

VBA BANKRUPTCY LAW SECTION
BENCH-BAR BROWN BAG LUNCH MEETING
with Hon. Colleen A. Brown, U.S. Bankruptcy Judge
Held at the United States Bankruptcy Court, via Zoom
Tuesday, April 6, 2021 ~ 12:00 to 1:00 PM

UPDATED AGENDA*

1. STANDING ORDER #21-03 RE CONTINUED REMOTE HRGS & DIGITAL SIGNATURES JUDGE BROWN
3 min
 - Extends both remote hrsgs and use of digital signatures **through July 4, 2021**
 - VTB may adopt NYS's video etiquette rules; TF re LR's considering this
 - *Copy of both the video etiquette rules and S.O. # 21-03 are attached*

2. REPORT FROM THE POST-COVID OPERATIONS TASK FORCE BETSY GLYNN
15 min
 - Members: Jeff Eaton, Alex Edelman, Betsy Glynn (Chair), Eric Huebscher, Jody Kennedy, Lisa Penpraze, Rebecca Rice, Jan Sensenich, Todd Taylor
 - *Copy of Post-Covid Operations TF's preliminary report attached on 4/2/21*

3. REPORT FROM THE LOCAL RULES UPDATE TASK FORCE TAVIAN MAYER
15 min
 - Members: Heather Cooper, Susan Greco Ericksen, Jeff Hardiman, Don Hayes, Samantha Hennen, Paul Levine, Tavian Mayer (Chair), Melissa Ranaldo
Lisa Penpraze, Jan Sensenich
 - *Copy of the Local Rules Update TF's preliminary report attached on 4/5/21*

4. NEW CHAPTER 11 OPERATING ORDER FORM FOR NON-SMALL BIZ DEBTORS LISA PENPRAZE
5 min
 - On 6/21/21, the USTP's new MOR rules go into effect. More info can be found at: <https://www.justice.gov/ust/chapter-11-operating-reports>
 - Many changes, including D atty must maintain MOR w/ orig signature for 5 yrs

5. CO-CHAIRS' CORNER DON HAYES & ALEX EDELMAN
10 min
 - VBA Mid-Year Meeting Bankruptcy Presentation – Too Small to Fail: Small Business Bankruptcies for the Non-Bankruptcy Practitioner on 3/31
 - Upcoming presentation for the VTSBDC on 4/14
 - Ideas for summer wellness outing/CLE? Ideas for 2021 Bankruptcy Holiday CLE?

6. UPDATE FROM THE U.S. ATTORNEY'S OFFICE MELISSA RANALDO
2 min
 - Introduction of new AUSA for bankruptcy practice area: Jocelyn Koch

7. NEW BUSINESS JUDGE BROWN
5 min
 - General overview of what's on the horizon:
 - What we know will be changing ... What we know won't be changing
 - ... and what is still TBD
 - Suggestions for future BB meetings, procedural changes or seminars?

* updated only to add the Local Rules TF's Rept

Attachments (4)

These Bench-Bar lunch meetings are coordinated by the Bankruptcy Court. One CLE credit is provided for attendance at each meeting. Contact Maria Dionne @ 802-657-6432 or maria_dionne@vtb.uscourts.gov with any questions



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LAWRENCE K. MARKS
Chief Administrative Judge

VITO C. CARUSO
Deputy Chief Administrative Judge
Courts Outside New York City

GEORGE J. SILVER
Deputy Chief Administrative Judge
New York City Courts

MEMORANDUM

March 18, 2021

TO: Administrative Judges

FROM: Hon. Vito C. Caruso *VCC*
Deputy Chief Administrative Judge for Courts Outside New York City
Hon. George J. Silver *GJS*
Deputy Chief Administrative Judge for New York City Courts

RE: Virtual Proceedings – Appropriate Decorum

The COVID-19 pandemic has required all courts across New York State to innovate and adapt in order to continue to provide the effective and efficient administration of justice and Access to Justice for all court users consistent with the highest standards of Chief Judge DiFiore's Excellence Initiative. Our courts have uniformly transitioned to Microsoft Teams as a platform to conduct virtual proceedings. Appropriate decorum/etiquette is a necessity during all virtual court proceedings.

All court proceeding participants shall recognize that this is a formal appearance and should ensure the following:

- Dress in appropriate attire, as if you were appearing in-person in court
- Display an appropriate and professional background
- No consumption of food or drink during the proceeding
- Remain professional and dignified
- As in In-Person proceedings, only one person should be speaking at a time

Please ensure that judges, court staff, attorneys, and all participants in court proceedings are aware of the importance of the appropriate decorum which is necessary for all virtual court proceedings.

VCC:GJS

c: Hon. Lawrence K. Marks

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

**In re:
Expansion of Standing Orders # 20-14 and # 20-15
Regarding Modifications of Bankruptcy Court
Hearings, Procedures and Operations,
and Non-Attorneys' Use of Digital Signatures,
Due to the Continuing Exigent Circumstances
Created by the COVID-19 Pandemic,
Effective Through July 4, 2021**

**STANDING ORDER
21-03**

One year ago, on March 16, 2020, this Court entered Standing Order # 20-09 to modify its procedures in response to the public health emergency which the State of Vermont and the Centers for Disease Control and Prevention had declared, and to protect the health and safety of court staff, as well as the attorneys and individuals who would otherwise appear, in person, in the Bankruptcy Court. Those modifications included converting all in-person hearings, conferences and meetings to remote events through the use of Zoomgov. On April 8, 2020, the Court entered Standing Order # 20-10, authorizing non-attorneys to sign documents through the use of two-factor authentication software. At that time, it was unclear how long the pandemic would last and how long the corresponding health restrictions would be necessary. It was also impossible to predict what impact these procedural modifications would have on court operations, access to justice, case management, and the health of all court users. Therefore, the Court designated those procedures would be in effect until further notice and would be subject to change based on the evolving circumstances of COVID-19 and set a July 1, 2020 expiration date for use of the digital signatures.

On June 24, 2020, the Court entered two more Standing Orders, ## 20-12 and 20-13, extending both the pandemic-based courtroom procedures and non-attorney's use of digital signatures, through November 30, 2020. Standing Order # 20-12 modified Local Rules 9013-2, -3, and -4, on an emergency basis, to clarify the procedure for noticing Zoomgov hearings, explain the procedures for appearing at a Zoomgov hearing, articulate the criteria one must demonstrate for, and procedure for requesting, an in-person hearing, and description of the manner in which the Court would conduct Zoomgov hearings.

On November 2, 2020, after it become clear that the pandemic and its restrictions would be present for many months to come, and in recognition of how remarkably well the remote hearings, conferences, and meetings were functioning, and the lack of any objection to the sufficiency of either those procedures or the digital signatures, the Court entered two more standing orders, ## 20-14 and 20-15, which extended the remote participation procedures, extended the digital signature authorization, enunciated the technology guidelines for use of Zoomgov, modified Local Rules 5072 and 5073, and established protocols for maintaining the formality of remote hearings. Those Standing Orders will expire on April 2, 2021.

Having had a full year of experience with the pandemic-based procedures, including remote hearings, conferences and meetings, as well as the digital signatures, THE COURT FINDS all of these modifications to the Court's usual procedures are working exceptionally well and, importantly, have not substantively diminished the quality of hearings, timely access to justice, or the availability of relief.

In determining whether to continue these pandemic-based procedures, the Court remains convinced the salient priorities are:

- (i) the health and safety of all constituents involved in bankruptcy court proceedings, conferences, meetings, and hearings;
- (ii) the need to move cases forward and avoid delay in the delivery of crucial relief; and
- (iii) compliance with pandemic-related recommendations of national, state and local authorities.

In recognition of the continuing health risks of the pandemic, and the medical experts' guidance prognosticating that the health risks may be dramatically reduced, and most Vermont residents who wish to be vaccinated may be fully vaccinated, by the end of June 2021, THE COURT FINDS cause to extend the pandemic restrictions and continue the modified, pandemic-based procedures **through July 4, 2021** and to believe this may be the last day such restrictions and pandemic-based procedures will be necessary.


THE COURT ALSO FINDS cause to continue to offer a mechanism for in-person hearings upon a showing of exigent circumstances. If any *pro se* party or attorney believes they or their client will suffer negative consequences if unable to appear at a hearing in-person, they may file a motion, on notice to all attorneys and parties who are expected to appear at the hearing, and all attorneys who have filed a notice of appearance in the case, setting forth the legal and factual basis for their request, no later than seven business days before the scheduled hearing. Responses shall be due no later than three business days prior to the hearing. If the Court sets a hearing on that motion, it shall be held via Zoomgov. In the event an attorney or *pro se* party demonstrates exigent circumstances warranting an in-person hearing, the Court shall issue an Order specifying the health and safety precautions that shall apply at the hearing, to ensure no one is put at undue risk by attending the hearing and the interests of justice are served.

Based on these findings, IT IS HEREBY ORDERED that, subject to the possibility of further modifications based on the unpredictable circumstances of COVID-19 in Vermont, all hearings, meetings, and conferences that would typically be held in the Bankruptcy Court courtroom, and are scheduled to be held **through July 4, 2021**, will be conducted via Zoomgov unless the Court orders otherwise based on a showing of exigent circumstances, in accordance with recent changes to the Court's Local Rules.

Similarly, THE COURT FINDS cause to continue the modification of both the original signature requirement and original document retention rules of, to allow non-attorneys to sign documents they file in this Court using a digital signature software product with two-factor authentication, as more specifically described in Standing Orders ## 20-10 and 20-15.

Accordingly, IT IS FURTHER ORDERED that non-attorneys may continue to use digital signatures on documents filed in this Court provided they use digital software which complies with this Standing Order and the Court's recently revised Local Rule 9011.

March 16, 2021
Burlington, Vermont



Colleen A. Brown
United States Bankruptcy Judge

**Report From Post Covid Task Force –
on Bankruptcy Court Procedures – District of Vermont**

To: Judge Brown

From: Post Covid Task Force

Betsy Glynn – Chair
Jeff Eaton
Alex Edelman
Eric Huebscher
Jody Kennedy
Lisa Penpraze
Rebecca Rice
Jan Sensenich
Todd Taylor

Date: April 1, 2021

Task:

Assignment:

To focus on VTB’s post-pandemic operations, and explore:

- **What have we learned about what can work in an emergency?**
- **Which of the “new” procedures should continue?**
- **Under what circumstances**

➤ considerations / priorities / criteria:

- to ensure all who seek relief under the Bankruptcy Code will have their day in court
- to maintain the formality, civility, respectfulness, and dignity of court hearings
- to guarantee prompt and full access to justice, due process, and relief
- to prevent any undue risk to the health, safety and well-being of court staff & hrg participants
- to assess the extent to which principles that guided VIT hearing parameters might be helpful

Report:

The task force looked at (i) remote hearings; (ii) digital signatures; and (iii) affidavits in lieu of debtor testimony in chapter 13 confirmations.

(i) Remote Hearings:

The Task Force believes the remote hearing participation procedures employed by the Court to manage operations through the COVID-19 pandemic should continue in use, post-pandemic with criteria established for the types of hearings that can be scheduled as remote.

STATEMENT OF GUIDING PRINCIPLES

1. Use of technologies for virtual meetings (Zoomgov) allow counsel and parties to participate in court hearings while saving considerable time and reducing the risks and expenses required with travel to court, including travel in bad weather and exposure to illness. Further, these tools allow parties who may otherwise be unable to participate in court proceedings due to an inability to travel, to do so safely increasing access to justice.
2. Use of the above technologies should, post-pandemic, continue in use to the degree that their use does not significantly compromise the work of counsel or the Court. Many matters on the Court's docket are uncontested matters and do not require significant oral argument or the presentation of evidence. Such matters include status conferences, final reports, and hearings on motions filed on default procedure. Such matters may also include Chapter 13 plan confirmations and Chapter 12 plan confirmations which are consensual - consented to by all represented parties.
3. Hearings which are contested, and which may require significant oral argument and/or the presentation of evidence and testimony of witnesses are less conducive to being handled virtually and are more likely to benefit from live court appearances.
4. The Court's calendar, post -COVID, should be organized in such a way to maximize the flexibility of virtual hearings while preserving court space and live hearing resources for use in hearings and trials which most benefit from live, in-person hearings.

Suggestions on criteria for matters that can be scheduled for remote hearing:

(A) Remote hearings limited to instances where:

- (i) Status conferences;
- (ii) uncontested Chapter 13 confirmation hearings, no objections to the plan filed;
- (iii) Chapter 12 plan confirmation if uncontested, no objections filed;
- (iv) Chapter 11 plan confirmation if uncontested, no objections filed, with approval of the Court;

- (v) motion hearings where the total length of arguments at the hearing is reasonably expected not to exceed 15 minutes; [for chapter 11 cases, 15 minute criteria can be expanded]
- (vi) with approval of the Court;
- (vii) 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, remote hearing not used for:

- (i) contested Chapter 11, 12 and 13 confirmation hearings;
- (ii) evidentiary matters or trials; or
- (iii) hearings requiring extensive legal argument, i.e., argument expected to exceed 15 minutes. [for chapter 11 cases, 15 minute criteria can be expanded]

Considerations for Discussion:

Scheduling

If meet criteria for matter being remote, needs to be noticed as remote. Easier to do for motions/status conferences. Challenge if going to allow some confirmations by remote - how and when do those get noticed as remote.

If there is going to be a remote day, meaning not on date where you can also appear in court if desired, if matter scheduled as remote if involves non-attorneys, are there any connectivity issues, access to justice. Require language in the notice that attorney requesting the hearing be notified if issue with party attending by remote.

Scenario 1:

Remote Hearings part of regular court calendar (the 4 days a month on which court is held in the court room). Should there be a separate part of the calendar on such days for remote hearings or interspersed depending on what the hearing is for and the assigned time, and parties can appear remotely when matter called if matter meets criteria for remote. If remote hearings happening at same time as live court, and person has option to appear remotely or not, a party who seeks only to observe proceedings or a party's appearance is necessary only to place on the record a consent or a scheduling agreement, can appear remotely too.

In scenario 1 if Court is going to allow confirmation hearings for 13 and 12's to be remote in certain circumstances, scheduled for same day as in person hearings, trustee will need to be in courtroom as well be debtor's counsel if debtor's counsel has remote and non-remote

confirmations. In that scenario, the allowance of some confirmation hearings to be handled remotely will not benefit trustee or debtor's counsel.

Scenario 2:

A remote hearing day of the month (not a courtroom day). Matter can be noticed for a remote hearing day if it meets the Court's criteria. All participate remotely.

Scenario 3:

As transitioning Post Covid will be a process, as the courtroom opens up, people feel more comfortable gathering again, put in place a more robust remote hearing program (what it can be used for) to be evaluated in 12 months.

Winter weather:

With winters in Vermont, remote access can give the Court flexibility to still be able to hold hearings on days Court would otherwise be canceled because of the bad weather. Need process for the notice and switch.

(ii) Non-Attorney Use of Digital signatures using digital software product with two factor authentication –

Task Force not sure how widely this is being used.

Post Covid, "wet" signatures should not be a significant issue.

Digital signatures not endorsed by US Trustee's office.

Consider post COVID use only on limited basis, fact dependent, such as for example, non-attorney is homebound, other medical conditions that preclude being able to sign and deliver petition, plan, etc. to his/her attorney. [Have Declaration filed with the filing being signed digitally with facts to support the use of the digital signature]

(iii) Affidavit for Confirmation Hearing in Lieu of Debtor appearing –

Criteria post COVID for when to use this procedure should be limited.

Require the debtor to appear before the Court whether virtual or in person, (depending on if confirmation hearing is contested or not.)

Use of Affidavit for narrow circumstances, i.e., health reasons cannot appear.

Post COVID, if CH 13/CH 12 confirmation hearing is remote, debtor can join remotely or be required to be in the debtor's attorney office for the hearing.

If CH 13/CH 12 contested, Debtor should appear at the Court hearing.

Other points of view:

One member of the Task Force expressed concern that post COVID, the procedures put in place for the pandemic be continued in only a very limited manner. Concern that the solemnity of the bankruptcy process is being eroded and is making it too easy. Have some narrowly tailored exceptions to in person for health, safety and convenience in winter months. Except for pro forma routine uncontested matters should be in court in person before the Judge.

UNITED STATES BANKRUPTCY COURT
FOR THE
DISTRICT OF VERMONT

INTERIM REPORT
OF THE
2021 TASK FORCE TO UPDATE THE VERMONT LOCAL BANKRUPTCY RULES

April 5, 2021

THE HONORABLE COLLEEN A. BROWN
CHIEF JUDGE
United States Bankruptcy Court
District of Vermont

TASK FORCE MEMBERS

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ASSISTING LAW CLERKS

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TAVIAN M. MAYER
CHAIR

MEMORANDUM

To: Honorable Colleen A. Brown, Chief Bankruptcy Judge, District of Vermont
From: 2021 Local Rules Task Force
Date: April 5, 2021
Re: Report of the Task Force to Update the Local Bankruptcy Rules

I. Formation and Charge of the Task Force

On February 26, 2021, the Court issued the Rules Task Force’s description and membership composition. The Task Force was charged to consider how to integrate into the Vermont Local Bankruptcy Rules (“Vt. LBR” or “LBR”) the Standing Orders (“SOs”) that have been implemented since the December 2017 LBR revision and its 2018 update. The Task Force was asked to consider the time-sensitive nature of the COVID-19 related SOs, as well as the impact of the recently enacted Small Business Reorganization Act of 2019 (“subchapter V”). The Task Force was directed to ensure that the Vt. LBR maintains its high standard of providing clear and practical guidance for all parties who practice in the Vermont Bankruptcy Court. *See* Appendix A.

II. Organization of the Task Force

The Task Force had its organizational meeting on March 3, 2021. The Task Force was divided into three working Task Groups. Each Task Group was constituted around specific Chapters of Title 11 U. S. C. (the “Bankruptcy Code” or “Code”), with each being assigned the concomitant LBRs and SOs for review and assessment. A subgroup was delegated to review the status of the mortgage mediation program. It was recognized that there was inherent overlap in the designated work. *See* Appendix B.

An agenda was developed outlining the timing of further meetings, and the expectations as to the sharing of suggestions, ideas, and proposals. Each Task Group was requested to recommend updates to the LBRs and SOs. A list of the current SOs, as well as a copy of the LBRs, in an editable format, was distributed to the Task Force.

Four Vermont Law School students were invited by the Chair to join the Task Force to provide research, clerical, and other assistance to the Task Groups. Each Task Group was assigned a Group leader and a law student to coordinate the Group’s work, study, and reports.

III. Actions Taken by the Task Groups

Each Task Group set its schedule, meeting through video, telephone, or emails. Interspersed with the Task Groups’ work, the Task Force met at regular intervals. For the large-group meetings, each Task Group would circulate updates on their work prior to the meeting. The Task Group leaders presented the respective Task Group’s workings and thoughts at the large-group meetings. Comments, suggestions, and ideas were shared and further developed by and amongst the groups and individuals in the various meetings.

Polls were developed and circulated on two specific aspects of the LBRs review to efficiently obtain the consensus of the Task Force members. These polls presented questions on the fast-moving situation presented by COVID-19 SOs and how to integrate any changes or updates from the recommendations of the Task Force, all while maintaining the goals of keeping the LRs easily accessible.

On March 31, 2021, the Task Force had its final meeting during which each Task Group presented its recommendations. After further collaboration, each Task Group submitted a Group Report. The recommendations of the Task Groups have been compiled into this Interim Report. After review, consideration, and approval of the recommendations of the entire Task Force, this Interim Report was finalized for submission to the Court.

IV. Recommendations of the Task Force

The Task Force submits to the Court the following recommendations and considerations of the various Task Groups, as well as the results of the survey on how to reconfigure the SOs and LBRs.

A. Recommendations of the 7 Task Group

i. Amending Rule 4001(c)(1)

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

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

(1) Requirement of Pre-Motion Default Notification. If a secured creditor 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 setting forth with specificity the dates and amounts of missed post-petition payments, and (B) refrain from filing a motion for relief from stay until at least 7 days has passed since sending that notice.

The 7 Task Group recommended adding the following language to the end of this rule: “Nothing herein shall preclude movant from seeking expedited relief and/or shortened notice, without the foregoing 7-day notice, as provided at LBR 9013-1(h).”

The Task Group also recommended that this rule should be amended so that a creditor should only be required to communicate with the debtor’s counsel, as in LBR 4001(c)(4), rather than with the debtor directly. However, the Task Group noted that if the debtor is *pro se*, then the creditor should be required to communicate directly with the *pro se* debtor.

ii. Amending Rule 3071-1(d)

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

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

The Mortgage Creditor must provide monthly statements to each chapter 12 or 13 debtor whose plan indicates an intent to retain the Mortgage Creditor's collateral or whose statement of intent indicates an intent to pay the Mortgage Creditor. The Mortgage Creditor must also provide monthly statements to each chapter 7 debtor who has expressed an intent in 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 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 has already made a payment on this "other amount due," the date of such payment,
- (7) the amount, date of receipt, and application of all payments received since the date of the last statement,
- (8) the telephone number and other contact information 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.

The Task Group recommended adding an exception to this rule when the creditor's mortgage is on a property that is either: (a) vacant or property that has been abandoned; or (b) where the mortgage is collateral granted in conjunction with a commercial or business loan.

iii. Expediting Relief from Stay Under Rule 4001-1

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

(b) Motion Contents Generally.

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) 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, 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 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.

The Task Group recommended that if consent from the debtor and trustee are given, then the creditor should be allowed to file a stipulation and proposed order, either providing for relief, or providing a cure for the debtor, without having to file the underlying motion for relief and incur a filing fee. The Task Group noted that this would also obviate the need of seeking abandonment after discharge.

B. Recommendations of the 11 Task Group

i. Amending Rule 1007-1(i) and (j)

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

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

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

- (1) the 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 11 petition,
- (2) an estimated schedule of cash receipts and disbursements, in 30-day increments, covering the debtor's business operations for 90 days following the chapter 11 filing, and
- (3) proof of all insurance.

(j) When to File Additional Business Information.

In a voluntary chapter 11 case, the debtor's affidavit referred to in paragraphs (h) and (i) above must accompany the petition. In an involuntary chapter 11 case, the affidavit must be filed within 14 days after the entry of the order for relief, unless the Court orders otherwise.

The Task Group noted that subchapter V requires additional information to be appended to the petition if the business continues to operate in chapter 11. The Task Group considered the issue of how to file additional business information if the business continues to operate in chapter 11.

The Task Group queried whether financials required by §§1187 and 1116(1)(a) would be by separate docket entry or embedded in the petition. The Task Group noted that the software allows for embedding of credit counseling certificates, but it is a separate docket entry in this district.

The Task Group also asked whether the Court would want a wet signature, as specified in the pay advices provisions, if an Affidavit of Non-Existence was filed instead. If so, the Task Group further queried if that would affect whether the financials would be by separate docket entry or embedded in the petition.

ii. Amending Rule 1017-2(b) Conversion from Chapter 11 to Chapter 7.

The Task Group determined that no changes were needed to this provision.

iii. Amending Rule 1020-1

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).

The Task Group considered the need to revise this rule to include references to subchapter V, since election is up to the debtor, and treatment of that election may be treated similarly to the rules on the small business designation. The Task Group also suggested considering guidance on conversion to subchapter V if applicable.

There were several group member comments regarding this:

1. Election of subchapter V and designation as small business are two separate things. You do not get to decide if you are a small business. But you can elect (or not) to use subchapter V.
2. They are different. Do we want a rule that talks about subchapter V election? The way 1020-1 reads now (e.g., sub-section (a)) it is just a reference back to a code provision. If we are making that kind of reference rule for small business designation, maybe we want one for subchapter V election. Or do not bother with either?
3. These are different but each have expedited timeframes (as referenced in rule).

iv. Amending Rule 2003-2

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

When a creditors' committee fails or refuses to provide a creditor it represents with information, that creditor may file a motion to compel the committee to produce the requested information. The motion will be treated as a discovery dispute. See Vt. LBR 7026-1(g)

The Task Group noted that this provision may need revision. The Task Group noted that there is no creditors' committee in subchapter V but relies on the debtor to file a plan and provide information. The Task Group suggested considering a mechanism to ensure that the debtor provides information sufficient for parties to evaluate, and for facilitation of a consensual plan.

There were several group member comments regarding this:

1. No committee in subchapter V, so no need to amend this rule.
2. What about a companion rule, e.g., "where no creditors' committee has been appointed" creditors may seek relief...
3. Or "where applicable"

v. *Amending Rule 3007-1*

VT. LBR 3007-1. CLAIMS – OBJECTIONS.

(b) Objections to Claims in Chapter 11 Cases.

Objections to claims in a 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.

The Task Group recommended potentially revising this provision. The Task Group noted that the LBR currently sets objection deadlines on filing of disclosure statements, but that no disclosure statement is required under subchapter V unless ordered.

vi. *Amending Rule 3014-1*

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

A class of secured creditors may make an election under § 1111(b) of the Code up to 14 days before the confirmation hearing, unless the Court sets a different date.

The Task Group recommended revising per Interim Rule 3017 – not later than date fixed by the Court. The Task Group noted that courts are taking varied approaches; some courts fix the date within a certain period after the plan has been filed while others fix the date in the scheduling order. The Task Group additionally noted that it could be beneficial to set the deadline in line with the mandatory status conference schedule-setting.

vii. *Amending Rules 3016-1 Through 3022-1*

The Task Group recommended reviewing and considering revisions to conform with subchapter V. However, the Task Group could not reach a consensus on whether such changes are necessary.

LBR 3016-1: **Amended Disclosure Statements and Plans in Chapter 11.**

LBR 3017-1: **Approval of Disclosure Statement in Chapter 11.**

LBR 3018-1 through 3018-3: **Ballots, acceptance, etc. in Chapter 11.**

The group debated whether revisions to conform with subchapter V are needed here but did not reach consensus. On the one hand, our Court has indicated that voting is required, but that view is not universal among bankruptcy courts. Some believe voting is not required in all subchapter V cases. Is voting required by statute? Perhaps the rule can say “in chapter 11 cases where the plan is being voted on...”

viii. *Amending Rule 3020-1*

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

(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 attorney for all members of the non-accepting 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 United States trustee.

The Task Group noted that “cram down” under § 1191 is different. The Task Group recommended changing the name of the LR to exclude subchapter V cases because it is not applicable to subchapter V cases.

ix. Amending Rule 3022-1

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 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 and serve that motion on all creditors and parties in interest.

(2) Unless the Court orders otherwise, 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. 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. (3) The plan proponent is not required to serve all items set forth in subparagraph (a)(2) with the motion for final decree on any party except the United States trustee.

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

The Court may require the plan proponent to file the report of substantial consummation as soon as all checks issued for the first distribution under the plan have cleared. In all cases, the plan proponent must file the report of substantial consummation 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 United States trustee, post-confirmation operating reports as required by United States Trustee Guidelines, showing all cash disbursements for each month after confirmation of the plan.

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

The Task Group recommended generally revising this LR to conform with subchapter V. The Task Group also queried as to whether a procedure for reopening in individual chapter 11 to receive discharge would be needed.

x. Amending Rule 4001-5

VT. LBR 4001-5. OBTAINING CREDIT.

(a) Generally.

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.

The Task Group recommended making general revisions to conform with subchapter V. Possible revisions or pursuant to §1184 or citation to that section, i.e., debtor in possession has rights/powers of operating trustee.

There were several group member comments regarding this:

1. I do not think this is necessary because the treatment of subchapter V is same as regular chapter 11.
2. Agree

xi. Amending Rule 4002-1(d) Chapter 11 Debtor's Books and Records

The Task Group determined that no changes were needed to this provision.

xii. Amending Rule 4002-1(e)

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

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

Each chapter 11 debtor must file original, signed monthly operating reports as required by § 1106 of the Code on the forms designated by the United States 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.

The Task Group recommended revising this provision to include subchapter V, which they noted would likely follow the protocol for a debtor in possession. The Task Group also noted that there is a subchapter V trustee, but that the way the current LR is worded, there is not a caveat about a debtor in possession v. a trustee in possession. The Task Group recommended refining the language of this provision so that there is no doubt that if there is a debtor in possession who has to file the plans. It was further observed that the subchapter V trustee is not obligated to file monthly operating reports unless ...

The Task Group also considered adding a citation to § 1116 for the additional reporting requirements for small business designations.

xiii. Amending Rule 4002-2(e)

VT. LBR 4002-2. DEBTOR'S DUTIES – FURTHER REQUIREMENTS REGARDING TAX RETURNS. (a) Creditor's Request for Tax Return.

(e) Duties of Chapter 11 Small Business Debtors.

A chapter 11 debtor must file a paper copy of its most recent federal income tax return with the Court. 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. A chapter 11 small business debtor must also deliver a copy of their tax return to the United States trustee and to the case trustee (if any).

The Task Group recommended that this provision should be generally revised to conform with subchapter V. The Task Group emphasized considering the "paper copy" requirement. The Task Group also highlighted the interplay of § 1106(a) para 2, if on removal of a debtor in possession—Trustee's requirement to file lists, schedules, or statements, if the debtor has not done so, and file tax returns.

xiv. Amending Rule 4004-2

VT. LBR 4004-2. DISCHARGES.

See also Vt. LBR 7041-1.

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

Before entry of the discharge order, every individual chapter 7, 11, and 13 debtor must file Official Form 423 "Certification About a Financial Management Course," to evidence completion of the post-petition financial management course, unless the agency which administered the course has already filed the required certificate.

The Task Group recommended conforming LBR 4004-2 to include subchapter V. The Task Group recommended considering anything related to discharge that may need to be included, such as consensual v. cram-down. The Task Group also noted that in subchapter V, no discharge is entered until all payments are made (or on confirmation, if creditors consent). Consider referencing statute.

xv. *Amending Rule 6003-1 First Day Motions.*

VT. LBR 6003-1. FIRST DAY MOTIONS.

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

A chapter 11 debtor seeking relief at the outset of the case must provide notice of the preliminary hearing on first day motions to the United States trustee, committee of unsecured creditors (if any), and if not, to the 20 largest unsecured creditors, as well as to any other parties directly affected by the motions. 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, 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.

The Task Group recommended adding subchapter V trustees as a notice party.

xvi. *Amending Rule 6004-1(g)*

VT. LBR 6004-1. SALE OF ESTATE PROPERTY.

(g) 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:

- (1) a clear and conspicuous statement to that effect,
- (2) the terms of sale, including but not limited to: the location and condition of the items to be sold, the bidding procedures and minimum requirements for bidding, whether the sale is subject to higher and better offers, the funds required to be paid at the time the sale is approved, the form of funds required at the approval and closing of the sale, and a proposed date for both the approval and closing of the sale,
- (3) the information required under Federal Rule of Bankruptcy Procedure 2002(c),
- (4) the extent to which the proceeds of sale will be used to benefit each class of creditors,
- (5) the extent of the debtor's liabilities,
- (6) the net value of the debtor's remaining assets, if any, not subject to the proposed sale, and
- (7) the business justification for disposing of estate assets before a disclosure statement has been approved or a plan confirmed.

The Task Group suggested the following:

- revise this provision to exclude subchapter V trustees from this provision, insofar as they cannot sell estate property.
- revise to include subchapter V (potentially could keep general but should check that there are no conflicting standards).

xvii. *Amending Rule 9011-1*

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

(a) Acceptance of Employment.

An attorney who 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).

(b) Attorney’s Duty to Retain Certain Originals of Electronically Filed Documents.

The debtor’s attorney must retain paper originals of all documents which (1) have signatures and (2) were filed electronically, for 5 years from the date of the filing of the document. The filer may be required to provide the original documents to the Court upon the Court’s request, and to other courts upon appropriate orders or subpoena.

The Task Group recommended reviewing this rule and making it consistent with the new UST rule that requires chapter 11 debtors’ attorneys to retain Monthly Operating Reports (MORs) with original signatures for 5 years.

The Task Group also recommended including the UST as a party to which original documents must be turned over.

The Group also suggested a concern about *pro se* chapter 11 debtors. (*See* LBR 9011-2)

xviii. *Amending Rule 9011-2*

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 and include their mailing address, residence address, e-mail address, and telephone number on all documents presented for filing. See Vt. LBR 9011-4(c); see also Vt. LBR 4002-3.

(b) *Pro Se* Party’s Duty to Retain Originals of Documents Submitted by E-Mail for Filing.

The *pro se* party must retain for 5 years the originals of any documents 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. **However, the *pro se* parties need not retain any Official Form 121 they submit. (See Standing Order #18-02, effective Feb. 13, 2018).**

(c) *Pro Se* Use of CM/ECF.

See Vt. LBR 5005-3(a)(2).

The Task Group noted that there were new UST rules in 2021 that made the debtor’s attorney responsible for maintaining MORs with original signatures for 5 years. UST would like a LBR requiring pro se chapter 11 debtors to send original signed MORs to UST for retention.

The Task Group also wondered whether this should be applicable to chapter 12 or 13.

xiv. Amending Rule 9013-3

VT. LBR 9013-3. HEARINGS – ROUTINE MOTIONS – NOTICE UNDER CONVENTIONAL PROCEDURE.

(b) Form of Hearing Notice.

...
(3) **Mandatory Language.** The following language, in bold and conspicuous print, must be included in the notice:

...
(B) if the motion is filed in a chapter 11 case:
A HEARING ON THE MOTION and any responses **will be held** at [time] on [date] at the following location: [indicate Rutland or Burlington location].
IF YOU OPPOSE THE MOTION, you are encouraged to file a written response specifying your opposition to the motion with the Clerk of the Court on or before 4:00 P.M. on [a date that is no fewer than 3 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 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.

Under (b)(3)(B), the Task Group recommended adding subchapter V trustee.

xv. Amending Rule 9013-4

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

...
(b) Relief Available Through Use of the Default Procedure.
The default procedure may only be used for applications or motions seeking the following relief:

...
(16) enlarge time to file chapter 11 plan and disclosure statement (11 U.S.C. §§ 362(d)(3); 1121(d))

...
(c) Form of Hearing Notice. In addition to the requirements set forth in Vt. LBR 9013-2(c), the following items must be included in each notice of motion filed under the default procedure:

...
(3) Mandatory Language. The following language, in bold and conspicuous print, must be included in the notice:

...

(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 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, 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 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. 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.

Under (b)(16), the Task Group questioned why the provision references 11 U.S.C. § 362(d)(3). The Task Group also considered having the provision reference §1121(e). The Task Group further recommended adding a reference to §1189(b) for subchapter V.

Under (c)(3)(B), the Task Group recommended adding subchapter V trustee.

xvi. Amending Rule 9076-1

VT. LBR 9076-1. STATUS CONFERENCES AND CASE MANAGEMENT CONFERENCES.

...

(b) Request for Conference.

(2) In a Chapter 11 Case. In a chapter 11 case, if a conference is requested 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 United States trustee, each official committee appointed to serve in the case (or, if no official committee has been appointed, the holders of the 10 largest unsecured claims), the holders of the 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.

The Task Group noted the need to exclude subchapter V cases from this provision.

Add new (c): The Task Group also recommended adding a subsection(c) to this provision, regarding the subchapter V status conference (11 U.S.C. § 1188). This new subsection would state that the Court shall set the date, time, and location for the status conference and provide notice as required.

C. Recommendations of the 12/13 Task Group

i. SO 18-01

The Task Group recommended creating a clear definition of the term “redline” that can be used throughout the LBRs. The Task Group noted that LBR 1009-1(b) indicates that redlining requires showing what the document originally stated, as well as what changes have been made. The Task Group believed that despite these implications, ambiguity remains. The Task Group recommended that the new definition of “redlining” will include the need to alert readers to amended items as changed. Further recommendations on the term’s definition will be forthcoming from the Task Group members.

ii. SO 20-02

The Task Group determined that no changes were needed.

iii. SO 20-06

The Task Group determined that no changes were needed to this provision.

iv. SO 20-07

The Task Group noted a practice inconsistency among debtors’ counsel as to the use of the operating reports. The Task Group also discussed another inconsistency among debtors’ counsel using the motion to modify the content of the operating report or the frequency with which they must be filed. While the Task Group did not see the need to modify SO 20-07, the group advised that more should be done to make sure debtors are following the SO.

v. SO 20-08

The Task Group determined that no changes were needed to this provision.

vi. Amending LBR 3070-1

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

(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 13 trustee’s account, and (B) specify the form of payment in Part 2.2 of the plan, unless the debtor obtains a 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 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 13 trustee at 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 case number.

(b) Minimum Plan Payment Amount.

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

The Task Group considered reinserting a sub-section (c), having noted that this provision was removed from LBR 3070-1 in 2017, based on an apparent redundancy. The Task Group recommended reinserting this previously deleted provision as several courts have misconstrued this.

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

In any Chapter 13 case that is dismissed or converted to another chapter prior to the confirmation of the plan, the Chapter 13 trustee shall collect from pre-confirmation payments made by the debtor the percentage fee pursuant to 28 U.S.C. § 586(e) as compensation.

vii. Amending LBR 4001-5 Obtaining Credit

The Task Force discussed LBR 4001-5 in the context of a chapter 12 debtor. The Task Group considered using a form similar to the one used in chapter 13 cases, but possibly modifying it to require a blanket secured creditor to sign off. However, the Task Group noted that a new form may not be necessary or practical. The Task Group urged that debtors interested in borrowing funds should discuss with the Chapter 12/13 Standing Trustee and the secured creditor impacted. After obtaining approval, the debtor could file a motion to which the secured creditor consents.

Proposed changes to the form will be forthcoming.

D. Recommendations of the Mortgage Mediation Subgroup

i. Seeking Further Mediators

It was recommended to seek further mediators. It was further advised to offer continuing legal education (CLE) training to qualify individuals to serve as mediators. Additionally, online-based training and the use of a mentorship approach for incoming mediators could be developed.

ii. Deferring Appointment of Mediator Under Rule 4001-7(d)(1)(A)

VT. LBR 4001-7. MORTGAGE MEDIATION PROGRAM.

(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*);

It was recommended to amend the rule to allow either deferring the appointment of a mediator, or providing for mediation without a mediator being appointed, reserving the option for later appointment on motion for good cause shown.

iii. Allowing Motion for Approval of Mortgage Modification to Serve as Final Report

It was recommended to allow the Motion for Approval of Mortgage Modification to serve as the final report of the mediator. (See Vt. LB Form W-3 Motion for Approval of Mortgage Modification and Vt. LB MM Form #12)

In this scenario, the mediator would be given the option to consent to the motion, or have 14 days to supplement the motion, by filing a report if thought necessary.

iv. Notice of Electronic Filing Upon Finalization of a Mediation

It was recommended that the Case Management/Electronic Case Files (CM/ECF) program be adjusted to generate a notice of electronic filing (NEF) to the Office of the Vermont Attorney General upon the filing of either the final report of the mediator, or the Motion for Approval.

v. Amending Mediator Report Forms

Proposed changes to the form will be forthcoming.

E. Survey Findings

The members of the Task Force were asked to answer three surveys: one regarding an analysis of Covid-related SOs for the remainder of the pandemic, a second regarding an analysis of Covid-related SOs post-Covid, and a third regarding the ideal approach towards referencing the SOs within the LBRs. During the final meeting of the Task Force, it was determined that the first two surveys fall under the purview of the Task Force to Recommend Post-Covid Operations rather than this Task Force to Update the LBRs. Thus, the results of the first two surveys are not included in this Interim Report.

The final survey, which is pertinent to the charge of this Task Force, received anonymous responses from each of the Task Force members. There were five options for how to repackage the SOs with the LBRs, as well as an option for participants to write in their own response. See Appendix C.

Option 5 received the greatest number of votes. Option 5 combined two of the other options (Options 3 and 4) and suggested creating an appendix of the current SOs that would be indexed to the LBRs (albeit not part of the LBRs), while also including a hyperlink or reference to the relevant SO(s) next to the affected LBR(s).

APPENDIX A

CHARGE TO THE TASK FORCE TO UPDATE LOCAL RULES

- Will be a less comprehensive review of VTB's LRs than in the past;
- Focus will be on integrating Standing Orders and post-2018 procedural changes into VTB LRs:
 - will include consideration of whether to add to LRs any of the SOs related to COVID relief
 - will recommend if new LRs are needed re SBRA and/or other recent (and permanent?) amends
 - Note: the most updated version of the LRs was recently posted on the VTB website
 - the 2017 Local Bankruptcy Rules now include changes made by 2018 SOs (with the redline & summary of changes since last revision still on website)
- Suggested starting point considerations / priorities / criteria:
 - to ensure completeness and thus a level playing field for all attys (even for their first appearance)
 - to provide practical, easy-to-understand, and easy-to-navigate practical guidance
 - to make the Rules as clear, well-written and typo-free as possible (making needed corrections)
 - to assess whether to incorporate SOs addressing temp relief into the LRs, or maybe as addendum
 - to fold in the minor additions / modifications chambers has been amassing
 - to determine whether any LRs are no longer necessary or could be streamlined (e.g., mortgage mediation)
- TF Members:

○ Heather Z. Cooper	debtors' attorney
○ Susan Greco Ericksen	chambers representative
○ Jeff Hardiman	creditors' attorney
○ Don Hayes	debtors' attorney
○ Samantha M. Henchen	debtors' attorney
○ Jody P. Kennedy	clerk's office representative
○ Ryan M. Long	creditors' attorney
○ Paul A. Levine	Ch. 7 Trustee
○ Tavian M. Mayer, Chair	creditors' attorney
○ Melissa A.D. Ranaldo	Internal Revenue Service
○ Lisa Penpraze	US Trustee
○ Jan M. Sensenich	Ch. 12/13 Standing Trustee
- ***preliminary report due by 4/5/21 at noon, so it can be discussed at 4/6/21 Bench Bar meeting***

APPENDIX B

GROUP STRUCTURE AND LOCAL RULES/STANDING ORDERS ALLOCATIONS

11 Task Group:

Member	Role	Relevant Standing Orders and Local Rules
Heather Cooper	debtors' attorney	Standing Orders 20-1, 09, 10, 15
Susan Greco-Ericksen	chambers representative	Local Rules Parts 4, 7, 8
Ryan Long	creditors' attorney	
Lisa Penpraze*	U.S. Trustee	
John Zentgraf	VLS student	

12/13 Task Group:

Member	Role	Relevant Local Rules and Standing Orders
Donald Hayes*	debtors' attorney	Standing Orders 18-01; 20-02, 05, 06, 07, 08
Jody Kennedy	clerk's office representative	Local Rules Parts 3, 9
Jan Sensenich	Chapter 12/13 trustee	
Melissa Ranaldo	creditors' attorney	
Bridget Dowret	VLS student	

7 Task Group:

Member	Role	Relevant Local Rules and Standing Orders
Jeffrey Hardiman*	creditors' attorney	Standing Orders 18-02; 20-03, 04; 21-01, 02
Samantha Hennen	debtors' attorney	Local Rules Parts 1, 2, 5, 6
Paul Levine	Chapter 7 trustee	
Maeve McDermott	VLS 2021 graduate	

Mortgage Mediation Task Group:

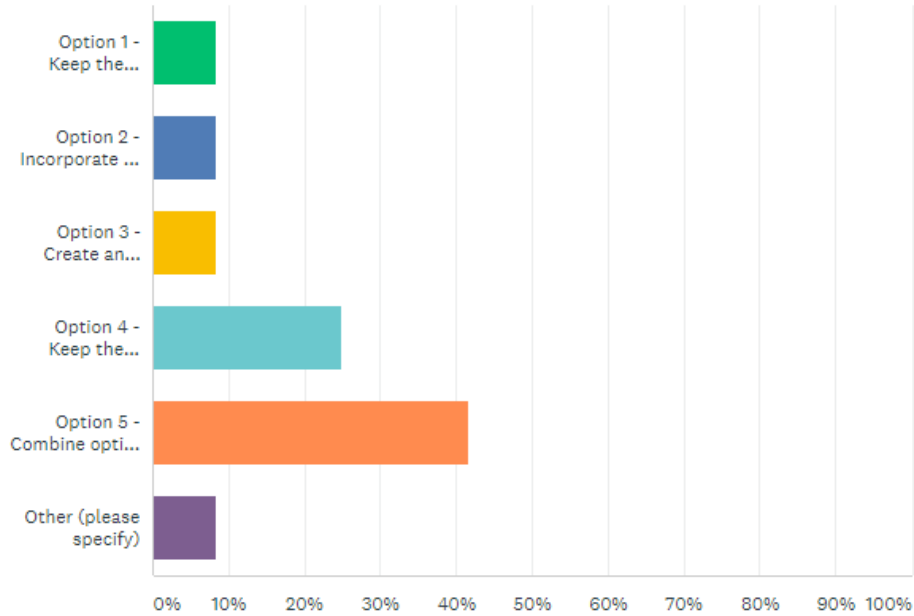
Member	Role	Relevant Local Rules and Standing Orders
Tavian Mayer*	creditors' attorney	mortgage mediation rule
Cassandra Cala	VLS student	

* - indicates the Task Group Leader

APPENDIX C

Which approach should the Task Force take towards repackaging the standing orders?

Answered: 12 Skipped: 0



ANSWER CHOICES	RESPONSES
▼ Option 1 - Keep the standing orders out of the local rules, but create a flag on the website that encourages readers to also look at the standing orders.	8.33% 1
▼ Option 2 - Incorporate the standing orders into the local rules.	8.33% 1
▼ Option 3 - Create an appendix of the standing orders that is not part of the local rules, but that could be indexed to the local rules for easy reference.	8.33% 1
▼ Option 4 - Keep the standing orders separate from the local rules but annotate a copy of the local rules with a hyperlink (or a reference) to any standing order(s) that affect(s) the relevant local rules.	25.00% 3
▼ Option 5 - Combine options 3 and 4 by creating an appendix that is indexed to the local rules (but not part of the local rules), while also including a hyperlink or reference to the relevant standing orders next to the affected local rules.	41.67% 5
▼ Other (please specify)	Responses 8.33% 1
TOTAL	12