

Bankruptcy Judge Zurzolo

Brown Bag Discussion

12:30 p.m. - July 25th

Room 1138 - Roybal Building

Attorneys and Legal Assistants Invited

255 E. Temple Street, Los Angeles, CA 90012

Please **RSVP** by **July 21** to: Jeffrey_Cozad@cacb.uscourts.gov

TOPICS

1. RARA Fees: Case Dismissed Before Plan Confirmation
2. Presumptively Reasonable Fees in Chapter 13 Cases
3. Title Clearance After Consummation of Ch 13 Plan
4. Notices of Motion: LBR 9013-1(d), (o), (p) and (q)
5. Voluntary Dismissal: Motions, Adv. Proceedings
6. Request for the Clerk to Issue Another Summons
7. Valuation of Property; Court Appointed Expert
8. Avoiding Unnecessary Appearance at Hearing
9. Judge's Copies: Method, Deadline, Appendix F
10. Proof of Service: Method, Capacity of Parties
11. Rejected LOU Orders; Email to Attorneys
12. Common Docket Errors; Notice to Filer

1. RARA Fees in Ch 13 Case Dismissed Before Plan Confirmation

- a. RARA fees (Rights and Responsibility Agreement) are only payable through a chapter 13 plan:
See [F 3015-1.7.RARA, page 5, 2nd full paragraph](#)
- b. Fees that are not paid via chapter 13 plan can be paid only by fee application: [LBR 3015-1\(v\)\(5\)](#)
- c. Must file a final fee application: [LBR 2016-1\(c\)](#); Comply w/[LBR 2016-1\(a\)\(1\), including \(D\)-\(K\)](#)
- d. Set a hearing on 21 days of notice to all creditors: [FRBP 2002\(a\)\(6\), LBR 9013-1\(d\)](#)
- e. Need 2 declarations: Debtor's dec -- [LBR 2016-1\(a\)\(1\)\(J\)](#); Attorney's dec -- [LBR 9013-1\(i\)](#)

2. Presumptively Reasonable Fees in Chapter 13 Cases

- a. Specified services and presumptively reasonable fees: [Court Manual Section 2.9, page 50 \(2-50\)](#)
- b. Do not apply a presumptively reasonable fee to services not found in the list of specified services.
- c. Supplemental Fee Application required: [LBR 3015-1\(v\)\(2\)](#)
- d. Attorney declaration required as to the nature, necessity, and reasonableness of service provided:
[LBR 3015-1\(v\)\(2\), LBR 9013-1\(I\)](#)

3. Title Clearance after Consummation of Chapter 13 Plan

- a. If debtor has obtained a judgment avoiding a lien, no other court order is needed. If a judgment avoiding lien was not obtained pre-plan consummation, file an adversary proceeding at that time.
- b. Proper action is to submit the judgment and proof of consummation / discharge to the lienholder.
- c. LBR form F 4003-2.4.DEC.AFTERDISCH created for courts allowing lien avoidance by motion

4. Notices of Motion: **LBR 9013-1(d), (o), (p) and (q)**

- a. Hearing, LBR 9013-1(**d**): [F 9013-1.1.HEARING.NOTICE](#)
- b. Opportunity to Request a Hearing, LBR 9013-1(**o**):
 - (1) Notice of Motion: [F 9013-1.2.OPPORTUNITY.REQUEST.HEARING](#)
 - (2) Declaration After Notice Period: [F 9013-1.2.NO.REQUEST.HEARING.DEC](#)
- c. No hearing, **some service by mail**, LBR 9013-1(**p**): [F 9013-1.2.NO.HEARING.NOTICE](#)
- d. No hearing, **no service by mail**, LBR 9013-1(**q**): [F 9013-1.2.NO.HEARING.NOTICE](#)

5. Voluntary Dismissal: Motions, Adversary Proceedings

- a. No legal authority to file “withdrawal” of motion; Withdrawal is not effective to waive appearance
- b. Dismissal procedure of [FRBP 7041\(a\)](#) applies in adversary proceedings and in motions that qualify as a contested matter. See [FRBP 9014\(c\)](#) and [LBR 9013-1\(k\)](#).
- c. Filing a “Voluntary dismissal” is effective only if a response has not been filed; otherwise, must file a stipulation to dismiss (order not needed), or a motion to dismiss (order required).
- d. LBR forms: [F 7041-1.ADV.VOLUNTARY.DISMISSAL](#); [F 9013-1.5.MOTION.VOL.DISMISSAL](#)

6. Request for the Clerk to Issue Another Summons

- a. Purpose: Make clear why a party requests a new summons:
 - (1) Replace a summons that is outdated or inaccurate (“Alias Summons”), **or**
 - (2) Add a new party to the adversary proceeding
- b. [FRBP 7004\(e\)](#) indicates only **7 days** to serve a summons; If not served, issue **another** summons.
- c. [LBR 7004-1\(a\)\(1\)\(B\)](#); LBR form [F 7004-1.2.REQUEST.ANOTHER.SUMMONS](#)
- d. See VZ webpage: [Order Setting Procedures for Adversary Proceeding Status Conferences, p. 1](#)
- e. NOTE: Must add full name and street address to docket. The Bankruptcy Noticing Center is unable to mail an order to a party whose street address is not on the docket. [Court Manual Section 4.6](#).

7. Valuation of Property; Court-Appointed Expert

- a. Establishing FMV of collateral is helpful in many situations: Plan confirmation, claim treatment, cash collateral, sales & leases, lien avoidance, relief from stay, etc. [FRBP 3012](#); [11 U.S.C. § 506\(a\)](#)
- b. LBR forms: [F 3012-1.MOTION.VALUATION](#); [F 3012-1.ORDER.VALUATION](#)
- c. Court-appointed valuation expert brings credibility to the process. [Fed. Rule Evidence 706](#)
- d. Stipulate to use court-appointed expert, share expert’s fee, and to the FMV that the expert finds.

8. Avoiding Unnecessary Appearance at Hearings

- a. Many LBR require appearance: [LBR 9013-1\(j\)](#), [7016-1\(a\)](#), [9011-2\(d\)](#), [3015-1\(v\)](#) + RARA
- b. Appearance required unless court HAS WAIVED appearance in a tentative ruling or entered order
- c. Waiver may come after settled motion, grant w/o hearing, or approved continuance.
- d. Phone call to chambers ineffective. Follow 3-day-before-hearing rule: [LBR 9013-1\(m\)](#)
- e. Adversary Proceedings: In some limited situations, an appearance can be waived.
See VZ webpage: [Order Setting Procedures for Adversary Proceeding Status Conferences, p. 3](#)
- f. RFS and chapter 13 plan confirmation hearings at which appearances will not be waived even if no opposition filed. See VZ webpage: [Chapter 13 Miscellaneous Instructions/Procedures 4](#)

9. Judge's Copies: Appendix F, Timing, Method, Exceptions

- a. Study [Court Manual Appendix F](#): Rules, exceptions, service methods, timing, & addresses.
- b. One copy, stapled or bound, tabs for exhibits & declarations, proof that document has been filed.
- c. ALWAYS serve a judge's copy if a document refers to a pending request for an order.
- d. Proof of Service must indicate service method: Personal delivery, overnight mail, or U.S. mail.

10. Proof of Service: Focus on Proof, Methods, Capacity of Parties

- a. Mandatory LBR form: [F 9013-3.PROOF.SERVICE.DOCUMENT](#)
- b. ALWAYS identify capacity of parties served. [LBR 9013-3\(d\)](#). This means:
 - (1) If all creditors must be served, identify on POS list that the parties listed are all of the creditors.
 - (2) If 20 largest unsecured creditors must be served, indicate that the parties listed are the top 20 or, if there are fewer than 20 creditors, indicate that there are not 20 unsecured creditors.
 - (3) If an attorney for a party must be served, and the attorney is served via NEF, indicate next to the email address that the email address is for that attorney.
- c. Attorney's support staff may sign a Proof of Service with a "/s/". [Court Manual Section 3.4\(e\)](#)
- d. NEVER file a POS as a one-page document. Always attach POS to the back of a filed document.

11. Rejected LOU Orders; Email to Attorneys

- a. Common Errors:
 - (1) Notice of Lodgment not filed, but is needed b/c an opposition was filed or signatures are needed
 - (2) Hearing information not in caption of the order
 - (3) Mandatory form order was not lodged
 - (4) Motion filed, but order not related to motion: Do not relate to stipulation or amended motion.
 - (5) "Amended" order lodged, without following procedure of [LBR 9021-1\(e\)](#)
- b. See [Order Processing Guidelines](#) on VZ webpage and on court's website under link to LBR forms [F 9021-1.2.BK.NOTICE.LODGMENT](#) and [F 9021-1.2.ADV.NOTICE.LODGMENT](#)

12. Common Docket Errors; Notices to Filer

- a. Common Docket & PDF Errors:
 - (1) Incorrect event code used - *use search feature on CM/ECF toolbar. Insert keyword & glossary of related event codes appears*
 - (2) Document uploaded in the wrong bankruptcy case or adversary proceeding
 - (3) PDF of document has no caption page
 - (4) PDF of document is incorrect / incomplete / unreadable
 - (5) Hearing information is not in the caption of the filed document
 - (6) Required signatures are missing from the motion or declaration
- b. "Notice to Filer" generates a NEF. If unsure of how to follow instructions in NEF, it is best to call courtroom deputy for presiding judge, not the Help Desk. Phone #s are in [Ct Manual Appendix A](#). **VZ courtroom deputy**: Ms. Johnson: 213-894-5855. "Help Desk" provides technical advice only.