

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

Attachment F
to 12/12/14 BB Agenda

12/5/14 DRAFT

In re:

MODIFICATION OF
LOCAL RULES OF PRACTICE AND
PROCEDURE IN BANKRUPTCY COURT,
DISTRICT OF VERMONT

STANDING ORDER # 14-06

TO REVISE LOCAL RULE 5003-1(C)(2),
TO DESCRIBE PROCESS AND FEE
FOR REDACTING COURT RECORDS

In September 2014, the Judicial Conference of the United States adopted a national policy addressing the treatment of requests to redact personal identifiers from bankruptcy records, including the approval of a new fee for the filing of a motion to redact. The new policy emphasizes the importance of protecting private information contained in the records of cases filed in federal courts and requires the courts to collect the fee for every request to redact a document. The \$25 fee for redacting a document went into effect on December 1, 2014. In order to align this Court's Local Rule with both the spirit and mandates of the new policy and fee requirements, certain changes to the rule are necessary.

Accordingly, IT IS HEREBY ORDERED that Vt. LBR 5001-3(c)(2) is revised to read as follows (with the deleted language indicated with strikeout and the new language underlined):

- (2) **Filer Responsible for Redacting.** The responsibility for redacting these personal data identifiers rests with the filer or party introducing the pertinent testimony. Likewise, 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 the subject document.
- (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, the Clerk will issue a notice directing the filer to re-file the document in redacted form.
- (B) ~~When the Clerk restricts access to a document due to the inclusion of personal data identifiers, the Court will issue an Order directing the party who filed the document to (1) file a motion to redact, accompanied by the \$25 fee, and a copy of the document in redacted form, by a date certain; and (2) appear at a hearing to show cause why sanctions should not be imposed for the party's inclusion of personal data identifiers in the~~

~~document (the “Redaction Order”). Potential sanctions include monetary penalties and the striking of the document from the Court record. If the Clerk issues a notice to redact and the filer fails to file a redacted version of the document within the time specified in the notice, the Clerk will restore public access to the document at the expiration of the specified time frame, and the filer may be subject to sanctions, neincluding monetary penalties and/or the striking of the document from the Court record.~~

- (C) If an individual or entity asserts harm based upon the publication of personal data identifiers in a bankruptcy case or proceeding, or by a party’s failure to redact a document in response to a Clerk’s notice, the complaining party may bring a motion for sanctions in the case or proceeding.
- (D) To the extent 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 motion to redact ~~ed version of~~ the document in response to the ~~Clerk’s notice~~ Redaction Order, and if the movant is not the party who filed the document, the movant may ask the Court to waive the fee, as authorized by the Miscellaneous Fee Schedule, in appropriate circumstances.

IT IS FURTHER ORDERED that these changes are effective upon entry of this Standing Order.

[12/5/14 DRAFT]
Burlington, Vermont

Colleen A. Brown
United States Bankruptcy Judge