



## NEBRASKA RULES OF BANKRUPTCY PROCEDURE

Adopted by the United States District Court  
for the District of Nebraska  
April 15, 1997

Effective Date April 15, 1997

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ORDER OF ADOPTION

GENERAL ORDER 97 - 03

The bankruptcy judges of this district requested a committee of the bankruptcy bar to submit to the Bankruptcy Court recommendations with regard to the amendment of the local bankruptcy rules. The committee finished its work in February of 1997. Notice of the proposed amended bankruptcy rules and notice of the comment period on such proposed rules was published in several newspapers located throughout the District of Nebraska.

The final date for comments was April 7, 1997. Comments received were reviewed and incorporated into the proposed amended rules.

The bankruptcy judges have now considered the proposed amended rules and have determined that they are consistent with, but not duplicative of Acts of Congress and do not prohibit or limit the use of Official Forms. The bankruptcy judges have determined that the local rules do conform to the uniform numbering system prescribed by the Judicial Conference of the United States for bankruptcy rules. The bankruptcy judges now recommend to the United States District Court that the final draft of the rules submitted to the United States District Court on April 10, 1997, should be adopted by the District Court pursuant to Fed. R. Bankr. P. 9029.

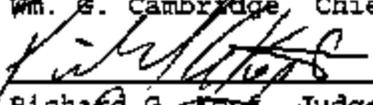
It is, therefore, ordered that the proposed amended local rules of the Bankruptcy Court as submitted to the District Court are adopted.

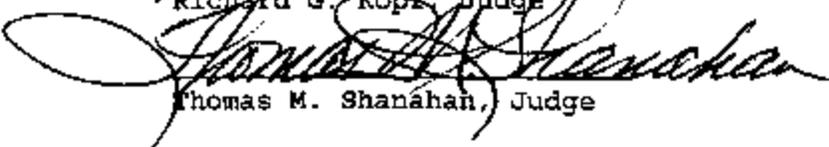
The amended Nebraska Rules of Bankruptcy Procedure are effective as of April 15, 1997.

DATED: April 15, 1997.

BY THE COURT:

  
Wm. G. Cambridge, Chief Judge

  
Richard G. Kopf, Judge

  
Thomas M. Shanahan, Judge

NEBRASKA RULES OF BANKRUPTCY PROCEDURE

TABLE OF RULES

Rule

1001-1.	Scope of Local Rules, Forms and Appendices
<b>PART I.</b>	<b>COMMENCEMENT OF CASE; PROCEEDINGS RELATING TO PETITION AND ORDER FOR RELIEF</b>
1002-1.	Petition - General
1007-1.	Lists, Schedules & Statements
1007-2.	Mailing - List or Matrix
1017-1.	Conversion - Request for/Notice of
1017-2.	Dismissal or Suspension - Case or Proceedings
1072-1.	Places of Holding Court
1073-1.	Assignment of Cases
<b>PART II.</b>	<b>OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS; EXAMINATIONS; ELECTIONS; ATTORNEYS AND ACCOUNTANTS</b>
2002-1.	Notices to Creditors & Other Interested Parties
2002-2.	Notices to United States or Federal Agency
2002-3.	United States as a Creditor or Party
2003-1.	Meetings of Creditors & Equity Security Holders
2014-1.	Employment of Professionals
2015-1.	Trustees - General
2016-1.	Compensation of Professionals
2017-1.	Examination of Debtor's Transactions with Professionals
2080-1.	Chapter 9
2082-1.	Chapter 12
<b>PART III.</b>	<b>CLAIMS AND DISTRIBUTION TO CREDITORS AND EQUITY SECURITY HOLDERS; PLANS</b>
3002-1.	Filing Proof of Claim
3007-1.	Claims - Objections
3015-2.	Chapter 13 - Amendments to Plans
3015-3.	Chapter 13 - Confirmation
3015-4.	Chapter 13 - Dismissal of Case upon Payment Default
3020-1.	Confirmation - Chapter 9, 11 and 12
<b>PART IV.</b>	<b>THE DEBTOR: DUTIES AND BENEFITS</b>
4001-1.	Automatic Stay - Relief from
4002-1.	Debtor - Duties
4003-2.	Lien Avoidance
4008-1.	Hearings on Reaffirmation Agreements

<b>PART V.</b>	<b>COURTS AND CLERKS</b>
5005-4.	Electronic Filing
5010-1.	Reopening Cases
5011-1.	Withdrawal of Reference
<b>PART VI.</b>	<b>COLLECTION AND LIQUIDATION OF THE ESTATE</b>
6004-1.	Sales of Estate Property
<b>PART VII.</b>	<b>ADVERSARY PROCEEDINGS</b>
7001-1.	Adversary Proceedings - General
7055-1.	Default Judgment of the Clerk
<b>PART VIII.</b>	<b>APPEALS (Reserved)</b>
<b>PART IX.</b>	<b>GENERAL PROVISIONS</b>
9004-1.	Papers - Requirements of Form
9004-2.	Caption
9004-3.	Attorney Identification
9006-1.	Time Periods
9006-2.	Continuances of Scheduled Hearings
9013-1.	Motion Practice
9014-1.	Applicability of Fed. R. Civ. P. 16 & 26 to Contested Matters
9015-1.	Jury Trial
9017-1.	Hearings upon Declarations and Documentary Evidence; Destruction of Exhibits
9019-1.	Settlements and Stipulations
9072-1.	Orders - Proposed
APPENDIX "A"	Matters Governed by Neb. R. Bankr. P. 9013-1
APPENDIX "B"	Addresses for U.S. Trustee, Standing Trustees and Government Agencies
APPENDIX "C"	Assignment of Cases per Rule 1073-1
APPENDIX "D"	Locations of Chapter 7 § 341 Meetings
APPENDIX "E"	Locations of Chapter 11, 12 and 13 § 341 Meetings
APPENDIX "F"	Chapter 13 Form 13-C
APPENDIX "G"	General Order - Chapter 13 Attorney Fees
APPENDIX "H"	Chapter 13 Form 13-A
APPENDIX "I"	Chapter 13 Form 13-B
APPENDIX "J"	Official Form 9-1
APPENDIX "K"	Reserved for future use
APPENDIX "L"	General Order - Chapter 12 Standing Trustee Fees
APPENDIX "M"	Official Form 7055-1
APPENDIX "N"	Official Form 9072-1
APPENDIX "O"	Applicable District Court Rules (Number and title)

**RULE 1001-1. SCOPE OF LOCAL RULES, FORMS, APPENDICES**

**A. Citation.** These Local Rules shall be formally referred to as Nebraska Rules of Bankruptcy Procedure and cited as Neb. R. Bankr. P. A rule may also be referred to as "Local Rule \_\_\_\_".

**B. Application.**

1. The rules shall apply to all bankruptcy cases and adversary proceedings. The Bankruptcy Judge may, by order, direct that specific Local District Court Rules are applicable in a particular case.

2. The rules shall apply in all cases filed under all chapters unless specifically excluded.

**C. District Court Rules.** The Local Rules of the United States District Court for the District of Nebraska concerning the following matters are specifically made applicable in bankruptcy cases and adversary proceedings.

1. Admission, discipline of attorneys, clinical legal education for law students, non-resident attorneys and appearance of counsel. NELR 83.4; 83.5; 83.6; 83.7; 83.8. Because of length, these are not included in the Appendix.

2. Discovery motion practice. NELR 7.1(i) and (j).

3. Procedures regarding summary judgment motions. NELR 56.1 and NELR 7.1 as applied to summary judgment motions. In addition, a party resisting a motion for summary judgment must file a written objection or resistance pursuant to Neb. R. Bankr. P. 9013-1.

4. Withdrawal of Reference. NELR 76.1.

5. Default Judgments by the Clerk. NELR 55.1.

**D. Forms.** The Bankruptcy Court may adopt suggested forms for use in Nebraska cases. Copies of suggested forms presently in use are included as an appendix to these rules. Copies of forms adopted in the future will be available from the Clerk of the Bankruptcy Court.

**E. Appendices.** The appendices attached to the Local Rules are for information only and are not adopted as part of the Local Rules and may be modified or deleted from time to time by order of the judges of the Bankruptcy Court.

**PART I. COMMENCEMENT OF CASE; PROCEEDINGS RELATING TO  
PETITION AND ORDER FOR RELIEF**

**RULE 1002-1. PETITION - GENERAL**

**A. Specific Requirements of Content of Voluntary  
Petitions.**

1. The petition shall conform to the Official  
Bankruptcy Forms.

2. If the debtor is a corporation, attached to each  
copy of the petition shall be a certified copy of the  
corporation action authorizing the filing of the petition.

3. The petition shall include the tax identification  
numbers used by a corporation, a partnership, an individual, and  
by a sole proprietorship, if different from the individual tax  
identification number.

**RULE 1007-1. LISTS, SCHEDULES & STATEMENTS**

**A. Schedules of Liabilities.** In each schedule of  
creditors, the creditors' names shall be listed alphabetically.  
If a tax obligation is listed, it shall include the date the tax  
obligation was incurred or assessed and the type of tax (e.g.,  
personal income tax - Form 1040; payroll tax - Form 940 and 941;  
100 percent penalty, etc.).

**B. Extension of Time to File Schedules.** No hearing shall  
be required on motions to extend time to file lists of creditors  
and equity security holders, or to file schedules and statement  
of affairs unless requested by the United States Trustee within  
7 days of service.

**C. Number of copies.** The following numbers of copies of matrix, petitions, schedules, statements, list of unsecured creditors, plans, disclosure statements shall be filed with the Court:

Chapter	7	9	11	12	13
Matrix	Orig+1	Orig	Orig+1	Orig+1	Orig+1
Petition	Orig+3	Orig+3	Orig+4	Orig+3	Orig+3
Schedule of Assets & Liabilities; Financial Affairs	Orig+3	N/A	Orig+4	Orig+3	Orig+3
Statement of Executory Contracts	Orig+3	N/A	Orig+4	Orig+3	N/A
List of 20 Largest Unsecured Creditors	N/A	Orig+1	Orig+1	N/A	N/A
Plan of Reorganization or Repayment	N/A	Orig+3	Orig+4	Orig+3	Orig+3
Disclosure Statement	N/A	Orig+3	Orig+4	N/A	N/A
Amendments to Schedules	Orig+2	Orig	Orig+1	Orig+2	Orig+2
Amended Plan	N/A	Orig	Orig+1	Orig+2	Orig+1
Amended Disclosure Statement	N/A	Orig	Orig+1	N/A	
N/A					

**RULE 1007-2. MAILING - LIST OR MATRIX**

**A. Filing Matrix.**

1. Each voluntary petition shall be accompanied by a list of creditors, lessors and interest holders set forth in alphabetical order (the "Matrix"). The Matrix shall include the mailing address and ZIP Code for each creditor and shall be typewritten on a form approved by the Clerk of the Bankruptcy Court.

2. In all Chapter 7, 12 and 13 cases, the Internal Revenue Service shall be listed only if debtor believes a tax is owing. In all Chapter 11 cases, whether or not the Internal Revenue Service is known to be a creditor, the Internal Revenue Service shall be listed on the Matrix at the address shown on the Appendix "B" to these Local Rules.

3. In all cases, the United States Trustee shall be listed on the Matrix.

4. In all cases where the Nebraska Department of Revenue is known to be a creditor and in all Chapter 11 cases, whether or not the Nebraska Department of Revenue is known to be a creditor, the Nebraska Department of Revenue shall be listed on the Matrix at the address shown on the Appendix "B" to these Local Rules.

5. In all cases, the county attorney and county treasurer from the county in which the debtor resides, shall be listed on the Matrix.

**RULE 1017-1. CONVERSION - REQUEST FOR/NOTICE OF**

**A. Conversions Upon Debtor's First Request.** Unless the case has been previously converted, a debtor's motion to convert a case under 11 U.S.C. § 706, 1208 or 1307 does not require notice and a hearing and the Court may rule upon the motion without notice or hearing. Notice of an order converting a case to another chapter shall be given by the Clerk to all creditors and interested parties and to the United States Trustee.

**RULE 1017-2. DISMISSAL OR SUSPENSION - CASE OR PROCEEDINGS**

**A. Voluntary Dismissal.** In addition to stating with particularity the grounds for relief, all motions to dismiss shall comply with Neb. R. Bankr. P. 9013-1 and shall fully disclose any existing arrangement or agreement between the debtor and creditors or any person or entity in connection with the motion for dismissal. The Court may condition dismissal upon payment of fees, including quarterly fees due the Office of the United States Trustee, as warranted. After notice and a

hearing, the Court may enter judgment for the fees against the debtor and debtor-in-possession upon filing of an appropriate declaration or affidavit by the Office of the United States Trustee.

**B. Motions to Alter, Amend or Reconsider Dismissal of Chapter 13 Cases.** A timely filed motion to alter, amend or reconsider dismissal of a Chapter 13 case which was dismissed for failure of the debtor to make payment shall comply with Neb. R. Bankr. P. 9013-1 and state with particularity:

1. the circumstances which explain why the required payments were not made;

2. the circumstances which have changed so as to permit the debtor to make future payments; and

3. the date and the manner of the future payments the debtor proposes to make to the Chapter 13 Standing Trustee.

If the future payments are to be made by payroll deduction, the motion shall state the name and address of the employer and the pay period of the debtor.

**RULE 1072-1. PLACES OF HOLDING COURT**

The Clerk and assigned judge shall determine the location of hearings in a particular case.

**RULE 1073-1. ASSIGNMENT OF CASES**

**A. Assignment.** The Bankruptcy Judges will, from time to time, adopt a general policy concerning the assignment of cases for implementation by the Clerk. The general policy will be varied on a case-by-case basis at the judges' discretion based on a number of factors which include the relative workload of judges, conflict of interests, and recusals. Upon the filing of a petition, the Clerk of the Bankruptcy Court shall assign the case to a particular judge. Appendix "C" sets forth the general policy concerning the assignment of cases.

**B. Subsequent Filings.** After the Court's assignment of cases, all subsequent pleadings or motions shall be filed in the office of the Clerk in the location of the assigned judge.

**PART II. OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS;  
EXAMINATIONS; ELECTIONS; ATTORNEYS AND  
ACCOUNTANTS**

**RULE 2002-1. NOTICE TO CREDITORS & OTHER INTERESTED  
PARTIES**

**A. Notice in Chapter 7.** In all Chapter 7 cases, after 90 days following the first date set for the meeting of creditors pursuant to § 341 of the Code, all notices required by subdivision (a) of Fed. R. Bankr. P. 2002, except clause (4) thereof, shall be mailed only to creditors whose claims have been filed and creditors, if any, who are still permitted to file claims by reason of an extension granted under Fed. R. Bankr. P. 3002(c), except that notice shall also be mailed to any entity which has filed with the Court a request that all notices be mailed to it.

**B. Notice to Committees.** Notice shall be provided to committees in accordance with Fed. R. Bankr. P. 2002(i). Pursuant to this Local Rule, the notices required by subdivisions (a)(2), (3) and (7) of Fed. R. Bankr. P. 2002 shall be transmitted to the United States Trustee and shall be mailed only to the committees elected pursuant to § 705 or appointed pursuant to § 1102 of the Code or to their authorized agents; to the creditors and equity security holders who serve on the trustee or debtor in possession and file a request that all notices be mailed to them; and to the holders of the ten (10) largest unsecured claims not otherwise provided notice under this Local Rule.

**C. Request for Notice Register.** The Clerk shall maintain a separate register of requests for notice.

**D. Notice and Reports to Nebraska Department of Revenue.**

1. In all Chapter 11 cases, whether or not the Nebraska Department of Revenue is known to be a creditor, the Nebraska Department of Revenue shall receive all notices pursuant to Fed. R. Bankr. P. 2002(a), (b) and (f) at the address listed on Appendix "B" to these Local Rules.

2. A debtor-in-possession or a trustee operating a business shall timely submit to the Nebraska Department of Revenue at the address listed on Appendix "B" to these local rules, a copy of each report submitted to the U.S. Trustee. See Neb. R. Bankr. P. 4002-1.C. for state tax returns.

**RULE 2002-2. NOTICES TO UNITED STATES OR FEDERAL AGENCY**

**A. Special Provisions Applicable to the United States**

**Trustee.**

1. Notice to the United States Trustee. A party filing a motion, pleading, or other writing in a case under any chapter of the Bankruptcy Code, other than a petition initiating a case and the filings included therewith, shall transmit a copy of such filing to the United States Trustee.

2. Notice of Emergency Motions and Hearings Held on Shortened Notice. Telephonic notice of emergency motions or hearings held on shortened notice shall be given to the United States Trustee, if the United States Trustee would otherwise be entitled to notice of the type of motion or hearing.

3. Place of Transmittal. The appropriate address for transmittal to the Office of the United States Trustee of papers pertaining to all cases and proceedings pending in this District is listed on the Appendix "B" to these Local Rules.

**B. Notice to the United States.** All copies of any notice required to be served on the United States by the Federal Rules of Civil Procedure, Federal Rules of Bankruptcy Procedure, Nebraska Rules of Bankruptcy Procedure, or United States District Court Local Rules shall, in addition to any other requirements therein stated, clearly designate, when known, the department, agency or instrumentality of the United States through which the debtor became indebted and shall be sent to the address listed in Appendix "B" to these Local Rules. In all such cases, notice shall also be served on the United States Attorney's Office located in the same city in which the petition for relief has been filed.

**C. U.S. Attorney General.** If service upon the U.S. Attorney General is required under applicable statute or rule, the place of service shall be at the address or addresses listed in Appendix "B" to these Local Rules.

**D. Notice or Reports to Internal Revenue Service.** A debtor-in-possession or a trustee operating a business shall timely submit to the District Director of the Internal Revenue Service at the address listed on Appendix "B" to these Local Rules, a copy of each report submitted to the United States Trustee. See Neb. R. Bankr. P. 4002-1.A. for federal tax returns.

**RULE 2002-3. UNITED STATES AS A CREDITOR OR PARTY**

**A. Departments, Agencies, and Instrumentalities of the United States.** If one or more of the following departments, agencies or instrumentalities of the United States is a creditor, the schedule of liabilities and Matrix shall list such department(s) or agency(ies) at the address indicated on

Appendix "B" to these Local Rules. In the event that one of the following departments or agencies changes its address, such department or agency must notify the Clerk of such change in address and make a specific request that the Appendix be changed.

1. DEPARTMENT OF AGRICULTURE (for Commodity Credit Corporation and Farmers Home Administration also list the Directors as set forth in Appendix "B")

a. ASCS/Commodity Credit Corporation (CCC)

b. Farmers Home Administration

2. DEPARTMENT OF EDUCATION

3. DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

4. DEPARTMENT OF HOUSING AND URBAN (HUD)

5. INTERNAL REVENUE SERVICE (IRS)

6. UNITED POSTAL SERVICE

7. SMALL BUSINESS ADMINISTRATION (SBA)

8. VETERANS ADMINISTRATION (VA)

**B. United States Attorney's Office.** In all cases in which any department, agency or instrumentality of the United States is a creditor, the schedule of creditors and Matrix shall also list the United States Attorney's office located in the city in which the petition for relief has been filed at the address listed in Appendix "B" to these Local Rules.

**RULE 2003-1. MEETING OF CREDITORS & EQUITY SECURITY HOLDERS**

**A. Location of § 341 Meeting.** The United States Trustee shall determine the location of § 341 first meetings of creditors. The location is determined by the county of the residence of the debtor. Appendix "D" sets forth the locations of the § 341 meetings for Chapter 7 cases. Appendix "E" sets forth the locations of the § 341 meetings for Chapter 11, 12 and 13 cases.

**B. Change in Location of § 341 Meeting.** As a general policy, the location of the § 341 meeting will not be changed. In exceptional circumstances, the United States Trustee will consider requests for changes in location of the meeting, if such request is made at the time the petition is filed. No requests for changes in location of the meeting will be

considered after the date of the filing of the petition.

**RULE 2014-1. EMPLOYMENT OF PROFESSIONALS**

**A. Definition.** The term "professionals" shall include, but is not limited to, attorneys, accountants, appraisers, auctioneers, investigators, consultants, investment bankers, real estate and other brokers and agents and other similar persons or entities retained to perform services in connection with a bankruptcy case.

**B. Applications to Retain Professionals.** A copy of all applications to retain professionals under 11 U.S.C. §§ 327 and 1103 must be transmitted to the United States Trustee concurrently with filing with the Clerk. No hearing on the application shall be required unless requested by the United States Trustee within 7 days of service of the application. The judge shall not enter an order until the expiration of the 7-day U.S. Trustee review period.

**C. Debtor's Counsel.** Unless debtor's counsel is paid from property of the bankruptcy estate, counsel for the debtor in a Chapter 7 case may be retained by the debtor without Court approval. Every attorney for a debtor must disclose fees, regardless of source, pursuant to Fed. R. Bankr. P. 2016(b).

**RULE 2015-1. TRUSTEES - GENERAL**

**A. Trustee's Duty to Pay Costs.** Prior to the closing of the case, the standing trustee, the panel trustee, or debtor-in-possession, if no trustee is appointed, shall pay from estate property all noticing fees and other costs incurred by the Clerk of the Bankruptcy Court in connection with the case. The Clerk shall periodically notify the trustee or debtor-in-possession, if there is no trustee, of the amount of accrued fees and costs in each case.

**RULE 2016-1. COMPENSATION OF PROFESSIONALS**

**A. Fee Applications.**

1. Mandatory Application. Applications for allowance of compensation for services and reimbursement of expenses shall be filed when Court approval of compensation is required under 11 U.S.C. § 330. Except in Chapter 7 cases, a fee application must also be filed if debtor's attorney received a prepetition bankruptcy retainer or payment from property of the debtor, or from property of a person or entity other than the debtor. In the case of a prepetition retainer or payment, and except in Chapter 7 cases, the fee application shall be filed even if no further compensation is sought in connection with the bankruptcy case.

2. Time to file. Professionals seeking compensation and reimbursement of expenses from property of the estate shall file an application for allowance of fees and expenses. All applications by professionals for compensation and reimbursement of expenses from property of the estate shall be filed before the case is closed with the Clerk of the Bankruptcy Court as promptly as reasonably possible after completion of the services. If a trustee has been appointed in the case, the trustee shall give all professionals retained by debtor with Court approval ten (10) days notice of the trustee's intention to file the final report and account so as to provide such professional with an opportunity to file an application before the mailing of notice of hearing on the trustee's final report and account. In any case in which interim compensation has been approved, the professional for whom interim compensation was approved must file a final fee application.

3. Contents. Unless otherwise ordered, a time summary exhibit, constructed from contemporaneously kept time records, shall be attached to all fee applications. The exhibit shall state the dates, the number of hours spent and estimated to be spent in the future to tenths of an hour on particular tasks, a concise statement of the task, the identity of the individual performing the work, the relationship of the service to the estate, and the value thereof. If the application seeks compensation for future services, the exhibit shall also state an estimate of the number of hours to be expended in future services. All fee applications shall disclose all fees paid to the applicant, including prepetition payments for services rendered or to be rendered in connection with the case. The description of legal services and expenses shall also include services and expenses to be compensated from prepetition retainer, if any. Moreover, each fee application shall disclose all prior interim fee awards.

4. Chapter 13 Fee Applications. A fee application of debtor's counsel seeking less than an amount established from time to time, by General Order of the Nebraska Bankruptcy Judges, is not required to set forth all of the information listed in subsection 3 above, and shall be sufficient if the application states the total number of hours expended on services, with a general description of the services rendered. A fee application in the form set forth in Appendix "F" shall be sufficient. The current General Order establishing the maximum dollar amount of such fee applications is set forth in Appendix "G".

5. Notice. All applications for compensation shall be served on the Office of the United States Trustee, the standing trustee or panel trustee, and all interested parties.

**B. Disclosure of Compensation.** Every professional,

whether or not the professional applies for compensation, shall file with the Court within 15 days after employment, a Statement of Compensation paid or agreed to be paid, if such payment or agreement was made after one year before the date of the filing of the petition. The Statement of Compensation shall disclose the source of such compensation paid or agreed to be paid. A supplemental Statement shall be filed within 15 days after receipt of any payment not previously disclosed.

**C. 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.

**D. Order.** If no resistance is filed to applications for compensation and reimbursement of expenses, movant shall submit a proposed order in conformance with Neb. R. Bankr. P. 9072-1.

**RULE 2017-1. EXAMINATION OF DEBTOR'S TRANSACTIONS WITH PROFESSIONALS**

**A. Payment or Transfer to Professional Before Commencement of Case.** On motion by any party in interest or on the Court's own initiative, the Court, after notice and a hearing, may determine whether any direct or indirect payment of money or any transfer of property, within one year before the date of the filing of the petition to a professional for services rendered or to be rendered is excessive.

**B. Payment or Transfer to Professional After Commencement of Case.** On motion by any party in interest or on the Court's own initiative, the Court, after notice and a hearing, may determine whether any direct or indirect payment of money, or any transfer of property, or any agreement thereof, to a professional after commencement of the case is excessive.

**C. Excessive Payments.** If the Court determines a payment to a professional is excessive, the Court may order the return of the excessive payment to the estate or the entity that made such payment.

**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 mail to the attorney for the debtor, "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" (the "Chapter 9 Notice"). The Chapter 9 Notice shall conform to Neb. Official Form 9-1 which is set forth in Appendix "J". 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 three business 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 mailed only to the committee(s) or their authorized agents and to the creditors who file with the Court a request that all notices be mailed to them.

2. Claims Bar Date. If the debtor applies for a claims bar date in its 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 15 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*" and the "*Omaha World Herald*". The debtor shall file with the Court proofs of publication not later than 19 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 be not less than 15 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 not later than 45 days after the mailing of the Chapter 9 Notice

to all creditors, special taxpayers and other parties in interest. Resistances shall be filed with the Clerk, and a copy of resistances shall be mailed to 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 not later than 90 days after the creditors' committee is appointed. The Court may extend such time for good cause shown.

2. The requirements of Neb. R. Bankr. P. 9013-1 apply to the Disclosure Statement, except with regard to pre-approved plans. See Neb. R. Bankr. P. 2080-1.F.

**E. Confirmation.** At the hearing on confirmation of the plan, the debtor shall submit to the Court an order which complies with 11 U.S.C. §§ 943 and 1129 and shall submit a summary of ballots.

**F. 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 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.

**RULE 2082-1. CHAPTER 12 - GENERAL**

**A. Plan Confirmation Requirements.** The Court shall confirm a plan only if the plan provides a basis for determining whether the requirements of 11 U.S.C. § 1225(a)(4) and (b) have been met. The requirements of § 1225(a)(4), 1225(a)(5)(b), and 1225(a)(6) shall be deemed not satisfied if a plan does not contain at least the following information:

1. A statement disclosing any change of the debtor's assets or liabilities from the date of filing of the petition through the date of the filing of the plan;
2. A cash-flow projection for the year immediately following confirmation of the proposed plan, including and identifying debtor's farm and non-farm income

sources;

3. Assumptions and sources upon which the cash-flow projection is based, with historical or other data justifying such assumptions;
4. Farm income and expense information in a form comparable to Internal Revenue Code Schedule F forms filed by the debtor for the previous four (4) years plus a statement of debtor's non-farm income for the tax year preceding the filing of the motion;
5. Projected administrative expenses, including attorney fees;
6. A plan summary indicating the dates, amounts and payees of all amounts to be paid under the plan as provided by the Chapter 12 trustee;
7. If the plan proposes the sale of assets, a statement from a qualified tax accountant or attorney, setting forth the probable tax consequences thereof;
8. The basis of any valuation of property, including names of appraisers and dates of appraisal, if any;
9. A statement with detailed information, specifying the need for the plan payments to be made over a period longer than three years;
10. If the debtor proposes to retain secured property, a statement itemizing such property, the value of the property, and the basis of the valuation estimate;
11. A liquidation analysis sufficient to show compliance with 11 U.S.C. § 1225(a)(4), including a statement from a qualified tax accountant or attorney as to tax liabilities from liquidation, if any.
12. Whether a Chapter 12 plan provides for payments to be made to creditors directly or through the Chapter 12 Standing Trustee, the debtor shall pay to the Chapter 12 Standing Trustee a fee, for each year of the plan, which shall be the lesser of the percentage of all payments under the plan set by the Attorney General or her delegate from time to time pursuant to the requirements of 28 U.S.C. § 586(e), or the dollar amount established by General Order of the Nebraska Bankruptcy Judges. The current General Order of the Nebraska Bankruptcy Judges is set forth in Appendix "L".

**B. Resistance to Plan.** If a resistance to the plan is filed, the case shall proceed pursuant to Neb. R. Bankr. P. 9013-1 and 9017-1.

**C. Confirmation Order.** The confirmation order prepared and submitted to the Court upon confirmation of a plan shall recite compliance with 11 U.S.C. § 1225(a)(1)-(6), and set forth an itemization of and values for secured property retained by the debtor under the plan. Such order shall be approved by the Chapter 12 Trustee prior to submission.

**D. Reports.** The debtor shall supply to the Chapter 12 Trustee, within thirty (30) days following a request therefor, such periodic or annual reports as are necessary for the Trustee to comply with the provisions of 11 U.S.C. § 1231. The Trustee is authorized to generate forms on which periodic or other annual reports shall be made. Upon request, the Chapter 12 Trustee or the Debtor shall provide a copy of said reports to a party in interest. The Trustee may charge a reasonable copy fee for such reports.

**E. Discharge.** A motion for an order of discharge shall be in compliance with Neb. R. Bankr. P. 9013-1. If no resistance is timely filed, an order in conformance with Neb. R. Bankr. P. 9072-1, approved in form and content by the Trustee, may be submitted.

**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 Chapter 7, 9, 11 and 12 cases. In Chapter 13 cases the original and one copy of the proof of claim with attachments shall be filed and shall be served on counsel for the debtor, or the debtor if pro se. A proof of service shall be attached to the original proof of claim.

**B. Chapter 13.** A proof of claim filed in a Chapter 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 a Chapter 13 proceeding within the time limit specified in Fed. R. Bankr. P. 3002(c).

**RULE 3007-1. CLAIMS - OBJECTIONS**

**A. Content.**

1. The caption of all objections to claims shall identify the claimant (e.g., Objection to Claim of XYZ Co.) and claim number. The objecting party has the burden of overcoming the presumption afforded by Fed. R. Bankr. P. 3001(f). If the objecting party relies on facts not established by the proof of claim, an affidavit or declaration shall be filed and served with the objection. Objections to claims shall be filed and served in compliance with Neb. R. Bankr. P. 9013-1 and shall state with particularity:

a. The proof of claim by filing date, creditor and amount, or in some other specific manner (Note: reference to a proof of claim number without the claimant's name will not be deemed sufficient notice);

b. The specific ground(s) upon which the objection is made; and

c. The proposed treatment of the claim.

**B. Chapter 13 Procedures.**

1. Pursuant to Fed. R. Bankr. P. 3007, the Chapter 13 Trustee may object to any claim filed. If the trustee does not object to the claim, the Trustee will then file a notice concerning allowance of such claim after the expiration of ninety (90) days from and after the first date set for the meeting of creditors, pursuant to 11 U.S.C. § 341(a). Within five (5) days from the date of the notice concerning allowance of claims, the Trustee shall serve upon the debtor and the

debtor's attorney a copy of the notice. Within thirty (30) days from the date of the notice, the debtor may object to the allowance of a claim as set forth in the Trustee's motion. If the debtor does not file a written objection to Trustee's motion to allow claims within the time period required, the claims shall be deemed allowed as provided in the notice.

2. An objection to the allowance of claim shall be filed and served upon the Chapter 13 Trustee, claimant and counsel for the claimant pursuant to Neb. R. Bankr. P. 9013-1.

**C. Order.** If no resistance to the objection to claim is filed pursuant to Neb. R. Bankr. P. 9013-1, objector shall submit an order in conformance with Neb. R. Bankr. P. 9072-1 specifying the treatment of the claim and the amount.

#### **RULE 3015-2. CHAPTER 13 - AMENDMENTS TO PLANS**

**A. Amending Chapter 13 Plan Prior To Confirmation.** If debtor amends the plan prior to confirmation, the format of the amended plan shall be the same as the original plan. If the amended plan is filed after service of the motion to confirm, a new motion to confirm shall be served with the amended plan in the manner specified in Neb. R. Bankr. P. 3015-3.

**B. Amending Chapter 13 Plan After Confirmation.** To modify a confirmed Chapter 13 plan, the debtor shall file a Proposed Modified Plan and a Motion Requesting Modification. The Motion shall state with particularity the date the plan was originally confirmed, the terms of the modification, the reason for the modification and the effect of the modification upon distribution to the creditors. The motion shall proceed in accordance with Neb. R. Bankr. P. 9013-1.

#### **RULE 3015-3. CHAPTER 13 - CONFIRMATION**

##### **A. Motion to Confirm Chapter 13 Plan.**

1. Within twenty (20) days following the first date set for the first meeting of creditors under 11 U.S.C. § 341(a), debtor shall file and serve a motion to confirm. The motion to confirm shall be governed by Neb. R. Bankr. P. 9013-1. The debtor shall serve copies of the plan and the motion upon the standing Chapter 13 Trustee and all creditors and other persons entitled to receive notice.

2. The motion to confirm shall be in substantial conformity with Chapter 13 Form 13-A which is set forth in Appendix "H". The motion shall be signed by debtor's counsel and verified by the debtor.

3. The motion to confirm shall be amended to conform

to any amendments to debtor's plan.

4. No objections to confirmation shall be filed prior to the filing of the motion to confirm.

5. If there is no timely objection to confirmation of a Chapter 13 plan, debtor shall submit to the Court a proposed confirmation order which shall be in substantial conformity with Chapter 13 Form 13-B which is set forth in Appendix "I".

**RULE 3015-4. CHAPTER 13 - DISMISSAL OF CASE UPON PAYMENT DEFAULT.**

**A. Notice of Payment Default.** The Chapter 13 trustee may provide a debtor with Notice of Payment Default. The notice shall state the amount of the existing payment default and the date on which the next scheduled payment is due under the proposed plan or confirmed plan. The notice shall further state that under this Local Rule, the bankruptcy case will be dismissed upon the filing of a declaration by the Chapter 13 trustee unless, within 20 days after the date of the Notice of Payment Default, the debtor either cures the payment default and makes all payments due before expiration of the 20 day period or requests a hearing on the Notice of Payment Default. The Notice of Payment Default shall state the specific calendar date by which either the payment default must be cured or a hearing must be requested. The Chapter 13 trustee shall file a copy of the Notice of Payment Default and proof of service with the Clerk of the Bankruptcy Court.

**B. Cure Default or Request Hearing.** Within 20 days of the mailing of a Notice of Payment Default, the debtor shall either:

1. cure existing payment defaults, make all payments due before expiration of the 20 day period, and file proof of payment with the Clerk of the Bankruptcy Court, or

2. file a motion with the Clerk of the Bankruptcy Court requesting that the Notice of Payment Default be set for hearing to permit the debtor to show good cause why the case should not be dismissed. If the motion sets forth facts in support of specific allegations of good cause, the Clerk of the Bankruptcy Court shall schedule the Notice of Payment Default for hearing upon affidavit evidence. The filing of a contested matter by the debtor, such as an amended or modified plan or motion to suspend payments, shall not constitute a request for hearing under this Local Rule and shall not, alone, preclude dismissal of the case. However, any such contested matter or amended plan, if a basis for allegations that the case should not be dismissed, shall be filed within the 20 day period in compliance with Local Rule 9013-1.

**C. Dismissal upon Payment Default upon Declaration of the Chapter 13 Trustee.** A Chapter 13 case shall be dismissed upon the filing of an affidavit by the Chapter 13 trustee establishing that Notice of Payment Default was provided to the debtor and debtor's counsel and that the debtor did not timely cure the payment default or request a hearing. The affidavit shall state that the Chapter 13 trustee has complied with this Local Rule, has sent a copy of the Notice of Payment Default to the debtor, debtor's counsel, and the Clerk of the Bankruptcy Court, that the debtor has not timely cured the payment defaults or requested a hearing on the Notice of Default and that the case should be dismissed.

**D. Chapter 13 Trustee to Submit Proposed Order.** The Chapter 13 Trustee shall submit a proposed order of dismissal at the time the affidavit is filed under subsection C of this Local Rule.

**RULE 3020-1. CONFIRMATION - CHAPTER 9, 11 AND 12**

**A. Uncontested Confirmation Orders.**

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

a. Declaration establishing that the plan was filed in good faith;

b. Declaration establishing facts requisite to confirmation including a summary of balloting in Chapter 11 and 9 cases;

c. Statement of counsel that the plan complies with applicable legal requirements for confirmation; and

d. A proposed confirmation order.

2. Deemed Submitted. If the requirements of Neb. R. Bankr. P. 9013-1 and subsection A.1. 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.

**B. Payment of United States Trustee Fees in Chapter 11 Cases.** Unless otherwise ordered by the Court, all quarterly fees payable to the United States Trustee under 28 U.S.C. § 1930(a)(6) shall be paid on or before the effective date of the plan. All Chapter 11 plans shall provide that the debtor will pay post-confirmation quarterly fees to the United States Trustee when due, as required by 28 U.S.C. § 1930(a)(6).



**PART IV. THE DEBTOR: DUTIES AND BENEFITS**

**RULE 4001-1. AUTOMATIC STAY - RELIEF FROM**

**A. General.** A motion for relief from the automatic stay under 11 U.S.C. § 362 shall be in writing and shall bear the caption "Motion for Relief From the Automatic Stay." Proceedings for relief from the automatic stay shall conform to the requirements of Fed. R. Bankr. P. 4001(a)(1) as supplemented by this Local Rule. This procedure is different from, and not governed by Neb. R. Bankr. P. 9013-1.

**B. Co-Debtor Stay.** Motions for relief pursuant to 11 U.S.C. §§ 1201 or 1301 shall contain the caption "Motion for Relief From Co-debtor Stay." The Motion shall specifically identify the co-debtor and the amount of the debt.

A motion for relief from the co-debtor stay of §§ 1201 and 1301, shall proceed pursuant to Neb. R. Bankr. P. 9013-1, provided that the 20 day notice period shall commence to run on the date the motion is filed with the Clerk of the Bankruptcy Court.

**C. Hearing.** Upon the filing of a motion for relief from the automatic stay, the Clerk of the Bankruptcy Court shall (1) set a date by which resistances must be filed; (2) schedule the matter for a final hearing to take place within 30 days in conformity with Fed. R. Bankr. P. 4001; and (3) provide notice thereof to the moving party. The hearing may be treated as a preliminary hearing pursuant to 11 U.S.C. § 362(e) if the Court so elects. Unless otherwise ordered, the hearing will be upon affidavits or declarations and documentary evidence. Unless otherwise ordered, oral arguments will be scheduled in the Courtroom or by telephone conference. The moving party shall arrange for a Court reporter to record telephone conference hearings if evidence is to be offered by any party.

**D. Notice.** The moving party shall serve notice of the motion for relief from the automatic stay in the manner prescribed in Fed. R. Bankr. P. 7004 upon the debtor and debtor's attorney, if any, and those parties specifically designated in Fed. R. Bankr. P. 4001(a)(1). In all cases in which a trustee has been appointed, the trustee or interim trustee shall be named and served as an additional responding party. The moving party shall serve the motion, proposed affidavit or declaration evidence or a detailed summary thereof and notice of the hearing date and the specific calendar date which any resistance with evidentiary summary must be filed and served. The notice shall state that Local Rule 4001-1 applies. The motion, evidence and notice of hearing and resistance date shall be mailed by the moving party within three (3) days of its receipt from the Clerk and proof of notice shall be filed before

the resistance date. If no timely resistance is filed, the Court will rule on the motion for relief from stay without further notice or hearing. If a timely resistance is filed and served, with evidentiary material or summary, a hearing will take place as scheduled pursuant to this Local Rule, and the moving party and resisting party shall appear at the hearing unless the matter has been resolved, in which case a party must appear and make a record unless excused pursuant to Neb. R. Bankr. P. 9019-1.

**E. Relief from Stay - Applicability of Neb. R. Bankr. P. 9013-1.** Motions for relief under 11 U.S.C. § 362(d) filed by a county respecting tax claims and motions to approve stipulations or agreements which provide for relief from 11 U.S.C. § 362 may proceed under Neb. R. Bankr. P. 9013-1 upon notice and opportunity to request hearing.

**F. Evidentiary Materials.** Exhibits for telephone hearings shall be submitted to the Clerk in accordance with the requirements of Neb. R. Bankr. P. 9017-1, including a cover letter. Exhibits to be used at Courtroom hearings shall be offered at the hearing. If no resistance to the motion for relief is filed, no exhibits need to be submitted. The Court shall consider the detailed motion, the proof of service and the lack of resistance when determining whether to grant relief.

**RULE 4002-1. DEBTOR - DUTIES**

**A. Federal Tax Returns.**

1. All non-delinquent original fiduciary returns (Form 1041), filed pursuant to 11 U.S.C. § 505(b), should be submitted to the IRS Service Center in Ogden, Utah, with a copy submitted to the Special Procedures Function address on Appendix "B", unless the taxpayer is specifically advised otherwise by a representative of the District Director.

2. All delinquent original returns should be submitted to the Special Procedures Function address on Appendix "B", unless the taxpayer is specifically advised otherwise by a representative of the District Director.

3. When a federal tax return is filed electronically, the taxpayer shall advise the District Director at the address of the Special Procedures Function on Appendix "B", in writing, that the filing has been done electronically and shall provide a copy of the document that was submitted electronically.

4. If on the petition date, debtor had failed to timely file a tax return due pre-petition, debtor shall file all

such delinquent returns within 30 days of the petition date unless an extension of time for filing has been granted by the Court after notice and hearing pursuant to Neb. R. Bankr. P. 9013-1.

**B. State Tax Returns.**

1. If on the petition date, the debtor had failed to timely file any state tax return due pre-petition, debtor shall file all such delinquent state tax returns within 30 days of the petition date unless an extension of time for filing has been granted by the Court after notice and hearing pursuant to Neb. R. Bankr. P. 9013-1.

2. All delinquent original Nebraska tax returns should be submitted to the Nebraska Department of Revenue address on Appendix "B" unless the taxpayer is specifically advised otherwise by a representative of the State Tax Commissioner.

**C. Duties of Debtors in Chapter 12 Cases.**

1. Initial Notice. Debtor, at the time of filing the schedules, must also file a copy of the initial Notice and file a proof of service prior to the § 341 Meeting as originally scheduled certifying that this notice, petition, schedules, and plan, if any, have been served upon all entities listed on the matrix, the U.S. Attorney, and the Chapter 12 Trustee. The initial Notice must contain the following information:

- a. Name and address of debtor or debtors.
- b. Date Chapter 12 petition was filed.
- c. Date schedules were filed.
- d. Date of §341 meeting and statement that a complaint to object to discharge or dischargeability must be filed within 60 days following the date scheduled for the §341 meeting or such objections are waived.
- e. Statement that claims may be filed and that the bar date for such filing is 90 days after the first date set for the meeting of creditors pursuant to 11 U.S.C. § 341(a).
- f. Statement that plan was filed with petition or was not so filed.
- g. If plan was filed with petition, a copy of the plan must be served with the Initial Notice.

- h. If plan was not filed with petition, a statement that debtor will serve a copy of plan upon all parties when the plan is filed and that debtor will inform all parties of confirmation hearing date at the time the plan is filed.
- i. The bar date for resistances to the plan in conformance with Neb. R. Bankr. P. 9013-1.

2. Supplementary Notice. If plan is filed after the petition and schedules are filed, the debtor shall serve a copy of the plan on all interested parties and comply with Neb. R. Bankr. P. 9013-1.

#### **RULE 4003-2. LIEN AVOIDANCE**

A. **Section 522 Lien Avoidance.** A proceeding under 11 U.S.C. § 522(f) by a debtor to avoid a lien or transfer of property may be brought by motion pursuant to Neb. R. Bankr. P. 9013-1. The caption of the motion shall identify the creditor whose lien is to be avoided. The motion shall set forth the amount of the lien and debtor's obligation secured by the lien sought to be avoided; the identity and fair market value of the property subject to said lien; the nature and amount of any other debts or obligations secured by an interest in the property; the dollar amount of the exemption; the specific statutory authority for the exemption; and the identity of any other property claimed to be exempt under said specific statute. All proceedings to avoid a lien except those under 11 U.S.C. § 522(f) shall be brought by adversary proceeding. A motion to sell free and clear of liens does not constitute a proceeding to avoid a lien within the meaning of this Local Rule and may be brought by motion.

If no resistance is timely filed pursuant to Neb. R. Bankr. P. 9013-1, movant shall submit a detailed order in conformance with Neb. R. Bankr. P. 9072-1.

B. **Chapter 13 Cases.** Motions to avoid liens under 11 U.S.C. § 522(f) in Chapter 13 cases shall be filed and served no later than the date of filing the motion to confirm plan required by Neb. R. Bankr. P. 3015-3.

#### **RULE 4008-1. HEARINGS ON REAFFIRMATION AGREEMENTS**

No reaffirmation hearing will be scheduled and no reaffirmation agreements will be reviewed by the Court unless such hearing or review is requested by a creditor or a debtor and concerns a debtor who is proceeding without an attorney or a debtor who has received a discharge and desires to reaffirm a debt post discharge. See 11 U.S. C. § 524(c)(6) and (d).

**PART V. COURTS AND CLERKS**

**RULE 5005-4. ELECTRONIC FILINGS**

Filings with the Clerk of the Bankruptcy Court may not be made by facsimile transmittal unless previously authorized by the Clerk or Clerk's designee in care of facsimile transmissions. In an emergency situation, counsel may seek leave to transmit matters by facsimile machine by telephoning the office of the Clerk of the Bankruptcy Court and speaking with the Clerk or Clerk's designee. If leave is obtained, the sender shall follow instructions of the Clerk. A facsimile cover sheet shall specify the name of the Clerk's designee who authorized the facsimile transmittal. If the item transmitted is for filing, the sender shall forthwith file an original. This rule is neutral on the issue of whether a pleading or matter transmitted to the Clerk's office by facsimile constitutes an effective filing.

**RULE 5010-1. REOPENING CASES**

A motion to reopen a closed case shall be filed with the Clerk together with the appropriate filing fee, if any. The motion shall state specific facts showing cause for reopening the case and the reasons for such reopening. Notice of the motion shall be provided to any former trustee in the case and the United States Trustee's office. If the case is being reopened to enable movant to file a motion, pleading, document, or adversary proceeding regarding a specific creditor or party, notice shall also be given to that creditor or party. The motion shall inform the parties of the resistance date pursuant to Neb. R. Bankr. P. 9013-1.

**RULE 5011-1. WITHDRAWAL OF REFERENCE**

All cases under Title 11 of the United States Code, and all proceedings arising under such Title 11, or arising in, or related to, a case under Title 11, are referred by the United States District Court for the District of Nebraska to the Bankruptcy Court pursuant to Federal District Court Local Rule NELR 76.1. See Appendix "O". Motions to withdraw the reference shall be filed in accordance with NELR 76.1. A motion to withdraw reference shall proceed under Neb. R. Bankr. P. 9013-1.

**PART VI. COLLECTION AND LIQUIDATION OF THE ESTATE**

**RULE 6004-1. SALES OF ESTATE PROPERTY**

**A. Content of Notice of Sale.**

1. General. In addition to compliance with Fed. R. Bankr. P. 2002(a)(2), 2002(c)(1), 6004 and Neb. R. Bankr. P. 9013-1, notices regarding motions for private sales or leases of property shall include a disclosure of the name of the purchaser and the relationship, if any, that the purchaser or the purchaser's firm, partnership, corporation or any other form of business association or relationship, and all members, associates and professional employees thereof may have directly or indirectly with the case in which notice of sale is filed or any case related thereto.

2. Tax Information. The notice shall include the following information concerning the tax consequences of the sale: the tax basis of the property; projected costs of sale; anticipated capital gain or loss; anticipated net taxable income from sale after adjustments. If the information is not available, the notice shall state information that is available and an explanation as to why other information is not available.

3. Motions for Sale of All or Substantially All of the Estate's Assets in Chapter 11 Cases. In a Chapter 11 case, if the debtor or trustee seeks authority to sell property of the estate pursuant to 11 U.S.C. § 363(b) prior to the entry of an order of confirmation, and such sale encompasses all or substantially all of the assets of the estate, the notice of sale shall contain a clear and conspicuous statement to that effect. In addition to the information required under Fed. R. Bankr. P. 2002(c), the notice of sale shall specify the extent, if any, to which the proceeds of sale shall be used to benefit each class of creditors, the extent of the debtor's liabilities, and the estimated net value of any of the remaining assets not subject to the proposed sale. The notice shall further state the business justification for disposing of estate assets before a disclosure statement has been approved or a plan confirmed.

**PART VII. ADVERSARY PROCEEDINGS**

**RULE 7001-1. ADVERSARY PROCEEDINGS - GENERAL**

**A. Applicability of Neb. R. Bankr. P. 9013-1 to Adversary Proceedings.**

1. In adversary proceedings, Neb. R. Bankr. P. 9013-1 applies to the following motions, and service is required on all parties appearing in the adversary proceeding:

- a. To Dismiss. However, if filed by the plaintiff, see subparagraph 2.h. below.
- b. To Withdraw as Attorney.
- c. To Abstain or Withdraw Reference.
- d. To Reconsider.
- e. To File Amended Motion or Pleading.
- f. To Consolidate.
- g. To Approve Stipulations. However, if the stipulation is actually a compromise under Fed. R. Bankr. P. 9019, it shall be served on all entities listed in that rule.
- h. To File Out of Time.
- i. To Substitute Parties.
- j. For More Definite Statement.
- k. For Summary Judgment. However, the notice provided by the movant must specifically refer to the applicability of Federal District Court Local Rules NELR 56.1 and NELR 7.1 as incorporated into the Neb. R. Bankr. P. by Appendix "O".

2. In adversary proceedings, Neb. R. Bankr. P. 9013-1 does not apply to the following motions, which should be filed with the Clerk and served on all parties appearing in the adversary proceeding:

- a. To Extend Time Deadlines.
- b. For Default Judgment.
- c. To Compel.
- d. For Temporary Restraining Order.
- e. To Continue a Hearing, pursuant to Neb. R. Bankr. P. 9006-2.
- f. To File a Brief.
- g. For Protective Order.
- h. To Dismiss, Filed by Plaintiff. If Neb. R. Bankr. P. 7001-1.a. has been complied with and there is no other claim pending in the adversary proceeding by another party, the motion shall so state and a proposed order shall be submitted with the motion. Service shall comply with Fed. R. Bankr. P. 7041.

3. In adversary proceedings, Neb. R. Bankr. P. 9013-1 applies to all other motions, and service is required on all parties appearing in the adversary proceeding.

**B. Motion to Dismiss Adversary Proceeding Concerning Discharge or Dischargeability of a Debt.** A motion to dismiss an adversary proceeding which seeks to bar discharge under 11 U.S.C. § 727 or to except a debt from discharge under 11 U.S.C. § 523 shall set forth the consideration, terms and conditions under which the pleading is being withdrawn or dismissed. A motion to dismiss an adversary proceeding which seeks to bar discharge under § 727 shall be served upon the adverse party, the trustee, if any, and upon the United States Trustee pursuant to Fed. R. Bankr. P. 7041, with notice of a resistance date established pursuant to Neb. R. Bankr. P. 9013-1.

**C. Applicability of Fed. R. Civ. P. 16 To Adversary Proceedings.** Unless otherwise ordered by the Court sua sponte, or upon motion filed pursuant to Neb. R. Bankr. P. 9013-1, Fed. R. Civ. P. 16(b) shall not apply in adversary proceedings. The Court will continue its practice of entering a pretrial order which shall require the filing of a joint preliminary pretrial statement by a date certain.

**D. Applicability of Fed. R. Civ. P. 26 to Adversary Proceedings.** Fed. R. Civ. P. 26, excepting subsections (d) and (f), shall apply in adversary proceedings. Disclosures required by Rule 26(a)(1) shall be made within forty-five (45) days after the Answer is filed.

**RULE 7055-1. DEFAULT JUDGMENT BY THE CLERK**

**A.** To obtain a Clerk's Entry of Default under Fed. R. Bankr. P. 7055(a) and (b)(1) the following materials should be submitted to the Clerk:

1. A Motion for Entry of Default by the Clerk.

2. A Proposed Clerk's Entry of Default. This Clerk's Entry of Default should state that the default is being entered for failure to plead or otherwise defend as provided by Fed. R. Bankr. P. 7055(a).

**B.** If a Clerk's entry of a Default Judgment is requested, the following materials should be submitted to the Clerk:

1. A Motion for Clerk's Judgment by Default.

2. An affidavit setting forth the amount, which should be for a sum certain or for a sum which can by computation be made certain, and which should not exceed the amount asked for in the complaint plus the addition of the exact

computation of interest and costs. The affidavit should also set out the fact that the defendant against whom judgment is to be entered is not an infant or incompetent person as set out in Fed. R. Bankr. P. 7055(b)(1).

3. The proposed Clerk's Judgment should be submitted to the Clerk for the Clerk's signature. See Neb. Official Form 7055-1 Order, which is set forth in Appendix "M".

**C.** If a judgment is requested from the Court under Fed. R. Bankr. P. 7055(b)(2), the party requesting the judgment shall, after obtaining a Clerk's entry of default as prescribed in subsection A above, submit the following materials:

1. An affidavit stating that the party against whom the default judgment is requested is not an infant or incompetent person as set out in Fed. R. Bankr. P. 7055(b)(2).

2. A proposed judgment for the Court's consideration.

PART VIII. APPEALS (RESERVED)

**PART IX. GENERAL PROVISIONS**

**RULE 9004-1. PAPERS - REQUIREMENTS OF FORM**

**A. Petition, Schedules, Pleadings, and Other Documents.**

All petitions, schedules, pleadings and other documents filed with the Clerk of the Bankruptcy Court shall be legibly typewritten or printed with no less than 12 characters per inch without erasures or interlineations materially defacing them. All such petitions, schedules, pleadings and other documents shall be fastened at the upper left, and the upper margin of each sheet shall not be less than 1 ½ inches. All petitions, schedules, pleadings and other documents shall be on 8 ½ x 11 inch paper.

**RULE 9004-2. CAPTION**

The caption of each pleading, proposed order or other document shall describe with specificity its purpose and shall include the bankruptcy number and adversary number, if any, assigned by the Clerk of the Bankruptcy Court and the chapter in which debtor seeks or has been granted relief.

**RULE 9004-3. ATTORNEY IDENTIFICATION**

The name, office address, telephone number, facsimile number, and state bar identification number of any attorney filing any pleading or motion shall be printed or typed on the document.

**RULE 9006-1. TIME PERIODS**

**A. Shortened Notice.** For good cause shown, a party may request that a hearing or bar date be set on notice shorter than would otherwise be required.

1. Caption. If a pleading or motion requests an expedited hearing or an expedited ruling, the caption of the motion shall include the language "Request for Expedited Hearing" or "Request for Expedited Ruling."

2. Application. All motions containing a request that a hearing or bar date be set upon shortened notice shall state the nature of the request; the name of counsel for the opposing party, if known; the reasons for seeking an order shortening notice; and points and authorities in support thereof. All such applications shall state facts that justify the setting of a hearing or bar date on shortened notice. Notice of the application for order shortening time is not required. The application for order shortening time will be determined *ex parte* by the Court, subject to the right of any party to object to the adequacy of notice pursuant to subsection

B. below.

3. Scope of Notice Required. Unless otherwise ordered by the Court, the moving party shall give notice of both the order shortening time and the substance of the underlying motion to all parties to whom notice of the underlying motion is required to be given by the Federal Rules of Bankruptcy Procedure or by these Local Rules, as well as to any other party that is likely to be adversely affected by the granting of the underlying motion.

4. Proof of Notice to Be Presented at Hearing on the Substantive Motion. It shall be the duty of the party that has obtained an order shortening time:

a. Telephone Notice. To make a good faith effort to advise all other parties and their counsel, if known, by telephone and confirming letter or by such other means as are reasonably calculated to give equally prompt notice of the date, time and substance of the motion being scheduled for a shortened bar date or heard on shortened notice.

b. Expected Attendance. To advise the Court in writing of efforts to contact other parties and their counsel and whether any other counsel, after such efforts to advise parties and their counsel, has requested to be present at the time the motion is presented to the Court.

c. Transmittal of Papers. To transmit copies of all moving papers to all parties as soon as is practicable.

d. Declaration of Notice. To present a declaration or professional statement of the efforts to communicate with opposing parties and their counsel or present to the Court a declaration setting forth facts sufficient to show why the motion should be heard despite failure to contact opposing parties.

**B. Resistance to Shortened Notice.** At any time before the conclusion of the hearing on the underlying motion or before the expiration of the resistance period, any party may object to the adequacy of the notice received and seek a continuance for good cause shown.

## **RULE 9006-2. CONTINUANCES OF SCHEDULED HEARINGS**

**A. Continuance upon Stipulation.** As soon as all parties in interest stipulate for the continuance of a hearing on a motion, they shall immediately notify the Courtroom deputy of their stipulation which shall be subject to approval by the Court as required in subsection D. below. Unless the continuance is approved by the Court, at least one party must appear at the scheduled hearing.

**B. Continuance upon Motion.** If a party wants to continue a hearing and all parties in interest will not so stipulate, a motion for the continuance shall be filed with the Court and served upon all previously noticed parties at least two days before the day set for the hearing. The motion shall set forth in detail the reasons therefor and shall state whether any continuance has been previously granted.

**C. Notice of Continuance.** If a continuance is approved, the moving party shall be responsible for providing immediate telephone notice of the continuance to all parties expected to appear at the hearing.

**D. Court Approval.** No continuance (whether stipulated to by counsel or not) shall be effective unless the Court announces it in open Court or approves it in writing or the Courtroom deputy informs the parties that the judge has authorized the requested continuance.

## **RULE 9013-1. MOTION PRACTICE**

### **A. Applicability.**

1. Bankruptcy Case. The procedures of this Local Rule shall apply to all motions filed in bankruptcy cases except for those particular motions governed by Neb. R. Bankr. P. 1007-1.B., 1017-1, or 2014-1.B., and motions for relief from the automatic stay under Neb. R. Bankr. P. 4001-1.

2. Adversary Proceedings. The procedures of this Local Rule shall apply to all motions filed in adversary proceedings except for those particular motions listed in subsection 2 of Neb. R. Bankr. P. 7001-1.

**B. Definition of Motion.** "Motion" for purposes of Neb. R. Bankr. P. 9013-1, 9017-1, and 9072-1 includes headings and documents entitled "Motion," "Application," "Objection to Claim," "Disclosure Statement," "Plan" and other documents referred to in Appendix "A".

**C. Form of Motion or Resistance.** All motions shall plead facts which establish that the moving party is entitled to the

relief sought. The motion shall cite statutory, case, or rule authority for granting relief. All motions shall conclude with an unambiguous request for particular relief. All resistances to any motion shall set forth the specific factual and legal basis and conclude with a particular request for relief. Motions and resistances shall be served in conformance with this Neb. R. Bankr. P. 9013-1.

**D. Resistance Date.** Unless otherwise ordered or otherwise provided for in a Federal Rule of Bankruptcy Procedure (see, e.g., Fed. R. Bankr. P. 4001(c) and (d) and 2002(b)), upon twenty (20) days notice to creditors and interested parties entitled to notice, the Court will consider ruling on the motion pursuant to subsection I below, unless a written resistance or request for hearing is filed and served on or before the deadline provided in the notice of the motion. If no resistance is timely filed and served, the movant shall submit a detailed order in conformance with Neb. R. Bankr. P. 9072-1, within 30 days after the objection date. The order shall not be submitted until after the resistance date and after movant has confirmed that no resistance is on file. See Neb. R. Bankr. P. 9072-1.

**E. Notice.** At the time a motion is filed, the moving party shall serve a copy of the motion on and shall provide notice to all parties in interest and those that have requested notice pursuant to Fed. R. Bankr. P. 2002 that this Nebr.R.Bankr.P. 9013-1 applies. The notice shall state the specific calendar date by which any resistance or request for hearing must be filed and served. The calculation of such date shall not include the additional three (3) days permitted under Fed. R. Bankr. P. 9006(f) for service by mail even though the provisions of Fed. R. Bankr. P. 9006(f) shall continue to apply. The notice will be defective if it provides that a resistance or request must be filed within a specified number of days.

**F. Proof of Service.** Proof of service of the notice and motion shall be filed contemporaneously with the motion. The proof of service shall contain a list of recipients and shall attach a copy of the notice. The proof of service shall be filed as a document separate from the motion.

**G. Service on the United States.** Notice of a matter concerning an agency of the United States should be served on the United States Attorney General, the United States Attorney for the District of Nebraska and the agency representative at the address reflected in Appendix "B".

**H. Withdrawal of Motions.** Any request to withdraw a motion must be filed and personally served upon all previously noticed parties. As soon as a decision has been made to withdraw a motion, the moving party shall immediately notify the courtroom deputy.

**I. Hearings on Motions.** If the resistance period expires without the filing of any resistance or request for hearing, the Court will consider entering an order granting the relief sought without further notice or hearing. The movant shall submit a proposed order in conformance with Neb. R. Bankr. P. 9072-1. If a timely resistance or request for hearing is filed and served, the Clerk shall schedule a hearing upon not less than eleven (11) days notice. Parties shall exchange declarations or affidavits and documentary evidence before the hearing in accordance with Neb. R. Bankr. P. 9017-1. Unless otherwise ordered, oral arguments will be scheduled in the courtroom for Lincoln and Omaha cases and on telephone conferences for North Platte cases. The moving party shall arrange for a Court reporter to record telephone conference hearings if evidence is to be offered by any party.

**J. Attendance at Hearings.** Counsel for the moving party and any resisting party shall appear at any scheduled hearing unless the matter has been settled, continued or withdrawn in accordance with subsection H above.

**RULE 9014-1. APPLICABILITY OF Fed. R. Civ. P. 16 AND 26 TO CONTESTED MATTERS**

**A.** Unless otherwise ordered by the Court *sua sponte* or upon motion filed pursuant to Neb. R. Bankr. P. 9013-1, Fed. R. Civ. P. 16(b) shall not apply in contested matters. The Court will continue its practice of entering a pretrial order which require the filing of a joint preliminary pretrial statement by a date certain.

**B.** Unless otherwise ordered by the Court *sua sponte* or upon motion filed pursuant to Neb. R. Bankr. P. 9013-1, Fed. R. Civ. P. 26(a), (d), and (f) shall not apply in contested matters.

**RULE 9015-1. JURY TRIAL**

**A. Applicable Rules.** Fed. R. Civ. P. 38, 47-51, and 81(c) apply in adversary proceedings defined in Fed. R. Bankr. P. 7001 and all proceedings wherein a party may have a right to trial by jury.

**B. Demand for Jury Trial.** A demand for jury trial shall be made in accordance with Fed. R. Civ. P. 38 and filed in the office of the Clerk of the Bankruptcy Court. After notice and hearing, the Bankruptcy Judge shall rule upon the demand for jury trial and make findings as to which issues are triable to a jury as a matter of right.

**C. Reference Withdrawal.** If the Bankruptcy Judge

determines that a party has a right to a jury trial on some or all issues and if all of the parties to the particular contested matter or adversary proceeding have not given their express consent for the Bankruptcy Judge to conduct the jury trial on such issues, the Bankruptcy Judge shall request the United States District Court to withdraw the reference as to those matters triable to a jury and such other issues as the United States District Court shall determine.

**RULE 9017-1. HEARINGS UPON DECLARATIONS AND DOCUMENTARY EVIDENCE; DESTRUCTION OF EXHIBITS**

**A. General.** Hearings scheduled on motions shall be governed by this Local Rule.

**B. Evidence.**

1. Declarations; Affidavits. Evidence submitted in support of or in opposition to motions shall be in the form of declarations or affidavits and documentary evidence. Oral testimony will not be permitted at hearings on motions unless otherwise ordered. A party may request leave to present oral testimony in support of or in opposition to a motion by filing and serving a written request at least five (5) days before the hearing date. Oral testimony on motions will rarely be permitted.

2. Exhibits. Except in the case of motions for relief from the automatic stay and objections to claims (see Neb. R. Bankr. P. 4001-1.D. and F. and 3007-1.A.), evidentiary materials, including document discovery material and declarations or affidavits, as are being relied upon ("exhibits"), shall be marked and numbered with exhibit tabs and served upon each interested party five (5) days before the scheduled hearing date. See Fed. R. Bankr. P. 9006(a). In the case of motions for relief from the automatic stay, exhibits shall be marked and numbered with exhibit tabs and served upon each interested party three days before the scheduled hearing date. This requirement is satisfied by movant by complying with Neb. R. Bankr. P. 4001-1.D. If a telephone hearing is scheduled, exhibits shall be delivered at least three (3) days before the hearing date to the appropriate office of Clerk of the Bankruptcy Court along with a cover letter which refers to the telephone hearing by matter and date of hearing. Evidentiary materials must be identified and authenticated by declaration in conformity with 28 U.S.C. § 1746 or by affidavit. Each declaration or affidavit must be made on personal knowledge, set forth such facts as would be admissible in evidence, show affirmatively that the declarant is competent to testify to the matters stated therein, and identify the motion in connection with which the declaration or affidavit is filed. Evidentiary

material attached to a brief but not offered or received in evidence shall not be considered. The Court may exclude evidence not filed and transmitted in accordance with these Local Rules.

**C. Destruction of Exhibits.** Exhibits will not be docketed. The Clerk shall retain exhibits for a period of ninety (90) days after a final order is entered on a motion. The Clerk shall discard exhibits without notice ninety (90) days after final judgment or order has been entered on a motion provided that a final order has been entered on all appeals thereof.

#### **RULE 9019-1. SETTLEMENTS AND STIPULATIONS**

**A. Notification to Court of Settlement of Matter Scheduled for Hearing.** Parties shall inform the Courtroom deputy immediately by telephone or other expeditious means when any matter set for hearing has been settled out of Court. Upon receipt of notice of settlement, the Clerk shall cancel the hearing and direct the parties to file within fifteen (15) days a pleading which establishes that the matter was settled.

**B. Effect of Stipulations.** Except as otherwise provided by the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure, including without limitation Fed. R. Bankr. P. 4001, stipulations filed with the Court are binding upon the parties thereto in accordance with their terms. Without limiting any notices otherwise required by the Bankruptcy Code, Bankruptcy Rules or these Local Rules, a stipulation which provides for relief from the automatic stay which prohibits or conditions the use, sale or lease of property, provides for adequate protection, or use of cash collateral, or for obtaining credit, shall not be enforceable between the parties or as against third parties, unless it is approved by the court after notice and hearing as is required by Bankruptcy Rule 4001(d).

**C. Stipulations Requiring Notice Under Fed. R. Bankr. P. 4001(d) or 9019.** Unless otherwise ordered by the Court, the notice requirement of Fed. R. Bankr. P. 4001(d) and 9019 may be satisfied by compliance with Neb. R. Bankr. P. 9013-1 as complemented by Fed. R. Bankr. P. 4001(d) or 9019.

#### **RULE 9072-1. ORDERS - PROPOSED**

**A. Form of Proposed Orders.** Orders prepared by counsel and submitted to the Clerk for consideration by the Bankruptcy Judge shall be on plain bond paper and shall be separate from any other document. Counsel shall type "prepared and submitted by \_\_\_\_\_" in the lower left corner. The location of the Judge's signature shall be on that portion of an order which includes at least one sentence of the order. If the order exceeds one page, the additional pages shall be identified at

the top by the name of the debtor, bankruptcy or adversary number, and page number.

**B. Unopposed or Consent Orders.** The Court will consider entry of an order granting the relief sought in a motion or application governed by Neb. R. Bankr. P. 9013-1 without waiting for a hearing if the moving party submits a proposed order to grant the relief sought, provided that:

1. the proposed order must be submitted after the resistance date has passed and it must be signed by all resisting parties, if any, and all parties requesting a hearing;

2. for a motion set for hearing pursuant to Neb. R. Bankr. P. 1007-1.B., 1017-1.A. or 2014-1.B., the proposed order must be signed by the United States Trustee;

3. for any other motion, including a motion set for hearing under Neb. R. Bankr. P. 9013-1, the proposed order must be signed by all adverse parties and all interested parties.

**C. Deadline for Filing Proposed Order.** When orders are required to be filed by a moving party or applicant pursuant to these Local Rules, the proposed order shall be submitted on a timely basis. In the case of motions under Neb. R. Bankr. P. 9013-1, the proposed order shall be filed after the resistance date and after having confirmed that no timely resistance was filed. In order to expedite prompt entry of orders in matters proceeding under Neb. R. Bankr. P. 9013-1, counsel should submit proposed orders modeled after Nebraska Official Form 9072-1, which is set forth as Appendix "N". However, the Court will consider other proposed orders where counsel conclude that the Official Form is not adequate. If a proposed order is not filed within 30 days after the resistance date, the motion is deemed abandoned and no action will be taken by the Court or Clerk except upon formal motion.

## APPENDIX "A"

### Matters Governed by Neb. R. Bankr. P. 9013-1.

Neb. R. Bankr. P. 9013-1 applies to all motions, except those explicitly excluded by 9013-1. With regards to adversary proceedings, see Neb. R. Bankr. P. 7001-1. In the bankruptcy case, motions covered by Rule 9013-1 shall include, without limitation, the following motions:

1. Motion to approve final decree.
2. Motion for approval of 2004 examination.
3. Motion to allow filing claim out of time.
4. Motion to allow post petition claim.
5. Motion for discharge (Chapter 12).
6. Motion to extend plan payments.
7. Motion to suspend payments in Chapter 13.
8. Objection to Chapter 13 Trustee's motion to allow claims.
9. Motion to prohibit use, sale, or lease of collateral.
10. Motion to alter, amend or reconsider judgments.
11. Motion to redeem property.
12. Motion to dismiss for failure to appear at (2) two 341 hearings.
13. Motion to sequester rents and profits.
14. Motion to withdraw as counsel.
15. Motion for turnover.
16. Motion for discharge under § 1328(b).
17. Motion to withdraw reference.
18. Motion to use, sell or lease property under 11 U.S.C. § 363(b)(1).
19. Motion to abandon property of the estate under 11 U.S.C. § 554.

20. Motion to extend exclusivity period under 11 U.S.C. § 1121(d).
21. Motion respecting the assumption or rejection of executory contracts or leases under 11 U.S.C. § 365.
22. Motion to avoid liens under 11 U.S.C. § 522 (f).
23. Applications by professionals, including attorneys, for allowance and payment of claims for services rendered and expenses incurred under 11 U.S.C. §§ 330, 331.
24. Motion to examine debtor's transactions with debtor's attorney or with other professionals under Fed. Bankr. R. 2017 and Neb. R. Bankr. P. 2017-1.
25. Motion to establish a deadline for filing of proofs of claim or interests.
26. Motion to approve compromise, settlement, stipulation and agreement, including those requiring notice pursuant to Fed. Bankr. R. 4001 (d), including agreements to modify or terminate the automatic stay, to provide adequate protection, to use cash collateral, or to create senior or equal liens on property of the estate or to obtain credit.
27. Motion for leave to enroll in federal agricultural programs. Such motions shall include the specific government program to be applied for.
28. Motion to change venue under 28 U.S.C. § 1412.
29. Motion to consolidate bankruptcy cases.
30. Motion to confirm or modify Chapter 12 or Chapter 13 plans. See, 11 U.S.C. § 1223, 1229, 1323, 1329. The filing of a Chapter 12 plan or modification to Chapter 12 plan is the equivalent of a motion to confirm the plan or modification.
31. Objection to claims.
32. Motion for relief from automatic stay under 11 U.S.C. § 362 (d) if filed by a Nebraska county respecting tax claims.
33. Motion for relief from co-debtor stay. See Neb. R. Bankr. P. 4001-1.B.
34. Motion to reopen a case under 11 U.S.C. § 350.

35. Motion for authorization to use cash collateral, obtain credit, grant security interests or provide administrative priority status and other relief under 11 U.S.C. § 364.
36. Motion to approve a disclosure statement under 11 U.S.C. § 1125 and § 901. The Filing of a disclosure statement is the equivalent of a motion to approve it. See Neb. R. Bankr. P. 2080-1.D and 2080-1.F.
37. Motion to approve standing trustee's final report.
38. Motion to convert or dismiss a case (but see Neb. R. Bankr. P. 1017-1 and 9013-1).
39. Objection to debtor's claimed exemptions.
40. Motion to distribute funds held by Chapter 12 or 13 Trustee.
41. Motion to extend time to object to discharge or to file complaint seeking to bar discharge under 11 U.S.C. § 727.
42. Motion to extend time to object to discharge of debt under 11 U.S.C. § 523 (a)(2), (4) or (6) pursuant to 11 U.S.C. § 523(c).
43. Other motions. The Court may determine other motions using this procedure provided that the motion specifies why this procedure is appropriate under 11 U.S.C. § 102 (1)(B).

**APPENDIX "B"**  
(REVISED 06/10/02)

Addresses

Chapter 13 Trustee

13930 Gold Circle, Suite 201  
Omaha, Nebraska 68144

Chapter 12 Trustee

P.O. Box 127  
Omaha, NE 68101-0127

United States Trustee

111 South 18<sup>th</sup> Plaza, Suite 1148  
Omaha, NE 68102

Nebraska Department of Revenue

Attn: Bankruptcy Unit  
P. O. Box 94818  
Lincoln, NE 68509-4818

Farm Service Agency

State Executive Director  
CCC/Ag Credit (FSA)  
7131 A Street  
P. O. Box 57975  
Lincoln, NE 68505-7975

USDA Rural Development

State Executive Director  
Rm 152 Federal Building  
100 Centennial Mall North  
Lincoln, NE 68508

Department of Agriculture

Office of General Counsel  
P. O. Box 419205-Mail Stop 1401  
Kansas City, MO 64141-0205

Department of Education

Office of General Counsel  
600 Independence Avenue, S.W.  
Room 5442  
Washington, D.C. 20202  
(Debtor's social security number shall be included)

Office of Post-Secondary Education  
50 United Nations Plaza Region IX, Rm. 243  
San Francisco, CA 94102  
(Debtor's social security number shall be included)

Department of Health and Human Services (HHS)

Regional Attorney  
Office of the General Counsel  
601 East 12th Street, Room 411  
Kansas City, MO 64106  
(Debtor's social security number shall be included)

Social Security Administration

Chief Counsel  
601 East 12th Street, Room 535  
Kansas City, MO 64106  
(Debtor's social security number shall be included)

Department of Housing and Urban Development (HUD)

Chief Counsel  
Region VII - Omaha Office  
10909 Mill Valley Road  
Omaha, Nebraska 68154-3955

Internal Revenue Service (IRS)

Internal Revenue Service  
Attn: SPF, Stop 5301-OMA  
1313 Farnam Street  
Omaha, Nebraska 68102

Small Business Administration (SBA)

District Counsel  
11145 Mill Valley Road  
Omaha, Nebraska 68154

United States Postal Service (Tort Cases Only)

Law Dept.  
P.O. Box 66640  
St. Louis, Missouri 63166-6640

United States Postal Service (all cases other than tort)

Law Dept. - Western Area  
9350 South 150 East, Suite 800  
Sandy, UT 84070-2716

United States Attorney's Office

United States Attorney's Office - Omaha  
1620 Dodge St., Suite 1400  
Omaha, Nebraska 68101

United States Attorney's Office - Lincoln  
487 Federal Building  
100 Centennial Mall North  
Lincoln, Nebraska 68508

U.S. Attorney General

U.S. Department of Justice  
950 Pennsylvania Ave. N.W. Rm. 5137  
Washington, D.C. 20530

## APPENDIX "C" TO RULE 1073-1

### ASSIGNMENT OF CASES

#### a. Omaha Area

Cases originating from any of the following counties shall be assigned to Judge Mahoney and the office of the Clerk of the Bankruptcy Court in Omaha:

Burt, Cedar, Cuming, Dakota, Dixon, Dodge, Douglas, Knox, Pierce, Sarpy, Stanton, Thurston, Washington and Wayne.

#### b. Lincoln Area

Cases originating from any of the following counties shall be assigned to Judge Minahan and the office of the Clerk of the Bankruptcy Court in Lincoln:

Adams, Antelope, Boone, Boyd, Buffalo, Butler, Cass, Clay, Colfax, Fillmore, Franklin, Gage, Greeley, Hall, Hamilton, Harlan, Holt, Howard, Jefferson, Johnson, Kearney, Lancaster, Madison, Merrick, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Phelps, Platte, Polk, Richardson, Saline, Saunders, Seward, Sherman, Thayer, Webster, Wheeler and York.

#### c. North Platte Area

Cases originating from any of the following counties are designated North Platte cases. Half will be assigned to Judge Mahoney and the office of the Clerk of the Bankruptcy Court in Omaha and the other half of the cases will be assigned to Judge Minahan and the office of the Clerk of the Bankruptcy Court in Lincoln.

Arthur, Banner, Blaine, Box Butte, Brown, Chase, Cherry, Cheyenne, Custer, Dawes, Dawson, Deuel, Dundy, Frontier, Furnas, Garden, Garfield, Gosper, Grant, Hayes, Hitchcock, Hooker, Keith, Keya Paha, Kimball, Lincoln, Logan, Loup, McPherson, Morrill, Perkins, Red Willow, Rock, Scotts Bluff, Sheridan, Sioux, Thomas, and Valley.

## APPENDIX "D" TO RULE 2003-1

### Locations of Chapter 7 §341 Meetings

#### a. Omaha

If the debtor resides in any of the following counties, the §341 first meeting of creditors will be held in Omaha:

Burt, Cedar, Cuming, Dakota, Dixon, Dodge, Douglas, Knox, Pierce, Sarpy, Stanton, Thurston, Washington and Wayne.

#### b. Lincoln

If the debtor resides in any of the following counties, the §341 first meeting of creditors will be held in Lincoln:

Butler, Cass, Colfax, Gage, Jefferson, Johnson, Lancaster, Nemaha, Otoe, Pawnee, Platte, Saline, Saunders, Seward, Richardson.

#### c. Grand Island

If the debtor resides in any of the following counties, the §341 first meeting of creditors will be held in Grand Island:

Adams, Antelope, Boone, Boyd, Buffalo, Clay, Fillmore, Franklin, Greeley, Hall, Hamilton, Holt, Harlan, Howard, Kearney, Madison, Merrick, Nance, Nuckolls, Phelps, Polk, Sherman, Thayer, Webster, Wheeler, York.

#### d. North Platte

If the debtor resides in any of the following counties, the §341 first meeting of creditors will be held in North Platte:

Arthur, Blaine, Brown, Chase, Cherry, Custer, Dawson, Deuel, Dundy, Frontier, Furnas, Garfield, Gosper, Grant, Hayes, Hitchcock, Hooker, Keith, Keya Paha, Lincoln, Logan, Loup, McPherson, Perkins, Red Willow, Rock, Thomas, Valley.

#### e. Gering

If the debtor resides in any of the following counties, the §341 first meeting of creditors will be held in Gering:

Banner, Box Butte, Cheyenne, Dawes, Garden, Kimball, Morrill, Scottsbluff, Sheridan, Sioux.

## APPENDIX "E" TO RULE 2003-1

### Locations of Chapter 11, 12 and 13 §341 Meetings

#### a. Omaha

If the debtor resides in any of the following counties, the §341 first meeting of creditors will be held in Omaha:

Burt, Cedar, Cuming, Dakota, Dixon, Dodge, Douglas, Knox, Pierce, Sarpy, Stanton, Thurston, Washington and Wayne.

#### b. Lincoln

If the debtor resides in any of the following counties, the §341 first meeting of creditors will be held in Lincoln:

Adams, Antelope, Boone, Boyd, Buffalo, Butler, Cass, Clay, Colfax, Fillmore, Franklin, Gage, Greeley, Hall, Hamilton, Harlan, Holt, Howard, Jefferson, Johnson, Kearney, Lancaster, Madison, Merrick, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Phelps, Platte, Polk, Richardson, Saline, Saunders, Seward, Sherman, Thayer, Webster, Wheeler and York.

#### c. North Platte

If the debtor resides in any of the following counties, the §341 first meeting of creditors will be held in North Platte:

Arthur, Banner, Blaine, Box Butte, Brown, Chase, Cherry, Cheyenne, Custer, Dawes, Dawson, Deuel, Dundy, Frontier, Furnas, Garden, Garfield, Gosper, Grant, Hayes, Hitchcock, Hooker, Keith, Keya Paha, Kimball, Lincoln, Logan, Loup, McPherson, Morrill, Perkins, Red Willow, Rock, Scottsbluff, Sheridan, Sioux, Thomas and Valley.

**APPENDIX "F"**

CHAPTER 13 FORM 13-C

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF: ) CASE NO. BK\_\_\_\_\_ )  
 ) )  
 ) ) CHAPTER 13 )  
 ) )  
Debtor(s). )

CHAPTER 13 FEE APPLICATION

Applicant, \_\_\_\_\_, was retained by the debtor with leave of the court to serve in this bankruptcy case as \_\_\_\_\_. Applicant hereby requests the court to approve compensation and reimbursement of expenses as follows:

Total fees requested: \$\_\_\_\_\_

Total expenses to be reimbursed: \$\_\_\_\_\_

Amount received to-date (exclusive of filing fees) \$\_\_\_\_\_

Amount to be paid through Plan \$\_\_\_\_\_

1. The amount requested, if allowed, will be paid in full after \_\_\_\_\_ monthly payments under the plan.

2. The total time and billings for services in this case to-date:

<u>Identity of Person</u>	<u>Atty/Paralegal/Other</u>	<u>Hours</u>	<u>Rates</u>	<u>Total</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

3. A detailed statement of charges for out-of-pocket expenses in the aggregate amount of \$\_\_\_\_\_ is attached.

4. The following is a short statement of any unusual, troublesome or unique aspects of this case which resulted in more than the usual amount of time being expended: \_\_\_\_\_

5. Unless excused pursuant to a court order entered under Neb. R. Bankr. P. 2016, attached to this application is a detailed time summary exhibit in compliance with said Neb. R. Bankr. P. 2016.

6. The source of compensation previously paid to Applicant was \_\_\_\_\_.

7. Applicant has not shared or agreed to share any compensation received in connection with the bankruptcy case with any person or entity other than a member or regular associate of applicant's firm. (If such a sharing arrangement exists, it should be disclosed in this paragraph.)

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

\_\_\_\_\_  
[Applicant]

**APPENDIX "G"**

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEBRASKA

GENERAL ORDER 97-1

In chapter 13 cases, a professional applying for fees of One Thousand One Hundred Dollars (\$1,100) or less may file a fee application with the limited information described in Neb.Bankr.R. 2016-1(A)(4). Such fee application shall be served pursuant to Neb.Bankr.R. 9013-1.

This General Order shall apply to all Chapter 13 fee applications filed on or after April 15, 1997.

IT IS SO ORDERED.

Dated this 9th day of April, 1997.

/s/ John C. Minahan  
John C. Minahan, Jr.  
Judge, U.S. Bankruptcy Court

/s/ Timothy J. Mahoney  
Timothy J. Mahoney  
Chief Judge, U.S. Bankruptcy Court

**APPENDIX "H"**

CHAPTER 13 FORM 13-A

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF: ) CASE NO. BK\_\_\_\_\_ )  
 ) )  
 ) CHAPTER 13 )  
 ) )  
 Debtor(s). )

MOTION TO CONFIRM CHAPTER 13 PLAN

The debtor moves the Court for an order confirming plan and in support thereof states as follows:

1. The requirements for confirmation are met.

A. The total debt and administrative expenses provided for under the plan are as follows:

a. Total Priority Claims

1. Unpaid attorney's fees \$ \_\_\_\_\_  
2. Taxes \$ \_\_\_\_\_  
3. Other \$ \_\_\_\_\_

b. Total payments on secured claims  
\$ \_\_\_\_\_

c. Total payments on unsecured claims  
\$ \_\_\_\_\_

d. Subtotal \$ \_\_\_\_\_

e. Total Trustee's Compensation  
(10% of debtor's payments) \$ \_\_\_\_\_

f. Total debt and administrative  
expenses \$ \_\_\_\_\_

(B) In accordance with the requirements of § 1325(a)(4), debtor asserts that as of the effective date of the plan, the value of property to be distributed under the plan on account of each allowed unsecured claim is not less than the amount that would be paid on such claim if the estate of the debtor were liquidated under Chapter 7, Title 11, United States Code, on

such date. This contention is based upon the facts set forth below:

a. As of the date of the petition, the debtor owned property which should be part of the property of the estate, as defined by 11 U.S.C. § 541, if a petition had been filed under Chapter 7 of Title 11 of the United States Code. That property has a liquidation value after deduction of the amount of liens and encumbrances against such property of:

\$\_\_\_\_\_

b. If debtor had filed a petition for relief under Chapter 7 on said date, debtor would be entitled to exempt from the estate property having a value of:

\$\_\_\_\_\_

Debtor has claimed such property as exempt in the manner required by law.

c. If debtor had filed a petition under Chapter 7 on said date:

1. Debtor would owe debts entitled to priority under 11 U.S.C. § 507, including costs of administration, in the total amount of:

\$\_\_\_\_\_

2. Debtor would owe allowed unsecured claims in the total amount of:

\$\_\_\_\_\_

d. There would be available, after payment of priority claims, for distribution to creditors holding allowed unsecured claims an amount of:

\$\_\_\_\_\_

e. It is estimated that distribution under Chapter 7 to each creditor holding an unsecured claim as of said date would be \_\_\_\_\_ % of each claim.<sup>1</sup>

f. The Chapter 13 plan provides that creditors holding allowed unsecured claims will receive \_\_\_\_\_ % of each claim.<sup>1</sup>

---

<sup>1</sup>The actual percentage paid depends on the allowance of claims. For purposes of this motion it is assumed that all listed undisputed claims are allowed.

2. Debtor further requests pursuant to § 1322(C), that the confirmation order permit debtor to make payments for a period of more than 36 months.

The plan requires payment over a period of approximately \_\_\_\_ months. Cause exists for the payment over a period of more than three years but not longer than five years because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
[Debtor]

\_\_\_\_\_  
[Debtor's Spouse]

\_\_\_\_\_  
[Attorney for Debtor]

VERIFICATION

Under penalty of perjury, I do hereby adopt the statements contained in this motion and state that those statements are true to the best of my knowledge and belief.

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

\_\_\_\_\_  
[Debtor]

\_\_\_\_\_  
[Debtor's Spouse]



(4) The plan is feasible.

(5) Attorney fees are not allowed pursuant to this order. Fees will be allowed only pursuant to a separate fee application.

[(6) For cause shown, plan payments may exceed 3 years as provided in the plan.]

IT IS HEREBY ORDERED, that the plan is confirmed.

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

BY THE COURT:

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

—  
Copies faxed by the Court to:

Copies mailed by the Court to:  
KATHLEEN LAUGHLIN, TRUSTEE  
THE DEBTOR(S)  
THE UNITED STATES TRUSTEE

Movant (\*) is responsible for giving notice of this journal entry to all other parties (that are not listed above) if required by rule or statute.

Page 2 of Confirmation Order

APPENDIX "J"

NEB. OFFICIAL FORM 9-1

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF ) 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 not later than 10 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 15 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 three business 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" 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 not 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, U.S. Bankruptcy Court for the District of Nebraska, Box 428 DTS, Omaha, Nebraska 68101-0428, 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 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.

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 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:

\_\_\_\_\_  
U.S. Bankruptcy Judge

PROOF OF CLAIM FORMS WILL NOT BE FURNISHED BY THIS OFFICE - THEY  
MUST BE PURCHASED FROM A COMMERCIAL SUPPLIER.

**APPENDIX "K"**

**RESERVED FOR FUTURE USE**

APPENDIX "L"

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEBRASKA

GENERAL ORDER

In the administration of cases under Chapter 12 of the Bankruptcy Code, a Chapter 12 Standing Trustee is appointed to participate in the administration of the case and to monitor plan performance post-confirmation.

Among the duties the Chapter 12 Standing Trustee is to perform are an accounting of property, examination of claims, provide information to creditors, and to file a final accounting. In addition, the Chapter 12 Standing Trustee is to examine the financial affairs of the debtor and to report on any mismanagement. The Chapter 12 Standing Trustee appears at confirmation hearings and monitors the payments required under the confirmed plan.

The Chapter 12 Standing Trustee is to be paid a fee of up to 10% of payments made under the confirmed plan. Such fee is to be paid from payments received by the Chapter 12 Standing Trustee. Since Chapter 12 was modeled on Chapter 13, there was a reasonable expectation that most, if not all, plan payments would be received by the Chapter 12 Standing Trustee for distribution.

However, because of the decision in *In re Wagner*, 36 F.3d 723 (8th Cir. 1994), plan payments can be made directly to creditors. Thus, although the Chapter 12 Standing Trustee would be entitled to a fee, there would be no funds available to pay it. This result threatens the integrity of the Chapter 12 process and creates an inequitable burden upon the Chapter 12 Standing Trustee who has statutory duties to perform but would not be paid. The court is aware that Chapter 12 Standing Trustees in other jurisdictions have resigned because of this problem.

The court finds that the Chapter 12 Standing Trustee performs a valuable service to the court and to the parties in the Chapter 12 process and should be retained. The court also finds that requiring a Chapter 12 debtor to pay a fee is not inequitable in view of the benefits derived from debtors' reorganization and from the services of the Chapter 12 Standing Trustee.

The court is empowered under the provisions of section 105 of the Bankruptcy Code to issue orders necessary or appropriate to carry out the provisions of this title. Such an order is necessary and appropriate in the District of Nebraska in order to assure that the Chapter 12 bankruptcy cases proceed in an orderly fashion and that the integrity of the Chapter 12 cases be maintained.

IT IS HEREBY ORDERED, that whether a Chapter 12 plan provides for payments to be made to creditors directly or through the Chapter 12 Standing Trustee, the debtor shall pay to the Chapter 12 Standing Trustee a fee, for each year of the plan, which shall be the lesser of 10% of all payments under the plan (or such other percentage as is set by the Attorney General or her delegate from time to time pursuant to the requirements of 28 U.S.C. § 586(e)), or \$3,000.

IT IS FURTHER ORDERED, that this General Order shall apply to all Chapter 12 plans confirmed in the District of Nebraska on or after January 1, 1997. This General Order supplements the Nebraska Rules of Bankruptcy Procedure.

IT IS SO ORDERED.

DATED this 20th day of December, 1996.

/s/ John C. Minahan, Jr.

/s/ Timothy J. Mahoney

John C. Minahan, Jr., Judge  
United States Bankruptcy Court

Timothy J. Mahoney, Chief Judge  
United States Bankruptcy Court

APPENDIX "M"

NEB. OFFICIAL FORM 7055-1 ORDER

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF: ) CASE NO. BK. \_\_\_\_\_
)
) (Chapter \_\_\_\_\_)
)
Debtor(s). ) ADV. PRO. NO. \_\_\_\_\_
)
) CLERK'S ENTRY OF DEFAULT
)
Plaintiff(s), )
vs. )
)
)
Defendant(s).

The defendant(s), \_\_\_\_\_, having failed to plead or otherwise defend in this action;

Now, upon application of the plaintiff(s) and upon affidavit that the time within which the defendant(s) may answer or otherwise respond to the complaint has expired; and that no answer or other response has been filed; and there has been no extension of such time;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that default in this action is hereby entered in accordance with Fed. R. Civ. P. 55(a) as incorporated by Fed. R. Bankr. P. 7055.

Dated this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

JUDITH M. NAPIER, CLERK

By: \_\_\_\_\_
Deputy Clerk

Copies faxed by the Court to:

Copies mailed by the Court to:



**APPENDIX "N"**

NEBRASKA OFFICIAL FORM 9072-1 ORDER

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF	)	
	)	
	)	CASE NO. BK
	)	A
	)	
DEBTOR(S)	)	CHAPTER
	)	
	)	
	)	
Plaintiff(s)	)	
vs.	)	
	)	
	)	
Defendant(s)	)	

JOURNAL ENTRY

This matter is before the Court upon consideration of a/an \_\_\_\_\_, (Fil. # \_\_\_\_\_) (the "Motion"). The Motion was duly filed, served and noticed pursuant to Neb. R. Bankr. P. 9013-1. Proof of Service of the Motion was filed. No timely resistance to the Motion was filed by the resistance date.

IT IS THEREFORE ORDERED that the Motion is hereby granted.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 19\_\_\_\_.

BY THE COURT:

\_\_\_\_\_  
U. S. BANKRUPTCY JUDGE

Copies faxed by the Court to:

Copies mailed by the Court to:

Movant (\*) is responsible for giving notice of this journal entry to all other parties (that are not listed above) if required by rule or statute.

## APPENDIX "O"

### DISCOVERY MOTION PRACTICE NELR 7.1(i) and 7.1(j)

(i) **Discovery Motions--Prerequisite.** To curtail undue delay in the administration of justice this court shall refuse to consider any and all motions relating to discovery unless moving counsel, as part of the motion, shall make a written showing that after personal consultation with counsel for opposing parties and sincere attempts to resolve differences, they are unable to reach an accord. This showing shall recite, additionally, the date, time and place of such conference and the names of all persons participating in them. As used in this subparagraph "counsel" includes parties who are acting pro se.

(j) **Form of Discovery Motions.** A discovery motion shall include in the motion or in an attachment a verbatim recitation of each interrogatory, request, answer, response, and objection that is the subject of the motion.

### SUMMARY JUDGMENT

(Includes NELR 56.1 and NELR 7.1(a), (b) and (c))

#### **56.1 Summary Judgment Procedure.**

(a) **Moving Party.** The moving party shall set forth in the brief in support of the motion for summary judgment a separate statement of each material fact as to which the moving party contends there is no genuine issue to be tried and as to each shall identify the specific document or portion thereof or discovery response or deposition testimony (by page and line) which it is claimed establishes the fact.

(b) **Opposing Party.** The party opposing a motion for summary judgment shall set forth in its opposing brief a separate statement of each material fact as to which it is contended there exists a genuine issue to be tried and as to each shall identify the specific document or discovery response or deposition testimony (by page and line) which it is claimed established the issue. An opposing brief may be delivered and served no later than twenty days after service of the motion and supporting brief. Failure to deliver and serve an opposing brief shall not be considered to be a confession of the motion.

#### **7.1 Motion Practice.**

All motions, applications, requests and petitions of a miscellaneous nature shall be filed and considered in accordance with this rule. Except as otherwise stated in this rule, failure of a party to observe the requirements of the rule may be deemed an abandonment in whole or in part of that party's position on the pending motion.

**(a) Making of Motions.** The moving party shall set forth in the motion the basis for the motion and the specific relief requested.

(1) Supporting Briefs. Every motion raising a substantial issue of law shall be supported by a brief. The brief shall contain a concise statement of the reasons for the motion and a citation of authorities relief upon. The brief shall not include recitations of fact not supported as provided in subparagraph (2) below. At the time of the filing of the motion the original only of the brief shall be delivered to the district judge to whom the matter has been assigned or to the magistrate judge to whom the matter has been referred by order or rule, and a copy shall be served on each other party. The brief shall not be filed with the clerk. For cases to be tried in North Platte delivery of the brief shall be to the magistrate judge in Lincoln.

Briefs are not required when the motion raises no substantial issue of law and relief is within the court's discretion. Examples may include motions to which all parties are shown to consent, to file a reply brief, to withdraw as counsel to a party, for an extension of time, or for leave to proceed in forma pauperis. In the event the court concludes that the motion raises a substantial issue of law the failure to submit a brief may be treated as an abandonment of the motion.

(2) Evidence and Evidence Index. Except as to discovery motions provided for in subparagraph (j) below, if a motion requires consideration of matters not established by the pleadings, the moving party at the time of delivery and service of its supporting brief shall file with the clerk such affidavits, as are being relied upon and have not previously been filed, and shall serve a copy of them upon each other party; such documents shall not be attached to the brief. Any materials filed with the clerk in support of a motion shall be accompanied by an index separately listing each item of evidence then being filed and identifying the motion to which it relates. Documents must be identified and authenticated by affidavit. Each affidavit must be made on personal knowledge, set forth such facts as would be admissible in evidence, show affirmatively that the affiant is competent to testify to the matters stated therein, and identify the motion in connection with which the affidavit is filed.

**(b) Opposing of Motions.**

(1) Opposing Briefs. Any brief opposing a motion shall contain a concise statement of the reasons for opposing the motion and a citation of authorities relied upon. The brief shall not include recitations of fact not supported as provided in subparagraph (2) below. The original only of an opposing brief shall be delivered to the district judge to whom the matter has been assigned or

to the magistrate judge to whom the matter has been referred by order or rule, and a copy shall be served on each other party. The brief shall not be filed with the clerk. For cases to be tried in North Platte delivery of the opposing brief shall be to the magistrate judge in Lincoln. No "answer," or "opposition," or "response" to a motion, or any similarly titled "pleading" in opposition to a motion shall be filed, delivered or served. Any opposing brief may be delivered and served no later than ten days after service of the motion and supporting brief, except as to a motion to dismiss or for summary judgment, with respect to which the opposing brief may be delivered and served no later than twenty days after service of the motion and supporting brief. Failure to deliver and serve an opposing brief shall not be considered to be a confession of the motion.

(2) Evidence and Evidence Index. The nonmoving party may, at the time of delivery and service of its opposing brief, file with the clerk such additional evidentiary materials as are being relied upon, and have not previously been filed, and shall serve a copy of them upon each other party. Any materials filed with the clerk in opposition to a motion shall be accompanied by an index separately listing each item of evidence then being filed and identifying the motion to which it relates. Documents must be identified and authenticated by affidavit. Each affidavit must be made on personal knowledge, set forth such facts as would be admissible in evidence, show affirmatively that the affiant is competent to testify to the matters stated therein, and identify the motion in connection with which the affidavit is filed.

**(c) Replying to Opposing Briefs and Evidence.** No reply brief or evidence shall be permitted, except upon order of the court.

BANKRUPTCY CASES  
NELR 76.1(b) and (c)

**76.1 Bankruptcy Cases.**

**(b) Withdrawal of Reference.**

(1) A reference under this rule to the bankruptcy court may be withdrawn in whole, or in part, by a district judge on his or her own motion, or on timely motion of a party. Motions for withdrawal of reference shall be filed with the clerk of the bankruptcy court. The district court hereby refers motions for withdrawal of reference to the bankruptcy court for a report and recommendation as to disposition.

(2) Motions for withdrawal of reference shall be filed with the clerk of the bankruptcy court. After notice and hearing, a bankruptcy judge shall file a report and recommendation with the clerk of the bankruptcy court and the clerk of the district court. Copies of the report and recommendation shall be served upon the parties by the clerk of the bankruptcy court. The district court may adopt the report and recommendations if no objections are filed within fifteen (15) days of service upon the parties. Objections to the report and recommendation shall be filed with the clerk of the bankruptcy court and the clerk of the district court.

(3) Upon filing of the report and recommendation of the bankruptcy court with the clerk of the district court, the motion for withdrawal of reference and the report and recommendation of the bankruptcy court shall be assigned to a district court judge in accordance with the district court's general order on assignment of cases to district judges. The assigned judge shall decide if the motion to withdraw should be granted. A motion for withdrawal of reference shall not stay any bankruptcy matter pending before a bankruptcy judge, unless a specific stay is issued by a district court judge, or a bankruptcy judge

(4) The district court for cause may on its own motion withdraw, in whole or in part, any case or proceeding referred to the bankruptcy court. The order of withdrawal of reference shall be filed with the clerk of the district court and the clerk of the bankruptcy court. The clerk of the district court shall provide notice to interested parties. Upon receipt of such an order the clerk of the bankruptcy court shall deliver to the clerk of the district court those portions of the bankruptcy or adversary file necessary for the district court proceeding.

(5) If the district court adopts the report and recommendation of the bankruptcy court and withdraws the reference, the order shall be filed in the office of the clerk of the district court and clerk of bankruptcy court and the notice and delivery-of-records provisions of subparagraph (4) of this rule apply.

(6) If the district court determines that a hearing on objections to the report and recommendation should be held, the order setting the hearing shall be filed with the clerk of the district court and clerk of the bankruptcy court.

(7) If the district court denies a motion for withdrawal of reference, the order shall be filed with the clerk of the bankruptcy court and the clerk of the district court.

**(c) Appeal from Bankruptcy Judge Decisions.** Appeals from  
a  
decision of the bankruptcy court shall be in accordance with 28  
U.S.C. § 158 and applicable bankruptcy rules. Bankruptcy Rule  
8009  
respecting the filing of briefs shall not be applicable and  
briefs  
shall be filed in accordance with orders of the district court.