

**DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISIONS OF ST. CROIX AND ST. THOMAS/ST. JOHN**

IN THE MATTER OF:)
)
Adoption of Revisions to the Local Rules)
of the District Court of the Virgin Islands) Miscellaneous Case No. 2010-0003
Bankruptcy Division)
_____)

ORDER

THIS MATTER comes before the Court upon review of the amendments to the Federal Rules of Bankruptcy Procedure, which will take effect on December 1, 2016.

Having compared the amendments to the Federal Rules with Rules 3002-2, 3002-3, 3016-1, 5011-1, 7004-2, and 9013-6 of this Court's Local Bankruptcy Rules, the Court finds that amendments to the Local Rules are necessary to make the Local Rules consistent with the amendments to the Federal Rules.¹ In this regard, the Court is mindful that a Local Rule of

¹In addition to minor conforming changes, the amendments are as follows:

1. Local Rule 3002-2, entitled "Proof of Assignment of Claim in Chapter 13 Cases," is amended by adding to the end of 3002-2(D) "to the extent permissible under the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure," and by adding new section 3002-2(E) to provide: "E. Noticing Requirements. To the extent the assigned claim is one that is secured by a security interest in the debtor's principal residence, the assignee or transferee must comply with the noticing requirements of Fed. R. Bankr. P. 3002.1 before the trustee is authorized to make a distribution on such claim."
2. Local Rule 3002-3, entitled "Chapter 13 - Necessity for Filing Claims," is amended by adding "regardless of whether such payments will be paid by the trustee or directly by the debtor" to the end of the first sentence in 3002-3(F), and by adding "At such time, the noticing obligations imposed by this rule shall cease, unless the court directs otherwise" after the first sentence in 3002-3(G). A new sentence shall then begin, "The chapter 13 trustee shall, however, continue to make distributions to the remaining creditors in accordance with the terms of the plan."
3. Local Rule 3016-1, entitled "Use of Disclosure Statement and Plan Form in Chapter 11 Cases," is amended by adding to the end of the first sentence, "or in a case designated as a small business case under chapter 11. In the latter situation, Official Form 25B shall be used." The text "if a national disclosure statement form is adopted, the disclosure statement

Procedure that is inconsistent with a Federal Rule of Procedure is a “nullity,” *In re Paoli R.R. Yard PCB Litig.*, 221 F.3d 449, 459 (3d Cir. 2000); that a local rule must be consistent with and cannot be duplicative of a Federal Rule, Fed. R. Civ. P. 83(a)(1), Fed. R. Bankr. P. 8018(a)(1); and that “any local rule governing procedure ... in bankruptcy cases must yield to the bankruptcy rules duly promulgated under the Supreme Court’s statutory authority. 28 U.S.C. § 2075.” *Frank v. Arnold (In re Morrissey)*, 717 F.2d 100, 105 (3d Cir. 1983).

Further, in order to make chapter 13 debtor’s counsel’s fees in the Virgin Islands more akin to such fees in other jurisdictions within the Third Circuit, Local Rule 2016-1(A)(1) will be amended by changing \$2,500 to \$3,500.

for small business cases shall conform to the national form, and this Rule shall continue to apply to all other chapter 11 cases” shall be deleted.

4. Local Rule 5011-1(C), entitled “Reference and Withdrawal of the Reference” is amended by replacing the second sentence with the following sentence: “The Bankruptcy Court will hear and decide the matter and issue an opinion before the District Court will hear and decide the motion for withdrawal of the reference.”
5. Local Rule 7004-2, entitled “Consent to Jurisdiction,” is changed by replacing 7004-2(A) with: “By the Plaintiff. In an adversary proceeding, the adversary complaint, counterclaim, cross-claim or third-party complaint shall contain a statement that the pleader does or does not consent to entry of final orders by the Bankruptcy Court in accordance with Fed. R. Bankr. P. 7008.” In addition, 7004-2(B) is replaced with: “By the Defendant. A responsive pleading in an adversary proceeding shall contain a statement that the party does or does not consent to entry of final orders of judgment by the Bankruptcy Court in accordance with Fed. R. Bankr. P. 7012(b).” Finally, 7004-2(C) and (D) are deleted.
6. Local Rule 9013-6, entitled “Consent to Jurisdiction,” is changed by replacing 9013-6(A) with: “By the Moving Party. Any motion seeking relief in the Bankruptcy Court shall contain a statement that the movant does or does not consent to entry of final orders or judgment by the Bankruptcy Court.” In addition, 9013-6(B) is replaced with: “By the Respondent. An answer or other response to the motion by the respondent shall contain a statement that the party does or does not consent to entry of final orders or judgment by the Bankruptcy Court.” Finally, 9013-6(C) and (D) are deleted.

For these reasons, the District Court of the Virgin Islands, Bankruptcy Division, will amend its Local Rules 2016-1, 3002-2, 3002-3, 3016-1, 5011-1, 7004-2, and 9013-6, effective December 1, 2016.

Accordingly, it is hereby

ORDERED that the Court **AMENDS** its Local Bankruptcy Rules 3002-2, 3002-3, 3016-1, 5011-1, 7004-2, and 9013-6, to conform to the Federal Rules of Bankruptcy Procedure, as reflected in the amended Local Bankruptcy Rules attached hereto; and it is further

ORDERED that the Court **AMENDS** its Local Bankruptcy Rule 2016-1 to increase the chapter 13 debtor's counsel's fees, as reflected in the amended Local Bankruptcy Rules attached hereto; and it is further

ORDERED that the amended Local Bankruptcy Rules shall be effective as of **December 1, 2016**; and it is further

ORDERED that the Clerk of Court shall forward a copy of this Order and the attached amended Local Bankruptcy Rules to the Judicial Council of the United States Court of Appeals for the Third Circuit and the Director of the Administrative Office of the United States Courts.

SO ORDERED.

Date: November 30, 2016

_____/s/_____
WILMA A. LEWIS
Chief Judge

Copies:

District Court Judges
Magistrate Judges
Clerk of Court
Julia Baldini
(for distribution to
Members of the Virgin Islands Bar)