures of more than one party, the filer may:

(1) file a scanned document containing original signatures of all necessary signatories;

(2) identify in the document the parties whose signatures are required, followed by each party filing a document evidencing consent within two business days thereafter;

(3) identify in the document the parties whose signatures are required, followed by each party creating a docket entry noting the party's consent within two business days thereafter;

(4) identify in the document the parties whose signatures are required and through any combination of the procedures described in subparagraphs (1) through (3) above, the consent of each such party evidenced on the record within two business days thereafter; or

(5) provide the required signatures in any other manner approved by the Court.

(f) Signature Designating Consent. Consent must be made in an affirmative fashion; it is not sufficient for one party to represent that another party consents to a matter, unless the filer is authorized to, and does, affix the other party's signature to the document. A party must have his or her consent on the record within two days of the subject document being filed, and may effectuate consent in any manner described in paragraph (e), above.

VT. LBR 9013-1. MOTION PRACTICE – GENERALLY

(a) Form of Motion; Content of Motion. Except when an oral motion is specifically permitted by the Court (e.g., during a trial or hearing), all requests for relief, objections to claim, and objections to exemption must be presented in writing. Motions must state with particularity the relevant law (by title and section) and/or the relevant procedure (by rule) upon which the movant relies, clearly describe all relief requested, and include a brief summary of the facts and circumstances that support granting of the relief. See Vt. LBR 7007-1 (regarding amendments of pleadings).

(b) Mandatory Consultation of Counsel Prior to Filing a Motion. A party filing a motion that is neither *ex parte* nor required to be filed by a statute or rule must, in the motion, either (1) certify that the movant has contacted opposing counsel (or the opposing party if not represented by counsel) and has made a good faith attempt to obtain a settlement, a

stipulation to the relief sought, or some other agreeable resolution prior to filing the motion; or (2) acknowledge that the movant has not contacted opposing counsel (or the opposing party if not represented by counsel), set forth good cause for a waiver of this requirement, and request a waiver.

(c) Affidavits. An affidavit in support of a motion must be filed with each motion that requires a finding of facts, or resolution of a factual dispute, for adjudication of the motion. This requirement applies to motions for relief from stay.

(d) Exhibits and Attachments Filed with Motions. A registered CM/ECF user must submit the documents referenced as exhibits or attachments (including affidavits, see paragraph (c) above) in electronic form, unless the Court permits the documents to be filed in non-electronic form. To avoid having unnecessary documentation in the record, a party filing exhibits or attachments in support of a motion should file only those excerpts of the referenced documents that are directly germane to the matter under consideration by the Court; excerpted material must be clearly and prominently identified. A party who files excerpts of documents as exhibits or attachments under this Rule does so without prejudice to the party's right to file timely additional excerpts or the complete document. Responding parties may file additional excerpts or the complete document that they believe are germane. This Rule applies to proofs of claims as well as other pleadings and documents. See Vt. LBR 5001-3(c)(1) (regarding redaction of personal data identifiers).

(e) Motion for Conversion of Chapter 7 Case to Chapter 13 Case. A debtor seeking to convert his or her Chapter 7 case to a Chapter 13 case must do so by motion; the debtor must aver both that the debtor is eligible for Chapter 13 relief and that the conversion is sought in good faith. The motion must be noticed to all creditors and may be noticed under the Court's default procedure. See Vt. LBR 9013-4(b).

(f) Stipulated Motions. Where a motion is stipulated, it must (1) be so denominated with the word "stipulated" included in the title of the motion, and (2) include a statement of consent in the body of the motion. Parties to a stipulated motion must agree to the relief sought before the motion is filed and affirmatively evidence their consent to the motion. Further, a stipulated motion must either contain the signatures of all parties to the stipulation, or the parties to the stipulation must file their consent within two business days of the motion being filed. See Vt. LBR 9011-4(e) & (f). If all required consents are not filed by the expiration of this two-day time period, the Clerk's Office will send a no action notice to the filing party and the stipulation will have no force and effect; the movant will be required to re-file the motion in compliance with this Rule**. A party filing a stipulated motion may include a "SO ORDERED" provision at the end of the stipulation rather than filing a separate proposed order. See Vt. LBR 9072-1(c).**

(g) *Ex Parte* Motions under Seal. If a movant seeks the right to proceed without any other party having notice of the motion (i.e., *ex parte* relief), the movant must submit the *ex parte* motion via e-mail to the Clerk, chief deputy, or law clerk, see Vt. LBR 1002-1(c); see also Vt. LBR 9011-4(d), together with a separate motion requesting that the documents be filed under seal. See Vt. LBR 5003-4. In the motion to seal, the movant must articulate why the public should be denied access to the document; the movant must seek to seal information as narrowly as possible, and for the shortest time possible, to achieve the necessary protection.

The movant must serve a copy motion to seal and the underlying *ex parte* motion(s) upon the Office of the United States Trustee by email to an email address designated by the Office of the United States Trustee and regular, first-class mail, or must show cause in the motion to seal why the Office of the United States Trustee is not entitled to notice of the motion. See Vt. LBR 5005-4(b). The movant must also file a proposed order indicating that the sealing of the document(s) is temporary and indicate the conditions and time frame under which the seal will be lifted. Upon completion of the Court's *in camera* review of the submitted document(s), the Clerk's Office will notify the movant directly of the Court's determination with respect to the motion to seal and the underlying *ex parte* motion. For purposes of these Rules, the term "under seal" is synonymous with "inaccessible to the public."

(h) Motions Seeking Expedited Relief or Shortening of Notice Period. Any motion seeking expedited relief or a shortened notice period must clearly state the reason the movant did not seek relief earlier; failure to include such explanation is grounds for denial of the motion. See Vt. LBR 9075-1 (regarding emergency matters)**.**

(i) Proposed Orders. Each motion filed and served (except for stipulated motions; see paragraph (f) above) must include a proposed order for the Court's consideration filed as an attachment to the motion. See Vt. LBR 9072-1(b).

(j) Stipulated Proposed Order Eliminating the Need for a Hearing. A scheduled hearing will proceed unless a stipulated proposed order that resolves the motion is filed with all requisite consents by 10:00 a.m. on the last business day before the hearing, unless the Court orders otherwise. This filing deadline applies to all documents related to a scheduled hearing including, but not limited to, proposed orders resolving the motion, motions or stipulations to continue the hearing, amended plans, withdrawals of motion, withdrawals of objection, and consents to relief. The court will not review, and Clerk's Office will not take any action on, any document filed after the 10:00 a.m. deadline, and the scheduled hearing will proceed as if the late filed document had not been filed. The Court will grant an extension or waiver of this deadline upon a showing of emergency or exigent circumstances over which the filer did not have control.

VT. LBR 9013-2. HEARINGS – ON MOTIONS GENERALLY

(a) Scheduling a Hearing on a Motion. It is the responsibility of the moving party to schedule a hearing on any routine, non-evidentiary motion and to serve notice of the hearing. A party may use either the conventional noticing procedure, see Vt. LBR 9013-3 or, if applicable, the default noticing procedure. See Vt. LBR 9013-4. All other hearings, evidentiary matters, pre-trial conferences, and scheduling conferences will be scheduled by the Clerk's Office. See Vt. LBR 5070-1.

(b) Routine, Non-Evidentiary Motions. The Court designates the following to be routine, non-evidentiary motions:

(1) In a Bankruptcy Case. Unless otherwise directed by the Court or provided in these Rules (e.g., a request for an emergency hearing), all motions in a bankruptcy case that do not require the presentation of evidence will be considered routine, non-evidentiary motions. (Although motions for relief from stay are considered evidentiary, they are

routine; therefore, a movant should treat a motion for relief from stay as routine and schedule a hearing, unless the movant intends to present evidence. In such an instance, refer to Vt. LBR 4001-1(f) for directions on how to proceed.)

(2) In an Adversary Proceeding. All motions in an adversary proceeding will be considered non-routine, except for: (A) motions to compel, (B) motions to continue or to expedite, (C) motions for sanctions, (D) motions to seal or to request *in camera* review, (E) motions to withdraw as counsel for the debtor, and (F) those motions that can be scheduled using the default noticing procedure. See Vt. LBR 9013-4(b). The Clerk's Office will set or direct the setting of hearings on all adversary proceeding motions other than those itemized in this subparagraph. See also paragraph (c)(4)(C) below.

(c) Form of Hearing Notice. For all routine, non-evidentiary motions, the moving party must prepare a hearing notice specifying (1) the relief sought, (2) the hearing date and time, (3) the location of the hearing, and (4) the response deadline. See Vt. LBR 9013-3 (providing guidelines for noticing a hearing under the conventional procedure); see also Vt. LBR 9013-4 (providing guidelines for noticing a hearing under the default procedure); Vt. LB Forms U-1 and U-2 (providing examples of proper hearing notices).

(1) Hearing Dates/Times. The upcoming Court calendar dates and designated times for hearings are posted on the Court's website, http://www.vtb.uscourts.gov, and may also be obtained by contacting the courtroom deputy at (802) 657-6404. The Court has specific days when it hears (A) Chapters 7 and 11 matters; (B) Chapters 7, 11, and 13 matters; and (C) Chapters 12 and 13 matters, all of which are designated on the Court's calendar. Unless Court approval is obtained in advance, based on exigent circumstances, movants should schedule matters according to that schedule.

(2) Hearing Sites. Matters may be scheduled to be heard at the Rutland Bankruptcy Court site or the Burlington Bankruptcy Court site. Movants must set hearings at the location where the § 341 meeting of creditors is scheduled in the case (unless otherwise agreed between the interested parties or due to exigent circumstances as determined by the Court), and take into account the availability of key parties to the motion.

(3) Response Deadline; Mandatory Language.

(A) For hearings noticed under the conventional procedure, refer to Vt. LBR 9013-3(b)(2) for instructions regarding response deadlines and refer to Vt. LBR 9013-3(b)(3) for instructions regarding mandatory language;

(B) For hearings noticed under the default procedure, refer to Vt. LBR 9013-4(c)(2) for instructions regarding response deadlines and refer to Vt. LBR 9013-4(c)(3) for instructions regarding mandatory language;

(C) In non-routine matters, interested parties will have 14 days' response time unless a different response time is set by the Federal Rules of Bankruptcy Procedure, these Rules, or the Court.

(4) Minimum Notice. Unless a longer period is required by the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure, see, e.g., Fed. R. Bankr. P. 2002, notice must be

effectuated at least 14 days before the hearing date. But see Fed. R. Bankr. P. 9006(f) (requiring additional time if served by mail).

(d) Multiple Motions. If there are multiple motions filed together (or close in time) in the same case, all hearings on those motions should be scheduled for the same date and time as the primary motion.

(e) Attendance at Hearings. A party who initiates or opposes a motion or application, and later decides not to actively pursue its position, must immediately notify all counsel of record, *pro se* parties, and the Clerk, so that the Court, counsel, and any *pro se* parties are not required to devote unnecessary attention to the matter or to appear in court. Unless excused by the Court, the failure of any party to attend a duly noticed hearing will be deemed either a waiver of the pleading, motion, objection, or other response, or consent to the granting or sustaining of the relief sought by the attending party; it may also be grounds for the imposition of sanctions.

(f) Stipulations. Where (1) all parties entitled to notice of a hearing have been served with a motion or request for relief, (2) all parties in interest stipulate to the motion or request for relief, and (3) the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure do not mandate that an actual hearing be held prior to the Court's ruling on the motion or request for relief, the movant is relieved from filing a notice of hearing.

(g) Rescheduling Hearings. Where a party files an unstipulated motion to postpone (or continue or reschedule) a scheduled hearing, the Court will schedule a hearing on the motion to postpone for a date and time before or at the same time as the hearing on the underlying motion, unless it finds relief is warranted without a hearing. The hearing on the motion to postpone and the underlying motion will proceed unless an order granting the motion to postpone is entered before the time set for the hearing on the underlying motion.

VT. LBR 9013-3. HEARINGS – ROUTINE MOTIONS – NOTICE UNDER CONVENTIONAL PROCEDURE

(a) Meaning of Conventional Procedure. When a party seeks relief under the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure and schedules a hearing on a motion pursuant to Vt. LBR 9013-2(a), and where either the default procedure under Vt. LBR 9013-4 is not available or the party chooses not to use the default procedure, the Court will hold a hearing on the party's motion. This mechanism for obtaining relief is referred to as the "conventional procedure."

(b) Form of Hearing Notice. In addition to the requirements set forth in Vt. LBR 9013-2(c), the following items must be incorporated into each notice of motion utilizing the conventional procedure:

(1) **Title of Notice.** The title of the hearing notice must be "Notice of Motion";

(2) **Response Deadline.** The deadline for filing responses to a motion scheduled for a hearing utilizing the conventional procedure must be no later than three business days before the hearing date, and this three-day period may be included within the requisite notice period;

(3) **Mandatory Language.** The following language, in bold and conspicuous print, must be included in the notice:

(A) If the motion is filed in a Chapter 7, 12, or 13 case:

> *A **HEARING ON THE MOTION** and any responses **will be held** at [time] on [date] at the following location: [indicate Rutland or Burlington location].*
>
> ***IF YOU OPPOSE THE MOTION**, you are encouraged to file a written response specifying your opposition to the motion with the Clerk of the Court, **on or before 4:00 P.M. on [a date that is no less than three business days before the hearing date]**. If you file a written response, you must also serve a copy on the moving party, the Debtor, the Debtor's counsel, the Office of the United States Trustee, and the case trustee, if any. The addresses for those parties are set forth below.*

(B) If the motion is filed in a Chapter 11 case:

> *A **HEARING ON THE MOTION** and any responses **will be held** at [time] on [date] at the following location: [indicate Rutland or Burlington location].*
>
> ***IF YOU OPPOSE THE MOTION**, you are encouraged to file a written response specifying your opposition to the motion with the Clerk of the Court, **on or before 4:00 P.M. on [a date that is no less than three business days before the hearing date]**. If you file a written response, you must also serve a copy on the moving party, the Debtor, the Debtor's counsel, the Office of the United States Trustee, the case trustee, if any, and the Creditors' Committee and its counsel or, if no committee is appointed, the 20 largest unsecured creditors. The addresses for those parties are set forth below.*
>
> ***IF YOU OPPOSE THE MOTION**, you are encouraged to file a written response specifying your opposition to the motion with the Clerk of the Court, **on or before 4:00 P.M. on [a date that is no less than three business days before the hearing date]**. If you file a written response, you must also serve a copy on the moving party, the Debtor, the Debtor's counsel, the Office of the United States Trustee, the case trustee, if any, and the Creditors' Committee and its counsel or, if no committee is appointed, the 20 largest unsecured creditors. The addresses for those parties are set forth below.*

All notices of hearings under Vt. LBR 9013-3 must be in substantial compliance with Vt. LB Form U-1.

VT. LBR 9013-4. HEARINGS – ROUTINE MOTIONS – NOTICE UNDER DEFAULT PROCEDURE

(a) Meaning of Default Procedure. Certain requests for relief under the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure may be determined without a hearing, provided an opportunity for a hearing is presented to parties entitled to notice of the motion. Under the default procedure, if a party files a timely response in opposition to the motion, the Court will hold a hearing on the date designated on the notice, unless the Court decides, in its discretion,

that no hearing is necessary and enters an order prior to the hearing date. If no response in opposition is timely filed, the Court may enter an order without a hearing. However, if an order has not been entered before the hearing date, the scheduled hearing will proceed and the movant must appear. If the Court determines a hearing is necessary, it will hold a hearing even in the absence of a response in opposition to the motion. The default procedure is optional.

(b) Relief Available Through Use of the Default Procedure. The default procedure may be used for applications or motions seeking the following relief only:

(1) abandon property (§ 554(b));

(2) allow administrative expenses (other than professional fees) (§ 503(b));

(3) automatic stay, motion for relief from (§ 362(d));

(4) automatic stay, motion for relief from co-debtor (§ 1301);

(5) automatic stay not in effect, motion for order (§ 362(c)(4));

(6) change venue (28 U.S.C. § 1412);

(7) claims, objections to (§ 502(b));

(8) compensation, application for (§§ 326, 330, 331, 503(b));

(9) confirmation of proposed Chapter 13 plan after a debtor has testified and with Court approval (§ 1323);

(10) convert a case (§§ 706, 1112(b), 1208, 1307);

(11) credit counseling requirement, motion for permanent waiver of (§ 109(h)(4));

(12) discharge in a Chapter 12 case (§ 1228(f));

(13) discharge in a Chapter 13 case (§ 1328(h));

(14) dismiss a case for cause (§§ 707, 1112(b), 1208, 1307);

(15) dismiss a case for failure to pay filing fee (Fed. R. Bankr. P. 1006(a));

(16) enlarge time to assume or reject a nonresidential lease (§ 365(d)(4));

(17) enlarge time to file Chapter 11 plan and disclosure statement (§ 1121(d));

(18) enlarge time to file Chapter 12 plan (§ 1221);

(19) enlarge time to file complaint objecting to discharge or dischargeability (§§ 523, 727; Fed. R. Bankr. P. 4004(b), 4007(c));

(20) enlarge time to file § 707 motion to dismiss (§ 707);

(21) enlarge time to pay filing fee (Fed. R. Bankr. P. 1006(b));

(22) examine any entity (Fed. R. Bankr. P. 2004);

(23) object to a claimed exemption (Fed. R. Bankr. P. 4003(b));

(24) final decree in Chapter 11 case (Fed. R. Bankr. P. 3022);

(25) forward mail of a corporate debtor to the trustee;

(26) hardship discharge (§§ 1228(b), 1328(b));

(27) avoid judicial lien or non-purchase money security interest (§ 522(f));

(28) lease property (§ 363(b)(1));

(29) assume or reject a lease or executory contract (§ 365);

(30) strip a lien or mortgage that is wholly unsecured (§ 506(a));

(31) limit scope of employment and reduce scope of legal services (Vt. LBR 2016-1(h)(4));

(32) mediation, motion for (Vt. LBR 4001-7);

(33) modify plan post-confirmation (§§ 1229, 1329);

(34) modify mortgage (Vt. LBR 6004-1(f));

(35) obtain credit (§ 364(b), (c), (d));

(36) post-petition payment of mortgage creditor charges in conduit mortgage payment case (Vt. LBR 3015-2(j)(7)(B)(iii));

(37) pro hac vice admission, application for (Vt. LBR 2090-1(b));

(38) redeem property (§ 722);

(39) reopen a case (Fed. R. Bankr. P. 5010);

(40) sell property (§ 363(b)(1) and (f));

(41) settle an adversary proceeding or contested matter, motion to approve (Fed. R. Bankr. P. 9019);

(42) substitute counsel (Vt. LBR 2091-1(b) & (c));

(43) transfer adversary proceeding (28 U.S.C. § 1412);

(44) trustee final report and account, application for approval of report, and related application for compensation (§§ 704(a)(9), 1202(b)(1), 1302(b)(1));

(45) turnover of property to the trustee (§ 542);

(46) vacate discharge to allow Court to approve reaffirmation agreement (Vt. LBR 4008-1(h));

(47) value collateral (§ 506(a); Fed. R. Bankr. P. 3012);

(48) waive requirement of providing trustee with tax returns (§ 521(e)(2)(A)(i)); and

(49) waive requirement to make conduit mortgage payments, motion for (Vt. LBR

3015-2(j)(3)(B)(ii)).

(c) Form of Hearing Notice. In addition to the requirements set forth in Vt. LBR 9013-2(c), the following items must be incorporated into each notice of motion filed under the default procedure:

(1) **Title of Notice.** The title of the notice must be "Notice of Motion under Default Procedure;"

(2) **Response Deadline.** The deadline for filing responses to a motion scheduled for a hearing utilizing the default procedure must be no later than seven days before the hearing date; this seven-day period is in addition to the requisite notice period;

(3) **Mandatory Language.** The following language, in bold and conspicuous print, must be included in the notice:

(A) If the motion is filed in a Chapter 7, 12, or 13 case**:**

> ***IF YOU OPPOSE THE MOTION****, you must file a written response specifying your opposition to the motion with the Clerk of the Court,* ***on or before 4:00 P.M. on [a date that is no less than seven days before the hearing date]****. You must also serve a copy of your response on the Moving Party, the Debtor, the Debtor's counsel, the Office of the United States Trustee, and the case trustee, if any. The addresses for those parties are set forth below.*
>
> ***IF A TIMELY RESPONSE IN OPPOSITION TO THE MOTION IS FILED****, the Court will hold a hearing on the Motion and the response at [time] on [date] at the following location: [indicate Rutland or Burlington location], unless the Court deems no hearing is necessary and enters an order prior to the time set for hearing.*
>
> ***IF NO RESPONSE IN OPPOSITION IS TIMELY FILED****, the Court* ***may*** *deem the matter unopposed and grant the motion without further hearing. If an order has not been entered before the hearing date, the hearing will proceed and the Movant must appear.*

(B) If the motion is filed in a Chapter 11 case**:**

> ***IF YOU OPPOSE THE MOTION****, you must file a written response specifying your opposition to the motion with the Clerk of the Court,* ***on or before 4:00 P.M. on [a date that is no less than seven days before the hearing date]****. You must also serve a copy of your response on the Moving Party, the Debtor, the Debtor's counsel, the Office of the United States Trustee, the case trustee, if any, and the Creditors' Committee and its counsel or, if no committee is appointed, the 20 largest unsecured creditors. The addresses for those parties are set forth below.*
>
> ***IF A TIMELY RESPONSE IN OPPOSITION TO THE MOTION IS FILED****, the Court will hold a hearing on the Motion and the response at*

> *[time] on [date] at the following location: [indicate Rutland or Burlington location], unless the Court deems no hearing is necessary and enters an order prior to the time set for hearing.*
>
> ***IF NO RESPONSE IN OPPOSITION IS TIMELY FILED**, the Court **may** deem the matter unopposed and grant the motion without further hearing. If an order has not been entered before the hearing date, the hearing will proceed and the Movant must appear.*

All notices of hearings under Vt. LBR 9013-4 must be in substantial compliance with Vt. LB Form U-2.

VT. LBR 9013-5. MEMORANDA OF LAW

(a) Memoranda of Law Generally Required. Each memorandum of law filed in this Court must (1) be succinct, (2) not exceed 15 pages in length without prior leave of the Court, (3) include a concise statement in support of each argument with relevant citations, and (4) be either a part of or an attachment to the motion. A party filing a memorandum of law in opposition to a motion must file it within 14 days after service of the motion, unless a different response time is permitted by the Federal Rules of Bankruptcy Procedure, these Rules, or Court order. If time permits, the movant may file a reply memorandum of law provided it is filed within seven days after service of the memorandum of law opposing the motion, and at least three days before the date set for the hearing; a reply memorandum may not exceed five pages in length without prior leave of the Court. If a memorandum of law contains a citation not generally available on Westlaw or Lexis, the citing party must provide a copy of the cited material to opposing parties and the Court. See also Vt. LBR 7056-2 (providing special requirements applicable when a memorandum of law is filed in support of a motion for summary judgment).

A memorandum of law is required when a motion raises a legal issue that has not yet been decided in this District or a novel issue of law. A motion and supporting memorandum of law may be filed as a single document, provided they are captioned to reflect that and are so identified on the docket.

(b) Motions Not Requiring Memoranda of Law. Unless otherwise directed by the Court, memoranda of law are not required for the following motions:

(1) to obtain an extension of time, provided that the request is made before the expiration of the period originally prescribed by applicable rule, statute, order, or as enlarged by previous order;

(2) to continue a pre-trial conference, hearing, motion, or trial;

(3) to demand a more definite statement;

(4) to waive the debtor's appearance at the § 341 meeting of creditors;

(5) to amend a petition, schedules, or statements; or

(6) to effect a substitution of parties.

VT. LBR 9013-6. SERVICE AND CERTIFICATES OF SERVICE

(a) Service Generally. The movant must file the appropriate notice of motion and all motion documents with the Clerk prior to or simultaneously with the service of the motion, showing the movant has served all parties entitled to notice under the Federal Rules of Bankruptcy Procedure. At a minimum, a party must serve upon all opposing counsel, the Office of the United States Trustee, and the case trustee, if any, a copy of the notice of motion and the entire motion. The movant must specify on the certificate of service how and at what address the movant served each party and must file the certificate of service promptly after completing service. See paragraph (c) below. If the movant does not file the certificate of service as part of the docket entry for the document served, the movant must append a copy of the document served to the certificate of service.

(b) Service of Documents Filed Electronically:

(1) **Notice of Electronic Filing ("NEF").** Whenever a document is entered on the docket, the CM/ECF System will automatically and immediately generate an NEF.

(2) **Service on Registered Users.** If the recipient of an electronically filed document is also a registered user of the CM/ECF System, the automatic transmission of the NEF will be considered equivalent to service of the document by regular, first-class mail. Within each case, the Clerk maintains a list of all parties and attorneys who will accept service by e-mail through the CM/ECF System and their e-mail addresses. This information is available through PACER and CM/ECF.

(3) Service on Non-Registered Parties.

(A) **Attorneys.** Attorneys who are not registered CM/ECF users cannot be served through the CM/ECF system. However, they may be served via e-mail at the e-mail address provided in their notice of appearance, see Vt. LBR 2090-1(a); they may also be served by any other means permitted by these Rules. See, e.g., section (B) below.

(B) **Non-Attorneys.** The movant must serve all other parties (i.e., those non-attorneys not registered for CM/ECF) with a paper copy of the electronically filed document in accordance with the Federal Rules of Bankruptcy Procedure and these Rules, unless a non-registered, non-attorney party consents to accept service and notification by e-mail. Where a party gives that consent, transmission of an e-mail with the documents attached to the consenting non-registered, non-attorney party will be considered equivalent to service of a paper copy by regular, first-class mail.

(c) Certificate of Service: Requirement to File; Contents; Consequences of Non-Compliance. A movant filing a document with the Clerk must also file a certificate of service. Each certificate of service must specify:

(1) the caption and date shown on the document served,

(2) the name of each party or entity served,

(3) the address at which each party or entity was served, and

(4) the means of service (e.g., via CM/ECF, e-mail, fax, or regular, first-class mail).

(d) Service through CM/ECF. If a movant effectuates service of a document through the CM/ECF System, the movant need not restate the names and e-mail addresses of parties served via transmission of the NEF, provided the certificate of service includes the following language:

> *I hereby certify that this document filed through the CM/ECF System will be sent electronically to the registered participants as identified on the Notice of Electronic Filing generated in connection with this document and [paper] copies will be sent to those indicated as non-registered participants on [date] at the following addresses [addresses]*.

(e) Docketing of a Certificate of Service When Not Filed as a Separate Document. When a movant appends a certificate of service to the document served, rather than attaching it as a separate document, the movant must include a reference to the certificate of service in the docket text.

(f) Consequences of Failing to File a Proper and Complete Certificate of Service. If a movant fails to file a proper and complete certificate of service, the Court may hold a hearing on the motion or deny the motion, even if no party files a response in opposition to the motion.

VT. LBR 9014-1. CONTESTED MATTERS

(a) Core/Non-Core Designation (Objections to Claim). Responses to objections to claim and counterclaims in response to objections to claim are subject to the requirements of Vt. LBR 7008-1.

(b) Attendance of Witnesses.

(1) **Court Designated Evidentiary Hearing.** An "evidentiary hearing" is a hearing at which witnesses are called to testify. The Court may schedule an evidentiary hearing in any matter. In such an instance, at least 14 days prior to the hearing, or any shorter period as the Court may set or approve, each party to the evidentiary hearing must file with the Clerk, and serve upon the other interested parties, a list of witnesses each party intends to call to testify. See subparagraph (2) below; see also Vt. LB Form V.

Unless so designated on the Court's calendar, hearings are not evidentiary hearings. See Vt. LBR 9013-2(b). The exception is final hearings on motions for relief from stay, which are evidentiary hearings per Vt. LBR 4001-1(e). Also, while a Chapter 12 or 13 confirmation hearing in which an objection is filed is treated as a contested matter under the Federal Rules of Bankruptcy Procedure, the Court will continue its practice of treating the initial confirmation hearing as a hearing for legal argument only or a status conference. Any evidentiary hearing necessitated by an objection will be set for a later date. In such an instance, the Court will direct whether a Rule 9014(e) notice of evidentiary hearing is required.

(2) **How to Request an Evidentiary Hearing.** When a party seeks to schedule an evidentiary hearing, the requesting party must contact the courtroom deputy to schedule the hearing. Thereafter, the requesting party must file with the Clerk, and serve upon all parties in interest, a Rule 9014(e) notice of evidentiary hearing. The requesting party must file the Rule 9014(e) notice at least seven days before the hearing, or such shorter time as the Court directs, and must include in the notice:

(A) the date and time of the scheduled hearing (set by the courtroom deputy),

(B) the matter or motion that is the subject of the hearing,

(C) the amount of time that has been allocated for the hearing,

(D) whether the requesting party has coordinated the request for an evidentiary hearing with opposing counsel or parties in interest,

(E) the witness(es) the requesting party will call to testify,

(F) the response deadline to the notice (no later than three business days before the hearing),

(G) any other information the requesting party believes is relevant to the request for the evidentiary hearing, and

(H) whether the evidentiary hearing is being held in lieu of a previously scheduled hearing.

See Vt. LB Form V (Rule 9014(e) Notice of Evidentiary Hearing).

(3) **Additional Time and/or Witness(es).** If a party in interest seeks additional time beyond that which has been provided for the evidentiary hearing or intends to call additional witnesses to testify at the evidentiary hearing, the party must contact the courtroom deputy at least seven days prior to the hearing to determine if or when additional time is available for the hearing. Additionally, that party must file and serve a supplemental Rule 9014(e) notice of evidentiary hearing at least three business days prior to the evidentiary hearing.

(4) **Stipulation.** Whenever possible, parties should file a stipulated Rule 9014(e) notice of evidentiary hearing. Parties are still required to coordinate scheduling of an evidentiary hearing with the courtroom deputy, regardless whether the hearing is requested by one party or is on stipulation of multiple parties.

(5) **Court's Discretion.** The scheduling, noticing, approval, and scope of a Rule 9014(e) evidentiary hearing are within the discretion of the Court and may vary from the notice filed by the parties.

VT. LBR 9015-1. JURY TRIALS

(a) Applicability of Certain Federal Rules of Civil Procedure. Insofar as they apply to jury trials, Fed. R. Civ. P. 38, 39, 47–51, and 81(c) apply in all cases and proceedings in this

Court, except that a demand made under Fed. R. Civ. P. 38(b) must be filed in accordance with Fed. R. Bankr. P. 5005.

(b) Consent to Have Jury Trial Conducted by Bankruptcy Court. If the right to a jury trial applies and a timely demand has been filed under Fed. R. Civ. P. 38(b), the parties may consent to have the jury trial conducted by the Bankruptcy Court pursuant to 28 U.S.C. § 157(e). The parties to the action must jointly or separately file a statement of consent no later than two business days before the first pre-trial conference in an adversary proceeding. A party's failure to affirmatively consent to a jury trial will be treated as a lack of consent.

(c) Time for Filing a Demand for Jury Trial after Removal. If, at the time of removal, all necessary pleadings have been served, a party entitled to a jury trial must interpose a jury demand in this Court within 21 days after the notice of removal is filed. A party who has expressly made demand for trial by jury prior to removal, in accordance with federal or state law, need not make a demand after removal. The failure of a party to make a jury demand as directed under this paragraph constitutes a waiver of trial by jury.

(d) *Voir Dire.* Unless otherwise ordered, questioning of prospective jurors on *voir dire* examination will be conducted by the Court. The Court, in its discretion, may permit the parties to submit proposed questions in writing in advance of jury selection or orally at a side bar during *voir dire*.

Vt. LBR 9016-1. Subpoenas and Rule 9014(e) Notices of Evidentiary Hearings

While there is an obligation to amend a Rule 9014(e) notice of evidentiary hearing if the list of intended witnesses changes, the disclosure of intended witnesses is not a guarantee upon which opposing counsel should rely when determining whether to issue subpoenas.

Vt. LBR 9019-1. Alternative Dispute Resolution

(a) Generally. The Court encourages the use of Alternative Dispute Resolution ("ADR") where the parties believe the issues may be resolved through a non-adversarial process. The Court may direct the use of ADR in cases it deems to be well-suited to non-judicial resolution. The courtroom deputy coordinates the use of ADR in bankruptcy matters.

(b) The District Court's Early Neutral Evaluation Process and Goals. The provisions of the District Court Local Rules regarding Early Neutral Evaluation ("ENE") will apply in Bankruptcy Court, subject to modifications necessary to ensure a specialized panel and requirements appropriate to bankruptcy issues. Upon consent of all parties, or upon order of the Court, an adversary proceeding or contested matter will be submitted to ENE, and the deadline for completing the ENE process will be set forth in the scheduling order. The courtroom deputy will coordinate ENE in bankruptcy matters.

Vt. LBR 9021-1. Memoranda of Decision, Judgments, and Orders

Copies of all memoranda of decision, judgments, and orders entered after evidentiary hearings, and all orders that set forth a detailed explanation of a ruling, are posted on the Court's website, http://www.vtb.uscourts.gov. These documents are available to the public and may be searched by cite, date, or keyword. Parties may cite to the Court's memoranda of decision and orders

found on the Court's website even if designated as "Not for Publication" and need not provide copies of such decisions and orders to opposing parties or the Court.

VT. LBR 9022-1. DECREES, JUDGMENTS, AND ORDERS – NOTICE OF

All decrees, judgments, and orders of the Court will be filed electronically and in accordance with these Rules; electronic filing of the decrees, judgments, and orders constitutes entry on the docket kept by the Clerk pursuant to Fed. R. Bankr. P. 5003 and 9021. See also Vt. LBR 9036-1(c).

VT. LBR 9023-1/VT. LBR 9024-1. MOTION TO RECONSIDER

Any motion captioned as a "Motion to Reconsider" will be treated as a motion to alter or amend a judgment or for relief from a judgment or order. See Fed. R. Bankr. P. 9023(e), 9024. Such a motion must set forth the grounds alleged to satisfy the criteria set forth in Fed. R. Bankr. P. 9023 or 9024, including the time period for filing the motion. Responses to such a motion are not required; however, where a party wishes to respond, the response must be filed within seven days of service of motion. The Court will set a hearing on the motion if it determines a hearing is necessary.

VT. LBR 9027-1. REMOVAL/REMAND.

(a) Notice of Removal. A party filing a notice of removal must give written notice of removal to all adverse parties, and must file a copy of the notice of removal with the clerk of the court from which the civil action or proceeding was removed. The filing of the notice of removal with the Clerk (of this Court) will effectuate the removal, and the parties may not proceed any further in the other court unless and until the case is remanded or this Court orders otherwise.

(b) Procedure after Removal. The party filing the notice of removal must file, or cause to be filed, with the Clerk (of this Court) certified copies of all records and proceedings in the court from which the case was removed. This filing will be at the removing party's expense and must be made within 14 days after the filing of the notice of removal.

(c) Remand. If, at any time before final judgment, it appears that the civil action or proceeding was removed improvidently or that this Court lacks jurisdiction to adjudicate the matter, this Court will remand the case back to the court from which it was removed and may order the payment of just costs. A certified copy of the "Order of Remand" will be mailed by the Clerk of this Court to the clerk of the court from which the civil action or proceeding was removed, and that court may thereupon proceed with the case.

(d) Consent in Core Proceeding. If a statement filed pursuant to Fed. R. Bankr. P. 9027(e)(3) by a party who filed a pleading in connection with a removed cause of action, other than the party filing the notice of removal, states that the proceeding or any part of it is core, the party must also specify whether the party consents to the entry of final orders or judgment by the Bankruptcy Court if it is determined that the Bankruptcy Court, absent consent of the parties, cannot enter final orders or judgment consistent with Article III of the United States Constitution. See Vt. LBR 7008-1; see also Vt. LBR 7012-1.

VT. LBR 9029-1. LOCAL RULES – GENERALLY

(a) Scope and Title.

(1) **Local Rules.** These Rules govern procedure in this Court. These Rules should be cited as "Vermont Local Bankruptcy Rules" or "Vt. LBR [#]." These Rules supplement the Federal Rules of Bankruptcy Procedure. Cases, contested matters, and adversary proceedings transferred or withdrawn to the United States District Court for the District of Vermont will be governed, as applicable, by the Local Rules of Procedure for the United States District Court for the District of Vermont (referred to herein as the "District Court Local Rules").

(2) **Appendices and Forms.** A supplement containing various checklists, examples, forms, guidelines, models, and reference materials is available and entitled "Local Bankruptcy Rules Supplement: Appendices & Forms" ("The Supplement"). Labeled as "Appendices" or "Forms," these supplemental materials are cited in the Rules as "Vt. LB Appendix [Roman numeral]" for Appendices and as "Vt. LB Form [Letter]" for Forms. The Supplement is available on the Court's website, http://www.vtb.uscourts.gov.

(b) Making and Amending these Rules. These Rules may be made and amended by action of the Judges of the United States District Court for the District of Vermont, pursuant to Fed. R. Bankr. P. 9029, and by this Court, pursuant to the order entitled "Authority for Making and Amending Local Rules" entered on March 27, 2001.

(c) Matters Not Covered by These Rules.

(1) **Consistent Practice.** In any matter not covered by these Rules, the Court may regulate practice in any manner not inconsistent with either the Federal Rules of Bankruptcy Procedure or the Federal Rules of Civil Procedure.

(2) **Suspension of Rules.** The Court, *sua sponte* or upon the motion of any party, may change or suspend any of these Rules in the interest of justice.

(3) **Good Cause.** A party seeking a waiver of these Rules must file a motion showing good cause and specifying the scope of the waiver sought.

VT. LBR 9029-2. LOCAL RULES – STANDING ORDERS

Standing orders may be issued by the Court to keep these Rules current. Copies of all standing orders may be obtained from the Clerk's Office or be found on the Court's website, http://www.vtb.uscourts.gov. Standing Orders issued prior to the effective date of these Rules are superseded by these Rules.

VT. LBR 9033-1. PROPOSED FINDINGS AND CONCLUSIONS IN CERTAIN CORE PROCEEDINGS

If the Court determines it cannot enter a final order or judgment consistent with Article III of the United States Constitution in a particular proceeding referred to the Court and designated as core under 28 U.S.C. § 157(b), and the Court hears the proceeding, Fed. R. Bankr. P. 9033(a), (b), and (c) will apply as if it were a non-core proceeding.

VT. LBR 9036-1. NOTICE BY ELECTRONIC TRANSMISSION (NEF)

(a) Generally. Pursuant to Fed. R. Bankr. P. 9036, the Clerk or the federal judiciary's Bankruptcy Noticing Center (BNC) may give notice by electronic transmission to any entity entitled to receive notice that requests in writing that notices be transmitted to it electronically. The entity may make this written request by executing an electronic noticing agreement. See paragraph (b), below. This is in addition to and distinct from the consent document executed for CM/ECF electronic service.

(b) Noticing Agreements. The Court will provide noticing agreements through the BNC to any entity requesting this service. The terms and procedures for electronic noticing are detailed in the Court's noticing agreement provided by the Clerk and also available on the Court's website, http://www.vtb.uscourts.gov.

(c) Electronic Notice of Court Orders and Judgments. Immediately upon the entry of an order or judgment, the Clerk will transmit to a party registered to use the CM/ECF System in the case, in electronic form, an NEF. Electronic transmission of the NEF constitutes the notice required by Fed. R. Bankr. P. 9022. In accordance with the Federal Rules of Bankruptcy Procedure, the Clerk will give non-electronic notice to any person who has not consented to electronic service.

VT. LBR 9070-1. EXHIBITS IN EVIDENTIARY HEARINGS – PRODUCTION, RETENTION AND CUSTODY OF

(a) Marking of Exhibits. In an adversary proceeding or a contested matter, counsel (or *pro se* parties) must mark all trial and hearing exhibits prior to the time set for commencement of the trial or hearing. If more than 10 exhibits are to be introduced (1) each exhibit must be labeled, tabbed, and placed in a three-ring binder or submitted in PDF format on a CD; and (2) an index to all exhibits must be produced. Unless impracticable and waived by the Court, all documentary exhibits must be prepared in a quantity sufficient to provide copies to the Court, each opposing counsel, the examining attorney, and the witness.

(b) Retention of Exhibits by Attorneys. Unless the Court directs otherwise, parties should not file original exhibits with the Clerk, but rather the respective attorneys or persons who produced them in Court should retain the originals and provide a copy to the Court. The Court will temporarily retain its copy of exhibits if it reserves decision; after entry of a decision, the Court will deliver the exhibits to the Clerk. See paragraph (c), below.

(c) Retrieval of Exhibits from the Clerk. The party who introduced the exhibits will be responsible for retrieving them from the Clerk. If no appeal is taken, the party must pick up the exhibits at the expiration of the time for taking an appeal. If an appeal is taken, the party must retrieve the exhibits within 30 days after the record on appeal has been returned to the

Clerk by the appellate court. The Clerk will give parties who fail to comply with this timeframe 30 days' notice to retrieve their exhibits. Thereafter, the Clerk may dispose of the exhibits without further notice.

(d) Appeal. If a party appeals an order or judgment, the party must file all exhibits necessary to perfect the appeal as a part of the record on appeal.

(e) Photocopy Size. All photocopies of original exhibits that are submitted as part of a document filed in the Clerk's Office, whether filed electronically or non-electronically, must be 8½" x 11" in size.

Vt. LBR 9071-1. STIPULATIONS

See Vt. LBR 4001-1(d); see also Vt. LBR 4001-4(d); Vt. LBR 9011-4(e) & (f); Vt. LBR 9013-1(f); Vt. LBR 9013-2(f).

VT. LBR 9072-1. ORDERS – PROPOSED

(a) When Required. All requests for relief, including applications and motions, except pleadings initiating adversary proceedings and stipulated orders, must be accompanied by a proposed order. See Vt. LBR 9013-1(i).

(b) Filing of Proposed Orders. A proposed order accompanying an application or a motion that is filed electronically must be filed as an attachment to the application or motion, and served together with the application or motion.

(c) Allowed Endorsement Orders. When parties stipulate to enlarge or shorten a time period or reschedule a hearing, or when a debtor moves to delay the entry of discharge, such stipulations or motions may be submitted with an endorsement form of order and signature block on the same page for the Court's approval.

(d) Settled Orders. See generally Vt. LBR 9011-4(e) & (f); Vt. LBR 9013-1(f).

(e) Format of Signature Line on Proposed Orders. The signature line on proposed orders should not be situated on a separate page. Rather, there must be a continuity of language from the previous page contained on the signature page.

(f) Lift Stay Relief. See Vt. LBR 4001-1(g).

VT. LBR 9074-1. PROCEDURE FOR, AND LIMITATIONS ON, TELEPHONIC PARTICIPATION IN COURT HEARINGS AND CONFERENCES.

In order to participate in a Court hearing or conference by telephone, a party must obtain Court approval through the courtroom deputy at least one full business day prior to the hearing or conference. To ensure adequate audio quality of hearings and conferences, each party participating by telephone must use a land-line; only upon a showing of exigent circumstances and with the Court's approval will a party be allowed to participate in a hearing or conference by cellular telephone. See also Vt. LBR 5007-1(c); Vt. LBR 7016-1(c).

VT. LBR 9075-1. EMERGENCY MATTERS

(a) Defining an Emergency Matter. The Court will deem a matter an "emergency matter" only if the movant demonstrates that the need for immediate relief is necessitated by circumstances beyond the movant's control and there is insufficient time to give the notice required by the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure. A movant's failure to address a matter in a timely manner does not warrant treatment as an "emergency matter" under these Rules.

(b) Procedures for Seeking Relief in an Emergency Matter.

(1) **Filing Requirements.** Absent dire circumstances, the movant must file documents for the Court's consideration, stating the nature of relief sought, the legal basis therefore, and the facts creating urgency. To alert the Clerk's Office of the urgent nature of the relief sought, the filer must include the word "Emergency" in the caption of the documents filed, and must either e-file or e-mail the documents to the Clerk's Office.

(2) **Telephonic Notice to Clerk's Office.** To ensure prompt attention, a party filing an emergency motion must also call the Clerk's Office to alert a staff member (preferably, the courtroom deputy) that he or she has just filed an emergency motion.

(3) **Notice Requirements.** The movant must notify all affected parties, as well as the case trustee and the Office of the United States Trustee, of any emergency motion. In very time-sensitive instances, the Court may approve notification via telephone or e-mail. Absent dire circumstances, the movant is required to file a notice of hearing and certificate of service indicating the parties notified and the method of notification.

(4) **Hearing.** If the Court determines that an emergency hearing is necessary, the Court prefers that the parties appear in person for hearing, but will permit participation by telephone if the nature of the emergency and time constraints warrant it. If testimony will be necessary to support the relief sought, the movant must request an evidentiary hearing. Otherwise, the hearing will be limited to legal arguments by counsel. The movant must coordinate the hearing date, time, and location with the courtroom deputy. It is the movant's responsibility to coordinate any approved telephonic appearances. See Vt. LBR 5007-1(c).

(5) **Waiver of Filing Requirements and/or Hearing.** If the Court determines there are dire circumstances, it may set a hearing to consider the emergency matter without the filing or service of documents, or rule on the motion without a hearing. The Court will determine what documents, if any, the movant must file, and the nature and timing of the hearing, after the Court has considered the facts and circumstances of the emergency matter.

VT. LBR 9076-1. STATUS CONFERENCES AND CASE MANAGEMENT CONFERENCES

(a) In General. Subject to the notice provisions of paragraph (c) below, the Court, on its own motion or on request of a party in interest, may hold a conference at any time during a case or proceeding, for any purpose consistent with the Bankruptcy Code, including:

(1) to address the posture and efficient administration of the case or proceeding, and

(2) to establish a case management or scheduling order.

(b) Request for Conference.

(1) **Generally.** A request for a conference may be made either in writing or orally at a hearing. All requests must (A) specify the matters proposed to be addressed at the conference, (B) identify the parties who have a direct interest in such matters, and (C) include such further information as may assist the Court in evaluating whether a conference should be held and in conducting the conference.

(2) **In a Chapter 11 Case.** If a conference is requested in a Chapter 11 case for a date prior to the appointment of a creditors' committee and the retention of counsel, the requesting party must state why the conference should not be delayed until after the appointment and retention. If made in writing, the request must be served, together with a copy of any documents filed with the request, upon the following parties:

(A) in the case, to the debtor, the case trustee, if any, the Office of the United States Trustee, each official committee appointed to serve in the case (or, if no official committee has been appointed, the holders of the 10 largest unsecured claims), the holders of the five largest secured claims, and each unofficial committee that previously has requested the opportunity to participate in conferences; or

(B) in a related adversary proceeding, to the parties to the adversary proceeding.

(c) Notice of Conference. If the Court grants a party's request for a conference, the requesting party must provide notice of the date, time, location, and purpose of the conference to the parties required to be served under paragraph (b) above. When a conference is scheduled on the Court's own motion, it may direct a party to provide the required notice. If all necessary parties are present before the Court, the Court may direct that a conference be held immediately without further notice.

INDEX

Abandonment, 100

Adequate Protection, 56

Admission of Attorneys
- generally, 20
- pro hac vice, 20

Adversary Proceedings, 107
- core/non-core designation, 101
- default, 105
- depositions, 103
- discovery, 104
- dismissal of case, effect on, 10
- early neutral evaluation process, 124
- exhibits, 128
- filing fees, form of payment, 93
- interrogatories, 103
- motions, 114
- pleadings, amendments to, 101
- pretrial procedures
  - conferences, telephonic particiption, 102
  - generally, 102
  - pretrial statement, 102
  - scheduling conference, 102
- summary judgment, 107
- summons, 101

Alternative Dispute Resolution, 124

Amendments, 9
- mailing lists, 8
- notice of, 8
- pleadings, adversary proceedings, 101
- social security number, 8

Appeals, 108
- completion of record, 108
- designation of record, 108
- dismissal of adversary proceeding, jurisdiction maintained, 10
- exhibits, 128
- filing papers on, 108
- retrieval of exhibits, 127

Applications for Retention, 14

Applications to Limit the Scope of Legal Services, 18

Appraisals
- cash collateral, 56
- debtors' duty to provide, 67, 68

Appraisers, 99
- employment of, 15

Arbitration. See Alternative Dispute Resolution

Attorney(s)
- admission to practice, 23
- compensation, 15
  - flat fee, scope of duties, 17
  - presumed reasonable fee, 19
- discipline and disbarment, 23
- disclosure statement, 15, 19, 23, 26
- duties, 109
- electronic filings, 109
- interns, 23
- law clerks, 23
- pro hac vice, 21
- required representation, 109
- signatures
  - electronic, 109
- substitution
  - attorney for debtor, 23
  - other attorneys, 24
- withdrawal
  - attorney for debtor, 23
  - other attorneys, 24

Auctioneers, 99
- application for commissions and expenses, 99
- bonding, 98
- employment of, 15
- prohibition on purchasing, 98
- sale proceeds disposition, 98
- sale report requirements, 98

Automatic Stay
- continuation of
  - motion for, 55
- creditors' obligation to provide information notwithstanding
  - acceptable forms of communication, 50
  - applicability, debt secured by real property, 48
  - applicability, generally, 48
  - applicability, other secured debt, 49
  - applicability, possible further, 48
- debtor’s assertion of exception to
  - certification #1, 53
  - certification #2, 55
  - certifications not filed, 55
  - clerk’s notification, 54
  - cure of default, 55
  - deposit of rent, 53
  - filing requirements, 53

lessor’s consent, 54
lessor’s non-response, 55
lessor’s objection to certification #1, 54
lessor’s objection to certification #2, 55
debtor’s obligation to provide information notwithstanding
insurance coverage, 48
imposition of
motion for, 55
relief from, 53
hearing, evidentiary, 52
hearing, final, 52
motion contents, generally, 50
motion, additional requirements, 51
motion, chapter 13 case, 51
motion, service of, 52
motion. debtor’s objection to, 51
order granting, 53
pre-motion default notification required, 51
stipulation, 52
verification that not in effect
motion for, 56
violation of, 80

Ballots, 43
summary report, sample. See Form G

Bonding
bond, auctioneer, 98

Cases
compensation, chapter 13, 18
consolidation, 10
conversion of, 11
dismissal, 11
reference guide. See Appendix II
joint administration, 10
reopening, 91

Cash Collateral, 57
final hearing, 56
interim hearing, 56
motion for, 56
stipulation for use, 56

Certificate of Service
consequence of failure to file, 122
contents, 121
filing required, 8, 12, 52, 69, 88, 101, 105, 129

Chapter 11
§ 1111(b) election, 26
§ 1129(b) cram down, 44
ballots, 43
books and records
establish new, 69
preserve old, 69
compliance with united states trustee’s operating guidelines, 69
creditors' committee
information, 13
designation of small business case, 11
DISCLOSURE STATEMENT, 43
documents, additional copies required, 10
insurance, 80
monthly operating reports, 69
plan
acceptance, 43
certification, 43
confirmation, 45
confirmation order, 44
confirmation requirements, generally, 44
rejection, 43
post-confirmation disbursements, 46
retainers, permission required to draw down, 16
sale of estate property, 97
substantial consummation, 45

Chapter 12
claims
classification, 26
objection to, 24
consolidation, termination of, 10
creditors' obligation to provide information, 48
discharge
entry, 77
request early entry, 77
insurance, 80
lien avoidance
generally, 72
identify liens, 73
order granting, 73
lien stripping
generally, 25
order granting, 25
retainers, permission required to draw down, 16

Chapter 13
approval to incur extraordinary expenditure
request of $5,000 or less, 58
request of greater than $5,000, 58
trustee declines approval, 58
attorney duties, 18

claims
  classification, 26
  objection to, 24
  payment of secured claims, 28
  payment of short-term secured debts, 28
confirmation
  court's § 1324(b) determination, 28, 29
  hearing, attendance at, 29
  objection, limitation on raising, 29
  request postponement, 30
  request postponement
    of continued hearing, 30
  request postponement of initial hearing, 29
  request postponement, 30
consolidation, termination of, 10
creditors' obligation to provide information, 48
debtor-in-possession, 15
discharge
  entry, 77
  request early entry, 77
dismiss, motion to, 11
insurance, 80
lien avoidance
  generally, 72
  identify liens, 73
  order granting, 73
lien stripping
  generally, 25
  order granting, 25
mandatory fee disclosure, 26
maximum sale period, 27
minimum monthly payments, 27
payments
  attorney's fees, 18
  trustee, 47
plan, 28
  amended by debtor, 28
  extending period, 42
  modify, 42
  notice, 12
  sale plan, closing costs and commissions, 96
  sale plan, generally, 96
  sale plan, payment of secured claims, 97
purchase of motor vehicle, 57
  request of $15,000 or less, 57
  request of greater than $15,000, 57
  trustee declines approval, 57
relief from automatic stay
  additional requirements, 51
  sale or refinance of property, 96
    trustee's approval, 96
  trustee's expenses upon conversion or dismissal, 47
  written objections, 29
Chapter 7
  attorney duties, 17
  consolidation, termination of, 10
  lien avoidance
    generally, 72
    order granting, 73
  no asset case, 24
  unbundled legal services, 18
  waiver of filing fee, 2
Claims
  general, 24
  objections to, 24
    chapter. 12 cases, 24
    chapter. 13 cases, 24
  priority, 26
  proof of claim, 24
  Reconsideration, 24
  register, 83
  secured, 26, 28
Clerk of Court, 83
  default, entry of, 105
  how to contact
    e-mail address, 80
    fax number, 80
    mailing address, 80
    telephone number, 80
  joint administration, duties, 9
  judgment
    entry of, 105
  office hours, 80
  records, duty to maintain, 83
  retrieving exhibits from, 127
  website, 80
Collateral
  cash. See Cash Collateral
  valuation
    motion required, 24
Compensation
  appraisers and auctioneers, 99
  professionals
    application for $1000 or less, 16
    application for compensation, 15
    application guidelines, 15
    application, certification required, 16
    attorneys, chapter 13 cases, 18

attorneys, flat fee, scope of duties, 17
real estate brokers, 16

Conduit Mortgage Payments, 19, 31, 32, 33, 34, 35, 36, 38, 40, 49
administrative arrearage, 31
administrative arrearage claim, 31
application of payment, 36
chapter 13 trustee's fee, 35
conduit mortgage payment plan, 31
delinquent, 32
duty to disgorge, 37
jurisdiction, 42
late fees, 38
mortgage payment accounting, 32
mortgage payment change, 39
motion to dismiss, 37
motion to modify, 34
payment history, 38
payments current order, 40
plan completion date, 32
plan payment increase, 36
post-petition charges, 39
post-petition default, 34
post-petition mortgage arrearage, 32
pre-petition mortgage arrearage, 32
regular monthly mortgage payment, 32
waiver order, 32

Conference
case management conferences, 129
status conferences, 129

Consolidation
claims register, 10
caption; docket entries, 10
mailing list, 10
motion for, 10
termination of, 10

Contact Information
generally, 72
pro se parties, 72

Contact with Debtor, Permissible
creditors' obligation to provide information
acceptable forms of communication, 50
applicability, debt secured by real property, 48
applicability, generally, 48
applicability, other secured debt, 49
applicability, possible further, 48
proof of insurance, 48

Contested Matters
attendance of witnesses, 122
claim of unconstitutionality, 103
confirmation hearing, local practice, 122
dismissal of case, effect on, 10
early neutral evaluation process, 124
generally, 123
motion to reopen, treated as, 91
presenting evidence, 122
substitution, attorney for debtor, 23

Conversion
chapter 11 to 7, 11
chapter 13 trustee's expenses upon, 47
chapter 7 to 13, 11
reference guide. See Appendix II

Court
calendars and scheduling, 91
decorum, 92
how to contact, 80
location
filing, 12
hearings, 12
mechanical devices in, 92
office hours, 80
recording and broadcasting
by court, 92
prohibition on, 92
reporting, 88
website, 80

Cram Down
motion for, 44

Credit, 57

Creditors' Meeting. See Meeting of Creditors

Debtor(s)
duties of
§ 109(h), compliance with, 66
§ 109(h), requesting waiver of, 67
providing tax returns, 69
providing tax returns, 69
document production at § 341 meeting, 67
providing tax returns, 70
non-compliance with
motion to dismiss, 71
non-compliance with, 71
providing payment advice cover sheet, 67
providing proof of social security number, 69
providing tax returns, 70
providing tax returns, 70
non-compliance with, 71

payments by
filing fees, 93
filing fees, 93
non-filing fees, 93
filing fees, 93
non-filing fees, 93

Default
application for default judgment, 105
judgment, 106
entry by Clerk, 105
entry by Court, 106
pre-judgment entry of default, 105

Definitions, 108
of submitted, 4

Discharge
entry
chapter 12 case, 77
chapter 13 case, 77
request early entry, 77
form 23 required, 73
sua sponte denial, 77

Discovery, 104
depositions, 103
initial disclosure, 103
interrogatories, 103
mandatory consultation, 103
motions
other, 104
to compel, 103
objections, 103
orders
compliance with, 104
non-compliance with, 104
response time, 104
unnecessary motions or objections, 104
writing requirements, 103

Dismissal
basis for
failure to attend confirmation hearing, 29
failure to attend scheduling conference, 102
failure to comply with § 109(h)(1), 67
failure to file documents, 5
failure to provide notice, 12
failure to provide tax returns, 70
chapter 13
consideration of debtor's attorney's fees, 20
trustee’s expenses upon, 47
chapter. 13
motion requirements, 11
effect on adversary proceeding, contested matter, 10
generally, 10
motion
objection to, 71
requesting, 71
scheduling in adversary proceeding, 91
sequence of adjudicating multiple motions, 71
trustee's § 521(i)(4) motion, 71

Early Neutral Evaluation. See Alternative Dispute Resolution

Electronic Filing
attachments and exhibits, 112
case management/electronic case filing, 86
consequences of, 84
deadline, 87
deemed filing date
generally, 86
documents, originals, 109
documents, service, 121
notice of electronic filing, 121
e-mail filings, 88
hours of, 81
mailing lists, 7
notice by electronic transmission, 127
passwords and their security, 88
payment, form of, 88
public access to court electronic records, 81
registration for, 87
sealed documents, 83
signatures, electronic, 109
statement of debtor's social security number(s), 3
technical failures, relief due to, 87
waiver of service and notice by mail, 87

Estate Property. See Property of Estate, See Property of Estate

Ex Parte Contact, 108

Executory Contracts and Unexpired Leases, 100

Exemptions, 72

Exhibits
electronic filing, 112
marking, 127
retention by attorneys, 127
retrieval, 127
size of, 128
when decision or order appealed, 128

Exhibits, 128

Fees
acceptable forms of payment, 93
Chapter 7, 2
effect of non-payment, 93
filing fee, waiver of, 2
installment payments, 2
payment by credit card, 93
payment by debtor, 93
restrictions on debtors, 2
Filing
document, requirements, 86
Final Order or Judgment
consent in core proceeding, 101
consent in non-core proceeding, 101
consent in responsive pleading, 102
lack of consent, 101
proposed findings and conclusions, 127
removal, 125
Form 21. See Statement of Debtor's Social Security Number(s)
Hearings
confirmation
attendance at, 29
request postponement, 30
request postponement
of continued hearing, 30
of initial hearing, 29
request postponement, 30
continuances, 91
conventional
form of notice, 115
default procedure
form of notice, 119
relief available through, 117
emergency, 89
evidentiary
court designated, 122
how to request, 123
relief from stay, 52
rule 9014(e) notice of. See Form V
generally, 115
attendance at, 115
continuances, 115
form of notice, 114
minimum notice, 114
location, 12
reaffirmations, 78
scheduling
generally, 91, 113
telephonic, 89
Insurance, 80
proof of
business inventory and equipment, 3
permissable contact with debtor to verify, 48
to chapter 13 trustee, 68
Interns, 22
Joint Administration
cases filed by married debtors, 9
Clerk's duties, 9
lead case, 9
mailing list, 9
of related cases, 9
Judgments
generally, 124
notice of, 125
electronic, 127
summary
generally, 107
special notice to pro se litigants, 107
sample notice. See Form T
Judicial Lien. See Lien Avoidance, See Lien Stripping
Jury Trial, 124
consent, 124
voir dire, 124
Law Clerks, 22
Lien Avoidance
chapter 12, chapter 13
identify liens, 73
generally, 72
orders, 73
Lien Stripping
orders, 25
Liens
sales free and clear of, 95
Lists
20 largest unsecured creditors, 6
additional required, 6
amendments
generally, 9
interlineation, 8
assets, 2
creditors, 5
mailing list
amendments, 8
format, 7
master, 6

Local Rules
amending, 126
appendices, 126
definitions, 108
forms, 126
generally, 126
matters not covered, 126
scope and title, 126
standing orders, 126
supplement, 126
waiver, 126
Mailing List. See Lists
Mediation. See Alternative Dispute Resolution
Meeting of Creditors
attendance, waiver, 13
documents required, 13, 67
Memoranda of Law
and motion for summary judgment, 107
generally, 120
Mortgage Modification, 97
Motion to Enlarge Time, 3, 28
Motions
admission pro hac vice, 20
amend, 101
assume lease, 100
automatic stay, relief from. See Automatic Stay
briefs, 120
certificate of service, 101
consolidation, 10
consultation, mandatory, 111
content, generally, 13
continuances, 115
conversion, 112
discovery. See Discovery
emergency. See Vt. LBR 9075-1
first day motions, 93
generally, 113
hearings, generally, 115
joint administraton, 9
memoranda of law
required, 120
requirement waived, 120
modify scheduling order, 102
multiple, 115
notice
conventional, 115
default procedure, 119
generally, 114
proposed orders, 113
proposed orders with consent, 113
reconsider, 125
reopen case
filing official form 23, 74
generally, 91
scheduling hearings, 113
sealing documents, 83
shorten notice, 113
stipulated, 111
summary judgment, 106
under seal, 112
voluntary dismissal of a complaint, 104
Motions to Determine Value, 13
Notice
abandonment, 100
amendments, 7
to new creditors, 8
claims, deadline for filing, 24
electronic, 127
final decree, chapter 11, 45
hearings
conventional procedure, 115
default procedure, 119
generally, 114
judgments and orders, 125
master mailing list, 5
motion practice and, 122
sale, 94
service, 121
service, generally, 122
substitution of attorney, 23
to creditors, 13
duty to provide, 12
method of service, 12
to Creditors
chapter. 13 plan, 12
forms of service, 13
mailing list, 12
method of service
by parties not registered for CM/ECF, 12
to United States or Federal Agency, 13
withdrawal of attorney, 23
Notice of Amendment Cover Sheet. See Form C
Notice of Electronic Filing
generally, 127
noticing agreements, 127
of orders and judgments, 127
Official Form 21. See Statement of Debtor's

Social Security Number(s)
Official Form 23
filing deadline, 74
filing deadline, extending, 74
motion to reopen, 74
filing requirement, 73
Orders
abandonment, 100
approving sales, 95
confirming chapter 11 plan, 44
discovery, compliance with, 104
emergency. See Vt. LBR 9075-1
endorsement orders, 128
generally, 128
joint administration, 9
lien avoidance, 73
lien stripping, 25
notice of, 125
electronic, 127
proposed
motion practice, 113
relief from stay, 128
signature line, 128
protective, 104
records, limiting electronic access, 81
relief from stay, 53
sale or refinancing of property, chapter 13, 96
seal documents
electronic, 83
required, 83
standing orders, 126
substantive consolidation, 10
substituion, attorney for debtor, 23
withdrawal, attorney for debtor, 23
PACER. See Public Access to Court Electronic Records
Papers
deemed filing date, 1
filing requirements, 86
maintained electronically, 82
Payment Advice Cover Sheet
filing requirement, 67
Payment Advices Cover Sheet, 3, 17
signature of the debtor, 3
Personal Data Identifiers, 89
Petition
amendments to, 9
caption, 2
general filing requirements, 2
redaction requirements, 2
Plans
acceptance/rejection, generally, 43
chapter 11
acceptance/rejection of, 43
ballots, 43
cram down, 44
order confirming, 44
chapter 13
extending payment period, 42
generally, 28
chapter. 13
notice, 12
Power of Attorney, 109
Presumed Reasonable Fee, 18, 19
motion for relief from stay, 19
motion to modify, 19
Pro Se Parties
attendance at conferences, 102
contact information, 109
duty to retain documents, 109
register for cm/ecf, 87
special notice, motion for summary judgment, 107
Professionals
attorneys, 23
discipline and disbarment, 23
withdrawal, 23
employment of, 15
Proof of Claim, 21, 24, 26, 28, 37
Property of Estate
abandonment, 100
generally, 98
sales
chapter 11 requirements, 98
free and clear of liens, 95
notice of intent to sell, 95
other, 95
Public Access to Court Electronic Records, 81
Reaffirmations, 80
motion
defer entry of discharge, 79
hearing on, 78
vacate discharge, 79
proposed order, required language, 80
requirements
additional source of funds, identify, 78
cover sheet, 78
form 240A, 78

generally, 78
official form 27, 78
separate certification, 78
unenforceable for non-compliance, 79
when hearing and order not required, 79
Redaction, 81
personal data identifiers, 81
dates of birth, 81
financial account numbers, 81
names of minor children, 81
social security numbers, 81
taxpayer identification numbers, 81
request for redacted information, 82
Redemption, 100
Remand
procedure, 125
Removal
procedure, 125
Reopening Cases, 91
Reports
monthly operating, 69
Sanctions
generally, 110
violation of stay, 80
Schedules
amendments to, 9
certification, pre-petition credit counseling. See Vt. LBR 4002-1(a), (b)
Chapter 11
operating business, 4
debt, 3
waiver, requirements, 5
Sealed Documents
delivery of documents, 83
effect of electronic filing, 83
generally, 84
order required, 83
Service
ballots, 43
certificate of
amendments, 8
attorneys, substitution, 23
attorneys, withdrawal, 23
generally, 101
motion practice, 121
notices to creditors and other interested parties, 12
designation of local counsel, 21
emergency, 12
generally, 122
objection to confirmation, chapter 13, 29
summons, 101
to creditors and other interested parties
forms of service, 13
to Creditors and Other Interested Parties
by parties not registered for CM/ECF, 12
method of service, 12
Signatures
attorneys, electronic, 110
designating consent, 111
electronic, 109
e-mail
attorneys, 110
non-attorneys, 111
judge's, 93
non-attorneys, 110
one document, multiple parties, 111
signature line on proposed orders, 128
signing of documents, 110
Small Business Cases
confirmation hearing, 43
Social Security Number, 8, 89
Standing Orders
local rules, 126
Statement of Debtor's Social Security Number(s)
amendment of, 8
non-applicability of redaction requirement, 81
requirement, generally, 3
retention by Clerk, 83
Statements
amendments to, 9
conversion, required upon, 11
Stipulations
motions for, 112
one document, multipe parties, 111
relief from stay, 52
signatures designating consent, 111
use of cash collateral, 56
when notice not required, 115
Substantive Consolidation. See Consolidation
Summary Judgment
citation to record, 107
expedited ruling, 107
facts admitted, 106
filing deadline, 106
generally, 107
memoranda required, 107

motions
requirement, 107
opposition, 106
oral argument, 107
special notice to pro se litigants, 107
statement of disputed facts, 106
statement of undisputed facts, 106
tolling, 107

Summons, 101

Time
confirmation hearing, 29
enlarge, 3, 28
form 23, 74
motion to reconsider, 125
periods, 108

Transcripts, 90
official written, 89
protecting privacy
form of redaction, 90
information subject to redaction, 89
lifting temporary restriction, 90
procedures for, 89
requesting redaction, 90
temporary restriction period, 89

Trustees
certification language, 26, 73
employment of professionals, 15
loan approval request, 57

Unbundled Legal Services, 18

United States Trustee
motions under seal, 113
operating guidelines, 69
service, 88

Use, Sale, or Lease of Property, 94

Valuation
motor vehicle, 25
secured claim, 24

Verification, 14, 109

Wage Withholding, 5
automatic debits, 5
waiver, 5

Website, 80