



UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

2017 LOCAL BANKRUPTCY RULES

Effective Date: December 1, 2017

**PART I – COMMENCEMENT OF CASE;
PROCEEDINGS RELATING TO PETITION AND ORDER FOR RELIEF**

Vt. LBR 1002-1. PETITION – GENERALLY.

(a) Electronic Filings of Filing a Petition— through the Electronic Case Filing System.

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~~ filed via CM/ECF, the debtor is not required to file the original petition, schedules, and statements with the Clerk of the Court (hereinafter, “Clerk”); ~~the “Clerk”).~~ See also Vt. LBR 5005-2(c) (official record and effective filing date for all documents); Vt. LBR 9075-1(b)(1) (filing requirements related to emergency filings).

~~(a) 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. At the meeting, the trustee will verify the debtor’s signature and 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 at the § 341 meeting of creditors).~~

(b) Fax Filings. E-Mail Filings.

~~(b) The Clerk’s Office will accept facsimile (hereinafter, “fax”) filings transmitted directly to its fax machine to commence a case if accompanied by appropriate credit card authorization documents. See Vt. LBR 5081-1(c). The credit card authorization must be specified on a separate page of the fax transmission. The case is deemed commenced at the date and time entered into the CM/ECF System by the Clerk’s Office, not the time of transmission of the fax. See also Vt. LBR 5005-4(a) (providing further instructions on fax filings). The filing party is bound by the document as faxed.~~

~~E-Mail Filings.~~ The Clerk’s Office will accept e-mail filings only in those circumstances where filing via CM/ECF or fax is not possible or practical; the e-mail transmitting the filing must include an explanation of those alleged circumstances. Documents submitted via e-mail for filing provided they are to be in portable document format (PDF) only, 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~~ The e-mail filing address is: efiling@vtb.uscourts.gov. A document submitted for filing via e-mail is ~~deemed~~ shall be considered filed as of the date and time the Clerk’s Office enters it is entered into the CM/ECF System by, not as of the time the filer sent the email or the Clerk’s Office, ~~not the time of transmission of the e-mail.~~ received it. The filing party is bound by the document as e-mailed. See also Vt. LBR 9011-4(b), (c), (d) (providing further instructions on required e-mail ~~signatures~~ signatures).

(a)(c) Non-Electronic Filings.

(1) To commence a case by ~~the filing of a petition on paper~~ in a non-electronic format (i.e., by first-class 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. See Vt. LBR 1007-3(a) (defining master mailing list). The petition, ~~together with the schedules and statements, should~~ master mailing list must be held together with a paper clip or binder clip, and ~~should not be bound or stapled. The mailing list should be~~ If the filing party files the statements and schedules with the petition, the master mailing list must be the last document and 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 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 the time of receipt.~~

(2) When a debtor submits a petition non-electronically, that petition is "filed" and effective as of the date and time the Clerk's Office enters the document into CM/ECF, not as of the date and time the debtor delivered it or the Clerk's Office received it.

(d) Corporate Resolution/LLC Authority.—A:

~~When a corporation or a limited liability company files a voluntary petition filed by a corporation is to be accompanied by a copy of the corporate resolution or other, it must also file a document evidencing appropriate authorization, duly attested to, authorizing for the bankruptcy filing. A voluntary petition filed by a limited liability company is to be accompanied by a copy of the appropriate authorization, duly attested to, authorizing the bankruptcy filing.~~

~~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~~ of 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~~ include the last four digits ~~should be included, of an individual's social security number,~~ such as: XXX-XX-1234). See Vt. LBR 5001-3(eb) (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 credit cards.~~ debit or credit cards. Debtors must pay the bankruptcy petition filing fee with cash, certified check, bank draft, or money order. See Vt. LBR 5081-1(a).

(b) Installment Payments.—Upon order of the Court approving an application, an

An individual debtor may pay the filing fees fee in installments.—only if the Court grants the debtor's Application to 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 Application for Individuals to Pay the Filing Fee in Installments (Official Form B103A) is available on the Court's website: <http://www.vtb.uscourts.gov/>.

(b)(c) Waiver of Filing Fee.

~~An individual Chapter 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 payment 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 Bankruptcy~~ 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 ~~for 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, & AND OTHER REQUIRED 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- or may have - an~~ interest, ~~regardless of~~ and specify where the asset is located, as well as the nature and type of ownership the ~~debtor's interest, or debtor claims, regardless of~~ whether the debtor believes the asset ~~to be within the definition of~~ is 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,~~ and attach an addendum to Official Form 106 A/B or Official Form 206 A/B, separately describing and listing all individual items worth more than \$1,500.
- (2) ~~(2)~~ Business Inventory or Equipment. When a debtor lists business inventory or equipment ~~is scheduled on the bankruptcy schedules,~~ the debtor must provide an addendum to Official Form 106 A/B or Official Form 206 ~~that includes, at a minimum,~~ A/B that must include the following: (A) a general description, of the inventory and/or equipment; (B) a list of ~~present~~ the items; in each category of equipment or inventory; (C) a brief explanation of the exact location of the item(s); (D) the name and address of the custodian; (E) the protection being given to such property; and (F) 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 each debt was incurred and ~~nature of~~ the consideration for each debt ~~as required by the official forms.~~ The debtor must list all debts, including disputed debts, contingent debts, and debts owed to creditors whom the debtor does not expect ~~to~~ 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~~ first 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), of the Code, 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 state: (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 required 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) ~~(See Vt. LBR 4002-1(a), (b); see also Vt. LBR 4004-2(a) (regarding filing certification evidencing of completion of post-petition financial management education).~~

(f) Official Form 121, Statement About Your Social Security Numbers—.

~~(4)~~(1) Every individual debtor must complete and ~~verify~~sign Official Form 121, “Statement About Your Social Security Numbers,” as required by ~~Fed. Federal Rule of Bankruptcy Procedure R. Bankr. P.~~ 1007(f).

~~(5)~~(2) If the debtor files the bankruptcy case on paper, the debtor must submit the completed and ~~verified~~signed Official Form 121 with the petition.

~~(6)~~(3) 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~~5 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).~~

(4) If the debtor is pro se, in addition to complying with the other requirements of this Rule, the debtor must retain the completed and signed Official Form 121 for at least 5 years in accordance with Vt. LBR 9011-2(b).

(5) Official Form 121 is not part of the case docket or public court record and therefore Official Form 121 should never be filed. See Vt. LBR 1007-1(g) (definition of submitted).

(e)(g) Definition of “Submitted.”

-The term “submitted” as used in ~~Fed. R. Bankr. P.~~Federal Rule of Bankruptcy Procedure 1007(f) and in these Rules means that the document at issue is not ~~considered filed in the case and is not part of the case docket or the public court record,~~ but rather must be provided to the Court.

(d)(h) Debtor’s Affidavit to be Filed in Chapter 11 Case.

All ~~Chapter~~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~~chapter 11 filing;

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

(3) the names and addresses of ~~the~~all members of any committee organized prior to the order for relief in the ~~Chapter~~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, with a separate listing ~~separately~~of those held by the debtor’s officers and directors ~~and~~indicating the amounts so held; by each officer and director,

(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) except for cases that fit within § 524(g) of the Code, the nature and present status of each action or proceeding pending or threatened against the debtor or ~~its~~the debtor's property, including the court and identifying number within that court, ~~and each opposing counsel's as well as the~~ name, address, and telephone number, ~~except for cases that fit within § 524(g);~~ of all opposing counsel, and
- (7) a list of all the real estate ~~owned, leased,~~in which the debtor claims an ownership, leasehold, or ~~held under other arrangements~~interest.

(e)(i) Additional Information Required if a Business Continues Operating.

–If the ~~Chapter~~chapter 11 debtor is continuing ~~the operation of~~to operate a business, the affidavit required under paragraph (h) above must also set forth:

- (1) the ~~estimated~~projected 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~~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~~chapter 11 filing; and
- (3) proof of all insurance.

(f)(j) When to File Additional Business Information.

In a voluntary ~~Chapter~~chapter 11 case, the debtor's affidavit referred to in paragraphs (h) and (i) above must accompany the petition. In an involuntary ~~Chapter~~chapter 11 case, the affidavit must be filed within ~~15~~14 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~~trustee, with ~~seven~~7 days to object, the Court may waive, or enlarge the time for complying with, any of the foregoing requirements.

(g)(1) Chapter 13 Wage Withholding.

- (1) Each ~~Chapter~~chapter 13 debtor must file the following documents with the ~~Chapter~~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, without further or separate authorization or order, 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 and separate authorization or order, using a wage withholding authorization/consent to automatic debits from bank account form (Vt. LB Form Y-8);~~ 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.

~~(a) — Effect of Federal Rule of Bankruptcy Procedure 1007-I. Failure to file a completed means test within 14 days after the expiration of the temporary exclusion pursuant to Fed. R. Bankr. P. 1007-I(n)(1), or failure to timely seek an extension of time to file a means test, will result in the automatic dismissal of the bankruptcy case without further notice and with a 180-day bar to re-filing.~~

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 LISTS.

(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 voluntarily-submitted 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 ~~at the Court.~~

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

(A) in all ~~Chapter~~ chapter 9, 11, and 115 cases and in filings under ~~Chapters~~ chapters 7, 12, or 13 ~~if in which the debtor owes, or potentially owes, a federal tax debt or potential tax claim or interest exists,~~ liability, the debtor must include the following address of the Internal Revenue Service ~~must be included:~~

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 master 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~~ Rule supplements, but does not replace, ~~Fed. R. Bankr. P.~~ Federal Rule of Bankruptcy Procedure 2002(j).

(2) When a debt ~~or,~~ potential claim, or interest exists regarding the State of Vermont, the master 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) ~~when for~~ a debt, potential claim or interest, other than taxes, ~~exists regarding the State of Vermont, the Attorney General for the State of Vermont must be added using the following address format:~~

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

(3) ~~Do not include~~ Neither the name and address of the debtor(s) ~~or~~ nor the name and address of the debtor's attorney ~~for the debtor(s)~~ should be on the master mailing list.

(b) Additional Mailing List in Cases Filed Under Chapter 9 or Chapter 11.

In ~~Chapter~~ 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 20 unsecured creditors to ensure prompt noticing of the creditors' ~~committee~~ committee's organizational meeting. When a debtor has shareholders, the debtor must provide a separate sheet with the name and complete mailing address ~~for~~ of 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: All mailing lists must comply with the following guidelines:

- (1) be typed in black ink and in a font size of no less than 12 point, 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 3/4" and, if on paper, the list must be on plain 8 1/2" 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 full case ~~name (caption, 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, 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”).

~~(a) 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.~~

(b) 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~~. It must be clear what the document originally stated and what changes have been made. When an amendment is ~~submitted~~ filed electronically and the ~~submitting~~ filing party uses the highlight function to indicate the amendment, the party should ~~choose~~ use yellow highlighting to ensure the amendment continues to be easily identifiable if printed.

(c) Notification of New Creditors.

The party making the amendment must serve a copy of the “Notice of Commencement of Chapter [7, 11, or 13] Bankruptcy Case, Meeting of Creditors, and Deadlines” and the applicable amended list or schedule on any new creditor or party in interest added ~~and~~ by the amendment as well as 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. See Official Form 309A, Official Form 309F, or Official Form 309I.

(d) Mailing Lists. How to Amend Master Mailing List.

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 from the master mailing list, the debtor must amend the master mailing list as follows: ~~(1) for~~ For an addition or change, the debtor shall include only the added or changed name and address in an amended master mailing list; ~~(2) for~~ For a deletion, the debtor must place an “X” through the information to be deleted from the master mailing list. The ~~amended mailing list is to be filed together with~~ debtor must file a notice of amendment ~~with the amended master mailing list.~~

(e) Correcting Debtor’s Social Security Number. Where the amendment is necessitated by:

When 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) ~~via paper copy~~, submit to the Clerk ~~a Form~~ 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. See~~ Vt. LBR 5003-1(b); see also Vt. LBR 1007-1(g).
 - (B) serve upon all creditors, the case trustee, and ~~the Office of the~~ United States ~~Trustee~~ trustee the amended Official Form 121, reflecting the full and correct social security number; and
 - (C) file ~~with the Clerk a completed~~ a certificate of service, with the Clerk certifying service of the amended Official Form 121 upon all creditors, the case trustee, and the ~~Office of the~~ United States ~~Trustee~~ 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.

- (1) Individuals who are married and ~~such individual's spouse commencing~~ intend to commence a joint case may ~~file~~ do so by filing a joint petition and ~~pay~~ paying 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.
- (2) In all cases filed by an individual debtor and such individual's spouse under § 302 of the Code, 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~~ joint consolidation.

(b) Joint Administration of Related Cases.—

Unless otherwise ordered by the Court, motions for joint administration of related cases must be ~~presented~~ made 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.

- ~~(3)~~ (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~~ with the exception 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.
- ~~(4)~~ (2) Consolidated Master Mailing List.— Within ~~seven~~ 7 days of the entry of the order of joint administration, the party ~~obtaining~~ who obtained the order must file with the

Clerk a consolidated master mailing list constituting an aggregate master mailing list of all interested parties in all the jointly administered cases without duplication. ~~The~~This master mailing list must be in compliance with the requirements set forth in these Rules. See Vt. LBR 1007-3.

~~(5)~~(3) Additional Copies. -In jointly administered ~~Chapter~~chapter 9 or 11 cases, the Clerk may require the parties to file additional copies of documents.

~~(b)~~(c) **Substantive Consolidation of Related Cases.**

- (1) ~~Motion.~~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 party filing the motion (the “movant”) seeks designated as the lead case.
- (2) Consolidated Master Mailing List. Within ~~seven~~7 days of the entry of the order of substantive consolidation, the party ~~obtaining~~who obtained the order must file with the Clerk a consolidated master mailing list constituting an aggregate master mailing list of all interested parties in all the substantively consolidated cases without duplication. ~~The~~This master mailing list must ~~be in compliance~~comply 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~~court has ordered the cases substantively consolidated, ~~they~~those cases will be treated as one case for all purposes, with a single case number, caption, claims register, and docket.

~~(d)~~ Termination of **How to Terminate Substantive Consolidation.** ~~Parties.~~

~~(4)~~(1) A party seeking to ~~terminate the~~an order terminating substantive consolidation of ~~cases~~ must ~~do so by~~file a motion, as follows:

- (A) in a ~~Chapter~~chapter 7 asset case, the motion must be filed no later than the date set for the hearing on the ~~notice of filing of~~trustee’s final ~~account of the trustee;~~report,
- (B) in a ~~Chapter~~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
- (C) in a ~~Chapter~~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~~chapter 12 or 13 cases.

~~(5)~~(2) Termination of substantive consolidation will ~~apply~~be effective 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~~In cases with pending appeals ~~that~~ 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~~ obtain an order reinstating 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 demonstrates~~ that dismissal of the case ~~does~~ did 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~~ 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 Files a Motion to Dismiss. When it is the Movant. ~~When the debtor is the movant, the~~ who files a motion to dismiss a chapter 13 case, the motion must include:
 - (A) the total fee the debtor agreed to pay the attorney for the ~~Chapter~~ 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.~~ Files a Motion to Dismiss. When it is a creditor or the case trustee ~~is the movant, the~~ who files a motion to dismiss a chapter 13 case, the moving party must specify in their motion whether ~~the movant seeks~~ they seek to have the debtor's attorney either 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).~~ 1(f).

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.~~

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

Vt. LBR ~~1020~~1019-1. FILING OF THE CHAPTER ~~11~~—13 TRUSTEE'S FINAL REPORT AND ACCOUNT, AND NOTICE OF TRUSTEE'S PROPOSED REFUND OR DISBURSEMENT OF FUNDS ON HAND, UPON CONVERSION OF A CASE FROM CHAPTER 13 TO CHAPTER 7.

(a) Filing of Trustee's Final Report and Account after Conversion.

When a chapter 13 case is converted to a case under chapter 7, the chapter 13 trustee shall file, and transmit to the United States trustee, a final report and account, not later than 60 days after conversion of the case.

(b) Notice of Refund or Disbursement of Funds on Hand.

- (1) If the chapter 13 trustee has funds on hand at the time a notice of conversion of a case from chapter 13 to chapter 7 is filed, then within 14 days of the conversion, the chapter 13 trustee shall file a "Standing Trustee's Notice of Refund" (the "Notice"). The Notice shall indicate the amount of the funds the chapter 13 trustee has on hand, the source of those funds, if known, whether those funds were derived from the debtor's post-petition wages, and to whom the chapter 13 trustee proposes to disburse those funds.

- (2) If the source of the funds on hand was post-petition wages, no further notice is necessary and the chapter 13 trustee may refund those funds to the debtor, as set forth in this Rule.
- (3) If the source of the funds was other than post-petition wages and totals more than \$400, then the chapter 13 trustee shall serve a copy of the Notice on the debtor, the debtor's attorney, the chapter 7 trustee, and all parties listed on the master mailing list.

(c) Objection to Proposed Refund or Disbursement of Funds.

The chapter 7 trustee and any interested parties shall have 7 days within which to file an objection to the proposed refund or disbursement of funds, or otherwise assert a colorable claim to the funds the chapter 13 trustee held as of the date of conversion.

(d) Order Authorizing Refund or Disbursement of Funds on Hand.

The chapter 13 trustee shall obtain an order authorizing the refund or disbursement of funds, consistent with the following:

- (1) In the event all funds on hand came from the debtor's post-petition wages, and no objection was filed within 7 days of the filing of the Notice, the chapter 13 trustee shall promptly disburse the funds on hand to the debtor.
- (2) In the event the funds on hand came, in part or whole, from a source other than the debtor's post-petition wages, and no objection was filed within 7 days of the service of the Notice, the chapter 13 trustee shall promptly disburse the funds on hand in the manner set forth in the Notice.
- (3) In the event an objection to the Notice is filed, the chapter 13 trustee shall not disburse the funds on hand until the Court enters an order adjudicating the objection and specifying how the funds are to be disbursed.

Vt. LBR 1020-1. DESIGNATION OF SMALL BUSINESS CASES IN CHAPTER 11.

(a) Effect of Designation.

Small business cases will proceed in an expedited manner as set forth in the Bankruptcy Code. See 11 U.S.C. §§ 1116, 1121(e), 1125(f), and 1129(e).

(b) Rescission of Designation.

Any party in interest or the ~~Office of the United States Trustee~~trustee may, ~~at any time during the pendency of the case,~~ file a motion requesting that the Court rescind a ~~Chapter~~chapter 11 small business case designation ~~at any time during the pendency of the case.~~ See Fed. R. Bankr. P. 1020(a). ~~The~~For cause, the Court may at any time, with or without motion or notice, order that a ~~Chapter~~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~~first 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), ~~(3)~~.

(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. Non-electric filings may be sent via first-class mail to: U.S. Bankruptcy Court, P.O. Box 1663, Burlington, Vermont 05402-1663 or hand delivered to either the U.S Bankruptcy Court, 11 Elmwood Avenue, 2nd. Floor, Burlington, Vermont or U.S. Bankruptcy Court 151 West Street, 2nd Floor, Rutland, Vermont.

~~Vt. LBR 1074-1. CORPORATIONS~~

~~See Vt. LBR 1002-1(f).~~

PART II

**PART II - OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS;
EXAMINATIONS; ELECTIONS; ATTORNEYS AND ACCOUNTANTS**

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

(a) Duty to Provide Notice— of Motions.

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~~7 days' notice of any hearing, and file a certificate of service prior to the deadline for the filing of objections. —See also Vt. LBR 9013-6(e)-a. Failure to serve timely and proper notice may result in (1) dismissal of the motion, (2) no action on the motion, and/or (3) 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. See also Vt. LBR 9013-6(g).

(b) Chapter 12 and 13 Plans.—

The Clerk will give notice of the time fixed for objecting to the ~~proposed plan~~. The first chapter 12 or 13 plan filed in a case. By contrast, the debtor's attorney (or the debtor, if *pro se*) must give notice of the time fixed for objecting to ~~the proposed~~any subsequently filed amended plan or ~~proposed~~-modified plan.

(c) Clerk will Provide Master Mailing List.—The.

Upon request, the Clerk will provide a party with a master mailing list ~~upon request by such party~~ 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; in person~~, (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)(1)-(3).

(e) Service on the ~~Office of the United States Trustee~~ by Parties ~~Not~~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~~trustee with all notices of motion, together in the same envelope with (1) the motion, (2) supporting affidavits, (3) exhibits, and (4) a copy of the certificate of service. Unless the Court orders otherwise, all *ex parte* applications, ~~accompanied by~~ (including the required affidavits and exhibits,) must be served upon the ~~Office of the United States Trustee~~ contemporaneously with the filing of the documents with trustee at the time they are filed in the Clerk's Office. See Vt. LBR 4002-1(~~f~~e) (regarding ~~monthly~~chapter 11 operating ~~reports~~report guidelines).

(f) Forms of Service.—Where.

When service is not made 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 the e-mail address designated by each party in a single e-mail, fax transmission, or envelope by first-class mail in a single package.

(g) Service of Motions to Determine Value.—

When a chapter 13 debtor files seeks a motion to determine value in a Chapter 12 or 13 case on or before determination of the date on which the original plan is filed, the Clerk will serve the motion as well as the plan. However, the Clerk will effectuate service allowed amount of a secured claim, and a corresponding determination of the value of the collateral securing that claim, the debtor must request that determination in their plan, i.e., in Part 3.2 of Official Form 113. The Clerk serves the plan, but does so only by a means equivalent to first-class mail (i.e., by regular mail, fax, or e-mail, depending on the recipient's prior request). If a party If the holder of a claim subject to a request for such a determination 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. effectuate proper service of the plan on that party and file a certificate of service. 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/OR 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 first meeting of creditors on such terms as approved by to which the case trustee consents. This application does not require notice or a hearing.

(b) Documents Required at § 341 the First Meeting of Creditors.—

The debtor or the debtor's attorney must bring the original, executed petition, schedules, and statements to the § 341 first 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, "Creditors' Committee" or "Committee") is required to provide certain information to those creditors represented by the Creditors' Committee. See § 1102(b)(B)(3)(A). The 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 the Committee by telephone or in writing (via e-mail, fax, or regular, first-class mail). The Committee must provide the creditor 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, the 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.~~ The 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 the Creditors' Committee or is a joint privilege with the debtor or some other party. However, the 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.

~~MOTION TO COMPEL DISCLOSURE. WHERE THE CREDITORS' COMMITTEE IN CHAPTER 11.~~

~~When a creditors' committee fails or refuses to provide a creditor it represents with information, the~~that creditor may file a motion to compel the ~~Committee~~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~~seeks to employ an attorney, accountant, appraiser, auctioneer, agent, or other professional whose employment ~~requires court approval under~~must be approved by the Court, pursuant to 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, to inform the professional of the applicable disclosure requirements, and to advise the professional of the requirements and risks, if any, pertaining to the professional's ability to subsequently obtain right to 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-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, ~~fax number, if any,~~ 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, ~~creditors~~any creditor of the debtor, the application must include the following:

- (A) whether the professional represented any ~~creditors~~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 Fed. R. Bankr. P. 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;~~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 file 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) ~~of the Code~~. 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. See Vt. LBR 2016-1; see also Vt. LBR 2016-2.~~

VT. LBR 2015-2. DEBTOR-IN-POSSESSION — ~~CHAPTER 13 BUSINESS DEBTOR~~DEBTORS' OPERATING ORDERS IN CHAPTER 13.

Every debtor who files a business chapter 13 case, or is operating a business, shall be required to file monthly operating reports, unless the debtor demonstrates cause to waive this requirement within 21 days of filing the petition.

~~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.~~

The trustee or other party in interest who seeks an order directing the chapter 13 debtor to file operating reports shall file a proposed order setting forth (1) how frequently the reports should be filed (monthly, quarterly, or at some other interval), (2) what information should be included in each operating report, and (3) what documents should be attached to the operating reports or served on the parties entitled to receipt of the operating reports.

VT. LBR 2016-1. COMPENSATION OF PROFESSIONALS.

(a) Fee Application Guidelines. ~~—Any~~

- (1) Except as set forth in subparagraph (2) below, any entity seeking interim or final compensation for professional services rendered, or for reimbursement of ~~actual and necessary~~ expenses, must comply with (A) Fed. R. Bankr. P. 2016, ~~the United States Trustee~~(B) 28 C.F.R. Appendix A to Part 58, 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 (C) applicable case law. See also Vt. LBR 6005-1(e) (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 (A) Fed. R. Bankr. P. 2016, (B) 28 C. F. R. Appendix B to Part 58, Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases (“United States Trustee Guidelines for Larger Cases”), and (C) applicable case law.

(b) Applications for Compensation of \$1,000 or Less.—Where.

When 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; 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, ~~fax number, if any,~~ and e-mail address. The Court will consider ~~such~~ the applications ripe for ruling upon the earlier of: (1) the filing of a response by the ~~Office of the United States Trustee; trustee.~~ or (2) the expiration of the 14-day notice period. ~~The Court may schedule a~~ No hearing shall be set on the application ~~if it~~ unless the Court deems a hearing is necessary.

(c) Applications for Compensation Greater than \$1,000.—Where a professional seeks

Professionals seeking compensation in an amount greater than \$1,000, ~~the professional~~ must follow the ~~procedures described in Fed. R. Bankr. P. 2002(a)~~ file a motion and may use the default ~~procedures~~ procedure described in Vt. LBR 9013-4. See Vt. LBR 9013-4(b)(7).

(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 state the party’s objection(s). When 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.

(b)(e) Retainers.

~~In a Chapter~~ 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~~ 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.

(e)(f) Requirement to File Fee Applications.

The Court, in the exercise of its discretion, may order ~~any~~ a 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 11 U.S.C. § 329.

(d)(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 that the commission is unreasonable under the particular circumstances of the case or that the estate is administratively insolvent.

(e)(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:~~

Except as provided in subparagraph (h)(4) and paragraph (i) below, the flat fee charged by a chapter 7 or 13 debtor's attorney shall include the following services:

- (1) In both ~~Chapter~~chapter 7 and 13 cases:
 - (A) analyzing the ~~putative~~prospective 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~~Vt. LB Form B, "Payment Advices Cover Sheet" form (Vt. LB Form B);
 - (E) representing the debtor at the ~~§ 341~~first 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~~first meeting of creditors;
 - (G) where appropriate, preparing and filing motions under § 522(f) of the Code to avoid liens on exempt property;
 - (H) where appropriate, preparing and filing motions, ~~such as motions~~ for abandonment or to clear title to the debtor's real property ~~owned by the debtor;~~
 - (I) ~~removing~~terminating garnishments, trustee process or wage assignments;
 - (J) compiling and forwarding to the case trustee documents required by § 521 of the Code and Vt. LBR 4002-1; and
 - (K) preparing and filing ~~the debtor's certification of completion of instructional course concerning personal financial management (hereinafter, "a Debtor's Certification About a Financial Management Course. See Official Form B 423").~~
- (2) In addition to the tasks identified in subparagraph (1), above, in each ~~Chapter~~chapter 7 case, where warranted by the facts of the case, the duties ~~required of~~ the retained attorney ~~will~~must perform in consideration of the flat fee also include:
 - (A) filing a motion to waive the chapter 7 filing fees,
 - ~~(A)~~(B) negotiating, preparing, and filing reaffirmation agreements; and
 - ~~(B)~~(C) preparing and filing motions under § 722 of the Code to redeem exempt personal property from liens.
- (3) In addition to the tasks identified in subparagraph (1), above, in each ~~Chapter~~chapter 13 case, where warranted by the facts of the case, the duties required of the retained attorney ~~will~~also include:
 - (A) attending confirmation hearings and addressing all objections to confirmation;
 - (B) filing a valuation motion in accordance with Federal Rule of Bankruptcy Procedure 3012, where a debtor seeks to modify the amount of a secured claim pursuant to § 506(a), ~~filing a valuation motion in accordance with Fed.) of the Code 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; of the Code, 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 paragraph subparagraphs (h)(1)–(3)–(3) above. A debtor’s attorney seeking this relief must file the application within 21 days of the filing of the petition, and must serve it on the debtor, case trustee, and the Office of the United States Trustee, and may use the default procedure trustee.

(i) Unbundled Legal Services–.

In a Chapterchapter 7 case, the Court will allow unbundled legal services with respect to a filing fee waiver application when:

- ~~(5)~~(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; ;
- ~~(6)~~(2) the Court has set a hearing on the debtor’s application for waiver of the Chapterchapter 7 filing fee in that case; ; and
- ~~(7)~~(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 debtor’s eligibility for a fee waiver application.

VT. LBR 2016-2. PAYMENT OF ~~CHAPTER 13~~ DEBTOR’S ATTORNEY’S FEES IN CHAPTER 13.

(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 Chapterchapter 13 case:

- (1) a fee of up to \$2,500 for a simple Chapterchapter 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 Chapterchapter 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 Chapterchapter 13 case where ongoing monthly mortgage payments are paid through the plan (i.e., as Conduit Mortgage Payments; ; see Vt. LBR 3015-~~2(j)~~6), 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 RuleFed. R. Bank. P. 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 RuleFed. R. Bank. P. 2016(b) statement is filed (1) must be disclosed promptly in an amended RuleFed. R. Bank. P. 2016(b) statement, (2) may be charged to the debtor only after approval by the Court approves them, and (3) 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 Chapterchapter 13 case, both the plan and the attorney’s RuleFed. R. Bank. P. 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~~ fee set forth in this Rule.

(d) Presumed Reasonable Fees for Certain Motions.—

For certain routine motions, there is a rebuttable presumption that a fee is reasonable if it ~~is up to~~ does not exceed the amounts specified below. An attorney may request fees as part of an ~~underlying~~ a motion or application, without separate fee application, where the fees ~~are for a sum less than or equal to~~ do not exceed the presumed reasonable fee for ~~the~~ that 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)(e) Duties of Applicant Seeking Compensation for Post-Petition Services.

Except as provided in this Rule, if an attorney renders legal services post-petition ~~for which he or she wishes, including post-mediation services related to loss mitigation, and they wish~~ to be compensated for those services, the attorney must file:

(1) ~~(1)~~ a fee application in a form and manner consistent with these Rules; ~~(2)~~ ;

(2) ~~(2)~~ an amended ~~Rule~~ Fed. R. Bank. P. 2016(b) statement; ~~(3)~~ ;

(3) ~~(3)~~ a motion to modify the plan to

(A) ~~(A)~~ increase the funds being paid to the ~~Chapter~~ chapter 13 trustee,

(B) ~~(B)~~ extend the term of the plan,

(C) ~~(C)~~ include an alternate funding source, or

(D) ~~(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. An attorney's fees for legal services relating to post-petition mediation must be approved by the Court.~~

(4) notice of motion, and

(5) a certificate of service.

(f) Consideration of Fees at Time of Dismissal.

- All motions to dismiss a ~~Chapter~~ 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)(1).

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~~ **Additionally**, 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~~ **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~~ **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~~ **bar** of this Court who is ~~actively~~ **professionally** associated with the applicant in the subject case or proceeding may move for the applicant's *pro hac vice* admission. The movant need only serve the motion on the United States trustee and the case attorney (if any).
 - (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, ~~and fax number, if any;~~
 - (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~~ **specifying whether** the applicant is in good standing and eligible to practice in those courts, ~~if applicable;~~
 - (iv) a statement ~~that~~ **specifying whether** 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~~ **their** 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 in this Court 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. ~~Any~~ Any 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 of the Code~~, a proof of claim, ~~or a motion to redact 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~~. any of these matters.

(b)(c) Interns and Law Clerks.

- (1) Initial Requirements. An eligible ~~law student~~ legal intern ("intern") ~~or graduate (see Rule 21 of an approved law school who is not currently admitted to practice ("law clerk"))~~ the Rules of Admission to the Bar of Vermont Supreme Court may appear on behalf of a party if ~~he or she~~ the intern
 - (A) registers under the requirements of the Vermont Supreme Court's Rules of Admission to the Bar (see Rule 13 files with this Court:
 - (i) the client's written consent to the legal intern's appearance as legal counsel (however, legal interns employed by state government agencies other than the Office of the Defender General are excused from compliance with this requirement),
 - (ii) the supervising attorney's written consent to the intern's appearance as legal counsel,
 - (iii) the supervising attorney's certification of compliance with these Rules and of professional liability insurance coverage for the actions of the intern; such certification having been filed with the subject court (however, legal interns employed by state government agencies are excused from compliance with this requirement),
 - (iv) the intern's certification of compliance with these Rules and a written agreement to be bound by the Rules of Professional Conduct, and
 - (B) receives permission from this Court.
- (2) Supervising Attorney. The attorney who supervises a legal intern must
 - (A) be admitted to the Vermont Bar for not less than 3 years before the commencement of supervision, unless for good cause, the Board of Bar Overseers or waives this

- requirement, see Rule 24 of the Rules of Admission to the Bar of the Vermont Supreme Court);
- (A) is under the supervision of a member of the Bar of this Court; and
 - (B) 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 legal intern's work;
 - (C) ~~oversee and assist the legal intern or law clerk to the full extent as necessary;~~
 - (D) introduce the legal intern or law clerk to the Court at ~~his or her~~ the legal intern's first appearance ~~and before the Court,~~
 - (E) appear with the legal intern or law clerk at all subsequent court appearances unless the Court waives the supervising attorney's presence; involving a contested matter, and
 - (B) file a written agreement to supervise the intern or law clerk under these Rules; and
 - (C) 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) be a graduate of a law school approved by the American Bar Association; or
 - (B) pursuant to the Vermont Supreme Court Rules of Admission to the Bar, have completed Vermont's four-year law office studies program; 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 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

(F) appear with the legal intern at all court appearances unless

(i) the supervising attorney's appearance is expressly waived by the Court, and

(ii) the client's written consent includes consent to appearance by the legal intern without the presence of the supervising attorney.

(3) Authorized Activities. A legal intern is authorized to

~~(E)(A)~~prepare and sign ~~motions,~~ with the co-signature of the supervising attorney, petitions, complaints, answers, motions, 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. ~~However, each such filed document must also be signed by the supervising attorney.~~the pending matter, and

~~(6) One Year Limit. A law clerk's approval to appear under these Rules expires at the end of 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).~~

(B) with supervision, conduct any trial, argument, or hearing in the pending matters, before this Court.

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 ~~Local Rule 83.2(d) of the District Court Local Rules.~~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~~for attorney 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 a 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~~7 days of a hearing on a contested matter or within ~~seven~~7 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 ~~Fed. R. Bankr. P. Rule~~ 2016(b) disclosure statement and otherwise fully comply with Vt. LBR 2016-1 and these Rules.

(c) Withdrawal or Substitution of ~~Other~~other Attorneys.—

(1) Notice of withdrawal or substitution of attorneys, other than debtor's counsel will be deemed, is 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.~~ trustee.

~~(1)~~(2) An attorney who need not seek Court approval to withdraw from representing a creditor if the attorney 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.~~ of the Code, a reaffirmation agreement, or an assumption of lease.

PART III

PART III – CLAIMS AND DISTRIBUTION TO CREDITORS AND EQUITY INTEREST HOLDERS; PLANS

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

Every ~~Chapter~~chapter 7 case will be treated as a “~~No Asset~~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.~~ Federal Rule of Bankruptcy Procedure 2002(~~f~~)-e. Proofs of claim filed in ~~Chapter~~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~~unless and until a Notice of Asset Case is filed.

VT. LBR 3007-1. CLAIMS – OBJECTIONS.

(a) Attachment of Proof of Claim to Objection. ~~Each.~~

Every objection to claim must include a copy of the ~~subject~~ proof of claim to which it objects as an exhibit.

~~(a) 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.~~ Claims 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.~~ Nothing herein will confer standing on any party that does not otherwise have standing.

(b) Objections to Claims in Chapter 11 Cases. ~~Any objection~~

Objections to a ~~claim~~claims in a ~~Chapter~~chapter 11 case must be filed and served prior to the hearing held to consider and approve a disclosure statement, unless the Court orders 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, ALLOWANCE OF SECURED CLAIMS, AND ESTABLISHMENT OF INTEREST RATE IN CHAPTER 12 AND 13 CASES.

(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.~~ **Creditor’s Proof of Claim.**

A creditor’s proof of claim shall control for purposes of establishing both the amount of a creditor’s allowed secured claim and the interest rate to be paid on that allowed secured claim, unless (1) the debtor’s plan provides otherwise and is confirmed, or (2) the debtor files a motion to allow the secured claim in a different amount or with a different interest rate, and the Court grants that motion.

(b) Debtor’s Motion to Establish Amount of Secured Claim and Interest Rate.

If a creditor fails to file a timely proof of claim, the debtor, pursuant to § 506(a) of the Code, may seek to have the secured claim allowed in a different amount or with a different interest rate, as set forth below.

(1) Through the Chapter 13 Plan. In a chapter 13 case, the debtor must propose the allowed amount of a secured claim and the interest rate to be paid on that claim, in Part 3.2 of Official Form 113. See generally Vt. LBR 3015-1(a) (describing requirement that all chapter 13 plans be filed on Official Form 113). There, the debtor must identify the collateral, set forth the debtor’s estimate of the collateral’s value, explain the basis for the debtor’s valuation, state the proposed amount of the allowed secured claim, state the proposed interest rate, and explain the basis for the proposed interest rate. The debtor must also describe and provide proof of the creditor’s interest in the collateral.

(2) Through an Amended Chapter 13 Plan. If the debtor fails to seek valuation of the collateral and allowance of a secured creditor’s claim in Part 3.2 of Official Form 113, the debtor must file a motion to amend the plan to assert this relief pursuant to § 506(a) of the Code.

(3) In a Chapter 12 case. The debtor may establish the amount of an allowed secured claim in a chapter 12 case either through the plan or by motion. If in the plan, the debtor must include a conspicuously identified provision (i) setting forth the debtor’s valuation of the collateral securing the claim, and (ii) proposing the amount due and interest to be paid on the secured claim, pursuant to §506(a) of the Code. Whether the debtor seeks this relief through the chapter 12 plan or a motion, the debtor must set forth all information required in a chapter 13 case, as specified above, and must serve the plan or motion on the creditor in the manner required by the Federal Rules of Bankruptcy Procedure.

~~(a) 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-1 (model order granting valuation motion).~~

(c) Rebuttable Presumption of Valuation of Motor Vehicles. As a starting point, the valuation.

The value 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 which the other party; does not dispute, or (3) the a different value is fixed by the Court as a result of after an evidentiary hearing held specifically to determine the value of the particular that vehicle.

(d) Other Collateral Valuation.

The movant debtor must specify the basis of any each proposed valuation of collateral set out in Part 3.2 of Official Form 113 and attach documents that support the proposed valuation. See Vt. LBR 3015-1(a).

VT. LBR 3013-1. MOTION TO STRIP LIEN OR MORTGAGE THAT IS WHOLLY UNSECURED IN CHAPTER 12 AND 13.

(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.~~ of the Code must be made in Part 3.2 of Official Form 113 and noted on Part 1.1 of Official Form 113. See Vt. LBR 3015-1(a).

(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~~

In addition to the information required by Part 3.2 of Official Form 113, the debtor must attach to the motion

(1) a copy of the lien or mortgage ~~and in the motion must:~~ that contains the recording information,

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

(3) ~~specify~~ the document upon which the debtor is relying to establish the value of the property; and

~~(1) specify the basis for the property valuation;~~

~~(2) specify~~ a document setting forth 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);

~~(3) specify,~~ and the amount due on each lien; and

(4) ~~affirm that there is no equity to which the subject lien or mortgage can attach, and request that of~~ the claim be disallowed as a secured claim and allowed as a wholly unsecured claim by each lien.

(c) ~~Orders Granting Motions to Strip Mortgages or Other Liens—~~ in Chapter 12 and 13.

Unless the Court approves different terms after notice to the lien holder or mortgagee and the ~~Chapter 12~~ chapter 12 or 13 trustee, in addition to the confirmation order, the debtor must file a proposed order stripping a lien or mortgage in a Chapter 12 or 13 case must: ~~that~~

~~(5)~~ (1) specify specifies that the lien or mortgage is stripped only if the plan is completed;

~~(6)~~ (2) state that states if the case is dismissed, the order granting the motion to strip the lien or mortgage is void;

~~(7)~~ (3) provide that provides the order is conditional and is of no effect unless it contains a certification by the ~~Chapter~~ chapter 12 or 13 trustee that the debtor satisfied all of ~~his or her~~ their obligations in the case and the case was not dismissed; and

~~(8)~~ (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 –~~IN~~ CHAPTER 12.

Secured and Priority Claims–. The ~~Chapter~~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~~chapter 12 trustee must pay the amount provided in the plan.

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

Secured and Priority Claims–. The ~~Chapter~~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~~chapter 13 trustee must pay the amount provided in the plan.

VT. LBR 3014-1. ~~CHAPTER 11~~—§ 1111(B) ELECTION ~~IN~~ CHAPTER 11.

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

VT. LBR 3015-1. PLAN REQUIREMENTS IN CHAPTER 13—~~PLAN~~.

(a) Required Form.

All chapter 13 plans must be filed on Official Form 113. Whenever these Rules discuss a chapter 13 plan or specify a “part” of a plan they are referring to Official Form 113.

(b) Embedded Motions.

(1) Debtors seeking to

(A) avoid judicial liens or nonpossessory, nonpurchase money security interests that impair their exemption under § 522 of the Code,

(B) determine the value of collateral and fix the amount of the creditor’s claim secured by that collateral under § 506 of the Code,

(C) strip one or more liens on their property, or

(D) surrender collateral and terminate the automatic stay against that collateral

must check the applicable box in Part 1 of the plan and complete the relevant sections in Part 3 of the plan, i.e., on Official Form 113. These Rules refer to these requests for relief in a Plan as “embedded motions.”

(2) Additionally, to obtain relief through an embedded motion, debtors must file the plan in CM/ECF a second time, in lieu of filing a separate motion for the specific relief, and attach a notice of motion (specifying the page and part of the plan requesting the relief), a certificate of service, and a proposed order for that specific relief. See Fed. R. Bankr. P. 7004.

(3) The hearing date for an embedded motion must either precede or coincide with the hearing date for confirmation of the plan.

(c) Minimum Monthly Payments.

Unless the Court orders otherwise for good cause shown, the minimum monthly plan payment is \$50.

(d) Sale Plans.

A plan that is funded in part from the sale of property is called a “sale plan.” Sale plans must (1) provide that the sale will close within 1 year of confirmation of the plan, unless the Court approves a later closing date, and (2) specify details of the sale in Part 2.4 of the plan. When

the debtor has a fully executed contract of sale, the debtor must file a separate motion to approve the sale and then file a report of sale within 14 days of closing.

(e) Treatment of Pre-Petition Claims, Mandatory Fee

All allowed pre-petition claims must be paid through the plan, regardless of a creditor's preference or the dischargeability of the debt.

(f) Disclosure and Payment through the Plan. ~~Any of Attorney's Fees.~~

All unpaid pre-petition 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 ~~must be paid through the plan.~~ All post-petition debtor's attorney during the pendency of a Chapter 13 case ~~attorney's fees~~ must be approved by the Court and paid through the plan. See Vt. - disclosed in LBR 2016-2.

(g) Service of Plans.

The Clerk will serve all plans via CM/ECF or first-class mail. The debtor is responsible for any elevated service required under the Federal Rules of Bankruptcy Procedure for the relief sought in embedded motions.

(h) Amended Plans.

The debtor may file an amended Rule 2016(b) statement, and paid through the plan. See plan, along with all necessary amended schedules supporting it, no later than 7 days prior to the confirmation hearing date. The debtor must serve the amended plan on all parties whose treatment is diminished from the treatment set forth in the original plan.

(i) Motion to Enlarge Time to File Plan.

If a debtor files a motion to enlarge the time to file the plan and seeks to file the plan fewer than 7 days before the date set for the initial meeting of creditors, the debtor must obtain the trustee's consent.

VT. LBR 3015-2. TIMING AND LOCATION OF CONFIRMATION HEARINGS IN CHAPTER 13.

(a) The Court's § 1324(b) Determination is a Rebuttable Presumption.

Based on the geography of Vermont, the travel distances between some towns and the federal courthouses within the state, the success of the prior practice of holding the initial meetings of creditors and confirmation hearings on the same day, and the adverse economic impact that would result otherwise, the Court determines it is in the best interest of all parties to continue the practice of holding chapter 13 meetings of creditors on the same day, and at the same location, as chapter 13 confirmation hearings. This determination is a rebuttable presumption that any party may challenge by written objection on 14 days' notice to all parties in interest.

VT. LBR 3015-3. OBJECTIONS TO CONFIRMATION IN CHAPTER 13.

(a) Creditor's Duty to Review and Opportunity to Object to Plans.

Creditors must promptly review all plans and amended plans and present any objections in a timely manner.

(b) Timely Objections.

Parties are encouraged to file written objections to the confirmation of a chapter 13 plan at least 7 days before the date set for the initial confirmation hearing, and by 10 a.m. the day before the hearing on confirmation of an amended plan. All objections, whether written or not, must be made no later than the date set for the initial confirmation hearing, unless (1) the trustee and debtor consent to a later objection deadline, or (2) the objecting party shows good

cause for filing the objection at a later date and that no party is prejudiced by the tardy objection.

VT. LBR 3015-4. ADDITIONAL, SEPARATE, PROPOSED ORDERS REQUIRED FOR EMBEDDED MOTIONS IN CHAPTER 13.

A party who files an embedded motion must also ~~Vt. LBR 2016-2~~ file a proposed order granting that relief pursuant to Vt. LBR 3015-1(b)(2). The proposed order must make specific reference to the page and part of the plan where the relief was sought.

~~(b) **Format of Plan.** Debtors must file Chapter 13 plans using the local model plan. The local model plan is available in both word processing 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;~~

~~IF PROPERTY IS~~ **VT. LBR 3015-5. CONFIRMATION ORDERS IN CHAPTER 13.**

Confirmation orders shall set forth the terms of the plan approved at the confirmation hearing, and may include minor adjustments and additions provided all affected parties consent to them. Orders confirming sale plans must identify the property to be sold to fund part of the payments to be made under the plan, the nature and location of the property (i.e., the physical address if for real property, the a vehicle identification number if for a vehicle), and the time frame within which deadline for completing the property will be sold (including the projected date of sale);

- ~~(5) 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;~~
- ~~(6) the total to be paid to each secured creditor, including the amount of interest paid and the interest rate applicable to each secured claim;~~
- ~~(7) the total amount to be paid to each priority creditor;~~
- ~~(8) the total amount to be paid *pro rata* to the unsecured creditors and the estimated percentage dividend;~~
- ~~(9) 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);~~
- ~~(10) when property reverts in the debtor;~~

~~(11) any executory contract to be assumed and upon what terms assumption will take place; and~~

~~(12) 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 that 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 that 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 § 341 meetings and confirmation hearings on the same day, the Court determines that 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 § 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 that 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 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 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. The motion must set forth good cause for the subsequent 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(f), (g); see also Vt. LBR 9013-1(f), (j). The continued confirmation hearing will proceed unless the Court finds that: (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; and (D) the granting of the continuance will not prejudice creditors, and 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 files such a motion untimely, 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 that the Court deems do not require an amended plan or separate order.

~~(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 12 or 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.~~

Vt. LBR 3015-6. CONDUIT MORTGAGE PAYMENT PLANS IN CHAPTER 13.

(a) 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.~~

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

(2) A "Conduit Mortgage Payment Plan" is a Chapter 13 plan plan which states in Part 3.1 of Official Form 113 that includes the payment of trustee will make 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.~~

- (3) The debtor is "Delinquent"²³ 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~~monthly Mortgage Payments that came due after the Filing Date.
- (4) The "Filing Date" is the date the case was filed under, or converted to, ~~Chapter~~ chapter 13.
- (5) 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~~principal residence, or the servicer for that entity, as determined by which entity files a proof of claim for the mortgage debt. ~~Wherever~~Whenever this Rule refers to notice on the Mortgage Creditor, or requires the Mortgage Creditor to file a document, ~~it~~those references also ~~refers~~ to include the Mortgage Creditor's attorney.

~~(C) 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.~~

~~(D) 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.~~

- (6) The "Post-Petition Mortgage Arrearage"²³ is the sum of past due Regular Monthly Mortgage Payments the debtor owes to a Mortgage Creditor ~~post-petition, excluding the~~that first two post-petition Regular Monthly Mortgage Payments, which are treated as the ~~Administrative Arrearage~~came due after the Filing Date.
- (7) The "Pre-Petition Mortgage Arrearage"²³ is the sum of ~~Regular Monthly Mortgage Payments~~regular monthly mortgage payments the debtor owes to a Mortgage Creditor that ~~came due~~could last be timely paid prior to the Filing Date, ~~without regard to any grace period that expires post-petition.~~
- (8) A "Regular Monthly Mortgage Payment"²³ ~~is~~ is

(A) the sum of the principal, interest, taxes, insurance, administrative fees, and any other charges properly escrowed, charged, or assessed under a promissory note and secured by a properly perfected mortgage on the debtor's ~~residential real property,~~ which principal residence that is due each month: or

(B) a monthly amount of no less than the sum of the taxes, insurance, administrative fees, and anticipated interest and principal, that is proposed in conjunction with the debtor's participation in this Court's mortgage mediation program, provided that any plan proposing to use a regular monthly mortgage payment, defined under this Rule, may only be confirmed by the Court if

- (i) after notice and opportunity to object, the Mortgage Creditor does not object, and
- (ii) the debtor's plan provides that the debtor will promptly modify this figure to match the outcome of mortgage mediation if the mediation yields a different regular monthly mortgage payment.

~~(8)~~(9) A “Waiver Order” is a Court order that waives the requirement for a debtor to make Conduit Mortgage Payments to the Mortgage Creditor through a Chapter 13 plan and will only be granted upon a showing of cause based upon exigent circumstances.

(b) Post-Petition Mortgage Payments.

~~(2) When the Debtor is Not Delinquent. 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 A debtor who is not Delinquent is not required to make Conduit Mortgage Payments.~~

~~(1) A debtor who is not Delinquent, but may elect to make Conduit Mortgage Payments as outlined in this Rule, by so specifying in the Debtor’s Chapter 13 plan. do so.~~

~~(ii) 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.~~

~~(iii) 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 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.~~

(2) ~~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.~~ obtains a Waiver Order.

~~(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).~~

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

(C) 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.~~

~~(3)(1) The debtor must also file a wage withholding authorization (Vt. LB Form Y-8) with, within 14 days of the Chapter 13 plan Filing Date, unless the debtor files a Court grants the debtor's motion for waiver of the wage withholding requirement.~~

(D) 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.~~

(E) 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.~~

~~(F) **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.~~

~~(G) **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.~~

~~(2) **Additional Duty to Object to Proof of Claim.** If the debtor believes that promptly modify the amount of plan payments to comport with changes in the Monthly Mortgage Payment,~~

~~(4)(3) promptly object to the Mortgage Creditor's proof of claim is inaccurate, if the debtor must promptly file an objection has cause to believe the amounts or computations on the proof of claim- are inaccurate, and~~

~~(i) If the debtor's objection is overruled, within seven days of the Court's ruling, (a) the Chapter 13 trustee must immediately 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.~~

~~(5)(4) If the debtor's objection is sustained, trustee, a copy of the acceptance of a trial payment plan ("TPP") so the trustee must continue has the information he needs to disburse payments Conduit Mortgage Payments in the amount determined by the Court and file an amended proof of claim on behalf of the Mortgage Creditor a manner consistent with the Court's order terms of the TPP.~~

~~(e)(d) **Duties of the Chapter 13 Trustee.**~~

~~(H) **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).~~

~~(I) 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.~~

~~(J) 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;~~

~~serve a copy of such notice on the debtor and~~In Conduit Mortgage Payment cases, the trustee must

(1) disburse payments to the Mortgage Creditor by the earlier of 30 days after the Mortgage Creditor files a proof of claim or 30 days after confirmation of the plan,

(2) promptly adjust the amount of the plan payment in his records when the Regular Monthly Mortgage Payment increases, either on stipulation between the trustee and the debtor or pursuant to a Court order,

~~(ii) disburse only full payments to the Mortgage Creditor and immediately notify (by e-mail) the debtor, the debtor's attorney; (if any), 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.~~

~~(1)(3) 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 when there are insufficient funds to make full payment and the amount of additional funds needed to make a full payment. and timely payment,~~

~~(2)(4) Duty to Specify Proper Application~~ include a statement on the voucher of Payment. The Chapter 13 trustee's payments each payment he sends to a Mortgage Creditor must include a voucher narrative: that specifies

~~(A) identifying the debtor's name, Chapter 13~~ the case number, and the last four digits of the Mortgage Creditor's account number; and

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

~~(K) 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, within 14 days of the default, 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. If the debtor does not cure the default or file a motion to modify the Chapter 13 plan within 14 days of the filing of the Chapter 13 trustee's notice, the Chapter 13 trustee must 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.~~

(5) 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 notice of delinquency (specifying the due date, number of missed payments, and the amount needed to cure the plan payment default) within 14 days of the debtor's first instance of plan payment default;**

~~(ii) file and serve upon all parties in interest a motion to dismiss the case, specifying that it is **if (A) the second Chapter 13 debtor does not cure the** 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 **file 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.~~

~~(L) **Duty to Declare Plan Completion Date.** Within 21 **modify the plan within 30** 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.~~

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

~~(3) **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 **trustee's** 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.~~

~~(3)(6) **Duty to Disgorge.** If the Court **delinquency, (B) the debtor defaults on plan payments again, or (C) the trustee** 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. **other grounds warrant dismissal of the case.**~~

(e) Duty to Apply Payments Properly. The Duties of the Mortgage Creditor.

In Conduit Mortgage Payment cases, the Mortgage Creditor must

~~(4)(1) 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.~~

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

~~(5)(2) The forbear from assessing a late fee unless 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).~~

(C) 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.~~

(3) Duty to Provide Documents to the Debtor's Attorney and the Chapter 13 Trustee.
The Mortgage Creditor must upon request, promptly provide an annual payment history to the trustee or debtor.

~~(6)(4) upon request, promptly provide to the debtor's attorney and the Chapter 13 trustee or debtor copies of all documents it has sent, and sends, to the debtor post-petition,~~

including correspondence, statements, payment coupons, escrow notices, ~~and~~ default notices, and any other documents, which disclose ~~a change~~ changes in: (A) the name or identity of the Mortgage Creditor, (B) the monthly payment amount, (C) the interest rate or escrow requirements, or (D) the address to which mortgage payments are to be sent.

~~(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.~~

~~(D) **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 also Vt. LBR 4001-1.~~

~~(4) **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 without 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(e), 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.~~

~~(5) **"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.

(f) Jurisdiction—:

This Court retains jurisdiction over ~~any order~~all orders entered pursuant to this paragraph.Rule.

VT. Vt. LBR 3015-3. CHAPTER 7. CONFIRMATION HEARINGS IN CHAPTERS 12 AND 13—REQUESTING EXTENSION.

(a) Filings Considered.

The Court will not consider any document filed after 10:00 am on the last business day preceding the date of APPLICABLE COMMITMENT PERIOD the confirmation hearing.

(b) Required Attendance.

Absent exigent circumstances and a prior Court order, 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. 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. The Court may approve the extended applicable commitment period in the confirmation order. See § 1322(d)(2).

A debtor's failure to attend a confirmation hearing may result in dismissal of the case without further notice or hearing.

(c) Requests to Postpone the Initial Confirmation Hearing.

A motion or stipulation to postpone an initial confirmation hearing, along with all necessary consents, must be filed at least 7 days prior to the initial confirmation hearing date and served on all creditors. The initial confirmation hearing will proceed unless the Court enters an order granting the continuance and canceling the initial confirmation hearing.

(d) Requests to Postpone a Continued Confirmation Hearing.

Any motion or stipulation to postpone a continued confirmation hearing, along with any necessary consents, must be filed by 10:00 am on the last business day preceding the

continued confirmation hearing date, and set forth good cause for the continuance. See Vt. LBR 9011-4(e) & (f); see also Vt. LBR 9013-1(f), (j).

VT. LBR 3015-4. CHAPTER 13—8. MOTIONS TO MODIFY CONFIRMED CHAPTER 12 AND 13 PLANS.

(a) Modification of a Confirmed Chapter 12 or 13 Plan.

A debtor, ~~the Chapter 13 trustee, or a holder of an allowed unsecured claim may move~~file a motion 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~~Contents of a Motion to Modify Plan.

~~(a)~~ A motion to modify a ~~confirmed Chapter 13~~ plan must clearly set forth:

~~(1)~~ (1) the date of plan confirmation;

~~(2), (2)~~ the specific provisions of the plan (identified by part or paragraph ~~numbers~~) ~~to be~~ being modified; ~~and~~

(3) the differing treatment of the affected provisions parties under both the ~~confirmed plan and the proposed modified plan~~; (4) the circumstances that created the need to modify the confirmed plan, and (5) the factors demonstrating that the proposed modified plan meets the requirements of the Code.

(c) Additional Filing Requirements ~~When Filing~~for a Motion to Modify Plan. ~~The moving~~

A party who files a motion to modify must also: and simultaneously file clean and redlined copies of the proposed modified plan, along with a proposed order using Vt. LB Form F. If the movant seeks to modify a chapter 13 plan, the proposed modified plan must be filed on Official Form 113.

~~(3)~~ simultaneously file a proposed order substantially conforming to the Court's model order entitled "Proposed Order Modifying Plan and Confirmation Order," see Vt. LB Form F; see also Vt. LBR 9072-1(b); and

~~(4)~~ serve its motion 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 3017-1. CHAPTER 11—AMENDED DISCLOSURE STATEMENT—APPROVAL STATEMENTS AND PLANS IN CHAPTER 11.

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. APPROVAL OF DISCLOSURE STATEMENT IN CHAPTER 11.

A proposed order approving for approval of a disclosure statement should must be filed using presented on Vt. LB Form P; or an order that substantially conforms thereto conform to Form P.

~~VT. LBR 3018-1. CHAPTER 11—BALLOTS~~

VT. LBR 3018-1. BALLOTS IN CHAPTER 11.

The plan proponent must place the corresponding master mailing list label on each blank ballot ~~for each party to whom a ballot is issued. Completed ballots are to be forwarded~~it issues. The plan must inform creditors of their obligation to send completed ballots 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,~~ ACCEPTANCE, AND REJECTION OF CHAPTER 11 PLAN.

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, ~~and must be filed contemporaneously with the petition.~~ On request of a party in interest or the ~~Office of the United States Trustee~~trustee, the Court will hold a hearing to determine if the requirements of solicitation process complied with § 1126(b) ~~have been met~~of the Code.

~~VT. LBR 3018-3. CHAPTER 11—CERTIFICATION OF ACCEPTANCE AND REJECTION OF PLAN IN CHAPTER 11.~~

A Not fewer than 3 business days before the confirmation hearing, a plan proponent must file with the Clerk a summary report of all voted ballots certifying. The summary must certify 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 chapter 11 trustee (if any), the United States trustee (if any), and/or the Office of the United States Trustee attorney for any committee may request copies of the voted ballots ~~received by the plan proponent~~ received and, upon request, the plan proponent must promptly provide the requesting party with copies of the ballots. The Court may ~~find that~~ rely on the Summary Ballot Report and Certification to determine if the plan has been accepted or rejected ~~on.~~ Unless the basis of Court waives this requirement, the ~~Summary Ballot Report and Certification.~~ plan proponent has been timely filed, unless for good cause the Court directs otherwise the Summary Ballot Report and Certification.

~~VT. LBR 3020-1. CHAPTER 11—CONFIRMATION~~ OF CHAPTER 11 PLANS.

(a) Confirmation Requirements.

–The plan proponent has the burden of proof at the confirmation hearing. At least ~~three~~3 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); of the Code, 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) of the Code 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. The movant must serve that motion on the following parties: the attorneys~~attorney~~ for all members of the non-accepting classes,~~class~~ (or the members of that class 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~~trustee~~.

(c) Order Confirming a 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 is acceptable and it, or substantially similar language, must be included in the order:.” See Vt. LB Form H.~~

~~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.~~

~~(a) Fees Due 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.~~

(d) VT. LBR 3022-1. CHAPTER 11—Conspicuous Identification of the Plan the Court Confirmed.

After the confirmation hearing at which the Court confirms a chapter 11 plan, the plan proponent must file a copy of the final version of the plan (with whatever revisions the Court articulated or directed 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 final version of confirmed chapter 11 plan with the confirmation order.

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

(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~~ showing the plan proponent has satisfied the criteria of § 1101(2) ~~of the Code.~~

- (1) The plan proponent must file a motion for final decree with the report of substantial consummation ~~must be accompanied by a~~ and serve that motion for final decree on notice ~~to~~ all creditors and parties in interest.
- (2) Unless the Court orders 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:~~ The motion must include the following exhibits: (A) the final report form in substantial compliance with paragraph (d) of this Rule, (B) photocopies of the front of each cancelled check, and (C) the corresponding bank statements which refer to those cancelled checks.
~~(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~~ The plan from commencement of the distribution under the plan, pursuant to § 1101(2)(C).
- (3) ~~The items~~ proponent is not required by sections (A) and (B) of this Rule ~~need not be served~~ to serve all items set forth in subparagraph (a)(2) with the motion for final decree on any party 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~~ trustee.

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

The Court may require ~~that~~ the plan proponent to file 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~~ In all cases, the plan proponent must file the report of substantial consummation ~~be filed later than~~ within 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~~ 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) ~~at~~ the total amount 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 in the form of an affidavit and must include, but is not limited to, the following information:

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

VT. LBR 3070-1. PLAN PAYMENTS IN CHAPTER 13—PAYMENTS.

(a) Payments to the Chapter 13 Trustee.

- (1) Chapter 13 debtors are required to (A) 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~~ chapter 13 trustee's account, ~~except where~~ and (B) specify the form of payment in Part 2.2 of the plan, unless the debtor obtains an order from this Court order waiving the requirement for cause based upon exigent circumstances.
- (2) 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.
- (3) Until ~~such a~~ payment 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~~ chapter 13 trustee at ~~an~~ the address that the trustee designates.
- (4) 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~~

~~Every chapter~~ 13 plan must require the debtor to make ~~this~~ a payment of at least \$50.00 each month the case is pending, ~~unless waived by the Court order.~~ waives this requirement.

(a) 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 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) the following terms have the stated meanings:~~

(1) "Mortgage Creditor" includes any creditor party who has a claim secured by a mortgage on real property; ~~(2).~~

~~(1)(2)~~ (2) "Creditor" includes any creditor party 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.~~

(3) "Secured Creditor" includes Mortgage Creditor and Creditor, and

(4) "Other Secured Debt" includes all debts secured by property other than the debtor's primary residence or assumed leases on personal property.

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

Secured Creditors are required to provide loan statements to debtors post-~~confirmation~~ petition with respect to secured loans in ~~any~~ each bankruptcy case ~~where~~ in ~~which (1) the debtor retains possession of the collateral, and (2) is required to make regular~~ contract installment payments directly to ~~the~~ 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).~~

(g) 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.~~

(b)(c) Applicability of Rule Generally.

~~This Rule applies: (1) in cases filed under Chapters~~ 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, judgment liens, restitution liens).~~

(h) 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.~~

(e)(d) Applicability to Debt Secured by a Mortgage on Real Property and Monthly Statements.

–The Mortgage Creditor must provide monthly statements to each ~~Chapter~~chapter 12 or 13 ~~debtor who has expressed~~ debtor whose plan indicates an intent ~~in his or her plan~~ to retain the Mortgage Creditor’s collateral ~~and who has expressed an intent in his or her~~ or whose statement of intent indicates an intent to pay the Mortgage Creditor ~~directly (i.e., outside the plan), and~~. The Mortgage Creditor must also provide monthly statements to each ~~Chapter~~chapter 7 debtor who has expressed an intent in ~~his or her~~their 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 the post-petition mortgage payments ~~to be made directly from the debtor~~ will make directly 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 the amount 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~~mortgage creditor has already made a payment on this “other amount due,” the date of ~~the~~such payment_;
- (7) the amount, date of receipt, and application of all payments received since the date of the last statement_;
- (8) ~~at~~the telephone number and other 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.

~~(d)(e) 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;~~

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)~~_;

~~(i) 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.~~

(f) Applicability to Other Secured Debts. ~~The Creditor~~

~~Creditors~~ must provide monthly statements or other forms of invoicing (e.g., a coupon book) to each ~~Chapter~~chapter 12 and 13 debtor who has expressed an intent in ~~his or her~~their plan to retain the ~~Creditor's~~creditor's collateral or assume the lease, and who has expressed an intent to pay the Creditor directly (~~i.e., outside the plan~~), and The Creditor must provide monthly statements or other forms of invoicing (e.g., a coupon book) to each ~~Chapter~~chapter 7 debtor who has expressed an intent, in ~~his or her~~their 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.~~

(e)(g) Forms of Communication Generally.

—A Secured Creditor ~~is considered to~~will have complied with this Rule ~~whenif~~ it has transmitted the requisite monthly statements, other forms of invoicing, or additional requested information to the debtor in the manner normally ~~utilized~~used 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.

(f)(h) 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~~do 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,~~ invoices, the 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~~ permission to allow ~~such~~issue 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~~ invoices, for either a limited or unlimited time period. ~~However, no waiver,~~ in full satisfaction of the Secured Creditor's obligation under this Rule. The Secured Creditor will only be granted unless eligible for a waiver if the ~~proffered~~proposed monthly statements or other forms of invoicing invoices substantially comply with this Rule and the Secured Creditor ~~has demonstrated that demonstrates~~ it would be an undue hardship ~~for it~~ to strictly comply with ~~the~~this Rule.

(g)(i) Motion to Compel Compliance.

A debtor may file a motion to compel a Secured Creditor's compliance with this Rule ~~whereif~~ 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 – THE DEBTOR: DUTIES AND BENEFITS

Vt. LBR 4001-1. AUTOMATIC STAY – ~~RELIEF FROM~~ FROM AUTOMATIC STAY.

(a) Relief Through a Chapter 13 Plan.

A debtor may request the stay be lifted in favor of a secured creditor as an embedded motion in Part 3.5 of Official Form 113. [If a debtor is the movant, the debtor must file a proposed order for that relief.]

(b) Motion Contents Generally.—A

A creditor's 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~~ a 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~~ the 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~~ those 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.

(c) Additional Requirements for Motions ~~Alleging~~ Seeking Relief from Stay Based Upon Post-Petition Payment Default and ~~for~~ Objections Thereto.

- (1) Requirement of Pre-Motion Default Notification. ~~–If a secured creditor believes~~ alleges the debtor has defaulted on any post-petition payment obligation, the secured creditor must (A) send the debtor and the debtor's attorney, ~~(if any),~~ a notice of default notification setting forth with specificity the alleged dates and amounts of missed post-petition ~~default. The secured creditor must provide this notification at least 10 days before~~ payments, and (B) refrain from filing a motion for relief from ~~the automatic~~ stay until at least 7 days has passed since sending that notice.
- (2) ~~Motions. Where~~ Motions. When 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),~~ paragraph (b), above, the secured creditor's motion must ~~also~~ include the following:
 - (A) ~~(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),~~ or a printout of payments made on the trustee's website, if applicable,
 - (A)(B) in a ~~Chapter~~ 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

~~(B)(C)(C)~~ in a ~~Chapter~~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)~~ ~~:(A)~~ state with specificity those allegations of the secured creditor that the debtor disputes;~~(B) articulate,~~

~~(A)(B)~~ state the debtor’s legal and factual basis for asserting ~~that~~ the secured creditor is not entitled to relief from stay; and

~~(B)(C)(C)~~ append to the objection an affidavit of the debtor. ~~The debtor’s affidavit must state:~~ which states (i) ~~each payment~~the amount of each payment the debtor 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 to which the debtor sent 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~~included 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~~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 to the debtor’s counsel (or to a pro se debtor directly) 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~~ within three business days of the filing of the debtor’s ~~counsel (or to the debtor directly, if not represented by counsel)~~ objection. The secured creditor must transmit this information in a manner ~~ensuring~~that ensures the debtor ~~has~~will have a reasonable opportunity to review ~~this~~the information before the hearing on the ~~motion for relief from stay.~~ motion. If the secured creditor has not provided debtor’s counsel (or ~~the pro se 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~~ motion, deny the secured creditor’s request for recovery of ~~attorneys’~~its attorney’s 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’~~attorney’s fees, ~~(if any),~~ for responding to the motion.

~~(e)~~(d) **Service of Motion.**

–A ~~movant~~creditor seeking relief from stay must file ~~the~~a motion with ~~the Clerk, along with~~ a certificate of service showing service of the motion on the debtor, the debtor’s attorney, ~~(if any),~~ 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.~~ trustee. See also Vt. LBR 9013-6(a), (e)..

~~(d)~~(e) **Stipulation for Relief from Stay.**

–A stipulation for relief from stay must (1) describe the property or interest involved, (2) state the property’s fair market value, (3) state the basis for the valuation, and (4) list ~~any~~all encumbrances against the property ~~(by~~with the name of each lien holder and the amount)~~.~~ of each lien. 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:~~provided (1) all parties entitled to notice have been served with the motion; and (2) all parties in interest have ~~provided~~filed their consent. See Vt. LBR 9011-4(e) & (f), ~~(g)~~. Additionally, ~~no~~notice of a stipulation is required ~~to~~need not be served if the motion for relief from stay was previously noticed for hearing and no party objected or the Court overruled any objection that was filed.

(e)(f) Final Hearing.

—The Court will hold a hearing on ~~the~~a motion for relief from stay within 30 days ~~after~~of its filing; except in those instances where a stipulation is filed pursuant to paragraph (d)~~(e)~~ above, ~~is used~~ or the motion is filed under the ~~Court's~~ default procedure. See Vt. LBR 9013-4-~~(b)(3)~~. 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 motion was~~ filed the motion, the movant must include an affirmative waiver of the termination of the stay after 30 days, ~~see that is imposed per § 362(e), and~~ of the Code. With such waiver, the stay will continue pending through the conclusion of a final hearing and determination ~~by~~on the ~~Court~~motion under § 362(d)~~(e)~~ of the Code. Likewise, ~~when~~if the parties agree to postpone the hearing, an equal extension of time will be deemed added to ~~the~~that 30-day period ~~set forth in § 362(e)~~.

(g) Evidentiary Hearing—:

The final hearing on a motion for relief from stay will be an evidentiary hearing unless ~~otherwise agreed by the parties. Each party~~ agree otherwise. Parties 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 Fed. R. Bankr. P. Rule 9014(e) notice of evidentiary hearing at least ~~seven~~7 days prior to the hearing, unless the Court approves a shorter time ~~is approved by the Court~~. See Vt. LBR 9014-1(b)(2); see also Vt. LB Form V.

(f)(h) Order Granting Relief from Stay—:

- (1) Required Language in Orders Authorizing Sale of Collateral. If the order granting relief from stay authorizes the sale of collateral, the order must specifically ~~direct~~state that if there are surplus monies from the sale, the secured creditor ~~to~~must deliver ~~any surplus money~~those funds 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 sale is completed. 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)~~ order.
- (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~~, allowing 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~~sought, the movant must file a separate proposed order granting that relief; except as otherwise set forth in these Rules. See Vt. LBR 9013-1(f). Relief from stay (whether absolute or conditional) is not available through an ordering paragraph in a plan confirmation order or any ~~other~~ order that~~which~~ grants other relief.

(g)(i) 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~~ **does not state** how much time a debtor has to rebut an affidavit of default filed in furtherance of the order, then the debtor will have ~~seven~~ **7** 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~~ **UNDER § 362(L).**

(a) Filing the Initial Certification, Official Form 101A.

(1) –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: **include with their bankruptcy petition:**

(A) ~~file with the petition~~ **an** Official Form 101A (“Initial Statement About an Eviction Judgment Against You²”) with the “Certification About Applicable Law and Deposit of Rent” section of the form completed.

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

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

(2) 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.

(3) 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~~ **3** business days after filing the petition. If the Clerk receives the rent payment within the ~~three~~ **3**-day period, the Clerk will treat the rent payment as if received with the petition; **(provided** Official Form 101A, and ~~a copy of the judgment of eviction, and will process it accordingly.~~ **were filed with the petition).**

(4) If the debtor fails to **timely** deliver the rent payment ~~either with the petition or within three business days of filing the petition, as specified above~~, the Clerk will ~~make a notation on the docket of the~~ **note this** filing deficiency. ~~on the docket.~~ 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) of the Code. (There is no fee due for the issuance and service of~~ these certified copies.)

(b) ~~(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) ~~(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) ~~(2)~~—set a deadline of seven7 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) of the Code, 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) ~~(3)~~ notify the lessor that if the lessor files its consent, the Clerk will promptly transmit the rent payment to the lessor.

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

- (1) ~~(1)~~ Consent. -If a lessor files its 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) ~~(2)~~ Objection. -If the lessor objects to any of statement in 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, to be held no later than~~ within 10 days ~~after~~ of the filing of the objection. The lessor’s objection must ~~specifically~~ identify which averment statement(s) in the debtor’s certification the lessor disputes. If the Court overrules the lessor’s objection(s), the Court will enter an order ~~will be issued~~ finding ~~that~~ the debtor is entitled to the stay; ~~thereafter, and~~ the Clerk will promptly transmit the rent payment to the lessor.
- (3) ~~(3)~~ Non-Response. -If the lessor fails to file either a consent or an objection within the seven7-day period set by the Court, ~~and~~ unless the Court finds otherwise, the lessor will be ~~deemed to have~~ treated as if it waived the opportunity to object; ~~promptly~~. Promptly thereafter, the Clerk will transmit the rent payment to the lessor.

(d) ~~(d)~~ Filing the Second Certification, Official Form 101B.

- (1) -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 You²²,”) 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~~ judgment of ~~Eviction~~ eviction. The ~~debtor’s obligation to~~ debtor must file Official Form 101B ~~is not affected by an objection to or~~ regardless of whether the ~~pendency of a hearing on~~ lessor objected to Official Form 101A.
- (2) However, if the lessor is a public housing entity, the debtor does not need to file Official Form 101B. See Stolz v. Brattleboro Hous. Auth., 315 F.3d 80 (2d Cir. 2002); In re Carpenter, 2015 WL 1956272 (Bankr. D. Vt. Apr. 29, 2015).

(e) ~~(e)~~ Lessor’s Objection to Official Form 101B. ~~If the lessor objects to~~

If the lessor files an objection to any of the debtor’s ~~averments made in the certification~~ statements in Official Form 101B, the Clerk will ~~immediately~~ set a hearing on the objection; ~~the hearing will, to be held no later than~~ within 10 days ~~after~~ of the filing of the objection. The lessor’s objection must ~~specifically~~ identify which averment statement(s) in the debtor’s certification the lessor disputes.

(f) ~~(f)~~ Debtor’s Failure to File Official Form 101A or 101B. ~~Where~~

If a debtor fails to file Official Form 101A 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~~ note that deficiency 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) ~~of the Code.~~ See also 11 U.S.C. § 362(1)(4)(A). ~~(The Clerk (No fee will not charge a fee to issue or serve be due for 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) of the Code 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~~7 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~~trustee, and all creditors. The movant and any other party in interest who wishes to join or oppose the motion must file a Fed. R. Bankr. P. Rule 9014(f) notice of evidentiary hearing, ~~see (Vt. LB Form V),~~ no later than ~~three~~3 business days before the hearing. ~~If the movant fails to timely file the requisite Rule 9014(f) 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) of the Code must ~~move~~file a motion 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~~7 days’ notice. See Vt. LBR 9014-1(b)(2). The ~~movant must serve 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~~trustee, and all creditors. ~~The~~ movant and any other party in interest who wishes to join or oppose the motion must file a Fed. R. Bankr. P. Rule 9014(f) notice of evidentiary hearing, ~~see (Vt. LB Form V),~~ no later than ~~three~~3 business days before the hearing. ~~If the movant fails to timely file the requisite Rule 9014(f) 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~~ may file a motion and obtain an order pursuant to § 362(c)(4) ~~that~~of the Code, verifying the automatic stay is not in effect. The movant must ~~file~~ serve that 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~~trustee, and all creditors. ~~The movant, and~~ may notice ~~the~~that motion under the Court’s default ~~notice~~ procedure. See Vt. LBR 9013-4(b) ~~)(5)~~

VT. LBR 4001-4. CASH COLLATERAL.

(a) ~~Motion Contents.~~ of Motion for Use of Cash Collateral.

A debtor’s motion for use of cash collateral pursuant to § 363 of the Code must (1) describe the adequate protection ~~being offered to~~ the debtor is offering the secured creditor; (2) summarize all appraisals and projections; ~~and~~ upon which the debtor is relying to compute the amount of adequate protection, (3) identify the amount and source of ~~collateral to be used.~~ the cash collateral the debtor seeks to use, and (4) provide at least 14 days’ notice of the hearing for a final order authorizing use of cash collateral.

(b) Interim Hearing on Use of Cash Collateral. ~~If, before~~

Before the required 14-day notice period ~~has expired, the~~ expires, a debtor ~~requests~~ may request an interim hearing to obtain Court authorization to use ~~only that~~ just the amount of

cash collateral ~~as is~~ necessary to avoid immediate and irreparable harm to the estate, pending a final hearing, ~~the~~. The debtor's motion for interim relief must provide: set forth (1) ~~the facts necessary for the Court to determine whether~~ demonstrating the debtor is at risk of immediate and irreparable harm; ~~;~~ and (2) a detailed breakdown/ itemization of the amount of cash requested the debtor requests and how the debtor proposes to use it ~~it will be used~~. In exigent circumstances, the Court may authorize ~~that~~ the interim hearing be conducted by telephone ~~or video conference without transcript or recording~~. See Vt. LBR 5007-1(c). The movant/ debtor must serve all secured creditors ~~whose~~ who have an interest in the collateral ~~is~~ subject to the motion with notice of the interim hearing in the manner ~~directed by the Court~~. directs. See also Vt. LBR 9075-1 (providing instructions for handling emergency matters ~~in this Court~~).

(a)(c) Final Hearing on Use of Cash Collateral.

—A final hearing on a motion to use cash collateral may not be held ~~no earlier~~ fewer than 14 days after service of the motion. ~~However, if (1)~~ Moreover, the final hearing may be cancelled if the Court ~~held~~ approved the debtor's request for use of cash collateral following an interim hearing on the motion ~~whereat which~~ all parties in interest were present and ~~where the Court approved the use of the cash collateral requested, and (2) the movant~~ the debtor 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~~ debtor must serve notice of the final hearing on 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~~.

(b)(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(~~f~~), (~~g~~) 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~~

Debtors seeking to obtain credit must follow the procedure set forth in Vt. LBR 4001-4 unless they are chapter 13 debtors seeking to borrow funds (1) to purchase or lease motor vehicles, see paragraph (b), below, or (2) for extraordinary expenses related to their health and general welfare, see paragraph (c), below.

(b) Purchase or Lease of a Motor Vehicle During a Chapter 13 Case. ~~During the pendency of a Chapter 13 Plan, a~~

After a debtor's chapter 13 plan has been confirmed, that debtor may borrow funds to purchase or lease a motor vehicle only ~~with~~ if they obtain approval of the ~~Chapter~~ chapter 13 trustee or the Court, in accordance with the following ~~procedure(s)~~: procedures:

- (1) Request for \$15,000 or Less. ~~The debtor~~ A debtor who (1) seeks to borrow \$18,000 or less for the purchase of a vehicle, or (2) to spend \$300 or less per month for the lease of a vehicle, must seek the ~~Chapter~~ chapter 13 trustee's approval, using a loan approval request (~~form. See~~ Vt. LB Appendix VII) ~~– (Trustee's Loan Approval Request Form)~~. The debtor and the debtor's attorney, ~~(if any),~~ must sign the request form. If the

~~Chapter~~chapter 13 trustee determines the request will not ~~involve~~require 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~~debtor may ~~approve~~obtain the request and ~~file~~credit upon the chapter 13 trustee's filing of an approved request form ~~with the Clerk.~~
~~No. The debtor is not required to serve any notice to of the request on~~ creditors is required if the Chapter 13 trustee approves the request using this procedure.

- (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 who (1) seeks to borrow more than ~~\$15,000~~18,000 to purchase a vehicle, or (2) to spend more than \$300 per month for the lease of a vehicle, or where (3) pursue a smaller request which the ~~Chapter~~chapter 13 trustee ~~has declined to approve the,~~ must file a motion. A debtor's ~~borrowing request.~~ The motion to borrow must include:
- (A) a description of the motor vehicle the debtor seeks to purchase (i.e., including the make, model, year, and 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 or lease of the motor vehicle;; and
 - (F) if the ~~Chapter~~chapter 13 trustee has ~~not approved~~denied the requested ~~borrowing~~debtor's request, a copy of the ~~denied request form~~trustee's denial.

The debtor must serve notice of the motion for Court approval on the ~~Chapter~~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).

(b)(c) A Debtor's Request to Borrow Funds for an Extraordinary Expenditure to Support the Debtor's Health and General Welfare During a Chapter 13 Case.

During the pendency of a ~~Chapter~~chapter 13 case, a debtor may borrow and/or spend funds for an extraordinary ~~, but necessary and reasonable,~~ expense in order if (1) it is necessary to maintain the health and general welfare of the debtor (and/or the debtor's dependents), ~~but only with,~~ (2) it is reasonable, and (3) the debtor has obtained the approval of the ~~Chapter~~chapter 13 trustee or the Court, in accordance with the following ~~procedure(s);~~procedures:

- (1) ~~Request for \$5,000 or Less.~~ The debtor must seek the ~~Chapter~~chapter 13 trustee's approval, using a loan approval request (form Vt. LB Appendix VII), if the ~~request is for \$5~~debtor seeks to borrow a sum that does not exceed \$7,000 or less. The debtor and the debtor's attorney, ~~(if any),~~ must sign the request form. If the ~~Chapter~~chapter 13 trustee determines the request will not ~~involve~~require 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~~debtor may ~~approve~~obtain the request and ~~file~~credit upon the chapter 13 trustee's filing of an approved request form ~~with the Clerk.~~ The debtor is not required to serve any notice of ~~this~~the 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~~when (1) the debtor seeks to borrow more than ~~\$5~~7,000, or ~~where~~(2) the debtor wants the ~~Chapter 13 trustee has declined to approve~~Court to review the chapter 13 trustee's denial of the debtor's borrowing request. The motion must set forth with specificity the nature of the expenditure, ~~explaining~~and explain why the debtor believes ~~it~~the expenditure is

~~necessary and~~ both reasonable and necessary for the health and general welfare of the debtor and/or the debtor's dependents. If the ~~Chapter~~ chapter 13 trustee has ~~not~~ denied the ~~requested borrowing~~ debtor's request, the debtor must also file a copy of the ~~denied request form~~ trustee's denial with the motion. The debtor must serve notice of this motion for the Court approval on the ~~Chapter~~ 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 ESTATE PROPERTY.

See Vt. LBR 6004-1.

VT. LBR 4001-7. MORTGAGE MEDIATION PROGRAM.

(a) Availability of Mediation in Bankruptcy Cases.

- ~~(1) In any case filed in this Court under Chapter 7, 11, 12, or 13, a party may~~ At any time prior to discharge, an individual debtor or a creditor holding a claim secured by real property owned by an individual debtor, may file a motion for mortgage mediation ~~(/loss mitigation (hereinafter "motion for mediation")), pursuant to this Rule, in any bankruptcy case filed in this District. See Vt. LB MM Form #1).~~
- ~~(2) Parties.~~ A party may seek mediation with respect to any mortgage on the debtor's primary residence provided (A) the property has four units or less ~~(regardless of whether the mortgage is subject to the HAMP guidelines).~~
- ~~(1) With the creditor's consent, and (B)~~ mediation will ~~would~~ be available ~~at any time during the pendency of any Chapter 7, 11, 12, or 13 bankruptcy case.~~ in a case pending in state court.
- ~~(3) 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.~~
- ~~(2) Mediation~~ The motion for mediation must state why mediation would be useful to the parties and how it would benefit the estate. If the United States holds the mortgage, the movant must also specify the federal statute and/or regulation authorizing mediation. The movant must serve the motion, notice of motion, and a proposed order using Vt. LB MM Form #3 on all creditors who could claim an interest in the property, the case trustee, and the mediator, if known.
- ~~(3) Any objection to the motion for mediation must state why mediation is not likely to be useful to the parties or of benefit to the estate.~~
- ~~(2)(4) Unless the creditor consents, mediation~~ will not be permitted if ~~the creditor objects and:~~
 - ~~(A) mediation of the subject mortgage has already been completed, or was begun and abandoned by the debtor; in the instant bankruptcy case or a pending state foreclosure action,~~
 - ~~(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;~~
 - ~~(D) The the United States holds the mortgage and the mediation is not authorized under the federal statutes or regulations governing servicing of the loan, or~~

(E) the creditor obtained relief from stay on the subject property.

(b) Mediation Process Guidelines.

(1) Mediators shall have broad discretion over mediations conducted pursuant to this Rule and shall be responsible for completing mediations as expeditiously as practicable based on the circumstances of each case.

~~(1)(2)~~ (2) The parties engaged in mediation under this Rule ~~must~~ shall cooperate in good faith, under the direction of the mediator ~~to, and produce the~~ and produce the all documents and information required by this Rule in a timely manner ~~so as to maximize the effectiveness of the mediation.~~

~~(2)(3)~~ (3) In mediation, the ~~The~~ creditor must consider all available foreclosure prevention tools and loss mitigation options, including but not limited to reinstatement, loan modification, forbearance, ~~and short sales~~ sale, and surrender.

~~(1) In mediation, unless otherwise prohibited by applicable non-bankruptcy law or waived by the debtor, the parties must address proof of ownership of the note and any transfers of the note; and calculation of the sums due on the note for the principal, interest, and costs or fees.~~

~~(3)(4)~~ (4) In mediation, where ~~Where~~ the creditor claims that a pooling and servicing or other similar agreement ~~prohibits~~ does not authorize loan modification, the creditor must ~~produce~~ provide the debtor and mediator with a copy of ~~the~~ that agreement. All ~~agreement documents~~ such agreements are confidential and ~~are~~ shall not ~~to be~~ filed in the case or included in the mediator's report.

~~(4)(5)~~ (5) The following persons must participate in any mediation conducted under this Rule:

(A) the debtor and the attorney for the debtor (if any),

(B) the attorney for the creditor (if any), and

~~(A)(C)~~ (C) 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; from stay, 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;

~~(A) counsel for~~ Subject to the creditor, if any;

~~(B) mediator's approval,~~ the debtor and counsel for the debtor, if any; and

~~(C) the Court appointed mediator.~~

~~(5)(6)~~ (6) The case trustee and ~~holders of other liens~~ any party that holds a lien on the subject property may also participate, ~~subject to the mediator's approval.~~

~~(2) The mediator, in the exercise of his or her discretion, may permit any party or attorney to participate in mediation by telephone or through video conferencing.~~

~~(6)(7)~~ (7) All mediations Mediations conducted under this Rule will take place in a mutually convenient location, by telephone or video conferencing, as determined by the mediator.

(c) Time Frame for the Mortgage 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 mortgage mediation (Vt. LB-MM Form #2), and may use the default procedure;~~
- ~~(B) in the motion, the movant must specify why mediation would be helpful to the parties and how it would benefit the estate;~~
- ~~(C) any objection to the motion must specify why mediation is not appropriate, or not likely to be productive or of benefit to the estate;~~
- ~~(D) if the motion is granted, promptly after entry of the mediation order (Vt. LB-MM Form #3), the Clerk will send the parties a list of three court-approved mediators, and the parties must respond to the Clerk within five days, either jointly agreeing to the appointment of a particular mediator from the list or each striking one name from the list; and~~
- ~~(E) the mediator the parties select 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 21 days of entry of the mediation order (Vt. LB-MM Form #3):~~

- ~~(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 the top right of each page, along with a notice of compliance (Vt. LB-MM Form #5) with the mediation order, and file a copy of the notice (without attachments) and a certificate of service with the Court; and~~
- ~~(B) if the debtor determines that he or she cannot proceed with mediation until the debtor has 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 a copy of the demand for creditor documents with the Court.~~

~~(7)(1) — For purposes of serving these documents, and 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.~~

~~(3) 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.~~

~~(4) 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 with any documents required to bring the debtor into compliance with the mediation order. A motion to compel is a non-routine motion for purpose of this Rule. Cf. Vt. LBR 9013-2(b), (c)(5)(C). 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.~~

~~(5) 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 date the Court enters the mediation order, unless the Court approves 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.~~

~~(6) The mediator must file a report of mediation (Vt. LB MM Form #6) within 14 days of the conclusion of the mediation.~~

~~(d) Required Documents. To mediate, the debtor must deliver the following documents to the creditor:~~

~~(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 Official Forms B106I and B106J filed with the bankruptcy petition, and, if the bankruptcy case has been pending more than 60 days, amended Official Forms B106I and B106J 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) specifying the circumstances pertinent to the debtor;~~

- ~~(9) the debtor's most recent electric utility bill;~~
- ~~(10) the debtor's current property tax bill;~~
- ~~(11) the debtor's homeowner's insurance declarations page;~~
- ~~(12) a contribution letter from each household member who is not liable on the loan, but has been contributing to loan payments, specifying the amount of any continuing contribution;~~
- ~~(13) the debtor's payment advices representing the most recent consecutive 30-day period;~~
- ~~(14) 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);~~
- ~~(15) if the debtor receives social security, disability, pension, or other public assistance benefits, the award letter and the most recent benefit statement;~~
- ~~(16) if the debtor owns real property that the debtor rents, including rental of part of the property subject to the mediated mortgage, 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;~~
- ~~(17) 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; and~~
- ~~(18) a statement describing any alimony and/or child support award paid to the debtor, if the debtor wishes to have that income considered.~~

~~(e) Cost of Mediation.~~

- ~~(1) The mediator is entitled to a flat fee of \$750 per mediation.~~
- ~~(2) The fee for the mediator will be split equally among the parties to the mediation, except that the case trustee is excluded from this allocation of expense.~~
- ~~(3) If a party seeks any of the following relief, the party 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 mediation fee amount;~~
 - ~~(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, include 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 attended the mediation session(s), identifying their role in the mediation and specifically identifying the representative of each party who had decision-making authority;~~

~~(B) a statement as to whether any person required to participate in mediation failed to (i) attend the mediation, (ii) make a good faith effort to mediate, or (iii) timely supply documentation, information, or data requested by the mediator;~~

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

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

~~(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.~~

~~(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.~~

(c) Criteria for Eligibility to Serve as a Mediator in Bankruptcy Court Mortgage Mediations. In order to be

To serve on the panel of ~~approved bankruptcy~~ **Court-appointed** mediators, an attorney must meet the minimum certification requirements of the Vermont state court mediation program and have significant bankruptcy experience.

(d) Time Frame for the Mediation Process.

(1) The parties and mediator shall comply with the following pre-mediation timeline:

(A) the parties shall stipulate to the selection of a mediator within 7 days of the creditor-mortgagee's participation in the case as evidenced by the earlier of the creditor-mortgagee's filing of (i) a proof of claim or (ii) notice of appearance in the case (either by counsel or pro se);

(B) if the parties are unable to stipulate to the selection of a mediator within 7 days of the events specified in subparagraph (d)(1)(A) above, the debtor shall file an application requesting that the Court designate a mediator; and

(C) the mediator's appointment shall be effective as of the date the mediator is designated on the docket; and

(D) upon the mediator's appointment, the moving party shall forward to the mediator a copy of (i) the motion for mediation, (ii) all documents filed in support of that motion, and (iii) the promissory note and mortgage that are the subject of the mediation.

(2) The mediator shall make initial contact with the parties to formulate a preliminary schedule for the mediation process within 7 days of the mediator's appointment.

(3) The mediation shall be completed within 120 days of the mediator's appointment and the mediator shall file a final report of mediation within 7 days of completing the mediation. See Vt. LB MM Form #12.

(A) If the mediation results in a successful loan modification, the parties shall promptly file a motion for approval of a loan modification. See Vt. LB Form W-3 Motion for Approval of Mortgage Modification.

(B) If, during the course of mediation, the creditor decides not to modify the loan, the creditor must provide a written explanation at the time of denial that includes the input figures it used in calculating eligibility for a modification. If the debtor believes the creditor denied the modification in bad faith or reached a conclusion based on erroneous facts or calculations, the debtor may file a motion to compel the creditor to participate in further mediation within 14 days' notice of the creditor's denial.

(4) If the mediation will not be completed within 120 days of the mediator's appointment, the mediator shall file an interim report of mediation no later than 7 days after the expiration of that 120-day period. See Vt. LB MM Form #12. The interim report shall describe the status of the mediation, explain why mediation is not yet completed, and state the date by which the mediator expects the mediation will be completed.

(5) If the mediator fails to file a final or interim report of mediation within the time periods specified in subparagraphs (c)(3) and (c)(4) above, the mediator and the parties shall appear at a status hearing to explain why mediation has not been completed and when they expect to complete it.

(6) The entry of the debtor's discharge shall not be delayed due to an open mediation in their case, unless the Court orders otherwise after a motion and hearing (or stipulation of the parties).

(7) The mediator shall serve a copy of the final report of mediation on the Vermont Attorney General.

(e) Required Documents.

Unless the debtor obtains an order stating otherwise, the debtor must produce all documents the creditor reasonably requests and provide copies of those documents to the mediator.

(f) The Mediation Fee.

(1) The mediator is entitled to a fee of \$900 per mediation. This fee covers all services of the mediator including, but not limited to, holding pre-mediation telephone conference(s), communicating with the parties, filing interim and final reports, and conducting the mediation session(s).

(2) The fee for the mediator shall be allocated 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.

(3) If the mediator or a party seeks to change the amount or allocation of the fee for the mediation, that person must file a motion showing cause for such relief on 14 days' notice to all parties to the mediation and the case trustee.

(g) Post-Final Report Requirements and Obligations.

- (1) Within 14 days of the filing of the final report of mediation, the party who filed the motion for mediation must file (A) a motion to declare mediation closed with a proposed order attached (Vt. LB MM Form #11), or (B) a stipulation requesting that mediation not be closed until a particular date or the occurrence of a particular event (e.g., the approval of a temporary payment plan or execution of a final modification agreement).
- (2) 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, the mediator or any party to the mediation may file a motion to close mediation. See Vt. LB MM Form #11.

(h) Mediator Prohibited from Testifying About the Mediation.

Mediators may not be required to testify in any action relating to any mortgage or debt that was at issue in a mediation conducted pursuant to this Rule.

(e)(i) Retention of Jurisdiction.

~~Retention of Jurisdiction.~~ This Court retains jurisdiction to interpret and enforce any agreement reached or result obtained through ~~mortgage~~-mediation conducted pursuant to this Rule.

(j) Service.

Whenever a debtor is required to serve a creditor under this Rule, the debtor must serve the creditor at the address set forth on the creditor's proof of claim, if a proof of claim has been filed.

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~~

~~(a) General Requirement.~~ 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 the debtor's completion of the mandatory credit counseling course and 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 creditor 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) of the Code. See also paragraph (b), below (providing further requirements for seeking permanent waiver).~~

(1) **Waiver of § 109(h)(1) Requirement.** 11 U.S.C. § 111.

(2) Temporary Waiver. In order to obtain a temporary waiver of § 109(h)(1), of the Code, the debtor must attach a separate sheet to the petition, explaining ~~what~~ (a) the efforts ~~the debtor~~ they made to timely obtain briefing about credit counseling, (b) why the debtor was unable to obtain it ~~it~~ the certificate before filing for bankruptcy, and ~~what~~ (c) the

exigent circumstances ~~required~~ that forced the debtor to file for bankruptcy without the credit counseling certificate. The Court may hold an expedited hearing on ~~three~~ 3 business days' notice to the ~~parties~~. ~~Where~~ debtor, debtor's attorney (if any), case trustee, United States trustee, and any other interested parties that filed a notice of appearance in the case. If the Court grants a debtor's request for temporary waiver, the debtor will have 30 days to obtain credit counseling and file a certificate evidencing compliance with the requirements of § 109(h)(1) ~~of the Code~~. The debtor may move for an additional 15-day extension upon a showing of cause. ~~Failure~~ A debtor's 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.

- (3) Permanent Waiver. -If a debtor seeks a permanent waiver of § 109(h)(1) ~~of the Code~~, 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 facts in support of the request, and must serve the motion on the case trustee ~~and~~, all creditors, and ~~may notice the motion under the Court's default procedure~~. United States trustee. See Vt. LBR 9013-4(b) 10.

(b) Filing Payment Advice Cover Sheet.

~~See Vt.~~ ~~See Vt.~~ LBR 1007-1(d).

(c) Document Production at § 341 Prior to the First Meeting of Creditors.

~~See also~~ Vt. LBR ~~1002~~ 2003-1(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~~ 7 days before the date of the first § ~~341~~ meeting of creditors; ~~(see subparagraphs (c)(2)–(4) below)~~, the debtor must notify all creditors of this fact ~~and, with~~. With the case trustee's consent, the debtor may reschedule the § ~~341~~ meeting of creditors to the next available date. However, if the debtor is unable to obtain the trustee's consent to reschedule the meeting to the next available date, unless, the debtor and the debtor's attorney, ~~(if any)~~, must appear at the § ~~341~~ originally scheduled meeting of creditors.
- (2) In all ~~Chapter~~ chapter 7 cases, to the extent applicable, ~~each~~ the debtor must provide the case trustee with the following documents at least ~~seven~~ 7 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:
- a copy of the deed ~~of title~~ and all mortgage deeds showing recording information or stock certificates;
 - recent evidence of value (e.g., tax bill, grand list value) and copies of all appraisals performed within the last three years; and
 - current mortgage statements, including the pay-off ~~amount on or near~~ figure as of the date of filing most recent mortgage statement;
- (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~~ which the debtor owns or listed on the bankruptcy schedules:
- a copy of the current title or, if none, a copy of the current registration;
 - if the asset is collateral for a secured debt, the ~~secured creditor's~~ most recent statement of balance due; from the secured creditor, 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~~ of the bankruptcy filing, copies of the monthly bank statements for the three ~~months~~ month period prior to ~~the date of the filing~~ and through the date of filing;
- (D) for ~~each~~ any personal injury lawsuit or other lawsuit or cause of action in which the debtor has an interest or believes they may have an interest, as of the date of the bankruptcy filing, including all those set forth on Official Form 106 A/B or Official Form 206 A/B of the debtor's schedules:
 - (i) the name and address of the attorney representing the debtor in the ~~matter;~~ action, and
 - (ii) a copy of the complaint and any correspondence with respect to the status of the action, or a brief statement of the cause of action and the anticipated parties if no lawsuit has yet been commenced;
- (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~~ and 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 bankruptcy 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~~ “813A “Financial Affidavit” or 813B “Financial Affidavit of Income Property 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~~ any court.
- (3) In ~~Chapter~~ chapter 13 cases, ~~each~~ to the extent applicable, the debtor must provide the ~~Chapter 13 trustee with copies, at least 7 days before the first scheduled meeting of those creditors: the~~ documents ~~referenced~~ set forth in subparagraph (2), above, as well as proof of insurance on all improved real estate, mobile homes, motor vehicles, boats, ~~or~~ and business assets, ~~and if. If~~ any of these assets are not insured, the debtor must ~~as well as~~ also provide a written statement indicating which ~~of the debtor's~~ assets are not insured and explaining why.
- (4) The debtor must also provide ~~such~~ any additional documents (or copies thereof) as the case trustee reasonably requests and which the debtor has available.
- (5) The debtor must also bring the following documents to the meeting of creditors: (A) a ~~form of~~ government-issued photo identification card, and (B) the debtor's social security card ~~or, in the event. If~~ the debtor does not have a social security card, then the debtor must bring one of the following documents, containing the debtor's social security number, to the meeting of creditors: 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.

(6) Individual chapter 11 debtors must provide to the United States trustee, at least 7 days before the date of the first scheduled meeting of creditors, the same documents that individual chapter 7 and 13 debtors must provide to the case trustee.

(d) Chapter 11 Debtor's Books and Records.

~~–Upon filing a bankruptcy petition, each Chapter a chapter 11 debtor must close and preserve its present books of account and its present, close all bank accounts. Debtors in possession must, and open and maintain new books of account showing and bank accounts. If a chapter 11 debtor operates as a debtor-in-possession, it must document all income, expenditures, receipts, and disbursements, and all other necessary financial information of the debtor while a debtor in possession in the new books of account, and must open and maintain new bank accounts ensuring that each such account clearly designates designate the account holder on all bank accounts and checks as a “debtor-in-possession.”~~

(e) Chapter 11 Debtor's Monthly Operating Reports.

~~(b) Each Chapter 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 as required by § 1106 of the Code on the forms designated by the United States Trustee agrees to accept reports in a different format or medium.~~

trustee. The debtor must also send each original, signed monthly operating report, along with the corresponding bank statements and copies of cancelled checks, to the United States trustee. If a chapter 11 trustee has been appointed, that trustee shall be responsible for filing the monthly operating reports and serving the original reports with supplemental supporting records.

(f) United States Trustee Operating Guidelines.

~~A Chapter chapter 11 debtor must comply with all operating guidelines issued by the Office of the United States Trustee 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) (1) be in accordance comply with § 521(e)(2)(A)(ii);) of the Code,~~
- ~~(2) be made in writing, with such writing and either be on, or substantially conforming to the “conform with Vt. LB Form L-1 (“§ 521(e)(2) Request for Copy of Debtor's Tax Returns Pursuant to 11 U.S.C. § 521(e)(2)” (Vt. LB Form L-1);”)~~
- ~~(3) be made filed and served no fewer than 14 days before the § 341 meeting of creditors; and~~
- ~~(4) contain a certificate of service indicating affirming when and how the creditor's creditors served the request was sent to on the debtor, the debtor's attorney, (if any); the joint tax filer, (if the tax return is joint, any), the case trustee, and the Office of the United States Trustee; and trustee.~~

~~(1) 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 a tax return prior to delivering it to the requesting creditor. See Vt. LBR 5001-3(e)-b). After complying with the creditor's request for a tax return, the debtor must file a~~

certification of compliance that substantially conforms to the ~~“Debtor’s Certification re: Provision of Tax Returns to Creditor”~~ (Vt. LB Form L-1 ~~“§ 521(e)(2).”~~) Request for Debtor’s Tax Returns.”

- (2) Objection. If a debtor disputes ~~that~~ the requesting ~~creditor~~ party is a creditor in the debtor’s case, or disputes ~~that~~ the requesting ~~creditor~~ party is entitled creditor’s right to see ~~the~~ their tax return, the debtor may file an objection to the request, provided they do so at least seven 7 days prior to the § 341 meeting of creditors. ~~The Court will set a hearing to determine whether the debtor is required to provide the requesting creditor with a copy of the debtor’s tax return.~~
- (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~~ If a debtor neither complies with nor objects to a creditor’s request for copies of a tax return, the requesting creditor may ~~move~~ file a motion to compel the debtor to supply the requested tax return. If the Court deems ~~it~~ a hearing is necessary, ~~the Court~~ it will hold an expedited hearing on ~~the motion to compel~~ on three 3 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;~~ procedurally sufficient, and (ii) the requested tax return was creditor has not received by a copy of the creditor; tax return it requested,
 - (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~~ explaining the creditor’s need for the tax return.

(c) ~~(e)~~ Request that a Debtor File Copies of Tax Returns with Court.

~~If, pursuant to § 521(f), of the Code, a party in interest or the Office of the United States Trustee~~ trustee seeks to compel an individual debtor to file copies of their tax returns with the Court, that party or trustee 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~~ trustee.

(d) ~~(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 by parties in interest. If a debtor stipulates to the relief sought in the motion~~ a party in interest having access to their tax returns, no hearing is required; ~~otherwise,~~ In the absence of the debtor’s consent, the movant must serve the motion must be noticed to on the debtor, the debtor’s attorney, ~~(if any),~~ the case trustee, and the ~~Office of the United States Trustee under trustee, pursuant to~~ the conventional noticing procedure. See Vt. LBR 9013-3. A motion requesting access to tax returns must:

- (1) ~~(1)~~ —describe the movant’s status in the case; ,
- (2) ~~(2)~~ —specify the tax return sought; ,
- (3) ~~(3)~~ —contain a statement that the movant cannot obtain the information from any other source; , and
- (4) ~~(4)~~ —contain a statement ~~demonstrating~~ explaining the movant’s need for the tax return.

(e) ~~(e)~~ Duties of Chapter 11 Small Business Debtors.

A ~~Chapter~~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. These tax returns will not be accessible to the public and will be available only to parties in interest and upon motion. See also~~ Vt. LBR 5003-4. ~~The~~A chapter 11 small business debtor must also deliver a copy of ~~its~~their tax return to the United States trustee, and to the case 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 deemed 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~~a bankruptcy case, ~~a~~the debtor has a ~~continuous~~continuing duty to ~~maintain a~~keep the Clerk's Office informed of their current mailing address ~~with the Clerk's Office.~~ If a debtor's address changes during the course of the bankruptcy case, the debtor ~~is~~ to ~~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 comply with paragraph (a) above, and also provide the Clerk's Office with a current telephone number, (if any), and a current e-mail address, (if any). If the mailing address, 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—The Property Claimed You Claim as Exempt”) (Individuals) 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~~debtors must separately identify the exemptions claimed by each debtor. See Vt. LBR 1015-1(a)(1).

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

(a) Motion to Avoid a Judicial Lien under § 522(f). In a) of the Code in a Chapter 7 or 12 Case.

~~(a) 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, provided the debtor files the 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 before the case is closed. In a chapter 12 case, this type of motion 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 The debtor must attach to the motion a copy of the judgment order with proof of perfection, and must also:~~

include in the motion:

- (1) 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~~

(b) Motion to Avoid a statutory Lien under § 522(f) of the Code in a Chapter 13 Case.

In a chapter 13 case, a motion to avoid a judicial lien which impairs an exemption must be made as part of the chapter 13 plan. The debtor must docket the plan a second time and designate it as a “motion to avoid lien,” and attach the following documents as exhibits: (1) a copy of the judgment order with proof of perfection, (2) a certificate of service, (3) a proposed order, and (4) a notice of motion setting the hearing for a date prior to the plan confirmation date if possible.

(c) Identification of Judicial Liens Subject to Avoidance in a Chapter 12 or 13 Plan.—The debtor must identify in the Chapter 12 or 13

~~In a chapter 12 case, the debtor must (1) identify in the chapter 12 plan any judicial lien the debtor seeks they seek to avoid pursuant to § 522(f), and (2) include in the amount their list of unsecured debt for purposes of projecting the amount of the claim underlying that lien, and (3) include that claim in their projection of 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 chapter 12 plan and the confirmation hearing. See paragraph (a), above.~~
order.

(d) Orders Granting Motions to Avoid Judicial Liens.—

Unless the Court approves different terms after notice to the lien holder and the case trustee, ~~a~~every proposed order avoiding a judicial lien under § 522(f) of the Code must:

- ~~(7)~~(1) specify that the lien is avoided only if the case is not dismissed;
~~(8)~~(2) state that if the case is dismissed, the order granting the motion to avoid the lien is void;
~~(9)~~(3) provide~~state~~ 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~~their obligations in the case and the case was not dismissed; and
~~(10)~~(4) include the following trustee certification language: if the case is pending under chapters 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

Certification of Chapter 7 Trustee

~~*I, [name], the Chapter 7 case trustee in the case of [debtor's name and case #] in the District of Vermont, hereby certify under penalty of perjury under the laws of the United States of America that the Debtor has completed all obligations under Chapter 7 and the case was not dismissed.*~~

~~*Dated: _____ [signature]_____*~~

~~*Chapter 7 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~~

~~Before~~ entry of the discharge order, ~~each such~~ every individual chapter 7, 11, and 13 debtor must sign and file Official Form 423, entitled “Certification About a Financial Management Course.” ~~The physical signature of,~~ to evidence completion of the post-petition financial management course, unless the debtor must be affixed to Official Form 423. This form is different from, and not a substitute for, agency which administered the certification received from a pre-petition credit counseling provider and course has already filed at the beginning of a case. See also Vt. LBR 9011-4(c) (outlining signature requirements for non-attorneys). required certificate.

- (1) ~~Deadline for Filing Official Form 423.~~ In a ~~Chapter~~ 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~~ chapter 11 or 13 ~~case~~ cases, 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~~ and be accompanied by the debtor’s affidavit or certification, ~~be~~ made under penalty of perjury, and ~~explain~~ explaining 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.~~
- ~~(1) 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.
- ~~(2) 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 in Chapter 12 Case. pursuant to § 1228(a).

In order to obtain a discharge, ~~an individual Chapter~~ under § 1228(a) of the Code, a chapter 12 debtor must file a certification of compliance with 28 U.S.C. § 1746 and a motion requesting for entry of a discharge order.

- ~~(3)~~ (1) ~~Contents of Motion Requesting Entry of Discharge Order in Chapter 12 Case.~~ In the motion requesting entry of a discharge order, In the motion, the debtor must affirm that the debtor has they
 - (A) have made all payments required under the confirmed ~~Chapter~~ chapter 12 plan;

(B) have fully complied with the terms of the plan;

(C) either ~~(i)~~ is,

(i) were not required by any judicial or administrative order or law to pay a domestic support obligation during the pendency of the chapter 12 case, or ~~(ii)~~ was

~~(i)~~(ii) were required to pay a domestic support obligation during the ~~Chapter~~chapter 12 case and ~~has~~ made all required payments on the obligation due through the date of the motion; and

~~(C)~~(D) either hashave not claimed a homestead exemption in excess of the cap described in § 522(q)(1) of the Code, or has if so, have 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)~~;

(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 five5 years.

~~(4)~~(2) Service of the Debtor's Certification and Motion. The debtor must serve the certification and motion upon any beneficiary of party to whom the ~~debtor's~~debtor owes a domestic support obligation(s), the ~~Chapter~~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 also Vt. LBR 9013-4(b)(12).

~~(5)~~(3) Consequences of Failure to File the Certification and Motion. If the debtor fails to timely file atthe 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.~~case.

~~(6)~~(4) DebtorDebtor's Attorney's Certification. If ~~the~~an individual ~~Chapter~~chapter 12 debtor was represented by an attorney duringin the ~~course of the Chapter 12 case~~, the debtor's attorney must (A) certify that ~~he or she has~~they explained the requirements for a discharge to the debtor ~~and~~, (B) certify that, to the best of ~~the attorney's~~their knowledge, the debtor qualifies for a discharge under §§ 521 and 1228(a) and (f). ~~The attorney must~~ of the Code, and (C) file ~~this~~their 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 in Chapter 13 Case. pursuant to § 1328(a).

In order to obtain a discharge, ~~a Chapter~~ under § 1328(a) of the Code, 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.

- ~~(7)~~(1) Contents of Motion ~~Requesting Entry of Discharge Order in Chapter 13 Case.~~
 . In the motion ~~requesting entry of a discharge order,~~ the debtor must affirm that the debtor has: ~~they~~
- (A) have made all payments required under the confirmed ~~Chapter~~chapter 13 plan;
 - (B) have fully complied with the terms of the confirmed plan;
 - (C) have completed a post-petition instructional course concerning personal financial management as described in § 111 of the Code 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)~~ (i) were not required by any judicial or administrative order or law to pay a domestic support obligation, ~~or (ii) was~~ during the pendency of the chapter 13 case,
 - ~~(i)~~(ii) were required to pay a domestic support obligation during the ~~Chapter~~chapter 13 case and ~~has~~have made all required payments on said obligation due through the date of the motion;
 - ~~(D)~~(E)hashave not received a discharge in ~~any prior Chapter~~a chapter 7, 11, or 12 bankruptcy case ~~in which the debtor was a debtor~~ during the four-year period ~~prior to~~preceding the date that the debtor filed the present ~~Chapter~~chapter 13 case, and ~~has~~have not received a discharge in any prior ~~Chapter~~chapter 13 case during the two-year period before ~~filing the debtor filed~~ the present case; and
 - ~~(E)~~(F) either ~~has~~have not claimed a homestead exemption in excess of the cap described in § 522(q)(1), of the Code or ~~has~~have 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~~a 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~~a civil offense under 18 U.S.C. § 1964 (~~federal criminal laws~~); or,
 - (v) ~~any~~or a 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~~5 years.
- ~~(8)~~(2) Service of the Debtor's Certification and Motion. The debtor must serve the certification and motion upon any ~~beneficiary of the debtor's~~party to whom a debtor owes a domestic support obligation(s), the ~~Chapter~~chapter 13 trustee, the ~~Office of the United States Trustee~~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. See also Vt. LBR 9013-4(b)(13).~~
- ~~(9)~~(3) Consequences of Failure to File the Certification and Motion. If the debtor fails to timely file ~~at~~the 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.~~
- ~~(10)~~(4) Debtor Attorney's Certification. If ~~the~~an individual ~~Chapter~~chapter 13 debtor was represented by an attorney during~~in~~ the ~~course of the Chapter 13 case,~~ the debtor's

attorney must (A) certify that ~~he or she has~~they have explained the requirements for a discharge to the debtor and, (B) certify that, to the best of ~~the attorney's~~their knowledge, the debtor qualifies for a discharge under §§ 521, 1308, and 1328(a), (g)(1), and (h). ~~The attorney must~~ of the Code, and (C) file thistheir certification with the debtor's certification and motion. See Vt. LB Form O-12.

(d) Motion for Entry of Hardship Discharge in Chapter 12 and 13 Cases. The Court will not enter a discharge order in a Chapter 12 or 13 case until: pursuant to §§ 1228(b) or 1328(b) of the Code.

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, they may file a motion for a hardship discharge under § 1228(b) or § 1328(b) as applicable. See Vt. LBR 9013-4(b)(12) & (13).

~~(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.~~

~~**(d) 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 the debtor must file a motion showing cause for the early entry of discharge or 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.~~

~~**(e) 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.~~

Vt. LBR 4008-1. REAFFIRMATIONS.

(a) General Requirements; Form to Use.

~~(1) Any reaffirmation agreement between a debtor and a creditor~~Reaffirmation agreements must comply with § 524 ~~and~~(k) of the Code, be filed on ~~the~~ Official Form 2400A ("Reaffirmation Documents"), ~~and include a completed Official Form 427 ("Cover Sheet for Reaffirmation Agreement").~~ See also Vt. LB Appendix III ("Vermont Reaffirmation Agreement Flow Chart"); Vt. LB Appendix IV ("Vermont Reaffirmation 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).~~

~~(a) **Separate Certification Required.**—A Agreement Checklist”). The party seeking approval of a reaffirmation agreement must ~~complete and file~~ and serve 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 on the debtor, the debtor’s attorney (if any), and the United States ~~Trustee~~.trustee.~~

(b) 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~~that third party must either appear and present testimony affirming ~~his or her~~their 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.~~

(b) 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.~~

(1) ~~(e) Circumstance~~ their relationship to the debtor,

(2) their ability and willingness to assist the debtor,

(3) their commitment is voluntary, and is not a guarantee or promise of payment in favor of the creditor, and

(4) their assistance may be a basis for the Court’s approval of the reaffirmation agreement.

(c) When a Motion and Order are Not Required.

~~–No motion for approval of a reaffirmation agreement is necessary ~~for reaffirmation of~~to reaffirm a 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).~~

461(b)(1)(A)(iv)).

Vt. LBR 4070-1. INSURANCE.

Unless specifically waived by the Court, a debtor in a ~~Chapter~~chapter 11, 12, or 13 case must: (a) have, insurance on all property of the estate and continue to maintain that insurance 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) present proof of insurance to the case trustee or United States trustee before or at the first meeting of creditors. See also Vt. LBR 4002-1(c).

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

~~Before granting a motion to impose~~ A party seeking the imposition of sanctions ~~for~~ to punish a violation of the automatic stay or discharge injunction, ~~the movant must establish it has effectuated proper notice on~~ must (a) serve the party against whom sanctions are sought ~~and must~~ a notice of intent to seek sanctions at least 7 days before they file the motion for sanctions, (b) file and contemporaneously serve notice of the motion for sanctions, and (c) present sufficient evidence to warrant imposition of sanctions against that party. Ordinarily, this relief will ~~require conducting~~ not be granted without an evidentiary hearing. ~~However, where,~~ however, if the Court determines ~~that proper notice has been provided and sufficient evidence has been presented in the record,~~ in its discretion, that the record contains sufficient information to warrant relief, the Court may ~~impose~~ grant the motion for sanctions without a hearing.

PART V – COURTS AND CLERK

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 Bankruptcy Clerk's Office located at 11 Elmwood Avenue, Burlington, Vermont. 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 to 5:00 p.m., except on federal holidays.

(b) Mailing Address, ~~E-Mail Address,~~ Physical Location, and Telephone Number, and Fax 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) 776-2000, ~~and the fax number is (802) 776-2020.~~ 657-6400.

(c) Website. Information.

The Court's website, <http://www.vtb.uscourts.gov>, provides information about the Clerk's Office, these Rules, general information about bankruptcy, 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> and instructions about how to file cases electronically and use CM/ECF. All information provided 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~~ provides access to these documents ~~available~~ on the Court's website via Public Access to Court Electronic Records ("PACER,") 24 hours per day, ~~seven~~ 7 days per week. ~~Any~~ At any time, PACER ~~subscriber is able to~~ subscribers may read, download, store, and print the full content of all filed documents remotely, ~~24 hours per day, seven days per week, unless~~ except for documents that have been 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. CM/ECF. 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 violate any person's privacy of any person.~~

~~(a) **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.~~

~~(a)~~ **(b) 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~~ only the year of birth ~~only~~; should be disclosed.

(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.~~ The only exception is 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~~ to reflect only 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~~ only the last four digits only of ~~such each~~ each account ~~numbers~~ number should be disclosed, unless the Court specifically orders otherwise.

(2) Filer Responsible for Redacting. ~~The~~ In all instances, the responsibility for redacting ~~these~~ personal data identifiers rests with the ~~filer or party introducing~~ who files the ~~pertinent~~ document or introduces the testimony. ~~Likewise that 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 ~~that may be included on documents filed with the Clerk~~, rests with the ~~debtor and the party filing or presenting~~ who files the subject document. ~~– or presents the testimony that 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 ~~it comes to the attention of the Clerk~~ observes that a filed document ~~filed~~ contains personal data identifiers, the Clerk ~~may~~ will restrict access to that document ~~and, in that event,~~

(B) When the Clerk restricts access to a document due to the inclusion of personal data identifiers, the Court will issue ~~a notice~~ an order directing the ~~filer to re-~~ party who filed the document to

~~(A) file the document in redacted form.~~

- (i) ~~If the Clerk issues a notice~~[motion](#) to redact and the filer fails to file, [accompanied by a redacted version](#) \$25 fee, and a copy of the document within the time specified in the notice, the Clerk will restore public access to the document [in redacted form by a date certain, and](#)
- (i)(ii) ~~appear~~ at the expiration of the specified time frame, and the filer may be subject to [a hearing to show cause why](#) sanctions, [including 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/or the striking of the document from the Court record.
- (B)(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.
- (C)(D) ~~To the extent~~ If the document with personal identifier information ~~could~~[may](#) be filed by ~~any~~ 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 ~~redacted version of the document in response to the Clerk's notice~~[motion for redaction in response to the Redaction Order. 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. See generally 28 U.S.C. 1930.](#)
- (3) Request for Redacted Information. ~~If a party determines it needs any of the above-enumerated~~[they need](#) redacted information, the party may contact the debtor's attorney (or ~~the~~[pro se](#) 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~~[file](#) a ~~determination of whether grounds exist~~[motion](#) 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. ~~The official Court records for~~[All](#) documents filed after April 1, 2002 are [maintained as](#) electronic records. If ~~the Clerk receives any documents on~~[a party presents a document for filing either in](#) paper [format](#) or ~~by~~[via](#) e-mail or fax, the Clerk will ~~have the documents scanned~~[scan it](#) into the appropriate case record. ~~Thereafter, these documents will be maintained electronically, and the Clerk will~~[electronic records, maintain it in electronic form, and](#) dispose of the paper, [or](#) e-mail, ~~or~~ fax version ~~received from the filer.~~

(b) Official Form 121, Statement About Your Social Security Numbers. ~~The Clerk will retain any.~~

[The Clerk retains every](#) Official Form 121 ~~submitted~~[that parties submit](#) for a minimum of ~~five~~[5](#) years. The Official Form 121 is not to be filed ~~in, or,~~ [and therefore will not](#) become part of, any bankruptcy case ~~records.~~[record.](#)

VT. LBR 5003-3. 2. 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~~ FILING 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., unless the Court orders otherwise. See also~~ 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 must also~~ Orders sealing documents shall specify when, under what circumstances, and by what procedure ~~the document they~~ 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. of the Code and Federal Rule of Bankruptcy Procedure 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~~ must specify the reason—statutory basis for the subject document(s) should be excluded from the public record—request to seal as set forth in § 107(b)(1) of the Code and the length of time date when and circumstances under which the party seeks to have seal, if granted, can be removed. The movant must serve the document(s) excluded motion on the United States trustee.

(c) Document for Which Sealing is Sought.

—The movant must contact the Clerk's Office to arrange delivery of the document ~~sought that party would like to be~~ have 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~~ A motion to seal ~~will~~ shall be filed electronically and ~~will be~~ as part of the public record. But ~~see~~ Vt. LBR 9013-1(g) (regarding *ex parte* motions). ~~Further, the~~ The Court's order authorizing the filing of a document under seal will also be filed electronically and will ~~be~~ become 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~~ other than 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~~ A party must obtain a Court order prior to delivering funds 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 and any affected parties.
- (3) Unless ~~provided for elsewhere in~~ this Rule provides otherwise, all monies ordered to be paid to the Court in any ~~case~~ pending or adjudicated case 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 ~~its~~ this Court's behalf.

(b) Investment of Registry Funds.

- (1) Where, by order of the Court, funds on deposit with ~~the~~ this Court are to be placed in ~~some form of~~ 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~~ director or the ~~Director's~~ director's designee will

perform the duties of the custodian. Funds held in ~~the~~ CRIS remain subject to the control and jurisdiction of ~~the~~this Court.

- (3) Money from each case deposited in ~~the~~ CRIS will be pooled together with those on deposit with the 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~~. These funds will be held at the 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~~principles 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~~ must deduct the investment services fee for the management of investments in ~~the~~ CRIS, and the registry fee for maintaining accounts deposited with ~~the~~this Court.
- (2) The investment services fee is assessed from interest earnings to the pool according to the ~~Court's~~Bankruptcy Court Miscellaneous Fee Schedule and is to be assessed before a pro rata distribution of earnings to court cases. See generally 28 U.S.C. §1930.
- (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~~ Documents and attachments filed in this Court, whether filed electronically or non-electronically, ~~must~~should 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 centered on the bottom of the page;
- (5) use 1.5 or 2.0 line spacing, ~~except for text, 1.0 or 1.15~~ for quoted material and footnotes;
- (6) use footnotes sparingly; ~~and~~;
- (7) ~~if filed on paper~~, except for master mailing lists, ~~and petitions~~, all paper filings that contain multiple pages must be stapled or otherwise attached, but not permanently bound, see Vt. LBR 1002-1(c) (specific petition requirements), 1007-3(c) (specific master mailing list requirements), and
- (8) all electronically filed documents must be filed in portable document format (PDF) and, whenever possible, in a searchable format, see Vt. LBR 1007-3(d) (master mailing list must be in ASCII format as a text file (*.txt)).

(b) Identification of Attorney and Party Being Represented.

The attorney's name, current office address, e-mail address, telephone number, ~~fax number, if any,~~ 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/their 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~~ pending, but excluding the debtor's social security number; See Vt. LBR 1005-1 (petition caption).
- (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, ~~fax,~~ and electronic filing; and
- (6) the title, role, or function in the case of all persons named in the filed document.

(d) Affidavits.

An affidavit must identify the filing to which 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) Documents in Removed Actions— and Records Transmitted from Another Court.

This Rule does not apply to documents filed in actions removed to this Court or to ~~the transmission of the record from~~ records another court has transmitted to this Court.

(e)(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 1007-4(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; However, 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—~~CM/ECF.

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 in accordance with these Rules. See also Vt. LBR 1002-1(a); Vt. LBR 9011-12(c); Vt. LBR 9011-4.

(a)(b) Consequences of Electronic Filing.

Electronic transmission of a document to the Clerk through ~~the CM/ECF System consistent with these Rules, together,~~ **combined** with the transmission of a notice of electronic filing (~~hereinafter “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. **Federal Rule of Bankruptcy Procedure 5003(a).**

(b)(c) Official Record and Deemed Filing Date.

(1) Electronic Filings. ~~When a~~ **A** document ~~has been~~ filed electronically, ~~the official record is the electronic recording of the document~~ **shall be** maintained by the Clerk, ~~as the official record~~ 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.~~ **See also Vt. LBR 1002-1(a).**

~~(1) Fax Filings. A document submitted for filing via fax 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 fax. The party is bound by the document as faxed.~~

(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~~ **Clerk** enters it into ~~the CM/ECF System,~~ not the time ~~of the filer sent or the transmission of~~ **Clerk received** the e-mail. The party is bound by the document as e-mailed. **See also Vt. LBR 1002-1(b).**

(3) Non-Electronic Filings. ~~A document~~ **Paper filings** submitted ~~for filing on paper by mail, submission at the Clerk’s Office,~~ or delivered directly to the Clerk ~~is~~ **are** deemed filed as of the date and time the ~~Clerk’s Office~~ **Clerk** enters ~~it~~ **them** into ~~the CM/ECF System,~~ not the time ~~of receipt.~~ **the Clerk receives them.** The party is bound by the document as submitted. **See also Vt. 1002-1(c).**

~~See also~~ **generally** Vt. LBR 1002-1 (deemed filing date for petition); Vt. LBR 9075-1(b)(1) (filing requirements ~~related to~~ **for** emergency filings).

(b) 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)(d) 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~~ **CM/ECF – REGISTRATION REQUIREMENTS.**

(a) Registration and Passwords for Electronic Filings.

Attorneys admitted to the ~~Bar~~ **bar** of this Court (including those admitted *pro hac vice*) must register to use ~~the Court’s CM/ECF System.~~ United States ~~Trustees~~ **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.~~ **CM/ECF.** **See generally Vt. LBR 2090-1(b) (*pro hac vice* admission).**

(1) ~~For~~ Attorneys. Attorneys must register using the form prescribed by the Clerk, which requires the registrant’s name, address, telephone number, ~~fax number, if any,~~ 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~~. 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~~ staff, a party to a pending case, proceeding, or motion who is ~~not represented by an attorney~~ pro se 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 party’s name, address, e-mail address, and telephone number, ~~and fax number, if any, 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, motion to redact a proof of claim, notice of transfer of claim, withdrawal of claim, or motion for relief from stay without ~~having registered~~ registering 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 documents through ~~CM/ECF System~~ constitutes: (1) consent to electronic service, (2) a waiver of the right to ~~service by~~ personal service or service by regular, first-class mail ~~and consent to electronic service~~, except for service of a summons and complaint under ~~Fed. Federal Rule of Bankruptcy Procedure R. Bankr. P. 7004~~; (3) consent to receive notices electronically, and (24) 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. Federal Rule of Bankruptcy Procedure 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 ~~Fax~~ E-Mail.

~~(a) The Clerk accepts documents received by fax e-mail for filing. Parties filing documents by fax are required to simultaneously attempt service on all parties in interest via fax and immediately thereafter fax a certificate of service to the Clerk. Exhibits to pleadings, motions, and other documents that are filed by fax must be clearly marked as exhibits. If documents are faxed, 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 of paragraph (d) of this Rule. See also Vt. LBR 1002-1(c); Vt. LBR 5001-2(b) (providing Clerk’s fax number).~~

~~Filing Documents by E-Mail.~~ Only in those circumstances where ~~However,~~ filing via CM/ECF or fax is not possible or practical will the Clerk accept documents delivered via e-mail for filing; the ~~preferred.~~ The appropriate e-mail address to use in such circumstances ~~for this purpose~~ is: efiling@vtb.uscourts.gov. ~~The documents to be filed~~ Documents e-mailed to the Clerk for filing must be PDF attachments to the transmittal e-mail— and, whenever possible, be in a searchable format. Parties ~~filing~~ who submit documents for filing by e-mail are required to simultaneously ~~attempt service on~~ serve 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~~ submitted for filing 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 any other means. Court fees ~~required that are due~~ at the time of filing must be paid pursuant to the provisions set forth in paragraph ~~(d)~~ 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~~ The United States Trustee ~~will be served and notified~~ trustee receives electronic notice of all electronically, ~~making service by regular, first class mail unnecessary.~~ Monthly operating reports are still to ~~filed documents.~~ The only documents which must be served on the Office of the United States Trustee by first-class mail or hand-delivery, regular, first-class mail, or private courier service. are monthly operating reports. See Vt. LBR 4002-1(~~e~~) (directing that paper copies with original signatures be served on the ~~Office of the United States Trustee~~ trustee). ~~The Office of the United States Trustee~~ trustee will not accept service of any documents by fax— or e-mail. But see Vt. LBR 9013-1(g)(3) (requiring motions to seal be served on the United States trustee).

(c) Form of Payment. ~~A party must make payments~~ Any fees due in connection with electronically filed documents ~~filed~~ must be paid by ~~electronic means with a credit card.~~ or through www.pay.gov. See Vt. LBR 5081-1(eb).

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— and Applications to Restrict Access.

(1) Digital audio recordings ~~will be~~ are available on PACER for all hearings and trials conducted ~~on or after~~ since November 1, 2011. ~~A~~ The recording ~~will appear~~ of each hearing appears 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~~ MP3 file. These recordings are available no later than the ~~next~~ close of business the day after the following conclusion of the ~~hearings.~~ hearing, and usually within two hours of the conclusion of the hearing. The official record of any Court hearing ~~remains~~ is the written transcript. See paragraph ~~Vt. LBR 5007-1(d), below.~~ Attorneys (and).

~~(1)~~ (2) An attorney (or *pro se* parties party) involved in ~~the~~ a hearing ~~seeking to restrict~~ may request that public access to the digital audio recording of ~~a~~ the hearing ~~must file~~ be restricted by filing an application ~~showing that shows~~ good cause for restriction, at least ~~one full day~~ 24 hours prior to the commencement of the hearing. The motion must be served on notice to all attorneys (and *pro se* parties) involved in the hearing, as well

as the case trustee, and the ~~Office of the United States Trustee~~. trustee. The burden is on the applicant to demonstrate grounds, pursuant to § 107, ~~warranting restriction of the Code, that warrant restricting access to the audio recording of the hearing.~~

~~(c)~~ Telephonic and Emergency Hearings. ~~Telephonic hearings and hearings on~~.

Hearings may be held by telephone, or after limited or no notice ~~may be conducted when, in~~ exigent circumstances ~~require and~~ with Court approval. See, e.g., Vt. LBR ~~9074~~5071-1;~~(d)~~; Vt. LBR 9075-1. A party ~~wishing to have~~ who wants a transcript of a telephonic or emergency hearing ~~that~~ which the Court would not otherwise record must (1) provide either a court reporter or other means of recording the hearing, (2) notify the Clerk in advance of the hearing of the party's intent to record the hearing, and (3) file a transcript of the hearing within ~~seven~~7 days of the conclusion of the hearing.

~~(b)~~(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~~ must request an official transcript ~~makes the request~~ directly to ~~the~~ a 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 of a hearing is necessary, the Court may order ~~a~~ the transcript and assign the transcription cost to the parties.

~~(e)~~(e) Procedures for Protecting Privacy.

See also Vt. LBR 5001-3~~(e)~~(b).

- (1) Temporary Restriction Period. ~~Transcripts filed with the Clerk will be, temporarily, be~~ restricted to court users and case participants only; ~~this~~. This temporary restriction period ~~will afford~~ affords 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 ~~be~~ expire 21 days ~~from~~ after the date ~~of filing~~ the transcript was filed, unless, upon motion ~~for, and a finding of~~ good cause ~~shown~~, the Court orders the restriction period enlarged.
- (2) Information Subject to Redaction. ~~The personal data identifiers a party may seek to be~~ redacted 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 a redaction must file a request for redaction ~~(Vt. LB Form R)~~ with the Clerk and serve a copy on the transcriber. See Vt. LB Form R. On the request for redaction form, 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~~ since 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;~~₂
 - (B) dates of birth must be limited to ~~years~~the year of birth ~~only;~~₂
 - (C) home addresses of non-debtor individuals must be limited to city and state ~~only;~~₂
 - (D) social security numbers must be limited to the last four digits;₂
 - (E) taxpayer identification numbers must be limited to the last four digits;₂ and
 - (F) financial account numbers must be limited to the last four digits.
- (5) ~~Request for Redaction of~~Applications to Redact Other Information. ~~Upon a motion for good cause shown, a~~A party may request that~~seeking to redact~~ information other than that listed in ~~subparagraph~~paragraph (4); ~~be redacted from the transcript. See Vt. LBR 5003-4 (articulating requirements for filing documents under seal). The motion must be noticed to~~file an application demonstrating good cause for that relief and serve their application on those attorneys ~~(or and pro se parties)~~ who were present at the hearing from which the transcript was produced; ~~as well as the case trustee and United States trustee. See Vt. LBR 5003-4 (articulating requirements for filing documents under seal).~~
- (6) Lifting of Temporary Restriction~~;~~
- (A) No ~~Request or Motion~~Application to Redact Filed. If no ~~request for redaction or motion for other redaction~~application to redact is filed within the temporary restriction period, the Court will conclude ~~that~~ the parties to the hearing have no objection to the ~~inclusion of the personal data identifiers and other information contained in the transcript. Therefore~~transcript. In that event, 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 *sua sponte* that part or all of the restriction should ~~not be lifted~~remain in place.
 - (B) ~~Request or Motion Filed.~~ If a request for redaction or a motion for other redaction Application to Redact Filed. If an application to redact 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,~~ the Court's ruling on the ~~motion by~~application to redact, or other order of the Court ~~or as otherwise ordered by the Court.~~related to the transcript.

~~(d)~~(f) ~~(f)~~ — **Parties' Responsibilities as to Personal Data Identifiers.**

- (1) ~~(1)~~ — Limiting ~~Solicitation~~Inclusion of Personal Data Identifiers in Hearings. Attorneys ~~must~~should make all reasonable efforts to avoid introducing personal identifier information into the record.
- (2) ~~(2)~~ Other Responsibilities. It is the responsibility of the parties ~~to~~at a hearing to: (A) monitor the docket of the case to be aware when the transcript is filed;₂ and (B) file a timely objection to the inclusion of any personal data identifiers in the record.
- (3) ~~(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;₇ 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 a motion to reopen a case, and give notice of the motion, in the same manner as any other contested matter, except ~~where~~when the party files a motion seeks to reopen a case ~~to file for the sole purpose of filing~~ Official Form 423.

(b) Motion to Reopen a Case to File Official Form 423.

See Vt. LBR 4004-2(a)(3); 9013-4(b)(36).

VT. LBR 5070-1. COURT CALENDARS AND SCHEDULING HEARINGS.

(e)(a) Who Schedules the Hearings.

The courtroom deputy will schedule pre-trial conferences, ~~dismissal~~hearings on motions ~~into~~ dismiss adversary proceedings, oral argument on motions for summary judgment ~~motions~~, evidentiary hearings, trials, hearings on the adequacy of a disclosure statement ~~hearings~~, and Chapter 11 ~~or~~ confirmation hearings of a plan in chapter 11 cases, and all emergency motions. Attorneys must schedule all other hearings through ~~the CM/ECF System.~~

(b) Where the Hearing Should be Set.

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~~ agree otherwise or the Court determines exigent circumstances as ~~determined by the Court~~ warrant a different location.

(c) Use of Technology at a Hearing.

Counsel must make arrangements through the courtroom deputy if they wish to use a ~~blackboard, computer screen,~~ the courtroom technology 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) Procedure for, and Limitations on, Telephonic Participation in Court Hearings and Conferences.

~~Counsel wishing~~ In order to appear participate in a Court hearing or conference by telephone, a party must obtain Court approval ~~in advance and make arrangements for the telephonic connection with~~ through the courtroom deputy at least one full business day ~~in advance~~ prior to the hearing or conference. To ensure adequate audio quality of the time set for the hearing, hearings and conferences, each party participating by telephone must use a land-line. A party will only be permitted to participate in a hearing or conference, through a cell phone or other electronic device, if they obtain Court approval, after a showing of exigent circumstances. See also Vt. LBR ~~9074~~5007-1-(c); Vt. LBR 7016-1(c).

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 moving party on whose behalf the request has been filed and notified opposing counsel ~~have been notified~~ of the request for a continuance. See generally Vt. LBR 9013-2(gf).

Vt. LBR 5072-1. COURTROOM DECORUM.

The following procedures are to be adhered to in all matters in open court:

(a) ~~all~~In order to maintain the decorum of the courtroom and dignity of the proceedings, attorneys (and parties representing themselves) must:

- (1) ~~treat all~~ persons in the courtroom ~~are to be treated~~ with dignity and respect;
- (2) ~~counsel must~~ address all persons by their surname during all court hearings;
- (3) ~~there will be no~~ ~~refrain from any~~ oral confrontation or ~~dialog directly~~ direct dialogue between opposing attorneys or among parties;

(a) ~~all persons addressing the Court must stand (unless the hearing is conducted via Vermont Interactive Technologies or video conference, and the Court determines implementation of this Rule would interfere with effective transmission);~~

(4) ~~counsel must~~ stand whenever addressing the Court.

(4)(5) ~~_____~~ make all objections to questions posed by opposing counsel with specificity, prior to offering any argument or explanation of same;

(5)(6) ~~_____~~ during the testimony of a witness, attorneys may not approach obtain Court approval before approaching the witness box, bench, or court reporter ~~without~~ during the Court's prior approval; testimony of a witness,

(6)(7) ~~_____~~ counsel and their clients, if present, must be seated in the courtroom ~~while waiting for~~ before their case to be called, ~~be~~ and prepared to proceed when their case is called,

(7)(8) ~~_____~~ and refrain from talking while court is in session;

(8)(9) ~~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

(9)(10) ~~_____~~ all persons in the courtroom must be attentive to the court hearings and refrain from reading newspapers or books while court is in session.

See also Vt. LBR 5073-1. ~~PHOTOGRAPHY, RECORDING~~ (restriction of electronic devices).

Vt. LBR 5073-1. DEVICES; CELLULAR TELEPHONES, LAPTOP COMPUTERS; RECORDING AND PROHIBITED IN COURTHOUSE; 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~~ electronic devices into the courtroom, if necessary for effective participation in a hearing, ~~or without~~ must obtain Court approval ~~to bring such devices into the courtroom for any other purpose.~~ An attorney may use ~~this equipment~~ an electronic device for work purposes ~~during hearings~~ while in the courtroom if the ~~equipment~~ device 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~~ the device disrupts or delays court proceedings, the Court may impose such sanctions, as it deems appropriate. Further, if the permitted ~~equipment~~ device 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~~ courthouse 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, naturalization, or ceremonial proceedings; however, the broadcasting or televising of ~~Court matters~~ legal proceedings is prohibited.

~~(a) Video Conferencing. Parties may appear via video conference from court facilities or remote locations under exigent or emergency circumstances, with Court approval. Out of state participants may participate in hearings through video conference if, at least seven days prior to the hearing, they file a motion showing cause, serve the motion on the other parties to the hearing, obtain Court approval, and contact the courtroom deputy to make the necessary arrangements at the time of filing the motion.~~

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~~ fees due other than for the filing of a bankruptcy petition, the Clerk may accept payments from debtors via personal checks, credit cards, ~~or~~ debit cards ~~as payment from debtors,~~ or Pay.gov, but the Clerk has both the discretion and authority to reject any of these forms of payment from debtors. See Vt. LBR 1006-1(a).

(a)(b) Acceptable Forms of Payment.

~~–Except as provided by paragraph (a),~~ above, any of the following are acceptable forms of payment from any party: cash, check, money order, debit card, ~~or~~ credit card ~~issued by VISA, MasterCard, American Express, Discover, or Diners Club,~~ or Pay.gov.

(c) Payment by Credit Card. Fees

To pay court fees by credit card, one may ~~be paid by:~~ (1) physically ~~presenting~~ present a credit card; to the Clerk, (2) ~~providing~~ provide a separate document including the cardholder's name as it is printed on the written statement authorizing the Clerk to charge a fee to that party's credit card, and request the card number, Clerk to phone the expiration date, and an authorization for the Clerk to charge party to obtain the credit card; ~~or~~ number and other relevant information, or (3) ~~processing~~ process the credit card online through Pay.gov. Credit card information provided in accordance with this Rule will remain confidential. ~~Authorization:~~ authorization is required for each transaction.

(b)(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)(e) Effect of Non-Payment.

~~–Except where the Court orders otherwise,~~ the Clerk ~~may~~ will not be required to render service for which a fee is prescribed by statute or rule unless the fee is paid in advance.

(f) Payment of Filing Fee in Installments; Waiver of Filing Fee; Waiver of Other Fees. An application

Applications for permission to pay the filing fee through installment payments ~~may be filed pursuant to Fed. R. Bankr. P.~~ must comply with Federal Rule of Bankruptcy Procedure 1006(b). See Vt. LBR 1006-1(b). ~~An application~~ Applications for a waiver of the filing fee ~~may be filed pursuant to Fed. R. Bankr. P.~~ must comply with Federal Rule of Bankruptcy Procedure 1006(c). See Vt. LBR 1006-1(c). Where the Court grants an individual ~~Chapter~~ 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~~eligibility for a waiver of ~~the debtor to pay those~~court 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~~an original signature to a paper copy of the order and the Clerk had entered it on the docket in a non-electronic manner. See also Vt. LBR 9036-1(c).

PART VI – COLLECTION AND LIQUIDATION OF THE ESTATE

VT. LBR 6003-1. FIRST DAY MOTIONS.

(a) Notice of Preliminary Hearing on First Day Motions. ~~A Chapter.~~

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~~trustee, committee of unsecured creditors, ~~(if any),~~ and ~~otherwise~~if not, to the 20 largest unsecured creditors, as well as to any other parties directly affected by the motions. ~~The~~If the debtor seeks to have these hearings held on shortened notice, the debtor must label the motion as an emergency motion, must promptly contact the courtroom deputy to set a hearing date, and may serve notice by electronic mail, ~~fax,~~ 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) of the Code 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~~a list of 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 ~~against~~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~~list 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-) of the Code, 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~~ 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~~ 7 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~~ 7 days of completion 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, and~~ 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 to sell, or notice of intent to sell, outside the ordinary course of business must include:

- (1) the type of sale and a list of all known prospective purchasers;
- (2) the terms of sale, including but not limited to: (A) the location and condition of the items to be sold, (B) bidding procedures, ~~and~~ (C) the minimum bid, if any, and whether the sale is subject to higher and better offers, (D) the funds required to be paid at approval of the time the sale, is approved, (E) the form of funds required at approval the time of the sale approval and at time of closing of the sale, and (F) a proposed date for both the sale approval and closing of the sale;
- (3) identification of the property (e.g., the VIN, make, model, and 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 ~~discovered~~ discoverable after reasonable investigation, to claim an interest in the property;
- (5) the fair market value of the property, the basis for that valuation, and the amount and holder 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 the case trustee's sale of estate property ~~by the case trustee submitted~~ filed in conjunction with a notice of intent to sell, as referenced in paragraph (b), above, provided the proposed order

~~(8)~~ (1) contains all the information set forth in the notice,

- (9)(2) indicates ~~that~~ no objections were filed within the time required under the applicable Federal Rules of Bankruptcy Procedure, and
- (10)(3) contains sufficient specificity to provide enable the Court with to determine whether all ~~information necessary to make a determination that the~~ statutory requirements of § 363(b)(1) of the Code 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~~ terms of sale do not match exactly the ~~property listed~~ terms set forth on the notice of sale, the proposed order must identify and explain ~~any~~ the differences.

(e)(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. 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~~ chapter 12 or 13 plan, the debtor may request a “Certificate of Approval” from the ~~Chapter~~ chapter 12 or 13 trustee on ~~seven~~ 7 days’ notice to all parties in interest, as long as one of the following conditions is met:
- (A) to the extent there are net proceeds, all net proceeds will be dedicated to fund the ~~Chapter~~ chapter 12 or 13 plan;,
- (B) the confirmed ~~Chapter~~ 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~~ chapter 12 or 13 plan does not provide at least a 15% dividend to all unsecured creditors holding allowed claims, the net proceeds of the sale or refinance are used to create such a dividend, and any net proceeds the debtor retains must be claimed ~~as~~ exempt as permitted by applicable law.
- The debtor’s request for a Certificate of Approval must (i) indicate which of the three conditions will be met if the sale or refinance is approved, (ii) list all debts secured by the property, and (iii) 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~~ chapter 12 or 13 trustee may issue a Certificate of Approval authorizing the debtor to use the net proceeds of the sale or refinance of the property to fund the ~~Chapter~~ chapter 12 or 13 plan in accordance with the debtor’s request. If a timely objection is filed, ~~then the clerk will set~~ the matter ~~will be set~~ for a hearing.
- (3) Sale Plans. –Even if the ~~Chapter~~ chapter 12 or 13 plan sets forth the contents of ~~at~~ the sale motion (as required by paragraph (a) or (b); above;), the ~~Chapter~~ chapter 12 or 13 plan is confirmed, and the confirmation order includes reference to the sale, the debtor must still 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~~ When 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~~ If there are unusual circumstances, the Court must be made aware of ~~any unusual circumstances~~ them 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~~ chapter 12 or 13 trustee, unless the Court orders a different treatment of the secured claim.

(d)(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~~ chapter 12 or 13 case is pending unless

(A) the parties to the mortgage file 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

~~(A)~~ (B) the mortgage modification agreement includes a provision that ~~the modification agreement~~ is not effective without Court approval, and

~~(B)~~ (C) either:

(i) the Court grants a motion approving the mortgage modification agreement, after notice to the debtor(s), lender, and the case trustee, or

~~(i)~~ (ii) the Court approves a stipulation modifying the mortgage, which has a copy of the fully executed mortgage modification after notice to all parties in interest, pursuant to Fed. R. Bankr. P. 2002(a)(2); agreement attached, or

~~(ii)~~ (iii) the Court approves the mortgage modification ~~is approved~~ agreement 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~~ difference between the prior monthly payment and the current, lower monthly payment due on the ~~debtor's secured claim~~ mortgage, rather than apply the ~~differential~~ difference 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. See Official Form B6J.

(g) Chapter 11—Additional Requirements— in Chapter 11 Cases.

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) of the Code, prior to the entry of a confirmation order, the motion to sell must contain the following:

~~(3)~~ (1) a clear and conspicuous statement to that effect;

~~(4)~~ (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 ~~approval of~~ the time the sale is approved, the form of funds required at the approval of

~~the sale and at~~ closing of the sale, and a proposed date for both the ~~sale~~approval and closing of the sale;

~~(5)~~(3) the information required under ~~Fed. R. Bankr. P.~~Federal Rule of Bankruptcy Procedure 2002(c);

~~(6)~~(4) the extent to which the proceeds of sale will be used to benefit each class of creditors;

~~(7)~~(5) the extent of the debtor's liabilities;

~~(8)~~(6) the net value of the debtor's remaining assets, if any, not subject to the proposed sale; and

~~(9)~~(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 ~~&~~AND 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 purchase, or have a financial interest in the purchase of, any property of ~~the~~a bankruptcy estate.

(b) Bond.

(1) General 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~~. Surety bonds must be approved ~~by~~, and ~~be~~ in such sum as may be ~~fixed~~set, by the Court. Approval of a surety bond is 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 the Court orders otherwise ~~ordered by the Court~~, a sum equal to the proceeds of sale ~~less~~minus 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 ~~also~~ 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 ~~the~~ sale is inappropriate or unreasonable, the auctioneer will be required to ~~return~~deliver 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 Trusteetrustee 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, and format 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 that were read to the audience immediately prior to the commencement of the sale;
- (4) the sign-in sheet that lists the people who ~~attended~~ were present, either in person or virtually, at 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 under this Rule, 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~~ 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~~ fewer than 21 days' notice. ~~That application will not be granted unless,~~ and must have filed the report referred to in paragraph (d),) above, ~~has been filed,~~ prior to filing the application for commissions and expenses.
- (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~~ on any amount in excess of \$100,000, ~~but not in excess of~~ up to \$200,000; and
 - (C) 2.5% ~~of~~ on 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~~ minus any amounts previously reimbursed for the bond. If the case trustee ~~directs~~ hires the auctioneer to transport goods, the auctioneer will also be reimbursed for ~~the~~ reasonable 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 ~~without~~ unless the case trustee ~~consent unless~~ has either consented to the lease assumption or filed a ~~Trustee's~~ Final Report ~~has been filed~~ in the case.

VT. LBR 6007-1. ABANDONMENT.

Notice of Proposed Abandonment ~~or Disposition of Property~~; Order Granting Abandonment. ~~The. Upon request, 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.~~ Federal Rule of Bankruptcy Procedure 6007;(a), 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/or~~ 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 ~~required under~~ 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. See 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)(35).

(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 ~~make a determination of~~ determine the appropriateness of the redemption ~~request~~ agreement.

PART VII— ADVERSARY PROCEEDINGS

VT. LBR 7004-2. SUMMONS.

(a) Obtaining a Summons.

~~The Court will issue a~~ Clerk issues any summons, ~~which required in~~ an adversary proceeding filed in this Court. An attorney may obtain a summons electronically through PACER and then serve it in connection with ~~any an~~ an adversary proceeding pending in this Court. ~~The Clerk's Office~~ Upon request, the Clerk 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, i.e., a summons must be served in compliance with Federal Rule of Bankruptcy Procedure 7004 and may not be served electronically.

- (2) Order to be Included. A plaintiff is required to serve an “Order on Pre-Trial Deadlines” with ~~its~~a 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—IN ADVERSARY PROCEEDINGS.

A party ~~moving~~who seeks to amend a pleading or motion must attach both a clean copy and a redlined version of the proposed ~~amendment~~amended document 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 merely 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.~~Federal Rule of Bankruptcy Procedure 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~~that document 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. See generally 28 U.S.C. § 157 (procedure for core proceedings and definition).

(b) Non-Core Proceedings.

- (1) 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.~~
- (2) ~~Lack of Consent~~In all adversary proceedings, each cause of action within the complaint must specify whether the party considers that cause of action to Bankruptcy Court’s Entering Final Orders. When the ~~be core or non-core; and if non-core, whether the party consents to the Bankruptcy Court’s entry of a final order or judgment regarding that cause of action.~~
- ~~(2)~~(3) If parties do not consent to the Bankruptcy Court’s entry of a final order ~~order~~ regarding a non-core cause of action, the Bankruptcy Court may ~~also~~, in addition to filing 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 on all parties 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.~~Federal Rule of Bankruptcy Procedure 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~~that 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 Fed. R. Bankr. P. Rule 7026(f) scheduling conference shortly after the expiration of the time period for filing timely responses.

(~~a~~)(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, or~~ (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.

(~~b~~)(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 90745070-1; but see Vt. LBR 9076-1.(d).

(~~e~~)(d) Pre-Trial Statements.

—Parties must file a joint pre-trial statement at least ~~seven~~7 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 together 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” ~~(“See~~ 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 the new dates listed].
- (2) The following dates for future performances remain unchanged and in effect as set forth 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. CLAIM OF UNCONSTITUTIONALITY, CLAIM OF.

~~If, at~~At any time prior to the trial of an adversary proceeding in which the United States, an individual state, ~~an~~or agency, officer, or employee of either the state or federal government is not a party, ~~a party to the proceeding draws into question~~wherein the constitutionality of an Act of Congress or a state statute affecting the public interest, ~~that is drawn into question, the~~ questioning party must notify the Court in writing of the constitutional question, specifically

identifying the Act or statute and the respects ways in which ~~it~~ such Act or statute 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.~~ Federal Rule of Bankruptcy Procedure 7026, the provisions of ~~Fed. R. Civ. P.~~ Federal Rule of Civil Procedure 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.~~ Federal Rule of Bankruptcy Procedure 7030 or upon written questions under ~~Fed. R. Bankr. P.~~ Federal Rule of Bankruptcy Procedure 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, and applications under ~~Fed. R. Bankr. P.~~ Federal Rule of Bankruptcy Procedure 7037, and all motions and responses concerning discovery matters must be in writing and recite with specificity the ~~offending~~ objectionable interrogatory, deposition, request, or application. If time does not permit the filing of a written objection or motion, the Court may, in its discretion, waive this requirement.

(e) Objections to Discovery Process.

A ~~Fed. R. Bankr. P. Rule~~ 7037 objection to any interrogatory, deposition, request, or application must be filed within 28 days after service of the ~~offending~~ objectionable interrogatory, deposition, request, or application, unless the Court orders 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 ~~Fed. R. Bankr. P. Rule~~ 7026(f) conference, counsel and unrepresented parties are encouraged to participate in non-court, pre-trial discovery conferences to ~~decrease~~ avoid the filing of unnecessary discovery motions. ~~A Counsel should not file a~~ motion concerning a discovery dispute ~~should not be filed~~ until counsel they have explored all possibilities ~~offor~~ resolving the ~~discovery~~ matter(s) in controversy. ~~The Court will not consider~~ Motions raising any ~~motion concerning a type of~~ discovery matter unless the ~~motion is~~ dispute must be accompanied by a statement of counsel ~~that affirming they have made~~ 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~~ through good faith efforts, it is the responsibility of the party initiating discovery to ~~place~~ bring 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.~~ Federal Rule of Bankruptcy Procedure 7037 unless a motion to quash has been granted. A party who was 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.~~ Federal Rule of Bankruptcy Procedure 7026(c) and motions to compel physical or mental examination pursuant to ~~Fed. R. Bankr. P.~~ Federal Rule of Bankruptcy Procedure 7035 must comply with paragraph (f) above. See also Vt. LBR 9013-1; Vt. LBR 9013-2.

(e)(i) Responses to Discovery.

—All responses to discovery motions must be filed within 14 days after service of such motions, unless the Court orders 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 of required ~~by the Court~~ parties must ~~be done~~ comply with that order within 14 days ~~after the entry of the order of the Court, whether oral or written~~, unless the order provides otherwise ~~ordered by the Court~~.

(d)(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. See e.g., Vt. LBR 2003-2(a).

(e)(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~~ attorneys' 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~~ a debtor's discharge must be accompanied by affidavits executed by the plaintiff(s) and the debtor(s) ~~stating that~~ affirming 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~~ of that consideration. All motions for voluntary dismissal must be adjudicated at a court hearing, on notice to all creditors, unless the Court orders otherwise. See generally 11 U.S.C. § 727.

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 review and 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~~which includes:
 - (A) the date the summons was issued_;²
 - (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~~sets the deadline_;²
 - (C) the date the complaint was served_;²
 - (D) the date the certificate of service was filed_;²
 - (E) a statement that no answer or motion was filed within the time limit ~~fixed~~set by the Court or by ~~Fed. R. Bankr. P.~~Federal Rule of Bankruptcy Procedure 7012(a)_;²
 - (F) a statement that the party against whom judgment is sought is neither an infant, an incompetent person, nor in the military service_;²
 - (G) a statement that the judgment amount sought is justly due and owing_; and ~~that~~no part thereof has been paid except as stated_;² and
 - (H) if applicable, a statement that any disbursement sought to be taxed as costs 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~~subparagraph (b)(2)_;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
- (2) an affidavit of the amount due and of any costs or disbursements due_;²
- (3) a reference to the document number of the entry of default by the Clerk as listed on the docket_;² and
- (4) a proposed default judgment order.

~~(e)~~ Entry of Default Judgment by the Clerk_;²

The Clerk may enter a default judgment when:

- ~~(1)~~ (i) a party is entitled to judgment under a statute other than §§ 523 or 727_; ~~(ii)~~ of the Code,
- ~~(5)~~ (2) the party seeks a judgment for a sum certain (or for a sum which, by computation, can be made certain)_;² and
- ~~(6)~~ (3) ~~(iii)~~ 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, not the Clerk for entry of default judgment, ~~rather than to the Clerk.~~ See paragraph (f)_;² below.

~~(e)~~(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
- (2) an affidavit containing a statement of the damages being requested and the basis for them_;²
- (3) a reference to the document number of the entry of default by the Clerk as listed on the docket_;² and
- (4) a proposed default judgment order.

~~(f)~~(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)~~ (1) objects to discharge; ~~(ii)~~ (2) objects to the dischargeability of a debt; or ~~(iii)~~ (3) 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~~ **A motion for summary judgment must satisfy** the requirements ~~of set forth in~~ Vt. LBR 7056-2, ~~a party moving for summary judgment must file~~ **and be accompanied by** a separate, short, and concise statement of undisputed material facts ~~with the motion for summary judgment. A movant's failure to submit. Failure to file~~ this statement ~~constitutes grounds for~~ **may result in** denial of the motion.
- (2) Opposition; Statement of Disputed Facts. –A party opposing a motion for summary judgment must file a ~~written opposition~~ **response** 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~~ **controverts specific statements in** the movant's statement ~~of undisputed material facts.~~ **of undisputed material facts.**
- (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~~ **material facts which they do not controvert** in ~~at their~~ **their** statement of disputed material facts.
- (4) Time for Filing. –Summary judgment motions must be filed by the date specified in the scheduling order.

~~(b)~~(c) Tolling:

Although ~~Fed. R. Bankr. P.~~ **Federal Rule of Bankruptcy Procedure** 7056(b) allows a ~~defending~~ party to move for summary judgment at any time ~~until 30 days after the close of all discovery,~~ this does not toll the time within which to ~~file an~~ **file an** answer pursuant to ~~Fed. R. Bankr. P.~~ **Federal Rule of Bankruptcy Procedure** 7012(a); ~~a party must also file a timely answer) or file a motion under Fed. R. Bankr. P.~~ **Federal Rule of Bankruptcy Procedure** 7012(b).

~~(b)~~(c) Consideration and Ruling by the Court.

–Parties ~~wishing~~ **who want** the Court to ~~refer to or review~~ **consider** 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)~~(c) 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. A copy of Fed. R. Civ. P.~~ **Federal Rule of Civil Procedure** 56 ~~(must be attached to the required special notice).~~ See Vt. LB Form T (Notice to *Pro Se* Litigant **to be Served** ~~With a~~ **with** 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~~ timely file 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~~ also be accompanied by a memorandum of law. The movant may file a reply with a memorandum of law within ~~seven~~ 7 days of the date the ~~opposition~~ response is filed. The reply should assume the Court's familiarity with the movant's initial memorandum of law and the ~~opposition, and~~ opposition's response. The reply should ~~be confined to~~ addressing address only points ~~within~~ raised in the scope of the ~~opposition~~ response (and any evidentiary matter introduced by the opposing party) ~~that~~ which were not addressed in the movant's initial memorandum ~~of law.~~ 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 – BANKRUPTCY APPEALS

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~~ record on ~~Appeal~~ appeal.

VT. LBR 8007-1. COMPLETION OF RECORD ON APPEAL.

Prior to the transmission of the ~~Record~~ record on ~~Appeal~~ appeal to the District Court, the Bankruptcy 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 for the~~ District Court Clerk has given ~~notice to~~ all parties notice of the date on which the appeal was docketed, all subsequently filed documents related to the appeal must (A) 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~~ (B) be filed ~~only within~~ the District Court ~~Clerk.~~

PART IX – GENERAL PROVISIONS

~~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, including attorneys, estate accountants, debtors, creditors, trustees, 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— pending in this Court, without advance notice to all parties. 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, nor conversations or meetings regarding administrative or general procedural 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 who is participating in a case or adversary proceeding by pursuant to the authority of granted by a power of attorney is limited to those powers may exercise only such authority as the power of attorney specifically articulated in the authorizing power of attorney, see 14 V.S.A. § 3501 et seq., grants and must file a copy of the power of attorney upon which the party is they are relying. See 14 V.S.A. § 3501 et seq.

VT. LBR 9011-1. ATTORNEYS – DUTIES, AND RETENTION OF DOCUMENTS, AND ELECTRONIC SIGNATURES.

(a) Acceptance of Employment—.

An attorney who accepts employment by represents 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).

(a)(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 which (1) have signatures and (2) were filed electronically and require original signatures (other than that of the party registered to use the CM/ECF System), for five 5 years from the date of the filing of the document. The Clerk will retain petitions, statements, and schedules filed non-electronically as The filer may be 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 to provide the original documents must provide original documents for review to the Court upon the Court’s request, and to other courts upon appropriate orders or subpoena.

(a) 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, fax number, if any, 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”).

~~(b) 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 include their mailing address, residence address, e-mail address, if any, and telephone number, and fax number, if any, on all documents they file with the Clerk. presented for filing. See Vt. LBR 9011-4(c); see also Vt. LBR 4002-43.

(b) *Pro Se* Filer's Party's Duty to Retain Certain Originals of Documents Filed Submitted by Fax or E-Mail. A for Filing.

The *pro se* party filing documents by fax or by e-mail must retain for five years the originals of all any documents that contain original signatures they submit, by email, to the Clerk, for filing. 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 they have given proper notice has been provided to the party against whom they seek 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 the parties have presented sufficient evidence, the Court may in its discretion, impose sanctions rule on the motion 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. Petitions, schedules, and statements must always be signed by the debtor(s).

(b) Electronic Signatures of Attorneys. Attorney Filers.

When filing a document electronically, or submitting documents via e-mail for filing, an attorney must either scan the document containing the attorney's original signatures, or use "/s/ [attorney's name]; this." This will constitute the signature of the attorney for purposes of Fed. R. Bankr. P. Federal Rule of Bankruptcy Procedure 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 their electronic signature; as if he or she they physically signed them, regardless of who actually filed them.

(a)(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~~shall be ~~deemed~~treated as 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~~their original signature, the signing party must print or type ~~his or her~~their name, mailing address, e-mail address, ~~if any,~~and telephone number, ~~and fax number, if any.~~ See Vt. LBR 9011-2(a).

(b)(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(eb).
- (2) Requirements for Non-Attorneys. –Any non-attorney e-mailing a ~~PDF~~ document for filing with the Court must ensure the document is in PDF format and include an electronic image of ~~his or her~~their original signature on the document (~~e.g., a scanned image of the signature page containing the party’s original signature~~); ~~the~~ The electronic image of the signature will be ~~deemed~~treated as 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~~submitted for filing via e-mail must also set forth the filer’s name, mailing address, e-mail address, ~~if any,~~and telephone number, ~~and fax number, if any.~~ All other non-attorney signatories to the document must also comply with this Rule.

~~(a) Fax Signatures. The faxed signature of a party on a document received for filing with the Court will be deemed an 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 filed by an attorney by fax must set forth the attorney’s name, mailing address, e-mail address, telephone number, and fax number, if any. In addition, any other signatory must be identified, at a minimum, with his or her name typed or printed out below his or her signature. See Vt. LBR 1002-1(e).~~

(e)(e) Signatures of Multiple Persons on a Single Document.

–When a document requires the signatures of more than one party, the filer may:

- (1) ~~(1)~~ file a scanned document containing original or electronic signatures of all necessary ~~signatories;~~parties.
- (2) identify in the document the parties whose signatures are required with a representation that those parties will each file a separate document evidencing consent within 2 business days thereafter,
- ~~(1)~~ identify in the document the parties whose signatures are required, ~~followed by each party filing a document evidencing consent within two business days thereafter;~~
- ~~(2)~~(3) identify in the document the parties whose signatures are required, followed by with a representation that those parties will each ~~party creating~~create, a docket entry noting the party’s consent (known as “e-consent”) within ~~two~~2 business days thereafter~~;~~
- ~~(3)~~(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,

provide the consent of each such party ~~evidenced on the record~~ within ~~two~~2 business days thereafter; or

~~(4)~~(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 Parties must affirmatively consent.~~ 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~~their consent on the record within ~~two~~2 business days of the subject document being filed, and may effectuate consent in any manner described in paragraph ~~(f),e~~ above.

(g) Unauthorized Use of Password (Electronic Signature) Prohibited.

Only registered users of CM/ECF and their authorized agents may use CM/ECF. Registered and authorized users are prohibited from allowing others to use their password or electronic signature.

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 (1) state with particularity the relevant law (by title and section) and/or the relevant procedure (by rule) upon which the movant relies, (2) clearly describe all relief requested, and (3) include a brief summary of the facts and ~~circumstance~~circumstances which 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~~they have 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~~they have 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~~

When a party files a motion ~~must be filed with each motion that~~which requires the Court to make a finding of ~~facts, fact~~fact or ~~resolution of~~to resolve a factual dispute, ~~for adjudication that~~party must also file an affidavit in support of the motion. This requirement applies to all types of motions, including motions for relief from stay.

(d) Exhibits and Attachments Filed with Motions.

A registered CM/ECF user must submit~~file~~ 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~~which relate directly ~~germane~~ to the matter under consideration by the Court; excerpted material must be clearly and prominently identified. A party who files ~~excerpts~~an excerpt of ~~documents~~a document as ~~exhibits~~an exhibit or ~~attachments~~attachment under this Rule does so without prejudice to ~~the party's~~their 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(e)(1b) (regarding redaction of personal data identifiers).

(e) Motion for Conversion of to Convert a Chapter 7 Case to Chapter 13 Case.

A debtor seeking to convert his or her ~~Chapter~~chapter 7 case to a ~~Chapter~~chapter 13 case must do so by motion; ~~the~~. The debtor must ~~aver both~~ state in the motion that the debtor is ~~they are~~ eligible for ~~Chapter~~chapter 13 relief and ~~that they are filing~~ the conversion is ~~sought~~motion to convert in good faith. The ~~motion~~debtor must ~~be noticed to~~serve notice of this motion on all creditors and ~~may be noticed under the Court's default procedure.~~ parties in interest. See Vt. LBR 9013-4(b)(9).

(f) Stipulated Motions.—Where

- (1) Whenever a motion is stipulated, it must: ~~(1) be so denominated with~~ (A) include the word “stipulated” ~~included~~ in the title of the motion; and ~~(2)B~~ (B) include a statement of consent in the body of the motion.
- (2) Parties to a stipulated motion must (A) agree to the relief sought before the motion is filed and (B) affirmatively evidence their consent to the motion. ~~Further, a~~
- (3) To obtain the relief described in the stipulated motion ~~must~~, either the motion must contain the signatures of all parties to the stipulation, or the parties to the stipulation must file their consent within ~~two~~2 business days of the motion being filed. See Vt. LBR 9011-4(e) and (f), ~~(g).~~
- (4) 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~~
- ~~(2)~~(5) Generally, a stipulated motion may include a “SO ORDERED” provision at the end of the stipulation, i.e., an endorsement form of order, rather than ~~filing~~ a separate proposed order. See Vt. LBR 9072-1(c). However, an endorsement order is never mandatory.
- (6) A separate proposed order is required when (A) the stipulated motion seeks relief from stay to enforce rights against real estate, or (B) the stipulated motion contains an extensive factual recitation.

(g) Ex Parte Motions under Seal.

- (1) Ex Parte Motion. If a movant seeks the right to ~~proceed~~pursue legal relief without notice to 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~~. See Vt. LBR 1002-1(~~4b~~); see also Vt. LBR 9011-4(d), ~~together with~~.
- (2) Motion to Seal. The movant must attach a separate motion ~~requesting~~asking the Court to authorize that party to file the ~~documents be filed~~motion under seal— (“motion to seal”). See Vt. LBR 5003-4. In the motion to seal, the movant must ~~articulate~~explain why the public should ~~be denied~~not have access to the document; ~~the movant must seek to seal information as narrowly as possible,~~ and for~~affirm they are seeking~~ the narrowest and shortest time possible, to ~~term~~sealing that will achieve the necessary protection.
- (3) Service on the United States trustee. The movant must serve a copy of the motion to seal and the underlying *ex parte* motion(s) upon the ~~Office of the United States Trustee~~United States trustee by ~~both fax and regular, first class~~ e-mail, (to an e-mail address designated by the United States trustee) or must show cause in the motion to seal

why ~~the Office of~~ they should be excused from serving the United States Trustee ~~is not entitled to~~ trustee with notice of the ~~motions-~~ motion. See Vt. LBR 5005-4(e)-b).

(4) Proposed Order. The movant must also file a proposed order indicating ~~that~~ the sealing of the document(s) is temporary and ~~indicate~~ specifying the timeframe and conditions and ~~time frame~~ timeframe under which the seal will be lifted.

~~(3)~~(5) In Camera Review. 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 "electronically inaccessible to the public."

(h) Motions Seeking Expedited Relief or Shortening of Relief on Shortened Notice Period.

Any motion seeking expedited relief, or relief on shortened notice ~~period~~, must clearly state ~~the reason~~ why expedited relief is needed and why the movant did not seek relief earlier; failure to include ~~such explanation~~ this information 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; Deadline for Filing.

A scheduled hearing will proceed unless a stipulated proposed order that resolves the motion is filed with all requisite required 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 the Clerk's Office will not act 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. A party may obtain an extension or waiver of this deadline only upon a showing of emergency or exigent circumstances over which the party 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~~ that hearing. A party may use either the conventional noticing procedure, ~~see~~ Vt. LBR 9013-3, or, if applicable, the ~~Court's~~ default noticing procedure. See Vt. LBR 9013-3; Vt. LBR 9013-4. ~~All~~ The courtroom deputy will set all other hearings, including evidentiary matters, pre-trial conferences, and scheduling conferences ~~will be scheduled by the Clerk's Office.~~ See Vt. LBR 5070-1.

(a)(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~~ at the hearing, except if unless the movant intends to present evidence. ~~In such an instance, refer to~~ See 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~~ motions to withdraw as counsel for the debtor; and (F) ~~(D)~~ those motions ~~that~~ **which** can be scheduled using the Court's default noticing procedure. See Vt. LBR 9013-4(b). The Clerk's Office **courtroom deputy** will set ~~or direct the setting of~~ hearings on all adversary proceeding motions other than those itemized in this subparagraph. ~~See also paragraph (c)(5)(C), below.~~

(c) Form of Hearing Notice—:

For all routine, non-evidentiary motions, the moving party must ~~prepare~~ **file and serve** 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~~ **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~~ **model** notices **of motion for conventional and default procedures**).

~~(3)~~ **(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) ~~776-2010-~~ **657-6404**. The Court has specific days when it hears: (A) ~~Chapters~~ **chapter** 7 and 11 matters; ~~(B) Chapters 7, 11, and 13 matters; and (C) Chapters~~ **(B) chapter** 12 and 13 matters, all of which are ~~designated~~ **set out** on the Court's ~~calendar website~~. Unless **a party obtains** Court approval ~~is obtained~~ in advance, ~~based on~~ **and shows** exigent circumstances, ~~movants~~ **a party filing a motion** should schedule ~~matters~~ **a hearing on that motion** according to ~~that~~ **the Court's designated hearing** schedule.

~~(4)~~ Hearing Sites. Matters may be scheduled ~~to be heard~~ **for hearing** at the Rutland Bankruptcy Court site, ~~or the Burlington Bankruptcy Court site, or at a remote video conferencing site.~~ ~~See subparagraph (3), below.~~ Movants must set hearings at the location where the § ~~341~~ **first** meeting of creditors is scheduled in the case (~~unless the parties to the motion agree otherwise agreed between the interested parties or due to~~ **the Court determines** exigent circumstances ~~as determined by the Court~~), and taking into account the availability of key ~~parties to the motion~~.

~~(2)~~ Availability of Video Conferencing. ~~On certain hearing dates, attorneys and pro se parties may appear at a hearing via video conference. Remote access sites from which a party may participate in a hearing are identified on the Court's website, <http://www.vtb.uscourts.gov/>.~~

~~(A)~~ Appearance at a remote video conference site is limited to instances where:

~~(i)~~ a party seeks only to observe proceedings;

~~(ii)~~ a party's appearance is necessary only to place on the record a consent or a scheduling agreement;

~~(iii)~~ the total length of arguments at the hearing is reasonably expected not to exceed 15 minutes;

~~(iv)~~ out-of-state participants file a motion at least one week prior to the hearing showing why appearance via video conference is warranted, serve the motion on the other parties to the hearing, obtain Court approval, and contact the courtroom deputy to

~~make the necessary arrangements at the time of filing the motion, see Vt. LBR 5073-1(d); or~~

~~(v) the Court has not directed (by a hearing notice or otherwise) that the parties must appear in person in the courtroom.~~

~~(B) Unless specifically authorized by the Court, video conference sites may not be used for:~~

~~(i) Chapter 12 and 13 confirmation hearings;~~

~~(ii) Chapter 11 confirmation hearings, except by attorneys or parties who meet the criteria listed in subsections (A)(i), (ii), or (iii), above;~~

~~(iii) evidentiary matters or trials; or~~

~~(iv) hearings requiring extensive legal argument, i.e., argument expected to exceed 15 minutes.~~

~~(4) Hearing Notices for Days When Video Conference Participation is Available. Hearing notices for matters scheduled on days for which video conference appearances are available must: (i) include language informing the noticed parties of the opportunity to attend and participate in the hearing at a remote video conference site, and (ii) identify the locations of the remote video conference sites for the hearing. See Vt. LBR 9013-3(b)(3)(C), (D); see also Vt. LBR 9013-4(c)(3)(C), (D).~~

~~(5) Response Deadline; Mandatory Language.~~

~~(A) For hearings noticed under the Court's 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 Court's 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;~~

~~(4)(2) In non-routine matters, interested parties will have 14 days' response time unless warrant a different response time is set by the Federal Rules of Bankruptcy Procedure, these Rules, or the Court. location.~~

~~(5)(3) (6) — 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; a movant must serve a notice must be effectuated of the motion at least 14 days before the hearing date. See, e.g., Fed. R. Bankr. P. But see 2002; but cf. Fed. R. Bankr. P. 9006(f) (requiring allowing recipient additional time to respond, in certain instances, if served by mail).~~

(d) Multiple Motions.

~~If there are a party files multiple motions at the same time (or close in time) in the same case, all they should set the hearings on all of 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~~ any further attention to the matter or to appear in court. Unless excused by the Court, the Court will treat a party's failure ~~of any party~~ to attend a duly noticed hearing ~~will be deemed~~ in support of their position as either (1) a waiver of the pleading, motion, objection, or other response, or (2) consent to the granting or sustaining of the relief sought by the attending party; ~~it may also be grounds for the imposition of~~ and subject that party to sanctions.

~~(b) 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.~~

(f) Rescheduling Hearings. Where; Stipulated and Unstipulated Motions to Reschedule.

~~If a party files an unstipulated motion to postpone (or continue or reschedule) a scheduled hearing, the Court will schedule~~ they must also file a notice of hearing and set a hearing on the ~~that~~ that 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.~~ Alternatively, a party may file a stipulated motion to reschedule and obtain relief without a hearing. ~~The hearing on the, if they can show just cause. This requires (1) proof that all parties entitled to notice of a hearing have been served, (2) a description of the facts which show the benefit of, or need for, a rescheduling of the hearing, and (3) evidence that all parties in interest stipulate to the motion or request for relief. No notice of hearing is necessary if the movant files a stipulated 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.~~ reschedule.

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 ~~Court's~~ 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 that requires a hearing, 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~~ in each notice of motion ~~utilizing~~ using 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~~ under the conventional procedure ~~must~~ may be no later than ~~three~~ 3 business days before the hearing date, and this ~~three~~ 3-day period may be included within the ~~requisite~~ required notice period;
- (3) Mandatory Language. The following language, in bold and conspicuous print, must be included in the notice:
 - (A) ~~If the hearing date is a date on which video conferencing is not available, and~~ If the motion is filed in a ~~Chapter~~ 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 ~~fewer~~ than three3 business days before the hearing date]**. If you file a written response, you must also serve a copy on the moving party, the ~~Debtor~~debtor, the ~~Debtor's~~debtor's counsel, the ~~Office of the United States Trustee~~trustee, and the case trustee, ~~(if any)~~. The addresses for those parties are set forth below.

- (B) If the ~~hearing date is a date on which video conferencing is not available~~, and the motion is filed in a ~~Chapter~~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 ~~fewer~~ than three3 business days before the hearing date]**. If you file a written response, you must also serve a copy on the moving party, the ~~Debtor~~debtor, the ~~Debtor's~~debtor's counsel, the ~~Office of the United States Trustee~~trustee, the case trustee, ~~(if any)~~, and the ~~Creditors' Committee~~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.

- (A) If the ~~hearing date is a date on which video conferencing is available~~, and 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] **and the following Vermont Interactive Technologies sites:**

ADDRESSES FOR VERMONT INTERACTIVE TECHNOLOGIES SITES		
{Location}	{street address of Location}	{phone number of Location}
{Location}	{street address of Location}	{phone number of Location}
{Location}	{street address of Location}	{phone number of Location}
{Location}	{street address of Location}	{phone number of Location}
{Location}	{street address of Location}	{phone number of Location}

~~For directions to remote video conferencing sites, please refer to <http://www.vitlink.org/HTML/Locations.htm>. Please refer to the Court's website, <http://www.vtb.uscourts.gov/>, to determine whether your participation via video conferencing in this matter meets the Court's video conferencing eligibility criteria. If you have questions or if you do not have access to the Internet, please contact the courtroom deputy at (802) 776-2010.~~

~~**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 hearing date is a date on which video conferencing is available, and 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] and the following Vermont Interactive Technologies sites:~~

ADDRESSES FOR VERMONT INTERACTIVE TECHNOLOGIES SITES		
{Location}	{street address of Location}	{phone number of Location}
{Location}	{street address of Location}	{phone number of Location}
{Location}	{street address of Location}	{phone number of Location}
{Location}	{street address of Location}	{phone number of Location}
{Location}	{street address of Location}	{phone number of Location}

~~For directions to remote video conferencing sites, please refer to <http://www.vitlink.org/HTML/Locations.htm>. Please refer to the Court's website, <http://www.vtb.uscourts.gov/>, to determine whether your participation via video conferencing in this matter meets the Court's video conferencing eligibility criteria. If you have questions or if you do not have access to the Internet, please contact the courtroom deputy at (802) 776-2010.~~

~~**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 or Vt. LB Form U-1-11.

VT. LBR 9013-4. HEARINGS – ROUTINE MOTIONS – NOTICE UNDER OPTIONAL 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, (at the option of the movant), provided ~~that an opportunity for a hearing is presented to parties entitled to notice of the motion-~~ are afforded an opportunity for a hearing. 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 only be used for applications or motions seeking the following relief ~~only~~:

- (1) ~~abandonment of~~ abandon property (~~§(11 U.S.C. § 554(b));~~),
- (2) allow administrative expenses (other than professional fees), ~~application to allow (§) (11 U.S.C. § 503(b));~~),
- (3) automatic stay, motion for relief from (~~§(11 U.S.C. § 362(d));~~),
- (4) automatic stay, motion for relief from co-debtor (~~§(11 U.S.C. § 1301);~~),
- (5) automatic stay not in effect, motion for order (~~§(11 U.S.C. § 362(c)(4));~~),
- ~~(1) change of venue (28 U.S.C. § 1412);~~
- (6) claims, objections to (~~§(11 U.S.C. § 502(b));~~),
- (7) compensation, application for (~~§§(11 U.S.C. §§ 326, 330, 331, 503(b));~~),
- (8) confirmation of proposed ~~Chapter~~ chapter 13 plan after a debtor has testified and with Court approval (~~§(11 U.S.C. § 1323);~~),
- (9) ~~conversion of~~ convert a case (~~§§(11 U.S.C. §§ 706, 1112(b), 1208, (a), 1307);~~),
- (10) credit counseling requirement, motion for permanent waiver of (~~§(11 U.S.C. § 109(h)(4));~~),
- (11) declare mediation closed, motion to (Vt. LBR 4001-7(f)),
- ~~(11)~~ (12) discharge in a ~~Chapter~~ chapter 12 case (~~§(11 U.S.C. § 1228(f));~~),
- ~~(12)~~ (13) discharge in a ~~Chapter~~ chapter 13 case (~~§(11 U.S.C. § 1328(h));~~),
- ~~(13)~~ (14) ~~dismissal of~~ dismiss a case for cause (~~§§(11 U.S.C. §§ 707, 1112(b), 1208, (c), 1307); (c),~~
- ~~(2) dismissal of a case for failure to pay filing fee (Fed. R. Bankr. P. 1006(a));~~
- ~~(14)~~ (15) ~~enlarging~~ enlarge time to assume or reject a nonresidential lease (~~§(11 U.S.C. § 365(d)(4));~~),
- ~~(15)~~ (16) ~~enlarging~~ enlarge time to file ~~Chapter~~ chapter 11 plan and disclosure statement (~~§(11 U.S.C. §§ 362(d)(3); 1121(d));~~
- ~~(16)~~ (17) ~~enlarging~~ enlarge time to file ~~Chapter~~ chapter 12 plan (~~§(11 U.S.C. § 1221);~~),
- ~~(17)~~ (18) ~~enlarging~~ enlarge time to file complaint objecting to discharge or dischargeability (~~§§(11 U.S.C. §§ 523, 727; Fed. R. Bankr. P. 4004(b), 4007(c));~~),
- ~~(18)~~ (19) ~~enlarging~~ enlarge time to file ~~§ 707~~ motion to dismiss (~~§ under § 707 of the Code (11 U.S.C. § 707);~~),
- (20) enlarging enlarge time to pay filing fee (Fed. R. Bankr. P. 1006(b)),
- ~~(3) examine any person or entity (Fed. R. Bankr. P. 1006(b));~~
- ~~(19)~~ (21) ~~examination of any entity (Fed. R. Bankr. P. 2004);~~),
- ~~(20)~~ (22) exemption, objection to ~~claimed~~ (Fed. R. Bankr. P. 4003(b));
- ~~(21)~~ (23) final decree in ~~Chapter~~ chapter 11 case (Fed. R. Bankr. P. 3022);
- (24) forward mail of a corporate debtor to the trustee,
- ~~(22)~~ (25) hardship discharge (~~§§(11 U.S.C. §§ 1228(b), 1328(b));~~),
- ~~(4) judicial lien or non-purchase money security interest, motion to avoid (§ 522(f));~~
- ~~(23)~~ (26) lease of property (~~§(11 U.S.C. § 363(b)(1));~~),
- ~~(24)~~ (27) lease or executory contract, motion to assume or reject (~~§(11 U.S.C. § 365);~~),

- ~~(25)~~(28) strip a lien or mortgage that is wholly unsecured, ~~motion to strip~~ (§ 11 U.S.C. § 506(a));),
- ~~(26)~~(29) limit scope of employment and reduce scope of legal services (Vt. LBR 2016-1(h)(4));),
- ~~(27)~~(30) mortgage mediation, motion for (Vt. LBR 4001-7);),
- ~~(28)~~(31) modify plan post-confirmation (§§11 U.S.C. §§ 1229, 1329);),
- ~~(32)~~ obtainingmodify mortgage (Vt. LBR 6004-1(f)),
- ~~(29)~~(33) obtain credit (§11 U.S.C. § 364(b), (c), and (d));),
- ~~(30)~~(34) post-petition payment of mortgage creditor charges in conduit mortgage payment case (Vt. LBR 3015-2(j)(7)(B)(iii));6(a)(1)),
- ~~(5)~~ pro hac vice admission, application for (Vt. LBR 2090-1(b));
- ~~(31)~~(35) redeemingredeem property (§11 U.S.C. § 722);),
- ~~(32)~~(36) reopening ofreopen a case (Fed. R. Bankr. P. 5010);),
- ~~(33)~~(37) sale ofsell property (§11 U.S.C. § 363(b)(1) and (f));),
- ~~(34)~~(38) settlement inof an adversary proceeding or contested matter, motion to approve (Fed. R. Bankr. P. 9019);),
- ~~(35)~~(39) substitution ofsubstitute counsel (Vt. LBR 2091-1(b);) and (c));),
- ~~(40)~~ tax returns, waive requirement to present or file (11 U.S.C. § 521(e)(2)(A)(i)),
- ~~(36)~~(41) transfer adversary proceeding (28 U.S.C. § 1412);),
- ~~(37)~~(42) trustee final report and account, application for approval of motion to approve report, and any related applicationapplications for compensation (§§11 U.S.C. §§ 704(a)(9), 1202(b)(1), 1302(b)(1));),
- ~~(38)~~(43) turnover of property to the trustee (§11 U.S.C. § 542);),
- ~~(39)~~(44) vacatur ofvacate discharge to allow Court to approve reaffirmation agreement (Vt. LBR 4008-1(h));),
- ~~(40)~~(45) valuation of collateral (§11 U.S.C. § 506(a); Fed. R. Bankr. P. 3012);),
- ~~(6)~~ waiver of requirement of providing trustee with tax returns (§ 521(e)(2)(A)(i)); and
- ~~(46)~~ waiver of venue, motion to change (28 U.S.C. §1412), and
- ~~(41)~~(47) waive requirement to make conduit mortgage payments, motion for (Vt. LBR 3015-6(a)(9), (b)(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~~ included in each notice of motion filed under the default procedure:

- ~~(42)~~(1) Title of Notice. The title of the notice must be “Notice of Motion under Default Procedure²².”
- ~~(43)~~(2) Response Deadline. The deadline for filing responses to a motion scheduled for a hearing ~~utilizing~~using the default procedure ~~must~~may be no later than ~~seven~~7 days before the hearing date; this ~~seven~~7-day period is in addition to the requisite notice period;
- ~~(44)~~(3) Mandatory Language. The following language, in bold and conspicuous print, must be included in the notice:
- (A) If the ~~hearing date is a date on which video conferencing is not available, and the~~ motion is filed in a ~~Chapter~~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 fewer than 7 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 United States trustee, and the case trustee (if any). The addresses for those parties are set forth below.

IF A TIMELY RESPONSE 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 the hearing.

IF NO RESPONSE IS TIMELY FILED, the Court **may** deem the matter unopposed and grant the motion without a 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~~ fewer than ~~seven~~ 7 days before the hearing date]**. You must also serve a copy of your response on the ~~Moving Party~~ **moving party**, the ~~Debtor~~ **debtor**, the ~~Debtor's~~ **debtor's** counsel, the ~~Office of the United States Trustee, and the case trustee, if any.~~ **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~~ **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 **the** 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.**

(A) If the hearing date is a date on which video conferencing is not available, and 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.~~

(B) If the hearing date is a date on which video conferencing is available, and 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 any response filed in opposition to the motion at [time] on [date] at the following location: [indicate Rutland or Burlington location] and selected Vermont Interactive Technologies sites (see below), unless the Court deems no hearing is necessary and enters an order prior to the time set for hearing.~~

<i>ADDRESSES FOR VERMONT INTERACTIVE TECHNOLOGIES SITES</i>		
<i>{Location}</i>	<i>{street address of Location}</i>	<i>{phone number of Location}</i>
<i>{Location}</i>	<i>{street address of Location}</i>	<i>{phone number of Location}</i>
<i>{Location}</i>	<i>{street address of Location}</i>	<i>{phone number of Location}</i>
<i>{Location}</i>	<i>{street address of Location}</i>	<i>{phone number of Location}</i>
<i>{Location}</i>	<i>{street address of Location}</i>	<i>{phone number of Location}</i>

~~For a complete listing of remote video conferencing sites and directions, please refer to <http://www.vitlink.org/HTML/Locations.htm>. Please refer to the Court's website, <http://www.vtb.uscourts.gov/>, to determine whether your participation via video conferencing in this matter meets the Court's video conferencing eligibility criteria. If you have questions or if you do not have access to the Internet, please contact the courtroom deputy at (802) 776-2010.~~

~~**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.~~

(C) If the hearing date is a date on which video conferencing is available, and 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 any response filed in opposition to the motion at [time] on [date] at the following location: [indicate Rutland or Burlington location] and selected Vermont Interactive Technologies sites (see below), unless the Court deems no hearing is necessary and enters an order prior to the time set for hearing.~~

<i>ADDRESSES FOR VERMONT INTERACTIVE TECHNOLOGIES SITES</i>		
<i>{Location}</i>	<i>{street address of Location}</i>	<i>{phone number of Location}</i>
<i>{Location}</i>	<i>{street address of Location}</i>	<i>{phone number of Location}</i>
<i>{Location}</i>	<i>{street address of Location}</i>	<i>{phone number of Location}</i>
<i>{Location}</i>	<i>{street address of Location}</i>	<i>{phone number of Location}</i>
<i>{Location}</i>	<i>{street address of Location}</i>	<i>{phone number of Location}</i>

~~For a complete listing of remote video conferencing sites and directions, please refer to <http://www.vitlink.org/HTML/Locations.htm>. Please refer to the Court's website, <http://www.vtb.uscourts.gov/>, to determine whether your participation via video conferencing in this matter meets the Court's video conferencing eligibility criteria. If you have questions or if you do not have access to the Internet, please contact the courtroom deputy at (802) 776-2010.~~

~~**IF NO RESPONSE IN OPPOSITION IS TIMELY FILED,** the Court may deem the matter unopposed and grant the motion without further hearing. **a 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 or Vt. LB Form U-2-11.

VT. LBR 9013-5. MEMORANDA OF LAW.

(a) Memoranda of Law Generally Required.

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 the combination of the two and are so identified on the docket.

(b) Form of, and Filing Deadlines for, Memoranda of Law.

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,~~ **a** 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~~ **7** days after service of the memorandum of law opposing the motion, and at least ~~three~~ **3** days before the date set for the

hearing; a reply memorandum of law may not exceed five pages in length without prior leave of the Court. A sur-reply memorandum of law, if necessary, may be filed in response to the reply, provided it is filed no later than noon on the last business day prior to the date set for the hearing; a sur-reply memorandum of law may not exceed three 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(a) (providing special requirements applicable when a memorandum of law is filed in support of a motion for summary judgment).

~~(a) **Motions Not Requiring Memoranda of Law.**—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. 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 FILING OF CERTIFICATES OF SERVICE.

(a) Service Generally.—The

A movant must file the appropriate and serve a corresponding notice of motion and all motion documents with the Clerk either prior to or simultaneously with the service of the motion, showing the movant has motion, and then file a certificate of service affirming service of both documents. The movant must file a certificate of service that demonstrates they have 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, and states the means of service on each party and must file the certificate of service promptly after completing service. See paragraph (c), below. If the movant does not (i.e., by U.S. mail, through CM/ECF, or by some other means). The movant may file the certificate of service as part of the docket entry for the either as an attachment to the filed document or as a separate document served, as further described below.

(b) Filing the movant must append a copy Certificate of Service with the document served to Motion.

If a movant files the certificate of service: at the same time as they file the motion, they should include the certificate of service as an attachment to the motion.

(c) Filing the Certificate of Service Separately.

If the movant files the certificate of service subsequent to the filing the motion and therefore as a separate document they must specify the document served and either attach a copy of the document served or link the certificate of service to that document.

(a)(d) 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); and they may also be served by any other means permitted by these Rules. See Vt. LBR 2090-1(a); see, e.g., section subparagraph (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.

(b)(e) 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).

(c)(f) 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].

(a) 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.~~

(g) Consequences of Failing to File a Proper and Complete Certificate of Service.—~~If a movant fails to file~~

Failure to file a proper and complete certificate of service, ~~the Court~~ may ~~hold~~be cause for a hearing to be held on the motion or ~~deny~~for the motion to be denied, 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 filed 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~~There is one exception~~is~~: final hearings on motions for relief from stay, ~~which~~ are evidentiary hearings per Vt. LBR 4001-1(e). ~~Also, while~~g). While a ~~Chapter~~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~~treat the initial confirmation hearing as a hearing either for legal argument only, or as a status conference. ~~Any~~ evidentiary hearing necessitated by an objection to confirmation will be set for a later date. In such an instance, the Court will direct whether the parties need to file a Fed. R. Bankr. P. a Rule 9014(fe) notice of evidentiary hearing ~~is required~~.

(2) How to Request an Evidentiary Hearing.—~~When a party seeks to schedule an evidentiary hearing, the requesting~~ A party must contact the courtroom deputy to schedule ~~the~~an evidentiary hearing. ~~After scheduling a hearing~~ Thereafter with the courtroom deputy, the requesting party must file with the Clerk, and serve upon all parties in interest, a Fed. R. Bankr. P. Rule 9014(fe) notice of evidentiary hearing. The Fed. R. Bankr. P. requesting party must file the Rule 9014(fe) notice must be filed at least ~~seven~~7 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~~3 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(~~f~~e) Notice of Evidentiary Hearing).

- (3) Additional Time and/or Witness(es). If a party in interest seeks ~~additional~~more time ~~beyond that which has been provided for~~than is allocated in the notice of evidentiary hearing, or intends to call additional witnesses to testify at the evidentiary hearing, ~~the~~that party must contact the courtroom deputy at least ~~seven~~7 days prior to the hearing to determine if or when additional time is available for the hearing. ~~Additionally, that party must~~, and file and serve a supplemental Fed. R. Bankr. Rule P. 9014(~~f~~e) notice of evidentiary hearing at least ~~three~~3 business days prior to date set for the evidentiary hearing.
- (4) Stipulation. Whenever possible, parties should file a stipulated Fed. R. Bankr. P. Rule 9014(~~f~~e) notice of evidentiary hearing. Parties ~~are still required to~~must coordinate the scheduling of an evidentiary hearing with the courtroom deputy, regardless of whether the hearing is requested by one party or ~~is on~~by stipulation of multiple parties.
- (5) Court's Discretion. The scheduling, noticing, approval, and scope of a Fed. R. Bankr. P. Rule 9014(~~f~~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(F) NOTICES OF EVIDENTIARY HEARINGS

~~While there is an obligation to amend a Rule 9014(f) 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~~when the parties believe the issues may be resolved through a non-adversarial process. The Court may direct the use of ADR and appoint a mediator in cases it ~~deems to be~~determines are 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 Vermont 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~~this 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~~coordinates use of 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.~~Federal Rules of Bankruptcy Procedure 5003 and 9021. See also Vt. LBR 9036-1(c).

VT. LBR 9023-1/~~VT.~~ VT. LBR 9024-1. ~~MOTION~~ MOTIONS 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. under Federal Rule of Bankruptcy Procedure 9023(e), or~~ 9024. Such a motion must set forth the grounds alleged to satisfy the criteria set forth in ~~Fed. R. Bankr. P.~~Federal Rule of Bankruptcy Procedure 9023 or 9024, including the time period for filing the motion—. Responses to such a motion are not required; ~~however.~~ However, where a party wishes to respond, the response must be filed within ~~seven~~7 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 this Court remands 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~~ The removing party's party bears the expense of obtaining the certified copies and must ~~be made~~ obtain and file them 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 reasonable and justified costs. ~~A~~ The Clerk of this Court will mail 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 thereafter 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:

If a party who filed a pleading in connection with a removed cause of action, other than the ~~party filing the~~ notice of removal, states files a statement pursuant to Federal Rule of Bankruptcy Procedure 9027(e)(3) stating that the proceeding or any part of it is core, ~~the~~ that party must also specify whether ~~the party consents~~ they consent to the entry of final orders or judgment by the Bankruptcy Court ~~if it is determined that the Bankruptcy Court, absent.~~ Also, they must state whether they consent to this Court's entry of the parties, cannot enter a 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~~ the "Supplement"). Labeled Materials within the Supplement are labeled as "Appendices" or "Forms," ~~these supplemental materials~~ and 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. Federal Rule of Bankruptcy Procedure 9029.

(b)(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 that is not inconsistent with either the Federal Rules of Bankruptcy Procedure or the Federal Rules of Civil Procedure.
- (2) Suspension of Rules. The Court may, *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~~ and are 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 ~~that it cannot enter a final order or judgment would not be~~ consistent with Article III of the United States Constitution for it to enter a final order or judgment in a particular proceeding (a) that was referred to ~~the~~ this Court and designated as core under 28 U.S.C. § 157(b), and (b) in which the Court heard evidence and arguments, the Court ~~hears the proceeding, Fed. R. Bankr. P. will enter proposed findings of fact and conclusions of law pursuant to Federal Rule of Bankruptcy Procedure 9033(a), (b), and (c) will apply,~~ and treat the proceeding 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.~~ Federal Rule of Bankruptcy Procedure 9036, the Clerk or the federal judiciary’s Bankruptcy Noticing Center (BNC) may give notice by electronic transmission to any person or entity that is entitled to receive notice ~~that~~ and requests ~~in writing that~~ electronic 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. upon request.~~ The terms and procedures for electronic noticing are ~~detailed~~ set out in the Court’s noticing agreement ~~provided by;~~ that agreement is available from 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 electronically transmit an NEF to a each 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.~~ Federal Rule of Bankruptcy Procedure 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~~ THEREOF.

(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 a party intends to introduce more than 10 exhibits ~~are to be introduced: (1) each exhibit they~~ must ~~be labeled, tabbed~~ (1) label, tab, and placed place all exhibits in a three-ring binder or ~~submitted~~ submit them in PDF format on a CD; and (2) create 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. Counsel who choose to present exhibits in PDF format on a CD must bring a laptop to connect to the Court’s evidence presentation system and appear 30 minutes before the hearing begins to ensure the laptop is compatible with the Court’s system and to obtain any assistance they need from the Clerk’s Office staff.

(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~~ party proffering the exhibit 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~~ that party must file all exhibits necessary to perfect the appeal as a part of the record on appeal.

(e) Photocopy Size— and Format.

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, be in PDF format, and (unless impracticable) be searchable.

VT. LBR 9071-1. STIPULATIONS.

See Vt. LBR 4001-1(d); see also; Vt. LBR 4001-4(d); Vt. ~~LBR 9011-4 (f), (g);~~ Vt. LBR 9013-1(f); Vt. LBR 9013-2(f); see also Vt. LBR 9011-4(e) and (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 (1) filed as an attachment to the application or motion, and (2) served ~~together~~ with the application or motion.

(c) Allowed Endorsement Orders—When.

An endorsement form of order, represented by a “SO ORDERED” and signature block for the Court, may be filed in lieu of a separate order

- (1) when parties stipulate to enlarge or shorten a time period or to reschedule a hearing,
- (2) ~~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.~~ and
- (3) ~~Settled Orders, when otherwise set forth in these Rules.~~ See generally Vt. LBR 9011-4(f), (g); Vt. LBR Rule 9013-1(f).

(d) 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.

(e)(e) Lift Stay Relief.—See Vt. LBR 4001-1(g).

Vt. LBR 9074-1. See Vt. LBR 4001-1(h).

(d)(a) Procedure for, and Limitations on, Telephonic Participation in Court Hearings and Conferences.

~~In order to participate in a Court hearing or conference by telephone, at least one full business day prior to the hearing or conference, a party must obtain Court approval through the courtroom deputy. 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 that 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~~exigent circumstances, the movant must file documents for the Court’s consideration, stating the nature of relief sought, the legal basis ~~therefore~~for that relief, 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, ~~or fax~~ 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~~they have 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,~~trustee of any emergency motion. In very time-sensitive instances, the Court may approve notification via telephone, ~~fax,~~ or e-mail. Absent ~~dire~~exigent circumstances, the movant is required to file a notice of hearing and certificate of service indicating the parties they notified and the method of notification.

- (4) Hearing. If, after reviewing the papers, the Court determines ~~that~~ an emergency hearing is necessary, the Court prefers that the parties appear in person for ~~such~~ hearing, but will permit participation by telephone ~~or video conferencing~~ if the nature of the emergency and time constraints warrant it. If testimony will be necessary to support the relief sought, the movant ~~is to~~ 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 ~~or video conferencing~~ appearances. See Vt. LBR 5007-1(c).
- (5) Waiver of Filing Requirements and/or Hearing. If the Court determines there are ~~dire~~ exigent circumstances, it may set a hearing to consider the emergency matter without the filing or service of documents; or the Court may 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 status or case management 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~~ those matters; and (C) include ~~such further~~ any other information ~~as may~~ which is likely to assist the Court with the conduct of the conference itself or in evaluating whether a conference should be held ~~and in conducting the conference~~.
- (2) In a Chapter 11 Case. ~~If~~ 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~~ 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~~ 5 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 and the United States trustee.
- (3) 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.

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