

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS  
ORDER OF ADOPTION**

Pursuant to the authority vested in this Court by Rule and Statute:

**IT IS ORDERED** that this supplement updates rules in the 2018 Edition of the “Rules of Practice and Procedure of the United States District Court for the District of Kansas.” The rules contained in this supplement are adopted and shall become effective March 17, 2019.

**DATED** this 17th day of March, 2019.

FOR THE COURT

s/ Julie A. Robinson  
JULIE A. ROBINSON  
Chief Judge

ATTEST:

s/ Timothy M. O’Brien  
TIMOTHY M. O’BRIEN  
CLERK OF COURT

**THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**CHIEF JUDGE**

Julie A. Robinson  
511 Robert J. Dole  
U.S. Courthouse  
500 State Avenue  
Kansas City, KS 66101

**DISTRICT JUDGE**

Carlos Murguia  
537 Robert J. Dole  
U.S. Courthouse  
500 State Avenue  
Kansas City, KS 66101

**DISTRICT JUDGE**

Eric F. Melgren  
414 U.S. Courthouse  
401 North Market  
Wichita, KS 67202

**DISTRICT JUDGE**

Daniel D. Crabtree  
628 Robert J. Dole  
U.S. Courthouse  
500 State Avenue  
Kansas City, KS 66101

**DISTRICT JUDGE**

John W. Broomes  
232 U.S. Courthouse  
401 North Market  
Wichita, KS 67202

**DISTRICT JUDGE**

Holly L. Teeter  
405 U.S. Courthouse  
444 Southeast Quincy Street  
Topeka, KS 66683

**SENIOR JUDGE**

Sam A. Crow  
430 U.S. Courthouse  
444 Southeast Quincy Street  
Topeka, KS 66683

**SENIOR JUDGE**

John W. Lungstrum  
517 Robert J. Dole  
U.S. Courthouse  
500 State Avenue  
Kansas City, KS 66101

**SENIOR JUDGE**

Kathryn H. Vratil  
529 Robert J. Dole  
U.S. Courthouse  
500 State Avenue  
Kansas City, KS 66101

SENIOR JUDGE  
J. Thomas Marten  
423 U.S. Courthouse  
401 North Market  
Wichita, KS 67202

CHIEF MAGISTRATE JUDGE  
James P. O'Hara  
219 Robert J. Dole  
U.S. Courthouse  
500 State Avenue  
Kansas City, KS 66101

MAGISTRATE JUDGE  
K. Gary Sebelius  
475 U.S. Courthouse  
444 Southeast Quincy Street  
Topeka, KS 66683

MAGISTRATE JUDGE  
Kenneth G. Gale  
403 U.S. Courthouse  
401 N. Market  
Wichita, KS 67202

MAGISTRATE JUDGE  
Teresa J. James  
208 Robert J. Dole  
U.S. Courthouse  
500 State Avenue  
Kansas City, KS 66101

MAGISTRATE JUDGE  
Gwynne E. Birzer  
322 U.S. Courthouse  
401 N. Market  
Wichita, KS 67202

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\*\*\*\*\*

COMMITTEE OF THE COURT

**Bench-Bar Committee**

Hon. Chief Judge Julie A Robinson, *ex officio*

Hon. Eric F. Melgren, Chair

Hon. James P. O'Hara

Hon. Dale L. Somers

Ms. Melody Brannon

Mr. Ryan C. Hudson

Mr. John W. Shaw

Ms. Patricia E. Hamilton

Mr. Bryan C. Clark

Mr. Ryan K. Meyer

Hon. Daniel D. Crabtree

Hon. Teresa J. James

Mr. Stephen R. McAllister

Mr. William L. Townsley

Mr. Blake A. Stuart

Ms. Larkin E. Walsh

Mr. Stephen H. Netherton

Ms. Kellie E. Hogan

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Please also note the elimination of pages 199-203. It is no longer necessary for parties to submit a proposed order granting a motion for leave to appear pro hac vice. The reference to “see Appendix” in 83.5.4(a)(4) should be disregarded in favor of “see website.” Please refer to the court’s website for the most current forms.

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**RULE 83.5.2**  
**ADMISSION TO BAR**

- (a) **Who May Apply.** Those persons admitted to practice in the courts of the State of Kansas and/or the United States District Court for the Western District of Missouri who are in good standing in any and all bars to which they have ever been admitted (or who have resigned from such a bar as a member in good standing, so long as such resignation was not made to avoid investigation or discipline) may apply for admission to the bar of this court.
- (b) **Requirements for Admission.** Admission will be granted upon motion of a member of the bar of this court accompanied by the written statement of the applicant representing that the applicant:
- (1) is of good moral character;
  - (2) meets the foregoing requirements;
  - (3) can demonstrate familiarity with the Rules of Practice of this court, the Federal Rules of Civil and Criminal Procedure, the Federal Rules of Appellate Procedure, the Federal Rules of Evidence, and federal jurisdiction and venue. Such familiarity may be based upon course work completed, examination, experience, or such other evidence as the movant deems substantially equivalent; and
  - (4) acknowledges the obligation to render pro bono services as set forth in Kansas Rules of Professional Conduct 6.1 and 6.2.
- (c) **Oath or Affirmation.** The following oath or affirmation must be administered to the applicants by or at the direction of a judge or magistrate judge of this district:
- You do solemnly swear/affirm that you will support the Constitution of the United States; that you will do no falsehood, nor consent to the doing of any in court; that you will not wittingly or willfully promote or sue any false, groundless, or unlawful suit, nor give aid or consent to do the same; that you will delay no person for lucre or malice, but you will conduct yourself in the office of an attorney within the courts according to the best of your knowledge and discretion, and

with good fidelity, as well to the court as to your clients.

- (d) Temporary Permits.** Persons who hold a temporary permit to practice law granted by the Supreme Court of Kansas may apply for a temporary permit to practice in this court. The granting of temporary admissions to practice in this court is governed by this rule, and is effective upon the applicant taking the oath prescribed by this rule. Such temporary permit to practice in this court is effective only so long as the temporary admittee's temporary permit to practice in the Kansas state courts is in effect.

\* \* \*

As amended 3/17/19, 7/9/99, 11/13/97, 11/16/90.

## **RULE 83.5.3**

### **REGISTRATION OF ATTORNEYS**

**(a) Annual Registration.**

(1) In General. All attorneys admitted to the practice of law before this court, except as set out in paragraphs (b) and (c) below, must annually – on or before the first day of July – register with the clerk on such forms as the clerk prescribes.

(2) CLE Certification, Local Rules Familiarization, and Pro Bono. As a part of the registration form, the registrant must certify that,

(A) in the preceding 12-month period, he or she has earned at least the minimum number of credit hours required by the Rules of the Supreme Court of Kansas relating to continuing legal education;

(B) he or she has read and is familiar with the District of Kansas Local Rules; and

(C) he or she acknowledges the obligation to render pro bono services as set forth in Kansas Rules of Professional Conduct 6.1 and 6.2.

**(b) Exemption from Fees.**

(1) State Court Judges and Federal Court Employees. State court judges who are barred by law or rule from the practice of law and federal court employees who do not actively practice before the court are exempt from payment of the registration fee.

(2) Attorneys Appearing Pro Hac Vice. Attorneys appearing pro hac vice are not required to pay the annual registration fee.

(3) Newly-Admitted Attorneys. No registration fee will be charged to any attorney newly admitted to this court after January 1 for the first registration period following such admission. Where an attorney newly admitted to the court pays the registration fee for the period in which the attorney is exempt and wishes to be refunded, the attorney must initiate a refund by requesting it in writing.

(c) **Retired and Inactive Attorneys.** An attorney who has retired from or is no longer engaged in the practice of law in this court may so notify the clerk in writing. An attorney filing such notice is thereafter ineligible to practice in this court until reinstated under such terms as the court directs. During any period of retirement or inactive status under this rule, the retired or inactive attorney need not pay the annual registration fee.

(d) **Non-Appropriated Fund.** The court maintains a non-appropriated fund derived from attorney registration fees in accordance with Volume 13, Chapter 12, of the Guide to Judiciary Policies and Procedures and in accordance with the Rules of Practice and Procedure for District and Bankruptcy Court for the District of Kansas.

(1) Fund Custodian. The clerk of the court is appointed as the fund custodian. The custodian will receive, safeguard, deposit, disburse, and account for all funds. The custodian will ensure the financial statements and reports are prepared in a timely manner to meet the needs of the court.

(2) Fund Management. All receipts will be deposited in federally insured banks or savings institutions and whenever feasible, will be placed in interest-bearing accounts. Funds must be segregated from all other monies in the court's custody, including other non-appropriated funds.

(3) Audits. The Administrative Office of the U.S. Courts or court-appointed outside auditors may perform audits. The written results of the audits will be provided to the court. Costs for outside audits will be paid by the fund. Annual audits will be performed for the fiscal year, October 1 through September 30.

(4) Budget. At the beginning of each fiscal year, the court will approve a budget for the year that forecasts fund income and expenses. The court-approved budget will serve as authorization for the custodian to spend monies for categories listed on the budget. The custodian

is allowed to exceed budgeted amounts by no more than 10%. A majority of the judges must approve expenditures beyond the 10% variance.

(5) **Items Outside the Budget.** For items not covered by the annual budget, the chief judge may issue an order of approval that disburses funds for expenditures not exceeding \$1,000. For items exceeding \$1,000 not covered by the annual budget, a majority of the judges must approve the order of approval issued by the chief judge.

(6) **Calculation of Registration Fee.** During the first three months of each calendar year, the judges will examine the accounts of the trustee of the fund, and fix the registration fee for the next annual registration of attorneys. In fixing the fee, the judges will consider the amount on hand, the projected earnings from investments, and the probable expense of pending and anticipated proceedings.

**(e) Disbursements.** Disbursements from the Bar Registration and Disciplinary Fund are permitted only for the following purposes:

(1) To defray the expense of administering the registration and bar disciplinary procedures.

(2) As set forth in paragraph (f) of this rule, to reimburse court-appointed attorneys in civil cases for out-of-pocket expenditures that the attorneys are reasonably compelled to incur, that the client is not able to pay, and that are not otherwise recovered in the action.

(3) To reimburse members of official committees appointed by the court, who may not be otherwise reimbursed, for their expenses incurred in attending meetings and performing the duties required of committee members. Applications for such reimbursements must be made on forms supplied by the clerk. The clerk may approve applications for amounts not to exceed \$300. The chief judge must also approve reimbursement for expenses exceeding \$300. Travel expenses will be paid from the fund in an amount not to exceed the same rates as official travel for federal employees. Claims will be allowed for actual expenses,

not to exceed the rates in effect at the time of travel.

(4) To make such other expenditures the judges consider to be for the benefit of the court and bar.

**(f) Reimbursement Procedures for Court-Appointed Counsel in Civil Cases.**

(1) Allowable Expenses. Allowable expenses include items set out in 28 U.S.C. § 1920, fees for expert witnesses and other out-of-pocket expenditures that the attorneys are reasonably compelled to incur, that the client is not able to pay, and that are not otherwise recovered in the action. Reimbursements must not include general office overhead or items and services of a personal nature.

(2) Reimbursement Procedure. To qualify for reimbursement, all expenditures in excess of \$500 for investigative expenses—for example, retrieval of medical records, employment records, and the like—must be approved in advance by the court. Before incurring any reimbursable expense, the attorney must:

(A) complete a reimbursement form, which is available from the clerk; and

(B) secure the requisite prior approval, in writing, by the judge to whom the case is assigned and, where required, by the chief judge.

(3) Who Must Approve Expenditures. The presiding judge may approve expenditures that total less than \$3,000 for the entire case. The chief judge must approve expenditures that reach or exceed \$3,000.

(4) Ex Parte Requests. Attorneys may request approval on an ex parte basis.

(5) Amount of Reimbursement. The clerk will reimburse attorneys such amount as the court approves.

(6) Any reimbursements paid from the Bar Fund must be repaid if money is recovered in the case, unless waived by the court.

**(g) Suspension.** The clerk will issue an order of suspension to any attorney who has failed to register as of August 1 of the registration year. Any attorney who continues to practice in this

court while suspended will be subject to disciplinary procedures.

**(h) Reinstatement.** The court may reinstate an attorney who was suspended solely because of his or her failure to register or pay the annual registration fee upon:

(1) application;

(2) payment of a \$100 re-registration fee (except that the court may waive the fee for good cause); and

(3) payment of such additional amount as the court requires.

**(i) Criminal Charges, Potential Criminal Charges, and Disciplinary Proceedings.** Any member of the bar of this court who is charged in any court of the United States or of any state, territory, district, commonwealth, or possession of the United States with the commission of a felony or with unprofessional conduct must notify the clerk in writing within 14 days after service of process or notice to him or her of such charge. This subsection also applies to diversion agreements relating to criminal charges, potential criminal charges, or disciplinary proceedings.

\* \* \*

As amended 3/17/19, 3/17/16, 3/17/13, 10/17/13, 3/17/11,  
12/01/09, 3/17/09, 5/03, 9/00.



**NEW RULE CR49.6.1**  
**COOPERATOR INFORMATION**

When defendants potentially or actually cooperate with the government, such cooperation may be disclosed in a variety of documents and pleadings, including but not limited to: plea agreements, sentencing memoranda, cooperation agreements, motions for downward departure, and motions to reduce sentence. For the protection and safety of defendants who potentially or actually cooperate with the government, any and all pleadings or documents referencing, discussing or reflecting any such potential or actual cooperation (“cooperator information”) shall be treated as follows.

The clerk’s office will create a Restricted Document Folder in every felony criminal case as soon as practicable after case opening. In multi-defendant cases, a separate Restricted Document Folder will be created for each defendant. The docket entry and any documents the presiding judge orders filed in the Restricted Document Folder will be sealed and not reflected on the public docket sheet, nor will the docket sheet reflect any skipped numbers.

Any and all pleadings or documents containing cooperator information must be submitted by the prosecutor and the defendant to the presiding judge’s chambers email account, for judicial review and determination whether placement in the Restricted Document Folder is warranted. The presiding judge will respond to the prosecutor and defendant by email, thus notifying them of the judge’s decision to place, or not place the submitted document(s) in the Restricted Document Folder.

If the presiding judge determines the submitted document(s) should be placed in the Restricted Document Folder, the presiding judge shall forward the document(s) to the clerk’s office and will direct the clerk’s office to file such submitted document(s) in the Restricted Document Folder. If the presiding judge concludes the submitted document(s) should not be placed in the Restricted Document Folder, the document(s) will be returned by email to the prosecutor and defendant.

In the District of Kansas, a Restricted Document Folder is created in every felony criminal case, whether or not the defendant

is cooperating with the government. Thus the presence of this Restricted Document Folder does not mean that this defendant has or will cooperate with the government.

\* \* \*

Adopted 3/17/19.

**LOCAL RULES  
OF THE  
UNITED STATES  
BANKRUPTCY COURT  
FOR THE  
DISTRICT OF KANSAS**

**Dale L. Somers  
Chief Judge**

**Robert E. Nugent III  
Judge**

**Robert D. Berger  
Judge**

**EFFECTIVE MARCH 17, 2019**

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THE HONORABLE DALE L. SOMERS  
CHIEF JUDGE

United States Bankruptcy Judge  
225 U.S. Courthouse  
444 Southeast Quincy Street  
Topeka, Kansas 66683

THE HONORABLE ROBERT E. NUGENT III

United States Bankruptcy Judge  
104 U.S. Courthouse  
401 North Market  
Wichita, Kansas 67202

THE HONORABLE ROBERT D. BERGER

United States Bankruptcy Judge  
125 Robert J. Dole U.S. Courthouse  
500 State Avenue  
Kansas City, Kansas 66101

\* \* \* \* \*

BANKRUPTCY CLERK

David D. Zimmerman

Wichita Clerk's Office  
167 U.S. Courthouse  
401 North Market  
Wichita, Kansas 67202

Kansas City Clerk's Office  
161 Robert J. Dole U.S.  
Courthouse  
500 State Avenue  
Kansas City, Kansas 66101

Topeka Clerk's Office  
240 U.S. Courthouse  
444 Southeast Quincy Street  
Topeka, Kansas 66683

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UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF KANSAS

ORDER OF ADOPTION

Pursuant to the authority vested in this court by rule and statute, and following notice and a public comment period;

IT IS ORDERED that the following attached amendments to the Local Rules of the United States Bankruptcy Court for the District of Kansas are adopted, supersede existing rules bearing the same number, and become effective March 17, 2019: Section 1 of the Preface to the Local Bankruptcy Rules of the District of Kansas (“LBR”); LBR 1007.1(a); LBR 2002.2(c)(2); the Notice of Rule 2004 Examination form appended to LBR 2004.1; LBR 2016.1; LBR 2090.1(b); LBR 3015(b).2(f); LBR 5005.1, Appendix 1-01, Paragraph I.D and Paragraph VIII; LBR 5075.1; LBR 9011.4; LBR 9019.2(b); LBR 9029.3; and LBR 9072.1. Superseded rules or subsections are repealed effective March 17, 2019.

IT IS FURTHER ORDERED that Standing Order 17-2 (Authority to Use Bar Registration and Disciplinary Funds for Bankruptcy Mediation One-Year Pilot Program, effective January 1, 2018, through December 31, 2018) is ABROGATED as moot by the amendments to LBR 9019.2(b).

IT IS FURTHER ORDERED that Standing Order 18-1 (Expanding Bankruptcy Bench Bar Committee Membership, effective February 1, 2018) is ABROGATED as moot by the amendments to LBR 9029.3.

IT IS FURTHER ORDERED that Standing Order 18-2 (Electronically Filing the Declaration Re: Electronic Filing Form, effective September 1, 2018) is ABROGATED as moot by the amendments to LBR 1007.1.

IT IS FURTHER ORDERED that Standing Order 18-3 (Amending Rules to Allow Payment by ACH, effective August 17, 2018) is ABROGATED as moot by the amendments to LBR 5005.1, Appendix 1-01, Paragraph I.D.

IT IS FURTHER ORDERED that Standing Order 18-4 (Governing Procedure to Appear *pro hac vice* in Bankruptcy Court effective October 22, 2018) is ABROGATED as moot by the amendments to LBR 2090.1(b).

IT IS SO ORDERED.

Dated this 28th day of January, 2019.

s/ Dale L. Somers  
DALE L. SOMERS  
Chief Judge

s/ Robert E. Nugent III  
ROBERT E. NUGENT III  
Judge

s/ Robert D. Berger  
ROBERT D. BERGER  
Judge

ATTEST:  
s/ David D. Zimmerman  
DAVID D. ZIMMERMAN, Clerk

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF KANSAS  
IN THE MATTER OF RULES OF PRACTICE  
AND PROCEDURE IN THIS COURT  
MEMORANDUM AND ORDER**

By means of this Memorandum and Order, the Judges of this court express their appreciation to the members of the Bankruptcy Bench Bar Committee.

The individuals composing the Committee devoted much time to studying the operating procedures of the court, serving as liaisons between the court and its bar and the public, recommending revisions to the Local Rules of the United States Bankruptcy Court for the District of Kansas, and providing reports and other recommendations as the court directed. The Committee members performed their tasks competently, unselfishly, and in the best tradition of the legal profession.

IT IS THEREFORE ORDERED that the Clerk file this Memorandum and Order as a permanent record of the court and that he deliver an attested copy to each member of the Committee, namely:

**Emily B. Metzger, Chair**

**Chris Borniger**

**William E. Griffin**

**January Bailey**

**W. Thomas Gilman**

**J. Christopher Allman**

**Christopher Redmond**

**Carl B. Davis**

**Scottie Kleypas**

**Colin N. Gotham**

**Wendee Elliott-Clement**

**IT IS SO ORDERED.**

Dated this 28th day of January, 2019.

**s/ Dale L. Somers**  
**DALE L. SOMERS**  
Chief Judge

**s/ Robert E. Nugent III**  
**ROBERT E. NUGENT III**  
Judge

**s/ Robert D. Berger**  
**ROBERT D. BERGER**  
Judge

**ATTEST:**

**s/ David D. Zimmerman**  
**DAVID D. ZIMMERMAN, Clerk**

## **PREFACE**

### **(As amended 3/17/19)**

Attorneys unfamiliar with Kansas bankruptcy practice may find some helpful information in this preface to the *Local Rules of the United States Bankruptcy Court for the District of Kansas*.

#### **1. Background**

The Bankruptcy Code consists of amendments to the Bankruptcy Reform Act of 1978, Pub. L. No. 95-598, Title I, § 101, 92 Stat. 2549, enacted into law November 6, 1978, effective October 1, 1979. Since its enactment, Congress has amended this law many times, most significantly with the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109-8, § 106, 119 Stat. 23.

In 1982, the Supreme Court declared the jurisdictional support for the 1978 Act unconstitutional in *Northern Pipeline Const. Co. v. Marathon Pipe Line Co.*, 458 U.S. 50 (1982). It did so because 28 U.S.C. § 1471(c) of the 1978 Act invested non-Article III bankruptcy courts with powers exercisable only by Article III courts.

After *Marathon*, the bankruptcy system operated under an Emergency Rule promulgated by the Judicial Conference of the United States until 1984, when Congress enacted corrective legislation in the form of 28 U.S.C. § 1334, which currently states:

- (a) Except as provided in subsection (b) of this section, the district courts shall have original and exclusive jurisdiction of all cases under title 11.
- (b) Except as provided in subsection (e)(2) [dealing with claims that involve construction of the statute governing employment of professionals in a bankruptcy case], and notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.

Hoping to cure the constitutional infirmity, Congress also declared that bankruptcy judges would "constitute a unit of the district court to be known as the bankruptcy court for that district." 28 U.S.C. § 151.

To transfer the bankruptcy power to the bankruptcy courts, the 1984 amendments provided, through 28 U.S.C. § 157(a) that, "[e]ach district court may provide that any or all cases under title 11 and any or all proceedings arising under title 11 or arising in or related to a case under title 11 shall be referred to the bankruptcy judges for the district."

In Kansas, 28 U.S.C. § 157(a) was implemented by a Standing Order dated August 1, 1984 (effective July 10, 1984), stating:

#### STANDING ORDER

Pursuant to Sec. 104 of the Bankruptcy Amendments and Federal Judgeship Act of 1984, 28 U.S.C. Sec. 157, this court refers all cases under Title 11, and any and all proceedings arising under Title 11, or arising in or related to a case under Title 11, to the bankruptcy judges for the District of Kansas, for consideration and resolution consistent with the law. The court recognizes the exception contained in Sec. 157(b)(5).

IT IS HEREBY ORDERED that the Bankruptcy judges for the District of Kansas be and they hereby are directed to exercise the authority and responsibilities conferred upon them by the Bankruptcy Amendments and Federal Judgeship Act of 1984.

IT IS FURTHER ORDERED, effective as of July 10, 1984, that any and all cases under Title 11, and any and all proceedings arising under Title 11, be and hereby are referred to the bankruptcy judges of the District of Kansas for consideration and resolution consistent with the law.

Dated this 1st day of August, 1984.

In 2011, the landscape of bankruptcy court jurisdiction was again considered by the Supreme Court in *Stern v. Marshall*, 131 S. Ct. 2594 (2011). In *Stern*, the Supreme Court reasoned that, although 28 U.S.C. § 157(a) authorizes bankruptcy judges to adjudicate cases that arise under, arise in, or are related to a case under Title 11, Article III of the U.S. Constitution requires final judgments in some types of matters to

be issued by an article III district court judge who has life tenure and salary protection.<sup>1</sup>

Specifically, the Court concluded that a counterclaim for tortious interference with a gift asserted by a debtor against a creditor must be resolved by a judge appointed under Article III, and that the “public rights” exception that allows some types of claims to be adjudicated in non-Article III forums did not bring the counter-claim within the bankruptcy court’s permissible jurisdiction because the counterclaim did not stem from the bankruptcy itself and would not necessarily be resolved in the course of the claims allowance process of bankruptcy.

On June 24, 2013, to address the Supreme Court’s holding in *Stern*, the United States District Court for the District of Kansas issued an amended standing order of reference, which states:

Standing Order No. 13-1

Pursuant to 28 U.S.C. § 157(a), any or all cases under title 11 and any or all proceedings arising under title 11 or arising in or related to a case under title 11 are referred to the bankruptcy judges for this district.

If a bankruptcy judge or district judge determines that entry of a final order or judgment by a bankruptcy judge would not be consistent with Article III of the United States Constitution in a particular proceeding referred under this Rule, the bankruptcy judge shall, unless otherwise ordered by the district court, hear the proceeding and submit proposed findings of fact and conclusions of law to the district court. The district court may treat any order of the bankruptcy court as proposed findings of fact and conclusions of law in the event the district court concludes that the bankruptcy judge could not have entered a final order or judgment consistent with Article III of the Constitution.

IT IS SO ORDERED.

Dated this 24th day of June, 2013.

District Court Standing Order 13-1 was incorporated into D. Kan. Rule 83.8.5(c) on March 17, 2014, and related updates

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<sup>1</sup>The Supreme Court later concluded, in *Wellness International Network, Ltd. v. Sharif*, \_\_\_ U.S. \_\_\_, 135 S. Ct. 1932, 1949 (2015), that “Article III permits bankruptcy courts to decide *Stern* claims submitted to them by consent.”

were contemporaneously made to Rules 83.8.6 through 83.8.9. As a result, in a bankruptcy case where final judgment in a particular matter must be entered by a district court judge, D. Kan. Rule 83.8.5(c) provides that a bankruptcy judge may hear the matter and issue proposed findings of fact and conclusions of law for the district court to review and enter a final order or judgment. In a case where the bankruptcy court issues a decision in the form of an order but the U.S. Constitution requires final judgment to be entered by the district court, D. Kan. Rule 83.8.5(c) resolves the issue by stating that the bankruptcy court order will be construed as proposed findings of fact and conclusions of law for the district court to review and enter a final order or judgment. This approach was approved by the Supreme Court in *Executive Benefits Insurance Agency v. Arkison (In re Bellingham Insurance Agency, Inc.)*, 573 U.S. 25 (2014). It was then codified by the addition of Fed. R. Bankr. P. 8018.1 (Dec. 1, 2018.)

...  
\* \* \*

**LBR 1007.1  
INITIAL FILINGS**

**(a) Assembly of Petition and Accompanying Documents.**

...

(2) The following documents, if applicable, must **not** be attached to the petition. They must be filed separately:

	Name of Document	Official Form
(A) through (C)	[No change]	[No change]

(D)	<p><u>When Debtor(s) are represented by counsel:</u> Declaration Re: Electronic Filing (required in lieu of Official Form 121). This document must be electronically filed as a sealed document pursuant to the instructions on the form.</p> <p><u>When Debtors are self-represented:</u> Statement About Social Security Number.</p>	<p>See Forms page of court website.</p> <p>121</p>
(E) through (I)	[No change]	[No change]

(3) Electronically filed petitions and accompanying documents must be filed in the order listed in paragraph (a)(1).

...  
\* \* \*

As amended 3/17/19 (formerly S.O. 18-2), 3/17/18, 3/17/16, 3/17/08, 3/17/07, 10/17/05, 3/17/05.

**LBR 2002.2**  
**SCHEDULING, LISTING AND NOTICING THE UNITED STATES AND AGENCIES OF THE STATE OF KANSAS AS A CREDITOR**

...

**(c) Addresses for certain Departments, Agencies and Instrumentalities of the United States.**

...

2. DEPARTMENT OF EDUCATION (DOE)  
For noticing on schedules and the matrix:  
US Department of Education  
PO Box 16448  
St Paul MN 55116-0448

US Department of Education  
Business Operations/Federal Student Aid  
50 United Nations Plaza  
Mail Box 1200 Room 1176  
San Francisco CA 94102

For service of process, such as adversary  
proceedings:

Education Department  
Office of General Counsel  
400 Maryland Ave NW Room 6E353  
Washington DC 20202-2110

. . .  
\* \* \*

As amended 3/17/19, 3/17/18, 3/17/16, 3/17/15, 3/17/14,  
3/17/13, 3/17/12, 3/17/11, 3/17/08.

**LBR 2004.1**  
**EXAMINATIONS**

[No change to rule text.]



## **LBR 2016.1**

### **MONTHLY COMPENSATION OF PROFESSIONALS**

**(a) Submission and Service.** In a Chapter 11 or 12 case, a professional employed or seeking employment under § 327 to provide services in the case may file a separate motion for monthly payment of fees and expenses. The motion must state the filing date of the application to employ and, if applicable, the date an order granting the application to employ was entered of record.

**(b) Provisions for Payment of Fees and Expenses.** The motion must state the percentage amount of fees and expenses the professional seeks to collect on a monthly basis. The motion may request that up to 100% of the fees and 100% of the expenses be paid monthly. The motion and the proposed order granting the motion must provide that in the event 100% of the fees are paid, the professional will hold no less than 10% of the fees in trust pending the court's approval of an interim or final fee application, unless the court orders otherwise.

**(c) Service.** The motion must be served with notice required by the noticing guidelines applicable to the division and judge to whom the case is assigned. Unless the court directs otherwise, the motion must be served on:

- (1) the debtor;
- (2) debtor's attorney;
- (3) the United States trustee;
- (4) all creditors holding secured claims;
- (5) all parties requesting notice; and
- (6) any operating creditors' committee, or if none, on the list of creditors with the 20 largest unsecured claims who are not insiders (Official Form 104 or Official Form 204).

**(d) Order.** The professional must submit a proposed order with the motion in accordance with the court's guidelines for submission of orders. It must state that the allowance of

monthly payments of fees and expenses does not constitute an interim or final approval of the fees and expenses.

\* \* \*

As amended 3/17/19, 3/17/16, 3/17/10.

**LBR 2090.1**  
**ATTORNEYS - ADMISSION TO PRACTICE**

. . .

**(b) Appearance *Pro Hac Vice*.** D. Kan. Rule 83.5.4 applies to the attorneys of the court except that, at the time a motion to appear *pro hac vice* is filed, a proposed order granting the motion must be submitted to the court.

\* \* \*

As amended 3/17/19 (formerly S.O. 18-4).

**LBR 3015(b).2**  
**CONDUIT MORTGAGE PAYMENTS IN**  
**CHAPTER 13 CASES**

. . .

**(f) Trustee's Duties:**

(1) The Trustee is authorized to deduct from any payments collected, pursuant to 11 U.S.C. § 1326, the percentage Trustee fees then in effect as necessary costs and expenses, together with any fee, charge, or amount required under § 1326.

(2) The Trustee shall allow as an administrative expense an amount equal to 2 full regular monthly payments inclusive of escrow deposits and 2 associated late fees. This allowance shall reimburse Real Property Creditor for post-petition delinquencies that may accrue until the Trustee begins payments to that Creditor. This added amount shall bear interest at 5% unless Debtor's Plan contains a different rate.

(3) In the event Debtor is granted an abatement of Plan payments, the Trustee is authorized to pay any missed

mortgage payments in a separate administrative claim record that includes late fees. This amount shall bear interest at 5% unless Debtor's Plan contains a different rate.

(4) The Trustee will not make payments to the Real Property Creditor on the pre-petition arrearage until such time as a Proof of Claim is filed with the Court and the Plan is confirmed. The Court is deemed to have granted authority to the Trustee to disburse conduit payments, as if the plan had been confirmed, once the Real Property Creditor has filed a Proof of Claim to which a fully executed Official Form 410A and Exhibit D (Addendum to Chapter 13 Proof of Claim for Residential Home Mortgage Debt Paid Through the Chapter 13 Trustee) has been attached. The Trustee is required to make a full mortgage payment for each full plan payment made. The Trustee is not required to make partial payments to Real Property Creditors.

(5) Any notice filed pursuant to Fed. R. Bankr. P. 3002.1(b) or (c) shall be treated as an amendment to the creditor's claim and Debtor's plan. The Trustee is authorized to disburse the new conduit payment or fees as soon as practicable after resolution of any motion under Fed. R. Bankr. P. 3002.1(b)(2) without seeking formal modification of the plan.

(6) Should the new conduit payment or fees jeopardize the feasibility of the plan, the Trustee may file a motion to amend the plan or seek conversion or dismissal of the case, whichever the Trustee deems appropriate.

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\* \* \*

As amended 3/17/19; adopted 8/22/17 (formerly S.O. 11-3).

**LBR 5005.1**  
**FILING BY ELECTRONIC MEANS**

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Appendix 1-01 to LBR 5005.1

**Administrative Procedures for Filing, Signing, and Verifying  
Pleadings and Documents by Electronic Means**  
(Rev. 3/17/19)

**I. Scope of Electronic Filing**

...

D. Filing Fees. For filings that require a fee to be paid, the attorney must promptly pay the fee through Pay.gov. The court will not maintain electronic billing or debit accounts for lawyers or law firms.

...

**VIII. Signatures**

A. [Reserved]

B. Password Security. No Filing User or other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an authorized agent of the Filing User.

C. Documents containing the signature of non-Filing Users are to be filed electronically with the authorized signature represented by that person's name on a signature block in the space where a signature would otherwise appear, or as a scanned image.

D. Documents requiring signatures of more than one party must be electronically filed either by: (1) submitting a scanned document containing all necessary signatures; (2) submitting an electronic document upon which the consent of the other parties is represented; or (3) in any other manner approved by the court.

...  
\* \* \*

As amended 3/17/19 (formerly S.O. 18-3), 3/17/18, 3/17/17, 3/17/16, 3/17/14, 3/17/08.

## **LBR 5075.1**

### **ORDERS BY BANKRUPTCY CLERK; REVIEW**

#### **(a) Orders.**

(1) The clerk is authorized to sign and enter the following orders without further direction by the court:

- (A) in adversary proceedings,
  - (i) an order extending once for 14 days, the time to answer, reply or otherwise plead to a complaint, crossclaim or counterclaim if the time originally prescribed to plead has not expired;
  - (ii) a consent order dismissing an action, except in cases governed by Fed. R. Bankr. P. 7023 and/or D. Kan. LBR 7041.1; and
  - (iii) entry of default and judgment by default as provided for in Fed. R. Bankr. P. 7055;
- (B) an order for the payment of money on consent of all interested parties;
- (C) an order permitting payment of filing fees in installments;
- (D) an order for compliance requiring timely filing of schedules and statements or for compliance with filing requirements and a notice of intent to dismiss for failure to comply;
- (E) an order granting waiver of Chapter 7 filing fees; and
- (F) any other order that is specified by Standing Order as not requiring special direction by the court.

(2) A party or attorney submitting an order under this rule must sign it, and that signature is subject to Fed. R. Bankr. P. 9011 and D. Kan. LBR 9011.3.

**(b) Clerk's Action Reviewable.** For good cause, the court may suspend, alter, or rescind any order entered by the clerk under this rule.

\* \* \*

As amended 3/17/19, 3/17/07, 10/17/05.

**LBR 9011.4**  
**SIGNATURES**

(a) [Reserved]

(b) **Signing of Pleadings by Unrepresented Parties.** The original of every pleading, motion or other paper filed by a party not represented by an attorney must bear the genuine signature of the unrepresented party. Stamped or facsimile signatures on conventionally filed original pleadings, motions, orders, or other documents are not permitted.

(c) **Contact Information and Bar Registration Numbers.**

(1) *Requirements for Unrepresented Parties and Attorneys.* Each party or attorney signing papers submitted for filing must include the signer's:

- (A) name;
- (B) address;
- (C) telephone number;
- (D) facsimile number; and
- (E) e-mail address.

(2) *Additional Requirements for Attorneys.* Each attorney signing a document must also include the attorney's state supreme court registration number, or, in cases where the attorney is not admitted to practice in Kansas, its equivalent. Attorneys admitted from the Western District of Missouri by reciprocal admission must include their Kansas District Court registration number.

(3) *Duty to Update Contact Information.* Each attorney or unrepresented party must notify the clerk in writing of any change of address or telephone number. Any notice mailed to the last address of record of an attorney or an unrepresented party is sufficient notice.

\* \* \*

As amended 3/17/19, 3/17/10, 3/17/09, 3/17/05.

**LBR 9019.2**  
**ALTERNATIVE DISPUTE RESOLUTION**

...

**(b) Payment Procedures for Court-Approved Mediation in Bankruptcy Cases.**

(1) *Allowable Expenses.* Allowable expenses include the cost of the mediation session at the rate negotiated by counsel and the mediator, plus mileage expenses if the mediator is required to travel, that the party is unable to pay, and that are not otherwise recovered in the action. The mediator's negotiated fee (including mileage) shall be divided equally between the parties unless otherwise agreed to and approved by the court.

(2) *Payment Procedure.* To qualify for payment, the mediation, as well as all expenditures, must be approved in advance by the court. Before incurring any reimbursable expense, the party must:

(A) complete a form, which is available from the clerk; and

(B) secure the requisite prior approval, in writing, by the bankruptcy judge to whom the case is assigned and, when required, by the chief bankruptcy judge.

(3) *Who Must Approve Expenditures.* The presiding judge may approve expenditures that total less than \$750, for the entire mediation. The chief judge of the court must approve expenditures that reach or exceed \$750.

(4) *Amount of Payment.* The District Court Clerk will pay the mediator such amount as the court approves.

(5) *Repayment.* Any payment from the Bar Fund must be repaid if money is recovered in the settlement, unless waived by the court.

\* \* \*

As amended 3/17/19 (formerly S.O. 17-2), 10/17/05, 3/17/05.

### **LBR 9029.3**

#### **BANKRUPTCY BENCH BAR COMMITTEE**

There is a Bankruptcy Bench Bar Committee appointed by the court.

**(a) Membership.** The committee consists of the chief judge, any other judges who may from time to time be appointed by the court, the United States Attorney or a designated assistant, the U.S. Trustee for Region 20 or a designated assistant, six actively practicing members of the bar of the bankruptcy court, a Chapter 13 Trustee, and a Chapter 7 Trustee, selected by the bankruptcy judges. The bankruptcy judges may also appoint a Chapter 12 Trustee as needed.

**(b) Terms of Office.** The court will appoint the six actively practicing members of the bar, the Chapter 13 trustee, and the Chapter 7 trustee to serve three year terms to begin on July 1 of each year. Any appointed Chapter 12 trustee will serve a three year term or other lesser term as the court may decide. If a committee member is unable to complete the term of appointment, a replacement member may be appointed to complete the term.

**(c) Meetings.** The Bench Bar Committee will meet as it determines and as determined by the chief judge.

**(d) Duties.** The Bench Bar Committee will have general advisory and liaison roles regarding the operation of the court and will, among other things:

- (1) provide a forum for the continuous study of the operating procedures of the court;
- (2) serve as liaison among the court, its bar and the public;
- (3) study, consider, and recommend the adoption, amendment, or rescission of the Rules of Practice of the court; and
- (4) make any studies and render any reports and recommendations as the court directs.

\* \* \*

As amended 3/17/19 (formerly S.O. 18-1), 3/17/17, 10/17/05, 3/17/05.

## **LBR 9072.1 EXHIBITS**

**(a) Exhibits to Pleadings or Documents.** Bulky or voluminous materials must not be filed in their entirety or incorporated by reference unless the court finds the materials are essential and grants leave to file them. The court may strike any pleading or document filed in violation of this rule.

**(b) Preparation of Trial Exhibits.** When practical, all documentary exhibits must be prepared for trial as follows:

(1) Attorneys or unrepresented parties must pre-mark original exhibits with exhibit stickers. Plaintiffs or movants must use numerical symbols, e.g., 1, 2, etc. Defendants must use alphabetical symbols, e.g., A through Z, AA, BB, etc. If there is more than one plaintiff and/or defendant in the case, the surname or corporate name of the offering party must be placed on the exhibit sticker for further identification.

(2) The original exhibits (with exhibit stickers) will be used by the witness and must be delivered to the clerk. Two copies of all exhibits must be delivered to chambers. One copy of all exhibits must be delivered to each party participating in the trial or evidentiary hearing. Unless otherwise directed by the court, all exhibits must be delivered as set forth above at least three (3) full business days prior to the scheduled trial or evidentiary hearing date.

(3) An exhibit cover sheet in substantial compliance with the form "Exhibit Sheet" prescribed by the clerk and available on the court's website must be prepared and included with each set of exhibits submitted to the clerk, chambers, and other parties.

(4) Unless otherwise directed by the court, the exhibit cover sheet and exhibits shall be submitted in three-ring notebooks with each exhibit separated by dividers or tabs corresponding to the exhibit number or letter. All exhibits must be clearly legible and multiple-page exhibits must be paginated or bates numbered.

(5) The court may exclude any exhibit offered in a hearing or trial that is not clearly legible or does not comply with this Rule.

**(c) Withdrawal of Exhibits.** Exhibits introduced into evidence may be withdrawn from the custody of the clerk with permission of the clerk or upon order of the court. The clerk may destroy or dispose of any exhibit not withdrawn after final disposition of the proceeding.

**(d) Electronic Filing.** Trial exhibits must not be filed electronically unless the court orders otherwise.

\* \* \*

As amended 3/17/19.