



## **NEBRASKA RULES OF BANKRUPTCY PROCEDURE**

Adopted by the United States District Court  
for the District of Nebraska  
July 25, 2014

**Effective September 1, 2014**

expenses shall also include services and expenses to be compensated from a pre-petition retainer, if any.

4. Chapter 13 Fee Applications. Notwithstanding any of the foregoing provisions to the contrary, debtor's attorney fees in Chapter 13 cases shall be requested and awarded only in accordance with the No-Look Compensation Plan set forth in [Appendix "K."](#)

B. **Compliance with Neb. R. Bankr. P. 9013-1.** Applications by professionals for compensation and reimbursement of expenses shall be filed and served pursuant to the provisions of [Neb. R. Bankr. P. 9013-1](#).

C. **Order.** If no resistance is filed to applications for compensation and reimbursement of expenses, the Court will enter an order.

## **RULE 2080-1.**

## **CHAPTER 9**

### **A. Notices, Claims Bar Date, List of Creditors, Fees.**

#### **1. Notices.**

a. After the filing of a petition under Chapter 9 of the Bankruptcy Code, the Clerk's office shall serve on the attorney for the debtor a "Notice of Commencement of Case Under Chapter 9, Notice of Automatic Stay, Notice of Time for Filing Resistances to the Petition, Order for Relief, Notice of Time for Filing Proofs of Claims, and Related Orders Combined with Notice Thereof" ("Chapter 9 Notice"). The Chapter 9 Notice shall conform to Neb. Official Form 9-1 which is set forth on [Appendix "F."](#) The debtor shall immediately serve a copy of the Chapter 9 Notice on all parties in interest. The debtor shall file with the Court proof of service of the Chapter 9 Notice at least seven days before the last date for filing of resistance to the petition.

b. All notices required by subdivisions (a)(2), (3), and (7) of Fed. R. Bankr. P. 2002 shall be served on the committee(s) or its authorized agents and to the creditors who file with the Court a request that all notices be served on them.

2. Claims Bar Date. If the debtor applies for a claims bar date in the petition and such application is granted, the established claims bar date shall be included in the Chapter 9 Notice.

3. List of Creditors. The list of creditors required by 11 U.S.C. § 924 shall be filed within 14 days of the petition date unless otherwise ordered. The list shall include the

name and address of the creditor, the amount of the claim, and whether the claim is disputed, contingent, or unliquidated.

4. **Fees.** To enable the Court to determine administrative expenses allowable under 11 U.S.C. § 503(b) and priorities under 11 U.S.C. § 507(a) and reasonableness of such expenses under 11 U.S.C. § 943(b)(3), the debtor shall disclose a detailed good faith estimate of such fees and expenses in the disclosure statement and the plan.

**B. Publications.**

1. Unless otherwise requested by the debtor in the petition and ordered by the Court after notice and hearing, all publications required pursuant to 11 U.S.C. § 923 shall be made in *The Wall Street Journal*, *Lincoln Journal Star*, and the *Omaha World-Herald*. The debtor shall file with the Court proofs of publication no later than 14 days after the last publication.

2. After a petition is filed, the debtor shall immediately cause to be published the notice of the commencement of the case and notice of the order of relief as required by 11 U.S.C. § 923. The last date of the publication of such notice shall not be less than 14 days prior to the last day to file resistances to the petition.

**C. Resistances to Petition and Order for Relief.** Resistances to the petition may be filed by a party in interest no later than 45 days after the service of the Chapter 9 Notice to all creditors, special taxpayers, and other parties in interest. Resistances shall be filed with the Clerk and served on the attorney for the debtor. All resistances shall state the facts and legal authorities in support of such resistance. If a timely resistance to the petition is filed with the Court, the Court will schedule a hearing and order the resisting party to give proper notice to all parties in interest of the hearing on the resistance.

**D. Plan of Adjustment and Disclosure Statement.**

1. The Plan of Adjustment and Disclosure Statement shall be filed no later than 90 days after the creditors' committee is appointed. The Court may extend such time for good cause shown.

2. The requirements of Fed. R. Bankr. P. 2002(b) apply to the Disclosure Statement and Plan of Adjustment, except with regard to pre-approved plans. *See Neb. R. Bankr. P. 2080-1(E).*

**E. Pre-Approved Plans.** If the debtor is proposing a Plan of Adjustment which was accepted by more than two-thirds in amount and one-half in number of the creditors prior to the filing of the petition, then the debtor's petition shall also include a request for consolidated hearing to consider resistances to the petition, resistances to the adequacy of the disclosure made pursuant

to 11 U.S.C. § 1126(b)(2), and resistances to the confirmation of the plan. If the request is approved, the notice and service requirements of Neb. R. Bankr. P. 9013-1 apply.

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

**RULE 3002-1. FILING PROOF OF CLAIM**

A. **General.** The original proof of claim with attachments shall be filed with the Clerk in all chapters.

B. **Chapter 12 and Chapter 13.** A proof of claim filed in a Chapter 12 or 13 case shall be accompanied by evidence that any security interest claimed has been perfected. *See* Fed. R. Bankr. P. 3001(d). All creditors, including secured creditors, shall file proofs of claim in Chapter 12 and Chapter 13 proceedings within the time limit specified in Fed. R. Bankr. P. 3002(C).

**RULE 3002-2. CLAIMS - SECURED BY INTEREST IN DEBTOR'S PRINCIPAL RESIDENCE**

In accordance with Fed. R. Bankr. P. 3002.1(f), within 30 days after the debtor completes all payments under the plan, the Chapter 13 trustee shall file and serve on the holder of the claim, the debtor, and the debtor's counsel a Notice of Final Cure Payment stating that the debtor has paid the full amount to cure any default (arrearage) on the mortgage claim.

1. Within 21 days after service of the Notice of Final Cure Payment, the holder of the claim shall file a response/statement as referenced in Fed. R. Bankr. P. 3002.1(g). The response shall be filed as a supplement to the holder's proof of claim on the Court's claims register.

2. No action will be taken on the Response to Notice of Final Cure Payment unless the debtor or trustee files a Motion to Determine as referenced in Fed. R. Bankr. P. 3002.1(h), within 21 days of the filing of the response. After hearing and notice, the Court shall determine whether the debtor has cured the default (arrearage) and paid all required post-petition amounts.

3. A proof of claim that is secured solely by a mortgage or deed of trust and does not contain any pre-petition arrearage amount shall be deemed allowed without further order of the Court, even if it is filed after the expiration of the proof of claims bar date. The trustee or debtor may request reconsideration of the proof of claim allowance at any time.

B. According to 11 U.S.C. § 1121(e), the plan and disclosure statement shall be filed no later than 300 days after the case is filed. The disclosure statement may be a separate filing or may be combined in the plan. *See* 11 U.S.C. § 1125(f) for small business plan and disclosure statement requirements.

C. Once the plan is filed, 11 U.S.C. § 1129(e) requires the Court to confirm a plan that complies with the applicable requirements no later than 45 days thereafter. To assist in meeting the 45-day confirmation requirement, upon the filing of the disclosure statement and plan (regardless of whether the disclosure statement is filed separately or as part of the plan), the United States Trustee will file a statement as to the adequacy of the disclosure statement for purposes of conditional approval.

1. If the United States Trustee has determined that the disclosure statement is adequate, the Court will enter an Order Conditionally Approving Disclosure Statement, Setting the Final Hearing Date and Establishing Deadlines. The disclosure statement will be considered for final approval along with confirmation of the plan on the final hearing date.

2. If the United States Trustee determines that the disclosure statement is inadequate for conditional approval, the disclosure statement will be set for hearing.

**RULE 3020-1. UNCONTESTED CONFIRMATION ORDERS - CHAPTERS 9, 11, AND 12**

A. **General.** The Court will not confirm an uncontested plan unless the proponent of the plan submits the following:

1. Declaration establishing that the plan was filed in good faith;
2. Declaration establishing facts requisite to confirmation including a summary of balloting in Chapter 11 cases;
3. Statement of counsel that the plan complies with applicable legal requirements for confirmation; and
4. A proposed confirmation order.

B. **Deemed Submitted.** If, in a Chapter 12 case, the requirements of Neb. R. Bankr. P. 9013-1, and if, in a Chapter 9 or 11 case, the requirements of Fed. R. Bankr. P. 2002(b)(2), and subsection A of this Rule are complied with, the Court shall consider such submission as meeting the requirement that a hearing be held and no further hearing shall be scheduled. The Court will then consider entry of the confirmation order without further notice.

**RULE 3022-1. CHAPTER 11 INDIVIDUAL DISCHARGES AND CASE CLOSINGS**

A. Upon completion of all plan payments required of an individual debtor under a confirmed Chapter 11 plan, the individual debtor shall file an Application for Final Decree and Motion for Discharge.

B. The Application for Final Decree and Motion for Discharge shall be governed by [Neb. R. Bankr. P. 9013-1](#) and shall be served on all creditors. If no objection to the Application for Final Decree and Motion for Discharge is filed and the debtor is eligible to receive a discharge, the Court may issue a discharge in this case.

C. Upon entry of a discharge order on behalf of an individual debtor, and in the absence of any other pending matters, a final decree closing the case shall be entered.

D. If a Chapter 11 individual debtor proposes to close the case before plan payments have been completed, and intends to reopen the case after plan completion to obtain a discharge, a debtor shall file a Motion to Close the case and include in that motion the debtor's intent to reopen.

E. The Motion to Close Case prior to discharge shall be governed by [Neb. R. Bankr. P. 9013-1](#) and shall be served on all creditors. If no objection to the Motion to Close Case is filed and there are no other pending matters, the Court may issue an order closing the case. Upon the filing of a motion to reopen, the debtor shall be required to pay any fees due for reopening the case.

**RULE 3023-1. FORMULA FOR DETERMINING VALUE, AS OF THE EFFECTIVE DATE OF THE PLAN, FOR USE IN CHAPTERS 9, 11, 12, AND 13**

Whenever the Court is required to determine the value, as of the effective date of a plan, of property to be distributed under a plan for any confirmation purposes, there is a presumption that the appropriate interest rate shall equal the national average of the prime rate as published in *The Wall Street Journal* on the last day prior to the confirmation hearing, stated as a simple interest rate per annum, plus two percentage points. The formula approach has been approved by the United States Supreme Court in *Till v. SCS Credit Corp.*, 124 S. Ct. 1951, 158 L. Ed. 2d 787 (2004). If the creditor desires a different interest rate, it must specifically object to confirmation based upon inadequacy of the interest rate and shall have the burden of proof by a preponderance of the evidence on the appropriate rate of interest, which issue shall be considered at the confirmation hearing. Consistent with the plan in [Appendix "D,"](#) a Chapter 13 plan shall contain the specific interest rate proposed to be paid to a creditor.

**APPENDIX "F"**

NEB. OFFICIAL FORM 9-1

NOTICE OF COMMENCEMENT OF CASE UNDER CHAPTER 9

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:

\_\_\_\_\_

Debtor(s).

)  
)  
)  
)  
)

CASE NO. BK \_\_\_\_\_  
Chapter 9

NOTICE OF COMMENCEMENT OF CASE UNDER CHAPTER 9,  
NOTICE OF AUTOMATIC STAY, NOTICE OF TIME  
FOR FILING RESISTANCES TO THE PETITION, ORDER FOR RELIEF,  
NOTICE OF TIME FOR FILING PROOFS OF CLAIMS,  
AND RELATED ORDERS COMBINED WITH NOTICE THEREOF

TO: The Debtor, Creditors, Special Taxpayers, and Other Parties in Interest.

IT IS ORDERED that debtor shall give immediate notice of the following to all parties in interest and shall publish notice of the commencement of the case and notice of the order of relief required by 11 U.S.C. § 923 and shall file with the Court proofs of publication no later than 14 days after the last publication.

IT IS FURTHER ORDERED that the last publication of the notice of commencement and notice of the order of relief shall be not less than 14 days prior to the last day to file resistances to the petition.

IT IS FURTHER ORDERED that the debtor shall file with the Court proof of service by mail at least seven days before the last date for filing of resistances to the petitioner.

IT IS FURTHER ORDERED that all publications required pursuant to 11 U.S.C. § 923 shall be made in *The Wall Street Journal*, *Lincoln Journal Star*, and the *Omaha World-Herald*.

IT IS FURTHER ORDERED and notice is hereby given of:

1. Notice of Commencement of a Case Under Chapter 9. A case under Chapter 9 of the Bankruptcy Code was commenced by the filing of a petition by the debtor named above on \_\_\_\_\_.

2. Notice of Automatic Stay. The filing of the petition operates as a stay applicable to all entities of the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against an officer or inhabitant of the debtor that seeks to enforce a claim against the debtor, and the enforcement of a lien on or arising out of taxes or assessments owed to the debtor, and certain other acts and proceedings against the debtor and its property as provided in 11 U.S.C. §§ 362 and 922.

3. Notice of Time for Filing of Resistances to the Petition. Resistances to the petition may be filed by a party in interest no later than 45 days after the mailing of this notice by the debtor to all creditors, special taxpayers, and other parties in interest. 11 U.S.C. § 921(c). Resistances shall be filed with the Clerk of the United States Bankruptcy Court for the District of Nebraska, and copies of the resistances shall be mailed to the attorney for the debtor. All resistances shall state the facts and legal authorities in support of such resistances. If any timely resistances are filed with the Court, the Court will order the resisting party to give proper notice to all parties in interest of the hearing on the resistances.

4. Order for Relief. The filing of the petition constitutes an order for relief under Chapter 9, and this notice shall be deemed notice of such order for relief. 11 U.S.C. §§ 901 and 301. The filing of a resistance to the debtor's petition shall be deemed to constitute a motion to vacate the order of relief, and the Court shall proceed as follows: After notice by the resisting party and a hearing, it may dismiss the petition, subject to 11 U.S.C. § 921(e), if the debtor did not file the petition in good faith or if the petition does not meet the requirements of Chapter 9, Title 11, U.S.C. § 921(c).

5. Notice of Time for Filing Proofs of Claims. The debtor has filed or will file a list of claims. Any creditor holding a listed claim which is not disputed, contingent, or unliquidated as to amount, may, but need not, file a proof of claim in this case. Creditors whose claims are listed or whose claims are listed as disputed, contingent, or unliquidated as to amount and who desire to participate in the case or share in any distribution must file their proofs of claims on or before [either the specific bar date established by Court order or "a date to be established by the Bankruptcy Court on application by the debtor."] Any creditor who desires to rely on the list has the responsibility for determining that the claim is accurately listed.

6. Notices. All notices required by subdivisions (a)(2), (3), and (7) of Bankruptcy Rule 2002 shall be mailed only to the committee(s) or to its/their authorized agents and to the creditors who file with the Court a request that all notices be mailed to them.

DATED: \_\_\_\_\_.

BY THE COURT:

\_\_\_\_\_  
United States Bankruptcy Judge