



**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA**

LOCAL RULES

**Chief Judge Basil H. Lorch, III
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INTRODUCTION

This newest version of the local rules makes the changes needed to accommodate electronic case filing, and incorporates most of the general orders issued by the Court over the past few years. Many of those general orders remained intact and are located in their own rule, and will be easily identified. However, General Order 3-10, concerning Chapter 11 administrative procedures, has been divided into the following rules: B-1000 (Definitions); B-2002(c) (Service Lists and Notices); B-2014-1 (Employment of Professionals and Treatment of Retainers); B-4001-2 (Cash Collateral and Financing Motions); B-6004-1 (Procedure for Sale of Substantially All Assets Under § 363 Within 60 Days of Filing); B-9006-1 (Procedure for Obtaining Expedited Treatment); and B-9013-3 (First Day Motions). General Order 3-11 on pre-packaged Chapter 11 cases has NOT been incorporated into the rules. Finally, the Guidelines for Payment of Attorneys Fees in Chapter 13 Cases have been made part of B-2016-1, governing applications for compensation generally.

S.D.IND. B-1000-1

B-1000-1. DEFINITIONS

(a) Definitions Applicable to All Rules

- (1) Clerk: the Clerk of the Court.
- (2) Court: the United States Bankruptcy Court for the Southern District of Indiana.
- (3) UST: the United States Trustee for Region 10.

(b) Definitions Applicable to Rules Governing Chapter 11 Cases

- (1) 9006(c) Request: defined in S.D.Ind. B-9006-1.
- (2) Applicant: defined in S.D.Ind. B-2014 -1.
- (3) Debtor: includes a debtor-in-possession in a Chapter 11 case.
- (4) Employment Application: defined in S.D.Ind. B-2014 -1.
- (5) Financing Motions: defined in S.D.Ind. B-4001-2.
- (6) First Day Motions: defined in S.D.Ind. B-9013-3.
- (7) Motion to Sell: defined in S.D.Ind. B-6004-1.
- (8) Notice List: the Service List and parties required to receive notice pursuant to Fed.R.Bank.P. 2002, unless the debtor has obtained an order limiting notice.
- (9) Professional: defined in S.D.Ind. B-2014-1.
- (10) Service List: defined in S.D.Ind. B-2002-1(c).

(c) Abbreviations

“S.D.Ind. B- ___” refers to one of these local rules. “S.D.Ind. L.R. ___” refers to a local rule of the United States District Court for the Southern District of Indiana.
“Fed.R.Bankr.P.” refers to the Federal Rules of Bankruptcy Procedure and the Interim Bankruptcy Rules as adopted by General Order 05-0002.

S.D.IND. B-1002-1

B-1002-1. MINIMUM FILING REQUIREMENTS TO COMMENCE CASE

(a) Initial Filing

A case is commenced by the filing of a petition and the other documents required by the Federal Rules of Bankruptcy Procedure or by subparagraph (b) of this rule. Filing can be made either conventionally, or electronically in accordance with S.D Ind. B-5005-4.

(b) Emergency Filing; Minimum Required

Any voluntary petition filed without the schedules and statements required in Fed.R. Bankr.P. 1007 must be accompanied by:

- (1) if the debtor is an individual, a certificate of credit counseling or a motion seeking a deferral or waiver of the credit counseling requirement pursuant to 11 U.S.C. § 109(h)(4);
- (2) the appropriate filing fee, application requesting waiver of the filing fee (Official Form B3B) or application to pay filing fee in installments (Official Form B3A);
- (3) Bankruptcy Form LBF-1 (Appendix, p. A2) available at www.insb.uscourts.gov;
- (4) if filed conventionally, the diskette required by S.D.Ind. B-1007-1(c); and
- (5) in a Chapter 11 case, the list of the twenty largest unsecured creditors.

Any request for an extension of time to file the other documents required by this rule must comply with Fed.R.Bankr.P. 1007.

(c) Number of Copies

For cases filed conventionally, the number of copies of petitions, accompanying lists, schedules, and statements required by Fed.R.Bankr. P. 1007 to be filed in voluntary Chapter 7, 11,12, 13 and 15 cases is as follows:

- (1) in cases under Chapter 7, 12, 13, and 15 a signed original, plus one copy thereof;
- (2) in cases under Chapter 11, a signed original, plus one copy thereof.

(d) Additional Requirements

In addition to complying with the Federal Rules of Bankruptcy Procedure and Official Forms, all petitions shall:

- (1) state the street address, including the full street number and zip code, of the debtor;
- (2) state the full name of the debtor; and
- (3) state the county of debtor's residence, domicile or place of business.

(e) Place of Filing

For cases filed conventionally, all petitions, schedules, statements, pleadings and other documents required by the Bankruptcy Court to commence a case shall be filed with the Clerk for the division of the district where the principal place of business, domicile, residence or principal assets of the debtor have been located for such a period of time as required by 28 U.S.C. § 1408. All papers tendered for filing after the commencement of a case shall be filed with the office of the Clerk in the division where the case is pending.

S.D.IND. B-1006-1

B-1006-1. PAYMENT OF FILING FEE IN INSTALLMENTS

(a) Payment Schedule

Parties filing an application to pay fees in installments shall propose a payment plan in accordance with the installment fee schedule maintained by the Clerk and available at www.insb.uscourts.gov.

(b) Payment Due Dates

Payments shall be due on the same day of the month as the date on which the petition was filed. If that date falls on a day that the Court is closed, payment is due no later than the next business day.

(c) Application Form

The application must substantially conform to Official Form B3A and shall be signed by both the debtor(s) and attorney for the debtor(s).

S.D.IND. B-1007-1

B-1007-1. LISTS, SCHEDULES AND STATEMENTS; TIME LIMITS

(a) Additional Requirements

In addition to complying with the Federal Rules of Bankruptcy Procedure and Official Forms, all schedules and statements shall:

- (1) contain a response to each request for information on the statement of affairs and the schedules, even if such response is “no,” “none,” or “not applicable;”
- (2) specifically describe and itemize all property claimed as exempt, and state the statutory reference and section number of the statute under which such exemption is claimed; and
- (3) list the creditors on each schedule in alphabetical order, including the full mailing address and zip code for each listed creditor, or statement that the address is unknown.

(b) Statement of Social Security Number

Pursuant to Fed.R.Bankr. P. 1007 (f) a debtor who is an individual shall submit a verified statement that sets out the debtor’s social security number. In a voluntary case the debtor(s) shall submit the statement with the petition. In an involuntary case the debtor(s) shall submit the statement within fifteen (15) days after the entry of the order for relief.

(c) Diskette in Addition to the List of Creditors

In all cases filed conventionally a diskette listing the creditors in the case must be submitted. In Chapter 11 cases, the diskette must include equity security holders, if applicable. An exception to the requirement will be considered by the Court if a request for waiver is filed with the petition.

(d) Extensions of Time

Unless the debtor is a “small business” filing under Chapter 11, as defined by 11 U.S.C. § 101(51D), the UST and any panel trustee appointed in a case are deemed to have no objection to any original request for extension of time within which to file schedules or related documents if that request seeks an extension to no more than forty-five (45) days after the date the petition is filed. The Clerk need not send notice of any such request to the UST or any panel trustee. If the debtor is a small business filing under Chapter 11, then the UST is deemed to have no objection to any original request for an extension of time within which to file schedules or related documents if that request seeks an extension to no more than thirty (30) days after the date the petition is filed.

(e) Dismissal

In any case where lists, schedules, and statements are not filed with the voluntary petition, within fifteen (15) days thereafter, or within such other period set by order, the Court shall enter an order of dismissal unless a motion for extension of time has been filed prior to the expiration of the period. The Court shall also enter an order of dismissal

if the statement of social security number is not filed with the voluntary petition or within three (3) days thereafter.

(f) Reinstatement

Parties filing a motion to reinstate or a motion to reopen a dismissed case for noncompliance shall submit the documents required contemporaneously with the motion to reinstate or the motion to reopen. The motion will not be considered unless the deficiency is cured or a showing of good cause is made as to why additional time is needed.

S.D.IND. B-1007-2

B-1007-2. CLAIMS DOCKETS

The Clerk will supervise preparation of claims dockets in all cases. However, subject to the Administrative Procedures for Electronic Filing and unless excused by order of the Court, if the number of creditors in any case exceeds 500, the debtor in a Chapter 11 case shall employ, with leave of Court, an entity to assist the Clerk in performance of this function under direction of the Clerk.

S.D.IND. B-1009-1

B-1009-1. AMENDMENTS OF VOLUNTARY PETITIONS, LISTS, SCHEDULES, AND STATEMENTS OF FINANCIAL AFFAIRS

(a) Form of Amendments

All amendments to voluntary petitions, schedules, lists and statements of affairs shall comply with Fed.R.Bankr.P. 1009, S.D.Ind. B-1002-1 and B-1007-1, and shall be accompanied by the appropriate filing fee. Any amendment which adds a creditor shall state the date the debt was incurred. Each amendment shall also be verified and signed in the original and if filed conventionally, filed in the same number as the original petition and schedules. If an amendment changes the totals on any schedule, then the debtor shall also file an amended Summary of Property and Debts. An amendment which adds creditors and is filed conventionally shall be accompanied by a diskette listing the added creditors only. If an amendment which adds creditors is filed, a diskette listing the added creditors shall be submitted to the Clerk within two (2) business days.

(b) Service of Amendment on Added Creditors

The debtor shall serve a copy of the amendment and all documents previously issued to creditors, including the 11 U.S.C. § 341 meeting notice (even if the date has passed), any notice of bar date, the most recent plan or amended plan, and confirmation hearing notice, on any added creditor, the trustee, and the UST. If the amendment is filed after the first date set for the meeting of creditors, the debtor shall also give notice that the deadline for filing a complaint to determine non-dischargeability pursuant to 11 U.S.C. § 523(c) is extended to sixty (60) days after the date the amendment is filed. The original amendment shall be filed with the Clerk along with a detailed certificate of service pursuant to S.D.Ind. B-9013-2.

(c) Notice of Amendment to Social Security Number

- (1) If the original Statement of Social Security Number (Form 21) is incorrect, the debtor shall submit an amended statement to the Clerk, and complete steps (3) through (5) below.
- (2) If the debtor's social security number was entered erroneously during the filing of the case **and notice of the creditors' meeting has not been issued**, the debtor shall alert the Clerk by telephone and then complete step (3) below, if necessary. **If notice of the creditors' meeting has been issued with an incorrect number**, then the debtor shall complete steps (3) through (5) below.
- (3) If the error involves the last four digits of the social security number, the debtor shall file an amended petition.
- (4) The debtor shall serve a notice of the correction (and a copy of the amended petition, if one was filed) on all creditors, any trustee, and the UST.
- (5) The debtor shall file with the Clerk a truncated or redacted copy of the notice, showing only the last four digits of the social security number, and a detailed certificate of service in compliance with S.D.Ind. B-9013-2.

S.D.IND. B-1015-1

B-1015-1. CONSOLIDATION OR JOINT ADMINISTRATION OF CASES PENDING IN SAME COURT

(a) Joint Cases

A joint case commenced pursuant to 11 U.S.C. § 302(a) shall be jointly administered unless otherwise ordered by the Court, upon motion of a party in interest. The separate estates of debtors in a joint case will only be consolidated upon motion, after notice.

(b) Pleadings in Jointly Administered Cases

If the Court orders joint administration in two or more cases pursuant to Fed.R.Bankr.P. 1015, the caption of all documents and pleadings other than claims filed in any of the jointly administered cases shall list the names of all of the cases subject to joint administration, but only the lowest case number of the jointly administered cases. Unless otherwise ordered by the Court, documents and pleadings will be docketed on a single docket.

(c) Claims in Jointly Administered Cases

A claim filed in a case that is being jointly administered should list the name and number of each of the jointly administered cases in which the claim is to be filed.

(d) Pleadings and Claims in Substantively Consolidated Cases

If after motion and notice the Court orders the substantive consolidation of two or more cases, the caption of all documents, pleadings, and claims filed in the consolidated case shall list only the name of the consolidated case and that case number, which shall be the name and number of the first case filed. Unless otherwise ordered by the Court, documents, pleadings, and claims filed after the order of substantive consolidation will be docketed on a single docket.

S.D.IND. B-1017-1

B-1017-1. CONVERSION FROM CHAPTER 13 TO CHAPTER 7

A debtor seeking to convert a Chapter 13 case to Chapter 7 shall do so by filing a notice of conversion pursuant to 11 U.S.C. § 1307 of the Bankruptcy Code and Fed.R.Bankr.P. 1017(f)(3).

Any notice of conversion shall be filed with the Clerk accompanied by proof of service on the designated Chapter 13 standing trustee and the UST and any required fee.

S.D.IND. B-1017-3

B-1017-3. EFFECT OF DISMISSAL ON ADVERSARY PROCEEDINGS

Whenever a case under the Bankruptcy Code is dismissed, any adversary proceeding arising under, arising in, or related to the case then pending will be dismissed without prejudice unless otherwise ordered by the Court either in the dismissal order or by separate order. Cases that have been removed to the Court shall be remanded to the courts from which they were removed.

S.D.IND. B-1019-1

B-1019-1. CONVERSION OF CHAPTER 11, CHAPTER 12, OR CHAPTER 13 CASE TO CHAPTER 7 CASE

(a) Schedule of Post-Petition Debts

The schedule of post-petition debts required by Fed.R.Bankr.P. 1019 shall comply with the requirements of S.D.Ind. B-1007-1(a). The debtor(s) or attorney for the debtor(s) shall serve a copy of the schedule on added post-petition creditors, the trustee, and the UST along with a copy of the 11 U.S.C. § 341 meeting notice, if issued in the converted case. A detailed certificate of service listing names, addresses, and documents served, in compliance with S.D.Ind. B-9013-2, shall be filed with the schedule of post-petition debts.

(b) No Delay of First Meeting

Failure of the trustee, the former debtor-in-possession, or the debtor to comply with Fed.R.Bankr.P. 1019 shall not delay the scheduling of the 11 U.S.C. § 341 meeting for the Chapter 7 case.

S.D.IND. B-2002-1

B-2002-1. APPEARANCES AND NOTICES TO CREDITORS, EQUITY SECURITY HOLDERS, AND UNITED STATES TRUSTEE

(a) Appearances and Withdrawal of Appearances Generally

Appearances and withdrawal of appearances are governed by S.D.Ind. B-9010-1.

(b) Limited Notice in Chapter 7 Cases

In Chapter 7 cases, after all time periods for filing proofs of claim have expired, all notices required by Fed.R.Bankr.P. 2002(a), except the notice of dismissal or denial of discharge, shall be mailed only to the trustee, the UST, and creditors who have filed claims and creditors, if any, who are still permitted to file claims by reason of an extension granted under Fed.R.Bankr.P. 3002(c)(1) or (2).

(c) Appearances and Service Lists in Chapter 11 Cases

(1) Appearances

Interested parties or their counsel who wish to receive copies of pleadings and documents (other than proofs of claim) filed in a Chapter 11 case shall file with the Clerk and serve the debtor and the debtor's counsel with an appearance. Parties shall give their address, telephone and fax numbers, and are encouraged to provide an e-mail address and to authorize service by e-mail. Any change to or withdrawal of an appearance shall be filed with the Clerk and served upon the debtor and the debtor's counsel.

(2) Service List

Unless otherwise ordered by the Court, the Chapter 11 debtor shall be responsible for maintaining a list of all parties who have entered an appearance or who are otherwise required to be on the list by order of the Court ("the Service List"). The initial service list shall include the debtor, the debtor's counsel, the twenty largest unsecured creditors, counsel for the unsecured creditors' committee, the UST, all secured creditors or their counsel, any indenture trustee, and any party who has filed an appearance. The initial Service List shall be filed with the Clerk no later than fifteen (15) days after the filing of the petition.

(3) Updated Service List

The initial Service List shall be updated by the debtor no later than thirty (30) days after the petition date, and shall be updated every thirty (30) days thereafter for the six (6) months after the petition date if any changes have occurred. After six (6) months the Service List shall be updated as new appearances are filed. A copy of each updated Service List shall be filed with the Clerk and served on the entities on the list. Each Service List shall include the last date updated and when possible, the debtor or the debtor's counsel shall make the Service List available on a web site.

(4) Deletion from Service List

If counsel appears for a creditor on the Service List, then counsel shall be substituted for that creditor on the Service List, absent a specific request to be retained on the Service List. An unsecured creditor on the list of the twenty largest unsecured creditors that is not selected to serve on the creditors' committee shall be deleted from the Service List upon the filing of the notice of the appointment of the creditors' committee, absent a specific request to be retained on the Service List. After the appearance of counsel for the creditors' committee, committee members shall be deleted from the Service List, absent a specific request by that creditor to be retained on the Service List.

S.D.IND. B-2014-1

B-2014-1. EMPLOYMENT OF PROFESSIONAL PERSONS AND TREATMENT OF RETAINERS IN CHAPTER 11 CASES

(a) Employment Application

Any person ("the Applicant") seeking Court approval of the employment of a professional person ("the Professional") pursuant to 11 U.S.C. §§ 327, 1103 (a) or 1114 shall file with the Court an application and a supporting affidavit or verified statement of the professional complying with Fed.R.Bankr.P 2014 ("an Employment Application"), and a proposed order on the Employment Application. Promptly after discovering any additional material information relating to such employment (such as additional potential or actual conflicts of interest) the Applicant and Professional shall file and serve a supplemental affidavit disclosing the additional information.

(b) Service of Notice and Hearing

The Employment Application (including supporting affidavit or verified statement of the Professional and any supplemental affidavit) shall be served on the Service List. Notice of the Employment Application, an objection deadline, and any hearing shall be served on the Notice List. Any creditor or other party in interest who wishes to resist the Employment Application must on or before the objection deadline provided in the notice file an objection and serve such objection upon the Applicant, the Professional, and the Service List. If no objection is filed by the objection deadline, the Court may grant the Employment Application and approve the proposed employment without a hearing or further notice. If the Employment Application is granted, the employment shall be effective as of the date the Employment Application was filed unless otherwise ordered by the Court.

(c) Conflicts

If a Professional seeks to resolve any potential conflict of interest concerning any other client or former client, the Professional shall comply with applicable Rules of Professional Conduct. All consents or waivers of conflicts of interest (“waivers”) shall be in writing. The Professional shall serve copies of all such waivers upon the Applicant and the Service List with the Employment Application or promptly following receipt by the Professional of a waiver.

(d) Disclosure of Compensation and Retainers

As part of the Employment Application, a debtor and a proposed Professional shall obtain approval of the Court of an arrangement whereby a retainer paid by the debtor to the Professional may be retained and applied to the satisfaction of such Professional’s fees and expenses. Those financial arrangements may include provisions similar to the following:

- (1) The retainer shall be applied to satisfy the Professional’s fees and expenses as they are approved by the Court pursuant to 11 U.S.C. §§ 330 and 331;
- (2) The Professional may hold the entire retainer without any application to payment of fees and expenses until final approval by the Court of such Professional’s final application for fees and expenses, with such allowed interim fees and expenses paid periodically from other estate assets;
- (3) Any other arrangement approved by the Court.

(e) Periodic Payment Procedure

Subject to prior Court approval, the Professional and the debtor may agree to a streamlined procedure for periodic payment of fees and costs prior to allowance by the Court. "Payment" includes any transfer of funds from the debtor to the Professional after the filing date. Any proposed procedure shall provide for payment of no more than 80% of requested fees, but may provide for payment of 100% of expenses.

- (1) All such arrangements shall provide that prior to the fee draw the Professional must file with the Clerk a Notice of Draw which sets forth the amount of the proposed draw and contains, as an attachment, a copy of the periodic billing which supports the amount of the draw.
- (2) A copy of the Notice of Draw shall be served upon the Service List and, in addition, a copy of the relevant periodic billing shall be delivered to the UST. Failure of a party to object to the draw does not affect the party's right to object to the final allowance of fees and expenses. Court approval of the draw procedure is not approval of fees and expenses. All fees and expenses drawn are subject to disgorgement until the Court allows the final fee application of the Professional.

S.D.IND. B-2015-1

B-2015-1. REPORT OF OPERATIONS

(a) Monthly Operating Reports

For all cases filed under Chapter 7 in which the trustee operates a business, and for cases under Chapters 11, 12, and 13 in which a plan is not confirmed, the trustee or the debtor shall file a monthly report of operations. For Chapter 11 and Chapter 7 cases, that report shall be in a form acceptable to the UST. For Chapter 12 and Chapter 13 cases, that report shall be in a form acceptable to the appointed trustee. Reports required by this rule shall be filed no later than fifteen (15) days after the end of the calendar month.

(b) Service

The report shall be served upon the UST, the debtor and counsel for the debtor, any trustee and counsel for the trustee, the Service List in a Chapter 11 case, and any party requesting service of the reports.

(c) Penalties for Failure to File

The failure to file operating reports may constitute cause for the conversion or dismissal of the case, or for the appointment (or removal) of a trustee.

S.D.IND. B-2015-3

B-2015-3. TRUSTEES: REPORTS AND DISPOSITION OF RECORDS

Six (6) months after the filing of the trustee's final account, the entry of an order dismissing a Chapter 11 case following the sale of substantially all assets, or the entry of a final decree in a liquidating Chapter 11 case, the trustee or the debtor may destroy or otherwise dispose of the books and records of the debtor in the trustee's or the debtor's possession, after advising the debtor, the debtor's attorney, taxing agencies, counsel for any committee, and any other entity designated by the Court, unless an earlier disposition is authorized by the Court after notice and a hearing.

S.D.IND. B-2016-1

B-2016-1. APPLICATIONS FOR COMPENSATION FOR SERVICES RENDERED AND REIMBURSEMENT OF EXPENSES

(a) Generally

Applications for compensation and reimbursement of expenses shall comply with the national fee guidelines promulgated on March 22, 1995, by the Executive Office for USTs pursuant to 28 U.S.C. § 586(a)(3)(A)(I) and the Policy of the UST for Region 10 for Implementation of Fee Guidelines dated January 30, 1997, including any amendments.

(b) Chapter 13 Cases

The following are guidelines for the circumstances under which the Court will, as part of the Chapter 13 plan confirmation process, approve fees of attorneys representing Chapter 13 debtors. These guidelines do not preclude the filing of motions to reinstate, in which instance fees would be payable directly to the debtor's counsel. Counsel shall file a proof of claim both for fees awarded pursuant to these guidelines and for fees awarded after application.

An attorney may decline to seek approval of compensation pursuant to these guidelines. If an attorney so declines, his or her compensation shall be disclosed, reviewed, and approved in accordance with applicable authority including, without limitation, 11 U.S.C. §§ 329 and 330 and Fed.R.Bankr.P. 2002, 2016 and 2017. This authority requires, at a minimum, that payments on account of post petition services be held in trust until the Court approves the fees and expenses of the attorney.

Alternatively, attorneys may have their fees approved and paid as part of the Chapter 13 plan confirmation process if they comply with the following guidelines.

- (1) Counsel may seek approval for fees up to the amounts set forth in section (2) without filing a detailed application if:
 - (A) Counsel has filed an executed copy of the “Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys,” available at www.insb.uscourts.gov.
 - (B) No objection to the requested fees has been raised.
 - (C) A proof of claim has been filed with the Court by the attorney and served upon the trustee.
- (2) The maximum fee which can be approved through the procedure described in section (1) is \$3,500.00.
- (3) If counsel does not wish to obtain approval of fees in accordance with these guidelines, or if an executed copy of the “Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys” is not filed, or if counsel requests fees in excess of the amounts in section (2), or if there is an objection, fees will not be automatically approved upon plan confirmation pursuant to these guidelines. In such cases, counsel must deposit all advance payment of post petition fees in trust, must apply for all fees, and shall comply with 11 U.S.C. §§ 329 and 330 and Fed.R.Bankr.P. 2002, 2016 and 2017.
- (4) If counsel has filed an executed copy of the “Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys,” but the initial fee is not sufficient to fully compensate counsel for the legal services rendered in the case, the attorney may apply for additional fees.
- (5) Except for pre-petition retainers, all fees shall be paid through the plan unless otherwise ordered. Absent Court authorization, the attorney may not receive fees directly from the debtor other than the pre-petition retainer. After plan confirmation, the Chapter 13 trustee shall pay the attorney until the fee is paid in full.

- (6) If an attorney has elected to be compensated pursuant to these guidelines but the case is converted or dismissed prior to confirmation of a plan, absent contrary orders, the trustee shall pay to the attorney, to the extent funds are available, an administrative claim equal to 50% of the unpaid fee balance if a properly documented fee claim (for the entire fee balance) has been filed by the attorney and served upon the trustee. Under appropriate circumstances, an attorney may file a motion (within ten [10] days of the dismissal or conversion) for allowance and payment of additional fees. The attorney shall not collect, receive, or demand additional fees from the debtor for work already performed unless authorized by the Court, even after dismissal.
- (7) On its own motion or the motion of any party in interest at any time prior to entry of a final decree, the Court may order a hearing to review any fee paid or to be paid.

S.D.IND. B-2081-2

B-2081-2. PREPACKAGED CHAPTER 11 CASES

“Prepackaged” Chapter 11 cases are governed by General Order 3-11, as it may be subsequently amended or superseded.

S.D.IND. B-3001-1

B-3001-1. PROOF OF CLAIM

(a) Method of Filing

Claims may be filed conventionally or electronically. Entities which are registered users of CM/ECF must file claims electronically.

(b) Copies

Any entity filing a proof of claim conventionally shall file a copy of the original proof of claim and serve a copy including any attachments on the trustee, the debtor’s counsel, or debtor, if *pro se*. All claims will be imaged (scanned). Any entity that wishes to receive a file-marked copy of the claim must provide the Clerk with a self-addressed, postage paid envelope. Copies of claims that the Clerk is unable to return will be recycled. Claimant shall retain the original proof of claim with any attachments and shall provide additional information as may be required by the Court or case trustee.

(c) Redaction of Personal Identifiers

Any claimant should redact on the proof of claim filed with the Clerk all but the last four digits of the debtor's social security number. The claimant must provide at least the last four numbers of any account number assigned the debtor.

(d) Wage Claimant

Any entity filing a proof of claim for wages must provide a full social security number and a telephone number directly to the trustee, in addition to filing a proof of claim with the Clerk.

S.D.IND. B-3015-1

B-3015-1. FILING OF CHAPTER 13 PLAN

(a) Form of Plan

Chapter 13 plans shall use the Model Plan form approved by the Court. The Model Plan is available at www.insb.uscourts.gov.

(b) Extension of Time to File Plan

Motions to extend the time to file a Chapter 13 plan must be filed within fifteen (15) days after the commencement of the case.

(c) Granting of Motion to Extend Time to File Plan

If the Court grants the motion to extend time to file a Chapter 13 plan, the debtor shall forthwith notify the trustee.

S.D.IND. B-3015-2

B-3015-2. AMENDMENTS TO CHAPTER 13 PLAN

Any amended plan shall use the Model Plan form approved by the Court. The Model Plan is available at www.insb.uscourts.gov.

S.D.IND. B-3016-1

B-3016-1. FILING OF PLAN AND DISCLOSURE STATEMENT IN CHAPTER 9 MUNICIPALITY AND CHAPTER 11 REORGANIZATION CASES

Unless otherwise specifically ordered in a Chapter 11 case, the proponent of a plan shall:

- (a) if filed conventionally, file with the Clerk an original and one copy of the plan and the disclosure statement;
- (b) serve a copy of the proposed plan and disclosure statement on the attorneys for any committee, the Service List, any party in interest who requests a copy, and upon the debtor and the debtor's attorney if the debtor is not the proponent;
- (c) file with the Clerk a certificate of service in compliance with S.D.Ind. B-9013-2.

S.D.IND. B-3017-1

B-3017-1. RESPONSIBILITY TO PROVIDE PLAN PACKET

Upon the approval of the disclosure statement, unless otherwise ordered by the Court, the plan proponent shall serve copies of the plan, the disclosure statement, and ballot(s) on all creditors and parties in interest, along with the notice of the hearing on confirmation. The plan proponent shall file within five (5) days after the distribution a certificate of service in compliance with S.D.Ind. B-9013-2.

S.D.IND. B-3018-1

B-3018-1. BALLOTS; VOTING ON PLAN

(a) Submission of Ballots and Balloting Report

Except as otherwise ordered, all ballots shall be delivered to the plan proponent. Any original ballots received by the Clerk shall be forwarded to the plan proponent. The plan proponent shall establish an appropriate method for noting the date the ballot was received. The plan proponent shall retain copies of the ballots in accordance with the Court's Administrative Procedures for Electronic Filing in the Case Management/Electronic Case Filing System. The plan proponent shall tabulate the ballots and shall file the balloting report with the Court three (3) days before the confirmation hearing. A sample report form is available at www.insb.uscourts.gov. (Appendix, p. A3) The balloting report shall be certified by the plan proponent. A sample certification form is available at www.insb.uscourts.gov. (Appendix, p. A4) Copies of the report shall be served on the UST, the Service List, and parties filing objections to the plan. The tabulation shall list for each class the total number of claims voting, total dollar amount of claims accepting, and percentages of claims voting that accept the plan. It shall also indicate for each class whether it is impaired or unimpaired and whether or not the requisite vote has been attained in each class.

(b) Form of Ballot

The form of a ballot approved by the Court and available at www.insb.uscourts.gov (Appendix, p. A5) will be distributed to creditors, shall include the address of the plan proponent or the party designated to receive ballots, and shall indicate that ballots should be received no later than the deadline established by order of the Court.

(c) Rules for Tabulating Ballots

In tabulating the ballots, the following rules shall apply:

- (1) Ballots that are not signed will not be counted either as an acceptance or rejection.
- (2) Where the amount shown as owed on the ballot differs from the schedules and a proof of claim has been filed, the amount shown on the proof of claim will be used for the purpose of determining the amount voting.
- (3) Ballots that do not show a choice of either acceptance or rejection will not be counted either as an acceptance or rejection.

- (4) Ballots that are received after the last date set for filing ballots will not be counted as either an acceptance or rejection, unless leave of the Court is granted.

S.D.IND. B-3022-1

B-3022-1. FINAL DECREE IN CHAPTER 11 CASES WHERE DEBTOR IS NOT AN INDIVIDUAL

(a) Definition of “Fully Administered”

For the purposes of Fed.R.Bankr.P. 3022, an estate will be considered “fully administered” when the order confirming the plan has become final, any deposits required by the plan have been distributed, payments under the plan have commenced, all motions, contested matters, and adversary proceedings have been resolved, and the plan has been otherwise “substantially consummated” as that term is defined in 11 U.S.C. § 1101(2). Payments required under the confirmed plan do not have to be completed for the estate to be considered “fully administered.”

(b) Presumption of Full Administration

Unless the confirmation order or another order of the Court provides otherwise, a case shall be presumed to be fully administered no later than six (6) months after the date of confirmation. If a case is fully administered, and the docket reflects no pending matters, the Court may order the plan proponent to file an application for a final decree.

(c) Contents of Application for Final Decree

After the estate has been fully administered and no pending matters remain, the plan proponent shall file an application for a final decree. The application shall provide the total amount paid to all classes, the percentage paid or proposed to be paid to general unsecured creditors in the plan, and any fees paid to professionals employed pursuant to 11 U.S.C. §§ 327 and 330. The application shall be accompanied by a final report.

S.D. Ind. B-3022-2

B-3022-2. FINAL DECREE IN CHAPTER 11 CASES WHERE DEBTOR IS AN INDIVIDUAL

(a) Contents of Application for Final Decree

After the debtor has completed the payments under the plan, the debtor shall file an application for final decree. The application shall provide the total amount paid to all classes, the percentage paid to general unsecured creditors in the plan, and any fees paid to professionals employed pursuant to 11 U.S.C. §§ 327 and 330. If the debtor is otherwise eligible, the Court shall issue a discharge as soon as practicable after the application is filed.

(b) Request for Discharge under 11 U.S.C. § 1141(d)(5)(B)

If a discharge is sought under 11 U.S.C. § 1141(d)(5)(B), the debtor shall request entry of discharge by motion which shall be a contested matter governed by Fed.R.Bankr.P. 9014.

S.D.IND. B-4001-1

B-4001-1. MOTIONS FOR RELIEF FROM STAY

(a) Contents of Motion

A motion for relief from the automatic stay shall state the amount of principal and interest due as of the date of the motion, the date and amount of the last payment received, and contain a payment history sufficient to establish any alleged default. A sample form motion is available at www.insb.uscourts.gov. The movant may include in the motion a waiver of the 30-day hearing requirement in 11 U.S.C. § 362(e), and shall note that waiver by including in the caption the statement “with 30-day waiver.”

(b) Notice; Disposition

Notice of the motion shall be served by the movant on the debtor (s), parties that have entered an appearance, creditors, any trustee, and the UST, except as otherwise provided by S.D.Ind. B-2002-1(b). The notice shall allow at least fifteen (15) days from the date of service to file objections. Along with the notice, the moving party shall file a copy of the motion and a certificate of service listing the name and address of each entity served, and the date and manner of service. A sample notice is available at

www.insb.uscourts.gov. If no proper response to the motion is filed, the Court may grant relief from the stay without further notice or hearing. At any hearing on the motion, the debtor or objector has the burden of establishing any payment alleged to have been made but not set forth in the payment history.

S.D.IND. B-4001-2

B-4001-2. CASH COLLATERAL AND FINANCING MOTIONS

(a) Motions

Except as provided herein, all cash collateral and financing requests under 11 U.S.C. §§ 363 and/or 364 (“Financing Motions”) shall be brought by motion filed pursuant to Fed.R.Bank.P. 4001 and 9014.

(b) Interim Relief

When Financing Motions are filed as First Day Motions, the Court may grant interim relief pending review by the interested parties of the proposed arrangements. Such interim relief is intended to avoid immediate and irreparable harm to the estate pending a final hearing. **Absent extraordinary circumstances, the Court may not enter interim orders that include any of the provisions identified in (c) below.**

(c) Provisions to Be Disclosed

All Financing Motions must recite whether the proposed form of order, stipulation, or loan agreement contains any provision of the type indicated below and identify by page and paragraph the location of any such provision in the proposed form of order, stipulation, or loan agreement:

(1) Cross-Collateralization of Pre-Petition Debt

Provisions that grant cross-collateralization protection (other than replacement liens or other adequate protection) to the pre-petition secured creditor, i.e., clauses that secure pre-petition debt by post-petition assets in which the secured creditor does not assert a valid, perfected security interest by virtue of its pre-petition security agreement or applicable non-bankruptcy law, and provisions that deem pre-petition secured debt to be post-petition debt or that use post-petition loans from a pre-petition secured lender to pay all or part of that lender’s pre-petition claim, other than as provided in 11 U.S.C. § 552(b);

(2) Validity of Claims and Release of Claims

Provisions or findings of fact that bind the estate or all parties in interest with respect to the validity, perfection, or amount of the secured creditor's pre-petition lien or debt or that waive or release any or all claims against the secured creditor without first giving parties in interest at least ninety (90) days from the entry of the order to investigate such matters;

(3) Surcharge

Provisions that seek to waive the estate's rights under 11 U.S.C. § 506(c);

(4) Professional Fee Provisions

Provisions that provide disparate treatment for the professionals retained by a creditors' committee from that provided for the professionals retained by the debtor with respect to a professional fee carve-out;

(5) Liens on Avoidance Actions

Provisions that grant liens on the debtor's rights, claims and causes of action, or proceeds thereof, arising under Chapter 5 of Title 11, United States Code;

(6) Relief from Stay

Provisions that grant a creditor relief from the automatic stay without further order or hearing upon the breach of the cash collateral or financing order or agreement;

(7) Priming of Existing Liens

Provisions that prime any secured lien, without the consent of the holder of that lien;

(8) Loan Documentation Costs

Provisions that call for the payment of fees or costs by the debtor, other than reasonable attorney's fees for loan documentation; and

(9) Plan Restrictions

Provisions that limit or restrict the right of a debtor or any other party in interest to submit a plan of reorganization, or which would affect the terms of any such plan.

(d) Summary of Essential Terms

All Financing Motions must set forth, unless good cause is shown, the total dollar amount requested, the debtor's proposed budget for the use of the funds, an estimate of the value of the collateral which secures the creditor's asserted interest, the maximum borrowing available on an interim and final basis, the borrowing conditions, interest rate, fees, costs or other expenses to be borne by the debtor, maturity, limitations on the use of the funds, events of default, and the protections afforded under 11 U.S.C. §§ 363 and 364.

S.D.IND. B-4002-1

B-4002-1. DEBTOR'S DUTIES

(a) Notice to Other Tribunals

Immediately upon the entry of an order for relief, the debtor shall give written notice to any court or tribunal where an action is pending against the debtor and to the parties and counsel involved in that action. If an action is commenced subsequent to the date of the order for relief, the debtor shall give similar written notice to the court or tribunal and to all parties and counsel involved.

(b) Notice to Garnishing Creditor and Garnishee Defendants

Immediately upon the entry of an order for relief, the debtor shall give written notice to any creditor with a garnishment order, any garnishee defendant other than the debtor's employer, and to any creditor whom the debtor anticipates may seek a garnishment order.

(c) Notice to Employer

If the debtor has authorized deductions from the debtor's employment compensation in repayment of an unsecured claim, or if the debtor's employment compensation is subject to an involuntary garnishment, then upon the entry of an order for relief, the debtor shall notify the employer and the entity authorized to receive any voluntary deduction that such deduction shall cease as of the date of the entry of the order for relief. If the employer or the entity authorized to receive a voluntary deduction is notified orally, the debtor shall send to the employer within three (3) days thereafter a written notice which

includes photocopies of the petition and that portion of the schedules listing the creditor receiving the deductions. If the debtor has authorized the deduction from the debtor's compensation for repayment of a secured claim which the debtor intends to reaffirm, or the withholding of income governed by 11 U.S.C. § 362(b)(19), or if the debtor's compensation is subject to garnishment for a debt not dischargeable pursuant to 11 U.S.C. § 523(a)(5), then the debtor may elect not to provide the notice required by this subsection.

(d) Production of Business Records

In Chapter 13 cases, if a debtor is engaged in business, as defined in 11 U.S.C. § 1304, the debtor must produce any documents concerning the business requested by the trustee at or before the meeting of creditors.

(e) Additional Documents Upon Request

In addition to the documents required by Interim Bankruptcy Rule 4002, the debtor shall produce such other documents as the trustee or UST requests.

S.D.IND. B-4003-2

B-4003-2. LIEN AVOIDANCE MOTIONS

(a) Requirements

Any debtor seeking to avoid a lien pursuant to either 11 U.S.C. §§ 522(f) or 1322(b) shall file a separate written motion as to each alleged lien holder. The motion shall identify (a) the lien to be avoided and its amount; (b) the amount, listed separately, of all other liens on the property; (c) if applicable, the amount of the impaired exemption; and (d) the value of the subject collateral. Motions to avoid judicial liens shall also include the case number and the court where the underlying judgment was entered and list the common address of any real property affected by the lien. A sample notice and motion are available at www.insb.uscourts.gov.

(b) Nonpossessory, Nonpurchase Money Security Interests in Household Goods

Motions to avoid a nonpossessory, nonpurchase money security interest in household goods under 11 U.S.C. § 522(f)(1)(B) must, in addition to the requirements in paragraph (a), specifically identify the household goods that are subject to the security interest sought to be avoided, referring to the definition of "household goods" provided in 11 U.S.C. § 522(f)(4).

(c) Service

The debtor shall serve the motion and notice thereof on the lien holder, or on the attorney for the lien holder but only if such attorney has appeared in the bankruptcy case on behalf of the lien holder, and all other parties in interest. The notice shall allow at least twenty (20) days from the date of service to file objections.

(d) Filing and Certificate of Service

Along with the motion the debtor shall file with the Court a copy of the notice and a certificate of service in compliance with S.D.Ind. B-9013-2.

S.D.IND. B-4004-1

B-4004-1. DISCHARGE IN CHAPTER 13 CASES

(a) Trustee's Notice of Completion

For all Chapter 13 cases filed on or after October 17, 2005, the Chapter 13 trustee shall file a notice of completion of the plan after all payments have been received. That notice of completion shall be in conformance with the Court's form notice.

(b) Debtor's Required Pleadings

Within thirty (30) days after the trustee files the notice of completion, the debtor shall file a motion for entry of Chapter 13 discharge and a certification of eligibility, in conformance with the Court's forms. Each debtor must file a separate certification.

(c) Local Forms

The notice of completion, the motion for entry of Chapter 13 discharge, and the certification of eligibility are available at www.insb.uscourts.gov. (Under "Bankruptcy Forms and Instructions," consult the list of Local Forms and Instructions.)

(d) Closing and Reopening

If no motion for entry of Chapter 13 discharge is filed, the case may be closed without entry of a discharge after filing of the trustee's final report, or thirty (30) days after filing of the trustee's notice of completion, whichever is later. If the motion for entry of Chapter 13 discharge is filed after the case has been closed, the debtor must also file a motion to reopen the case. A filing fee to reopen the case must be paid with the motion.

S.D.IND. B-5005-1

B-5005-1. FILING OF PAPERS

(a) Method of Filing

The Court will accept for filing documents submitted, signed, or verified by electronic means consistent with the rules and procedures established by the Court. Filing of documents electronically in compliance with these rules and procedures shall constitute filing with the Court for purposes of Fed.R.Bankr.P. 5005.

(b) Requirement of Form

All petitions, pleadings, and other papers offered for filing shall meet the following requirements of form:

(1) Legibility

Papers shall be plainly and legibly typewritten, printed, or reproduced on one side of the paper only.

(2) Caption: Official Forms

The caption and form of all petitions, pleadings, schedules, and other papers shall be in substantial compliance with Fed.R.Bankr.P., official forms, or local rules. Each paper or set of papers filed, except petitions, shall bear the name of the debtor, the case number, and chapter of the case.

(c) Return of Copies

Any person who files a pleading or paper, including a claim, by mail and wishes to receive a file-marked copy by return mail must include with the paper or pleading a self-addressed, stamped envelope and sufficient copies of the pleading or paper therefor. Copies of pleadings and other papers that the Clerk is unable to return will be recycled.

(d) Service on UST

An attorney who certifies that a paper has been duly served on the UST either conventionally or electronically, or that an additional copy of a writing or paper has been provided to the Clerk for transmittal to the UST, shall be deemed to have verified for the purposes of Fed.R.Bankr.P. 5005(b) that the paper was transmitted.

S.D.IND. B-5005-4

B-5005-4. ELECTRONIC FILING

The Court may adopt Administrative Procedures for Electronic Filing in the Case Management/Electronic Case Filing System (“CM/ECF”) to permit filing, signing, service, and verification of documents by electronic means.

S.D.IND. B-5011-1

B-5011-1. WITHDRAWAL OF REFERENCE

(a) Form of Request; Place of Filing

A withdrawal of reference in whole or part shall be by motion and filed timely with the Clerk. In addition, all such motions shall clearly and conspicuously state that “relief is sought from a U.S. District Judge.”

(b) Time for Filing

(1) Adversary Proceeding

A motion to withdraw the reference of an adversary proceeding or any part of an adversary proceeding shall be served and filed on or before the date on which an answer, reply, or motion under Fed.R.Bankr.P. 7012 or 7015 is first due.

(2) Contested Matter

A motion to withdraw the reference of a contested matter within a case shall be served and filed no later than the deadline for filing a response to the pleading which commenced the contested matter or, if no deadline has been set, two (2) days before any hearing on the pleading.

(c) Stay

The filing of a motion to withdraw the reference does not stay the proceedings in the Bankruptcy Court. Fed.R.Bankr.P. 8005 governs requests for a stay pending decision on withdrawal of reference.

(d) Designation of Record

The moving party shall serve and file, together with the motion to withdraw the reference, a designation of those portions of the record believed to be necessary or pertinent to the District Court's consideration of the motion. Within ten (10) days after service of such designation of record, any other party may serve and file a designation of additional portions of the record. All documents designated shall be identified by document number as noted on the docket. If the record designated by any party includes a transcript of any proceeding, that party shall file a written request for the transcript and include with the request the fee for preparation of the transcript.

(e) Responses to Motions to Withdraw Reference; Reply

Opposing parties shall file with the Clerk, and serve all parties to the matter, their written responses to the motion within ten (10) days after being served a copy of the motion. The moving party may serve and file a reply within ten (10) days after service of a response.

(f) Transmittal of Record to District Court

When the record is complete, the Clerk of the Bankruptcy Court shall transmit to the Clerk of the District Court the motion and the portions of the record designated. After the opening of the docket in the District Court, documents pertaining to the matter under review by the District Court shall be filed with the Clerk of the District Court.

S.D.IND. B-5073-1

B-5073-1. PHOTOGRAPHY, RECORDING DEVICES, AND BROADCASTING

S.D.Ind. L.R. 83.3 applies to the Court.

S.D.IND. B-5080-3

B-5080-3. DEFERRAL OF FILING FEES DUE FROM TRUSTEE

In an adversary proceeding, if the trustee certifies to the Clerk that the estate lacks the funds necessary to pay a filing fee, the Clerk shall defer the filing fee without Court order and enter the deferral on the docket. If the estate later receives funds sufficient to pay the deferred fees, the trustee shall pay the fee no later than the date the trustee makes distribution to creditors.

S.D.IND. B-6004-1

B-6004-1. PROCEDURE FOR SALE OF SUBSTANTIALLY ALL ASSETS UNDER 11 U.S.C. § 363 WITHIN 60 DAYS OF FILING IN CHAPTER 11 CASES

(a) Motion to Sell

A motion to approve the sale of substantially all assets within sixty (60) days of the filing of the petition (the “Motion to Sell”) shall include the following information:

(1) Proceeds of Sale

If the debtor has identified a prospective purchaser, an estimate of the gross proceeds anticipated from the sale, an estimate of the net proceeds coming to the estate, and an itemization of all expenses to be incurred in connection with the proposed sale.

(2) Sale Contingencies

A brief summary of all material contingencies to the sale agreement, together with a copy of the agreement, if available.

(3) Debt Structure of the Debtor

If schedules have not been filed by the debtor, a summary of the debtor’s debt structure, including the amount of the debtor’s secured debt, priority claims, and general unsecured claims.

(4) Marketing of Assets

A description of the manner in which the assets were marketed for sale, and where there is an identified prospective purchaser, a description of any other offers to purchase.

(5) Topping Fees and Break-up Fees

Any request for the approval of a topping fee or break-up fee provision shall be supported by a statement of the conditions under which the topping fee or break-up fee would be payable and the factual basis on which the seller determined the provision was reasonable. The request shall also disclose the identities of any other entity that expressed to the debtor an interest in the purchase of all or a

material portion of the assets to be sold within ninety (90) days prior to the filing of the sale motion, the offers made by them (if any), and the nature of the offer.

(6) Relationship of Buyer

Where there is an identified prospective purchaser, a statement identifying the buyer and setting forth all of the known relationships between the buyer and its insiders and the debtor and its insiders.

(7) Post Sale Relationship with the Debtor

Where there is an identified prospective purchaser, a statement setting forth any relationship or connection the debtor (including its insiders) will have with the buyer after the consummation of the sale, assuming it is approved.

(8) Creditors' Committee

If a creditors' committee, or its equivalent, existed pre-petition, the identity of the members of the committee and the companies with which they are affiliated and the identity of any counsel.

(b) Motion for Bid Procedures

If the Motion to Sell contemplates competitive bidding, a motion to establish bid procedures ("Motion for Bid Procedures") must be filed separately and on the same day as the Motion to Sell.

(1) Notice

The notice for the hearing on a motion for bid procedures must describe the proposed bidding procedures and must contain a deadline for filing objections. If there is an existing proposed purchase agreement, the moving party shall describe the terms of the sale proposed, when a copy of the actual agreement will be available, and from whom it may be obtained. The notice shall be served upon the Notice List.

(2) Objections to Motion for Bid Procedures

Any objection to the Motion for Bid Procedures shall be served on all parties on the Service List, and to the extent known to the objecting party, to any purchasers or potential purchasers (or their counsel, where applicable) identified in the Motion to Sell, and to any party who requested a copy of the Motion for Bid Procedures. Where possible, the objection to Motion for Bid Procedures shall be served at least one day prior to the hearing on the Motion for Bid Procedures and,

where possible, shall be served by Expedited Service Option A. A file-marked copy of the objection shall be delivered to chambers at the time of filing.

(c) Hearing on Motion to Sell

If bid procedures are to be approved by the Court, the hearing on the Motion to Sell shall be scheduled, if practicable, no more than thirty (30) days following the Court's approval of bid procedures.

(d) Hearing on Motion for Bid Procedures

A hearing on a Motion for Bid Procedures may be scheduled on five (5) days notice, calculated pursuant to Fed.R.Bankr.P. 9006(a).

(e) Service of Motion to Sell and the Motion for Bid Procedures

The Motion to Sell and the Motion for Bid Procedures, if any, shall be delivered as soon as possible to all parties on the Service List, to any purchasers or potential purchasers (or their counsel, where applicable) identified in the Motion to Sell, and to any party requesting a copy.

(f) Financial Ability to Close

Unless the Court orders otherwise, any purchaser pursuant to a Motion to Sell, or bidder pursuant to a Motion for Bid Procedures, must be prepared to demonstrate through an evidentiary hearing, its ability to consummate the transaction if it is the successful purchaser or bidder, along with evidence regarding any financial contingencies to closing the transaction.

S.D.IND. B-6005-1

B-6005-1. LIQUIDATORS/AUCTIONEERS AND APPRAISERS

(a) Bond Required

All liquidators/auctioneers retained by a trustee or debtor-in-possession in any case who will come into possession or control of the assets or proceeds of assets of an estate shall either participate in the bond program administered by the UST or post a bond with the United States as obligee for the full value of the assets in the possession or control of the liquidator/auctioneer, unless otherwise ordered by the Court.

(b) Report of Sale

The liquidator/auctioneer shall file a report of sale within seven (7) days of any sale and transmit a copy of the report to the UST and to the case trustee or debtor-in-possession. The report must provide an itemized list of the property sold, the name of each purchaser, and the price received for each item or lot of inventory. If the Court authorizes the deduction of the liquidator/auctioneer's commission and costs of sale from the sale proceeds, the liquidator/auctioneer shall file with the report an affidavit or declaration listing the commission received and costs reimbursed.

(c) Remittance of Gross Proceeds

Unless otherwise ordered by the Court, all gross proceeds shall be remitted to the trustee or debtor-in-possession within ten (10) days of the sale. Upon motion of any party in interest and for good cause shown, the Court may authorize the liquidator/auctioneer to submit net proceeds or to turn over to a secured creditor the net proceeds realized from the sale of that creditor's collateral.

(d) Validity of Checks

The validity of any checks or bank drafts accepted by the liquidator/auctioneer shall be the sole responsibility of the liquidator/auctioneer.

(e) Separate Escrow Account

If the liquidator/auctioneer does not make an immediate settlement with the trustee or debtor-in-possession in any case, and the proceeds of the property sold are \$50,000.00 or more, the auctioneer shall open a segregated escrow or impress account for deposit of the sale proceeds. This account shall be designated by the bankruptcy estate case name and shall require the co-signature of the trustee for any withdrawals. If the proceeds of the sale are less than \$50,000.00, the proceeds may be deposited in the auctioneer's trust or client fund account.

(f) Appraiser Serving as Liquidator/Auctioneer

No appraiser, agent, or employee of an appraiser who has been employed in a bankruptcy case may serve as the liquidator/auctioneer in that same case without the approval of the Court.

(g) Liquidator/Auctioneer Purchasing at Sale

No liquidator/auctioneer, or any agent or employee of a liquidator/auctioneer employed in a case may purchase an asset from the estate.

S.D.IND. B-6007-1

B-6007-1. ABANDONMENT OF PROPERTY

(a) Trustee's Notice of Possible Assets and Abandonment

In Chapter 7 cases where the trustee files a notice of possible assets and abandonment, the Clerk shall give notice to all creditors and parties in interest of those assets which are not being abandoned by the trustee.

(b) Trustee's Notice of Abandonment

In Chapter 7 cases where the trustee files a notice of abandonment more than one day after filing a notice of possible assets, the trustee shall serve the notice on parties in interest and all creditors, except as otherwise provided in S.D.Ind. B-2002-1(b). The notice shall allow at least fifteen (15) days from the date of service to file objections. Along with the notice, the trustee shall file a certificate of service in compliance with S.D.Ind. B-9013-2.

(c) Motion to Abandon Filed by Party in Interest

A motion to abandon filed by a party in interest shall be served on the debtor(s) and parties in interest. Notice of the motion shall be served on the debtor(s), parties in interest, and all creditors, except as otherwise provided by S.D.Ind. 2002-1(b). The notice shall allow at least fifteen (15) days from the date of service to file objections. Along with the motion, the moving party shall file a copy of the notice and a certificate of service in compliance with S.D.Ind. B-9013-2.

S.D.IND. B-6008-1

B-6008-1. REDEMPTION OF PROPERTY

(a) Service

The debtor shall serve a motion to redeem and notice thereof on the subject lien holder(s), or on the attorney for the lien holder but only if such attorney has appeared in the bankruptcy case on behalf of the lien holder, and all other parties in interest. The notice shall allow twenty (20) days from the date of service to file objections. A sample notice is available at www.insb.uscourts.gov.

(b) Filing and Certificate of Service

Along with the motion, the **debtor** must file with the Court a copy of the notice and a certificate of service in compliance with S.D.Ind. B-9013-2.

S.D.IND. B-7005-2

B-7005-2. FILING OF DISCOVERY MATERIALS

S.D.Ind. L.R. 26.2 applies in adversary proceedings, unless otherwise ordered by the Court.

S.D.IND. B-7006-1

B-7006-1. EXTENSIONS OF TIME

- (a) In every adversary proceeding pending in this Court, in which a party wishes to obtain an initial extension of time not exceeding thirty (30) days within which to file a responsive pleading or a response to a written request for discovery or request for admission, or response to a motion, the party shall contact counsel for the opposing party, or if the opposing party is not represented by counsel, the opposing party, and solicit that person's agreement to the extension. In the event that person does not object to the extension or cannot with due diligence be reached, the party requesting the extension shall file a notice with the Court reciting the lack of objection to the extension or the fact that the person could not with due diligence be reached. No further filings with the Court nor action by the Court shall be required for the extension.
- (b) Any other request for an extension of time, unless made in open court or at a conference, shall be made by written motion. In the event the opposing counsel or *pro se* litigant objects to the request for extension, the party seeking the same shall recite in the motion the effort to obtain the agreement.
- (c) Any motion or notice filed pursuant to this rule shall state the original due date and the date to which the time is extended.

S.D.IND. B-7007-1

B-7007-1. MOTION PRACTICE IN ADVERSARY PROCEEDINGS

S.D.Ind. L.R. 7.1, concerning motion practice, length, form, and schedule of briefs, applies in adversary proceedings, unless otherwise ordered by the Court.

S.D.IND. B-7016-1

B-7016-1. PRE-TRIAL PROCEDURES IN ADVERSARY PROCEEDINGS

(a) Use of Pre-Trial or Pre-Hearing Conferences

The Court may conduct a pre-trial or a pre-hearing conference in any adversary proceeding or contested matter, at the Court's discretion, upon notice to parties in interest.

(b) Applicability of S.D.Ind. L.R. 16.1

The Court may determine on its own motion or on the request of any party in interest which provisions of S.D.Ind. L.R. 16.1 shall apply to an adversary proceeding governed by Fed.R.Bankr.P. 7001, et seq.

(c) Telephonic Pre-Hearing or Pre-Trial Conference

No later than twenty-four (24) hours before the time scheduled for a pre-hearing or pre-trial conference, any party to the conference may request that the conference be conducted by telephone or that the party be allowed to participate by telephone. Such request may be made in writing or by telephone. At the time of the request, the requesting party shall advise the Court whether any other party to the conference has objected to the request. The request may be granted or denied at the sole discretion of the Court.

S.D.IND. B-7024-2

B-7024-2. NOTICE OF CLAIM OF UNCONSTITUTIONALITY

S.D.Ind. L.R. 24.1 applies in adversary proceedings.

S.D.IND. B-7026-1

B-7026-1. FORM OF CERTAIN DISCOVERY DOCUMENTS

S.D.Ind. L.R. 26.1 applies in adversary proceedings, unless otherwise ordered by the Court.

S.D.IND. B-7027-1

B-7027-1. DEPOSITIONS, REQUESTS FOR ADMISSIONS, AND EXAMINATIONS IN ADVERSARY PROCEEDINGS

S.D.Ind. L.R. 30.1, 36.1, 37.1, and 37.3 apply in adversary proceedings, unless otherwise ordered by the Court.

S.D.IND. B-7041-1

B-7041-1. DISMISSAL OF ADVERSARY PROCEEDINGS

S.D.Ind. L.R. 41.1 applies to adversary proceedings.

S.D.IND. B-7041-2

B-7041-2. OBJECTIONS TO DISCHARGE: DISMISSAL OR SETTLEMENT

- (a) Contents of and Service of Motion for Voluntary Dismissal of Complaint to Deny Discharge

A motion for the voluntary dismissal of a complaint containing an objection to a debtor's discharge, pursuant to 11 U.S.C. § 727, or a stipulation between the parties for the dismissal of such a complaint, shall be served upon the UST, any trustee, counsel of record, and any intervenors. The motion or stipulation shall contain a recital concerning the consideration, if any, for the dismissal or the terms and conditions of any agreement concerning the dismissal.

(b) Objection to Dismissal

Unless the UST, the trustee, or another entity seeks to intervene or be substituted for the plaintiff in the proceeding or objects to the dismissal within twenty (20) days following service of the motion, the Court may grant the motion, upon such terms and conditions as it deems proper, without further notice or hearing.

S.D.IND. B-7055-1

B-7055-1. DEFAULT

- (a) Notwithstanding Fed.R.Bankr.P. 7055, a party seeking the entry of a default judgment shall present a motion to the Court rather than to the Clerk. If an entry for default judgment is presented to the Clerk, the Clerk shall not, unless otherwise ordered by the Court, enter the default judgment but shall direct the judgment to the Court for entry.
- (b) A motion for default judgment must be accompanied by proof of service and an affidavit stating that the defendant(s) is not protected by the Servicemembers Civil Relief Act, P.L. 108-189, an infant, or incompetent person.
- (c) If the claim to which no response was made is for a “sum certain,” then the motion shall be accompanied by affidavit showing the principal amount due and owing, not exceeding the amount sought in the claim, plus interest, if any computed by the movant, with credit for all payments received to date clearly set forth, and costs, if any, pursuant to 28 U.S.C. § 1920. If the amount of the claim is not readily ascertainable or if the amount requested in the motion exceeds the amount stated in the claim, the Court may conduct a hearing on the motion for default judgment.

S.D.IND. B-7056-1

B-7056-1. SUMMARY JUDGMENT PROCEDURE

S.D.Ind. L.R. 56.1 applies to adversary proceedings.

S.D.IND. B-7065-2

B-7065-2. MOTIONS FOR PRELIMINARY INJUNCTIONS AND TEMPORARY RESTRAINING ORDERS

S.D.Ind. L.R. 65.2 applies to adversary proceedings.

S.D.IND. B-7069-1

B-7069-1. EXECUTION/ENFORCEMENT OF JUDGMENTS

(a) Applicability of District Court Rules

S.D.Ind. L.R. 69.1 (Execution), S.D.Ind. L.R. 69.2 (Discovery in Aid of Judgment or Execution), and S.D.Ind. L.R. 69.3 (Final Orders in Wage Garnishment) apply to adversary proceedings and to orders directing a debtor to turnover property, but only to the extent the party seeking the enforcement of the judgment is a trustee or a debtor-in-possession, and any recovery would be for the benefit of the bankruptcy estate.

- (b) All funds remitted to the Court under this rule shall be deposited into an interest bearing registry account maintained by the Clerk, pursuant to Fed.R.Civ.P. 67. The Clerk may accept checks and drafts, subject to collection. Full credit will be given only when the draft or check has been accepted by the financial institution upon which it is drawn. The Clerk is authorized to assess a fee for holding the funds and may disburse funds to trustee or debtor-in-possession upon being satisfied that payment may be made against the collected funds.

S.D.IND. B-8006-1

B-8006-1. RECORD AND ISSUES ON APPEAL

(a) Designating Record on Appeal

Unless the parties file a timely designation of record with the Clerk pursuant to Fed.R.Bankr.P. 8006 designating the documents which shall constitute the record on appeal, the Clerk shall forward to the District Court Clerk a certification that no designation of record was filed.

(b) Copies of Record

The party filing the designation of items to be included in the record on appeal shall list the items with the Court's document numbers as displayed on the docket.

S.D.IND. B-9006-1

B-9006-1. PROCEDURE FOR OBTAINING EXPEDITED TREATMENT OF NON-FIRST DAY MOTIONS AND CONTESTED MATTERS

(a) General Application

This provision shall govern the procedures to be followed for any matter as to which shortened notice or shortened notice and expedited hearing is requested pursuant to Fed.R.Bankr.P. 9006(c) [a "9006(c) Request"] except for any First Day Motion.

(b) Filing Requirements

A 9006(c) Request shall be made by separate written motion and shall clearly refer to the non-First Day Motion or the contested matter to which it pertains (the "underlying motion"), shall specifically state the nature of the emergency or why there is a need for expedited treatment, and shall state the time by which the notice is to be shortened or the expedited hearing is requested to be held. The movant shall notify the chambers of the Judge assigned to the case of the filing of the 9006(c) Request and the submission of the required order. The 9006(c) Request shall be considered by the Judge without a hearing. If the Court grants the 9006(c) Request, the Court will issue the Order Shortening Notice and/or Setting Expedited Hearing.

(c) Service of 9006(c) Request and Underlying Motions

The movant shall serve the 9006(c) Request and the underlying motion on the Service List, affected parties, and any other parties as the Court directs, by fax, e-mail, or hand delivery. If the matter is a contested matter within an adversary proceeding, service of the 9006(c) Request and the underlying motion shall be made in the manner described above but shall be served only upon all parties to the adversary proceeding and other parties as the Court may direct.

(d) Contents of Order Shortening Notice and/or Setting Expedited Hearing

The Order Shortening Notice and/or Setting Expedited Hearing shall contain the same information as required for the notice of hearing on First Day Motions found in S.D.Ind. B-9013-1(a), and also the following:

- (1) a brief description of the relief requested in the underlying motion;
- (2) the last date to object to the underlying motion, and if no objection date is established, that objections are due immediately before the hearing;
- (3) that any objection must be in writing and filed with the Clerk, and provide the address;
- (4) that a copy of the written objection must also be served upon counsel for the movant, or the movant itself, if not represented by counsel; and
- (5) if no hearing was set, that a hearing will be scheduled at a later date and any objecting party will receive separate notice.

In the event the objections are due immediately before the hearing, the order shall also state that telephonic notice of the filing of the objection shall be given to the chambers of the Judge to whom the case is assigned.

(e) Distribution of Order Shortening Notice and/or Setting Expedited Hearing and Certificate of Mailing

The movant shall distribute the Order Shortening Notice and/or Setting Expedited Hearing in the same manner as service of the 9006(c) Request and underlying motion as provided for S.D.Ind. B-9006-1(c). No later than three (3) days before the deadline for filing objections or the hearing, the movant shall file a certificate of mailing, certifying that a copy of the Order Shortening Notice and/or Setting Expedited Hearing was sent to all parties entitled to receive notice. The certificate of mailing shall have attached as exhibits:

- (1) a copy of the Order Shortening Notice and/or Setting Expedited Hearing; and
- (2) a list of the parties to whom the order was sent.

S.D. IND. B-9010-1

B-9010-1. APPEARANCES

(a) Appearances

(1) Requirement in Bankruptcy Cases

Each attorney representing a party, whether in person or by filing any document (other than a proof of claim), must file a separate appearance for such party. Only those attorneys who have filed an appearance in a pending action shall be entitled to receive service of case documents. An attorney who files a case for a debtor using the Court's electronic filing system and is designated as counsel for the debtor in that process need not file a separate appearance for that case. The filing of a petition on behalf of a debtor constitutes counsel's appearance for that debtor.

(2) Requirement in Adversary Proceedings

Counsel for the plaintiff shall file an appearance with the complaint. Counsel for a defendant, including debtor's counsel, shall file an appearance before filing any other pleading.

(3) Content of Appearance; Service

The appearance shall include the attorney's address, telephone, fax numbers, and an e-mail address for electronic service. Any change to or withdrawal of an appearance shall be filed with the Clerk and served upon all counsel of record and the debtor, if not represented by counsel.

(b) Removed and Transferred Cases

Any attorney of record whose name does not appear on this Court's docket following the removal of a case must file an appearance or a copy of the appearance as previously filed in the other venue.

Within twenty (20) days of removal or transfer of a case to this Court, any attorney of record who is not admitted to practice before this Court must either comply with this Court's admission policy, as set forth in S.D.Ind. B-9010-2, or withdraw his/her appearance, as permitted under section (c) of this rule.

(c) Withdrawal of Appearance

Counsel desiring to withdraw his/her appearance in any action shall file a motion requesting leave to do so. Such motion shall fix a date for such withdrawal, and requesting counsel shall file with the Court satisfactory evidence of written notice to his/her client at least five (5) days in advance of such withdrawal date. A withdrawal of appearance when accompanied by the appearance of other counsel shall constitute a waiver of the provisions of paragraph (c) of this rule.

S.D. IND. B-9010-2

B-9010-2. BAR ADMISSION

- (a) The bar of this Court shall consist of those persons admitted, as defined by S.D.Ind. L.R. 83.5, to practice by the District Court for the Southern District of Indiana.
- (b) In all matters and proceedings before this Court, a person not a member of the bar of this Court shall not be permitted to practice in this Court or before any officer thereof as an attorney, unless
- (1) such person appears on his or her own behalf as a party;
 - (2) such person is admitted to practice in any other United States Court or the highest court of any state, is not currently under suspension or subject to other disciplinary action, and is, on application to this Court, granted leave to appear in a specific action; or
 - (3) such person appears as an attorney for the United States.

However, for the purposes of filing a proof of claim or reaffirmation agreement or participating in a meeting conducted pursuant to 11 U.S.C. § 341, a creditor need not be represented or appear by an attorney.

- (c) In order to obtain leave of this Court to appear in a specific action, an attorney must file with the Court a motion to appear *pro hac vice*. The motion must be accompanied by:
- (1) a check payable to the Clerk, United States District Court, in the required amount (equal to one-half the amount required for admission to the bar of the United States District Court for the Southern District of Indiana [the amount of such fee is available at www.insd.uscourts.gov]); and
 - (2) a proposed form of order granting the motion.

- (d) If the motion to appear *pro hac vice* is granted, the Clerk of the Bankruptcy Court shall forward the movant's check to the Clerk of the United States District Court for the Southern District of Indiana, along with a copy of the order granting the motion. If the motion to appear *pro hac vice* is denied, the Clerk of the Bankruptcy Court shall return the check to the movant along with a copy of the order denying the motion.
- (e) The Court may refuse to consider or act upon any request for relief filed by an attorney who is required to obtain leave to appear and had failed to do so.
- (f) The provisions of S.D.Ind. L.R. 83.5(d)-(g) apply in all matters pending in the Bankruptcy Court.

S.D.IND. B-9013-1

B-9013-1. MOTION PRACTICE; OBJECTIONS TO MOTIONS

(a) Separate Motions

Every application, motion, or other request for an order from the Court, including motions initiating contested matters, shall be filed separately, except that requests for alternative relief may be filed together, subject to paragraphs (b) and (c). All such requests shall be named in the caption, shall state with particularity the order or relief sought, and contain a short and plain statement concerning the factual basis or grounds for the motion. If the alternative relief requested has varying requirements for notice, the notice must provide the longest of the alternative periods.

(b) Stay Relief or Adequate Protection Motions

Motions seeking relief from the automatic stay or adequate protection may not be joined with any other objection or request for relief except abandonment.

(c) Motions Where Hearing Scheduled by "Block Scheduling"

Where the hearing for the relief sought in the motion is subject to the "block scheduling" procedure established by the Court, the motion shall request only that type of relief, and a request for alternative relief may not be sought in the motion.

(d) Content of Objections

As to any matter in which the Court may grant relief without a hearing in the absence of a timely objection, objections to the motion, application, or request shall contain a short, plain statement concerning the factual or legal basis for the objection. The failure to state a sufficient legal or factual basis for the objection may result in the objection being overruled without a hearing.

(e) Duty to Confer

If a motion is contested, the movant shall confer with the respondent prior to the hearing to determine whether a consent order may be entered disposing of the motion, or in the alternative, to stipulate on as many facts and issues as possible.

S.D.IND. B-9013-2

B-9013-2. CERTIFICATE OF SERVICE

(a) Filing

All pleadings and papers filed in a bankruptcy case pursuant to Fed.R.Bankr.P. 9013 or 9014 shall comply with Fed.R.Bankr.P. 7005 (d).

(b) Requirements

In addition to identifying the pleading or paper served, certificates of service shall include the name and address of each entity and the manner of service.

(c) Failure to Comply

On its own motion, the Court may refuse consideration of or strike any pleading or paper for which a certificate of service has not been filed or which lacks the information required above.

S.D.IND. B-9013-3

9013-3. FIRST DAY MOTIONS IN CHAPTER 11 CASES

(a) Motions Included

In order to qualify as a First Day Motion, the motion must be filed with the petition, or within two (2) business days thereafter, state in its caption that it is a First Day Motion, and be one of the motions included on the list below. The First Day Motions listed in (f) below shall be scheduled for an expedited hearing without any formal request by the debtor. Other motions will only be set for hearing on an expedited basis if accompanied by a request for expedited hearing which establishes sufficient cause for such treatment.

(b) Procedure Prior to Filing

Prior to filing, the debtor's counsel shall endeavor to confer with and provide copies of any First Day Motions to the UST. Counsel shall include in any First Day Motion, or in a separate pleading, a statement of efforts made to meet with the UST and affected parties prior to filing when possible. The debtor's counsel shall also contact the Court's senior courtroom deputy to advise that a case with First Day Motions will be filed.

(c) Procedure Upon Filing

Upon filing, the debtor's counsel shall contact the courtroom deputy for the Judge assigned. The Judge assigned, or a designated replacement, shall schedule and conduct a hearing on the First Day Motions within two (2) business days of their filing, if possible, unless the debtor requests a later hearing date.

(d) Service of First Day Motions and Notice

The debtor's counsel shall serve copies of all First Day Motions and notice of the hearing on the initial Service List, known counsel for any party, and named respondents. Notice of the hearing and copies of the First Day Motions, shall be served by fax, e-mail, or hand

delivery. Prior to the hearing, the debtor's counsel shall file a certificate of service in compliance with S.D.Ind. B-9013-2. Failure to give timely notice may result in relief being denied or the hearing continued.

(e) Contents of Notice

The notice of hearing on the First Day Motions shall provide:

- (1) the date and time of the hearing;
- (2) a list by title of the First Day Motions; and
- (3) the correct mailing address, fax number, telephone number, and e-mail address of the debtor's counsel.

(f) List of Included Motions

The following shall be treated by the Court as First Day Motions if filed with the petition or within two (2) business days thereafter:

- (1) motion for joint administration;
- (2) motion for use of cash collateral (interim hearing only) (see S.D.Ind. B-4001-2);
- (3) motion for post-petition financing (interim hearing only) (see S.D.Ind. B-4001-2);
- (4) motion to pay pre-petition employee wage claims (to the limit provided by 11 U.S.C. § 507);
- (5) motion to limit notice generally;
- (6) motion to provide adequate assurance to utilities;
- (7) motion to pay pre-petition trust fund taxes;
- (8) motion to honor pre-petition obligations to customers (to the limit provided by 11 U.S.C. § 507);
- (9) motion to vary UST financial requirements, such as motion to authorize maintenance of existing bank accounts, existing business forms, cash management system, investment procedures, etc.;
- (10) motion for authority to pay pre-petition claims of alleged critical vendors; and
- (11) motion to reject leases and contracts.

S.D.IND. B-9014-1

B-9014-1. APPLICABILITY OF OTHER COURT RULES TO CONTESTED MATTERS

Unless otherwise ordered by the Court, the following District Court rules (S.D.Ind. L.R.) apply in contested matters other than motions to dismiss or convert a case:

- 7.1 Motion practice, length, form, and schedule of briefs
- 24.1 Procedure for notification of claim of unconstitutionality
- 26.1 Form of certain discovery documents
- 26.2 Filing of discovery materials
- 30.1 Conduct of depositions
- 36.1 Request for admissions
- 37.1 Informal conference to settle discovery disputes
- 37.3 Mode of raising discovery disputes with the Court

- 41.1 Dismissal for failure to prosecute
- 56.1 Summary judgment procedures

S.D.IND. B-9015-1

B-9015-1. JURY TRIALS

The following District Court rules (S.D.Ind. L.R.) apply unless otherwise ordered by the Court:

- 38.1 Notation of a jury demand in a pleading
- 42.1 Juror costs
- 47.1 Voir dire
- 47.2 Attorney communication with jurors
- 47.4 Six-member juries

S.D.IND. B-9019-1

B-9019-1. STIPULATIONS AND SETTLEMENTS

- (a) When a case, adversary proceeding, contested matter, dispute, claim, or controversy is settled, the parties shall promptly notify the Court of the settlement or stipulation and, within the time required by the Court, file an agreed judgment or other appropriate stipulation, together with a proposed form of notice and order. The Court may extend this time upon a showing of good cause. Failure to file the required judgment or stipulation may result in dismissal of the pleading, motion, objection, or application upon which the matter was at issue.
- (b) When approval of a settlement or compromise in an adversary proceeding is required by Fed.R.Bankr.P. 9019(a) or (b), the trustee shall file a motion in the bankruptcy case and, unless otherwise ordered, the Clerk shall issue notice in the bankruptcy case as prescribed by Rule 9019. Once the motion is granted, the parties to the adversary proceeding shall then dismiss the adversary proceeding, file an agreed judgment, or take whatever action is necessary to effectuate the compromise or settlement.

S.D.IND. B-9019-2

B-9019-2. ALTERNATIVE DISPUTE RESOLUTION

(a) Procedure

(1) Motion

Any contested matter or adversary proceeding (“controversy”) may be referred to mediation (“mediation”) by the Court or upon motion filed by any party. If the motion filed by a party certifies that all parties to the controversy consent to mediation and have been served with the motion, and the Court finds the motion to be appropriate under the circumstances, the Court may grant the motion without further notice or hearing. If the motion filed by a party does not so certify, or if the Court finds that the motion is not appropriate, the motion shall be subject to the procedures for contested motions.

(2) Proposed Order

The motion of a party shall be accompanied by a proposed order which shall set out any filing deadlines or hearings that may need to be rescheduled to accommodate the mediation and shall make such reasonable scheduling changes as are necessary to allow the mediation to proceed. The proposed order shall also include provisions governing the confidentiality of the mediation process in accordance with section (d) herein. If the parties have selected a mediator in accordance with section (b)(2) herein, the proposed order shall identify the mediator and provide for compensation in accordance with the requirements of section (b)(4) herein.

(3) Pendency of Matter

Unless otherwise ordered by the Court, the parties shall remain responsible for complying with all pleading, discovery, or Court-imposed deadlines and any other applicable scheduling requirement established for the timely disposition of the controversy.

(b) The Mediator

(1) Qualification; Disqualification

Subject to approval by the Court, in its sole discretion, any person may be selected to serve as a mediator under this rule. Any person selected to serve as a mediator may be disqualified for bias or prejudice in the same manner that a

judge may be disqualified under 28 U.S.C. § 144. Any person selected to serve as a mediator shall be disqualified in any matter where 28 U.S.C. § 455 would require disqualification if that person were a judge.

(2) Selection

If a proposed mediator has been agreed upon by the parties prior to the filing of the motion of a party requesting referral, the motion shall designate the name of the proposed mediator and shall be accompanied by the affidavit required by section (b)(3) herein. If the Court finds that the proposed mediator is qualified to serve, and the motion is appropriate, then the proposed mediator will be approved at the time of entry of the order referring the controversy to mediation.

If the parties have not selected a mediator or the Court disapproves their selection, the parties shall have fourteen (14) days from the entry of the Court's order referring the controversy to mediation to file a motion for retention of a mediator accompanied by the affidavit of proposed mediator as aforesaid, certifying that all parties to the controversy have agreed to the selection, which motion may be granted without further notice or hearing. In the event the parties cannot agree on a mediator or their new selection is not approved by the Court, the Court will designate three (3) mediators and each side, alternately, shall strike the name of one (1) mediator. The side initiating the controversy will strike first. The mediator remaining after the striking process will be deemed the selected mediator. The parties shall complete the striking process within seven (7) days of the Court's designation and shall file a notice of selection of the proposed mediator with the Court accompanied by the affidavit of the selected mediator. In the event that a mediator chooses not to serve, or becomes disqualified for any reason or the Court decides to replace the mediator, the selection process will be repeated.

(3) Affidavit

A person proposed for selection as a mediator shall prepare an affidavit disclosing any connections with the parties or counsel involved with the controversy which in any way could affect the neutrality or partiality of the mediator and setting forth any other reason which could result in disqualification under section (b)(1) of this rule. The affidavit shall summarize the qualifications and the anticipated rate of compensation and terms of payment of the proposed mediator. If the parties have selected a proposed mediator, the affidavit shall be filed with the motion of a party as referred to in section (a)(1). Otherwise, the affidavit shall be filed with the motion for retention of the proposed mediator or with the notice of selection from the mediators proposed by the Court, whichever is applicable.

(4) Compensation

Subject to such other terms and conditions as the Court may impose, the mediator shall be compensated at his or her customary per diem or hourly rate for matters of comparable complexity, with such compensation and reasonable costs to be borne equally by the parties to the controversy unless otherwise agreed by the parties. Any disputes regarding the reasonableness of such fees and costs shall be determined by the Court upon motion of any party. In any controversy involving the debtor or the estate of a debtor as a party, the order referring the controversy to mediation may approve such party's share of payment to the mediator for up to fifteen (15) hours of time plus reasonable costs. Additional payment of compensation to the mediator by the debtor or the estate shall be subject to the approval of the Court upon application therefor; provided, however, that such application, and any objection thereto or any motion disputing compensation, shall not, in keeping with the confidentiality of the mediation as provided in section (d) below, disclose the substance of confidential communications made during the course of the mediation.

(5) Oath

Before serving as a mediator, each person designated as a mediator shall take the oath or affirmation prescribed by 28 U.S.C. § 453, as if the person were a judge.

(c) The Mediation

(1) Control of the Mediation

With appropriate consideration of the interests of the parties and counsel involved in the controversy, the mediator shall control all procedural aspects of the mediation, including but not limited to: setting dates, times, and places for conducting sessions of the mediation; requiring the submission of confidential statements; requiring the attendance of representatives of each party with sufficient authority to negotiate and settle all disputed issues and amounts; designing and conducting the mediation sessions; and establishing a deadline for the parties to act upon a settlement proposal.

(2) Failure to Attend

Willful failure to attend any mediation conference, and any other material violation of this rule, shall be reported to the Court by the mediator and may result in the imposition of sanctions by the Court.

(3) Conclusion of the Mediation

- (A) If the mediation results in a settlement of the contested matter or adversary proceeding, the mediator shall promptly file a report so advising the Court, signed by all parties to the controversy and their counsel. Within a reasonable time thereafter, the parties shall submit to the Court an agreed order or judgment or motion for approval of compromise of controversy, as the case may be, and provide such notice as is otherwise required.
- (B) If the mediation does not result in a settlement, and the mediator, after appropriate consultation with the parties and their counsel, is reasonably satisfied that no further mediation effort is feasible at that time, then the mediator shall file a final report with the Court, serving all parties to the controversy, limited solely to that finding.
- (C) Upon the filing of the settlement pleadings under section (c)(3)(A) or the mediator's report under section (c)(3)(B), the mediation shall be deemed concluded and the mediator shall be thereby relieved of all further duties or responsibilities other than approval of compensation as herein provided.

(d) Confidentiality

(1) Protection of Information Disclosed at Mediation

The mediator and the participants in mediation are prohibited from divulging outside of the mediation, any oral or written information disclosed by the parties or by witnesses in the course of the mediation. No person may rely on or introduce as evidence in any arbitral, judicial, or other proceedings evidence pertaining to any aspect of the mediation effort, including but not limited to: views expressed or suggestions made by a party with respect to a possible settlement of the dispute; the fact that another party had or had not indicated willingness to accept a proposal for settlement made by the mediator; proposals made or views expressed by the mediator; statements or admissions made by a party in the course of the mediation; and documents prepared for the purpose of, in the course of, or pursuant to the mediation. In addition, without limiting the foregoing, Rule 408 of the Federal Rules of Evidence and any applicable federal or state statute, rule, common law, or judicial precedent relating to the privileged nature of settlement discussions, mediation, or other alternative dispute resolution procedure shall apply. Information otherwise discoverable or admissible in evidence, however, does not become exempt from discovery, or inadmissible in evidence, merely by being used by a party in a mediation. These provisions shall not preclude a party, its counsel, or the mediator from responding in confidence to appropriately conducted inquiries or surveys concerning the use of mediation generally.

(2) Discovery from Mediator

The mediator shall not be compelled to disclose to the Court or to any person outside the mediation conference any of the records, reports, summaries, notes, communications, or other documents received or made by a mediator while serving in such capacity. The mediator shall not testify or be compelled to testify in regard to the mediation in connection with any arbitral, judicial, or other proceeding. The mediator shall not be a necessary party in any proceeding relating to the mediation. Nothing contained in this subsection shall prevent the mediator from reporting the status, but not the substance, of the mediation effort to the Court in writing, or from complying with the obligations set forth in section (c) of this rule.

(3) Protection of Proprietary Information

The parties, the mediator, and all mediation participants shall protect proprietary information during and after the mediation conference.

(4) Preservation of Privileges

The disclosure by a party of privileged information to the mediator or to another party during the mediation process does not waive or otherwise adversely affect the privileged nature of the information.

S.D.IND. B-9029-1

B-9029-1. LOCAL RULES: GENERAL

(a) Title and Citation

These rules shall be known as the Local Rules of the United States Bankruptcy Court for the Southern District of Indiana, and may be cited as “S.D.Ind. B-___.”

(b) Effective Date

These rules become effective on July 3, 2006.

(c) Scope of Rules

These rules shall govern all bankruptcy cases and proceedings pending or commenced in the Southern District of Indiana on or after that date.

(d) Relationship to Prior Rules; Actions Pending on Effective Date

These rules supersede all previous rules promulgated by this Court or any Judge of this Court. They shall govern all applicable proceedings brought in this Court after they take effect, and shall apply to all pending proceedings at the time they take effect, except to the extent that the Court determines that application thereof would not be feasible or would work injustice, in which event the former rules shall govern.

(e) Modification or Suspension of Rules

In individual cases or proceedings, the Court, upon its own motion or the motion of any party, may suspend or modify any of these rules if the interests of justice so require. These rules may be amended subsequent to their effective date by “General Order” of the Court. Such General Orders will be posted at the Court and may be obtained from the Clerk of Court at www.insb.uscourts.gov.

(f) Conflicts Between S.D.Ind. L.R., Local and National Bankruptcy Rules

To the extent that any provision of the Local Rules for the United States District Court for the Southern District of Indiana (S.D.Ind. L.R.) differs from any provision of the Local Rules of the United States Bankruptcy Court for the Southern District of Indiana or the Federal Rules of Bankruptcy Procedure, or the Interim Bankruptcy Rules, then that provision of the S.D.Ind. L.R. shall not apply.

(g) Compliance with Rules

Unrepresented parties are bound by these rules and any reference to “attorney” or “counsel” applies to those parties unless the context otherwise provides.

S.D.IND. B-9034-1

B-9034-1. TRANSMITTAL OF PLEADINGS, MOTION PAPERS, OBJECTIONS, AND OTHER PAPERS TO THE UNITED STATES TRUSTEE

Any entity that files a pleading, motion paper, objection, or other paper except a proof of claim, a reaffirmation agreement, or a ballot, shall transmit a copy of the pleading, motion paper, objection, or other paper to the UST and shall verify such transmittal in accordance with S.D.Ind. B-5005-1(d).

APPENDIX

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LBF-1

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA

IN RE:)
) CASE NO.
)
Debtor(s))

CERTIFICATE OF EMERGENCY

Pursuant to S.D.Ind. B-1002-1(b), the undersigned hereby certifies that an emergency exists and that the petition filed concurrently herewith is not being filed for an improper purpose, such as to harass, to cause delay, or to increase the cost of litigation, and there is insufficient time to complete the filing.

The undersigned further certifies that the emergency which exists is:

(specificity required)

The undersigned further certifies that the necessity of the emergency filing has not been caused by any lack of due diligence on the part of the undersigned, but has been brought about by circumstances beyond the control of the undersigned or the undersigned's client. The undersigned further certifies that this matter is filed with full understanding of Fed.R.Bankr.P. 9011 and the consequences of noncompliance therewith.

Date: _____

(signature)

(typed name)

(telephone number)

IN THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF INDIANA

CASE NAME _____ CASE NUMBER _____ CONFIRMATION HEARING DATE _____

SECTION 1126 BALLOT FORM

	# BALLOTS CAST	# ACCEPTING	# REJECTING	# ACCEPTING	# REJECTING	CLASS ACCEPTING	CLASS REJECTS
CLASS I	<input type="text"/>						
CLASS II	<input type="text"/>						
CLASS III	<input type="text"/>						
CLASS IV	<input type="text"/>						

	YES	NO
PLAN ACCEPTED	<input type="text"/>	<input type="text"/>

Please note the following provisions of Title 11, Section 1126 of the United States Code

(c) A class of claims has accepted a plan if such plan has been accepted by creditors other than any entity designated under subsection (e) of this section, that hold at least two-thirds in amount and more than one-half in number of the allowed claims of such class help by creditors, other than any entity designated under subsection (e) of this section, that have accepted or rejected such plan.

(d) A class of interests has accepted a plan if such plan has been accepted by holders of such interest, other than any entity designated under subsection (e) of this section, that hold at least two-thirds in amount of the allowed interests of such class held by holders of such interests, other than any entity designated under subsection (e) of this section, that have accepted or rejected such plan.

(e) On request of a party in interest, and after notice and a hearing, the court may designate any entity whose acceptance or rejection of such plan was not in good faith, or was not solicited or procured in good faith or in accordance with the provisions of this title.

NAME OF PLAN PROPONENT

BY: ATTORNEY OF PLAN PROPONENT

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
_____ DIVISION

IN RE:)
))
)) CASE NO.
DEBTORS)

CERTIFICATION OF BALLOTING REPORT

The undersigned Attorney for the Plan Proponent in the above-captioned case hereby certifies that the tabulations recorded on the attached balloting report are true and correct and that all classes of creditors are accurately represented as to acceptances, rejections and total amount for each class of claims.

DATED: _____

Attorney for Plan Proponent

