

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA

IN RE:

ORDER AMENDING  
LOCAL BANKRUPTCY RULES

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GENERAL ORDER 18-0002

**ORDER**

Notice of proposed amendments to the local rules of this Court and of the proposed local Chapter 13 plan form was given to the bar and the public on November 7, 2018. The last date for submitting comments concerning the proposed amendments was November 28, 2018. No member of the bar commented.

Effective December 1, 2018, the local rules are amended as shown in the attachment to this order.

Date: November 30, 2018

  
ROBYN L. MOBERLY  
CHIEF BANKRUPTCY JUDGE

## ATTACHMENT TO GENERAL ORDER 18-0002

### **B-1000-1. ABBREVIATIONS AND DEFINITIONS**

#### (a) Abbreviations Applicable to All Rules

- (1) Fed.R.Bankr.P.: the Federal Rules of Bankruptcy Procedure
- (2) Fed.R.Civ.P.: the Federal Rules of Civil Procedure
- (3) ITIN: Individual Taxpayer Identification Number
- (4) S.D.Ind. B- \_\_\_\_: a local rule of the United States Bankruptcy Court for the Southern District of Indiana
- (5) S.D.Ind. L.R. \_\_\_\_: a local rule of the United States District Court for the Southern District of Indiana
- (6) SSN: Social Security Number
- (7) U.S.C.: the United States Code
- (8) UST: the United States Trustee for Region 10 and/or the Executive Office for the United States Trustees

#### (b) Definitions Applicable to All Rules

Capitalized terms in these local rules are defined below or in the rule where the term is used, or are the title to an official form or specific ECF event:

- (1) Appearance: an appearance that complies with S.D.Ind. B-9010-1
- (2) Certificate of Service: a document that complies with S.D.Ind. B-9013-2
- (3) Clerk: the Clerk of the Court
- (4) Court: the United States Bankruptcy Court for the Southern District of Indiana
- (5) Court's website: refers to the Court's website located at <http://www.insb.uscourts.gov>.
- (6) Debtor: includes both debtors in a joint case and a debtor-in-possession in a Chapter 11 or Chapter 12 case. In the context of service of pleadings and notices, "the Debtor" includes the Debtor and counsel of record for the Debtor. A requirement imposed upon the "Debtor" by these rules shall be performed by counsel for the Debtor, if any, except as follows:
  - (A) Official Forms shall be signed by the Debtor or the Debtor's representative in a non-individual case under Fed.R.Bankr.P. 9001(5); and
  - (B) if counsel for the Debtor in the bankruptcy case has not entered an appearance in the matter pending before a state court or other tribunal, the notices required by B-4002-1(a) shall be signed by the Debtor or any attorney who has entered an appearance for the Debtor in the non-bankruptcy matter.

- (7) Meeting of Creditors: includes the first meeting set under 11 U.S.C. §341 and any continued meeting.
- (8) Notice List: the Service List and parties required to receive notice under Fed.R.Bankr.P. 2002, unless the Debtor has obtained an order limiting notice.
- (9) Objection Notice: a notice that the filer is required to distribute to designated parties which gives a time period after service for the filing of objections or responses. A rule with this reference gives the time period and designates the parties to whom the notice is distributed.
- (10) Service List: the Debtor, the Debtor's counsel, the twenty largest unsecured creditors in a Chapter 11 case or, if applicable, the unsecured creditors' committee, the UST, all secured creditors, an indenture trustee, a committee appointed under 11 U.S.C. §1102 or 1114, and counsel that has filed an Appearance. If counsel appears for a party listed above, that counsel shall be substituted for the party for purpose of this definition, absent a specific request by the party that it be retained on the Service List.
- (11) Trustee or trustee: the trustee appointed in a bankruptcy case under 11 U.S.C. §§701, 702, 1104, 1202, or 1302.

**B-1002-1. FILING REQUIREMENTS TO COMMENCE A VOLUNTARY CASE**

(a) Initial Filing

A voluntary case is commenced by the filing of a voluntary petition along with the lists, schedules, statements, and other documents required by Fed.R.Bankr.P. 1002, 1007 and 11 U.S.C. §§301 and 521 or by subparagraph (b) of this rule. Filings can be made either electronically or non-electronically under S.D. Ind. B-5005-1 and B-5005-4.

(b) Emergency Filing: Minimum Required

A voluntary petition filed without the lists, schedules, statements, and other documents required by Fed.R.Bankr.P. 1007 and 11 U.S.C. §521 shall be accompanied by:

- (1) if the Debtor is an individual, a certificate of counseling from an approved credit counseling agency or a Motion Requesting Temporary or Permanent Waiver of Credit Counseling Requirement under 11 U.S.C. §109(h);

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(c) Emergency Filing: Dismissal for Failure to Provide Required Documents

Failure to submit the above required items at the time of filing or within 7 days thereafter may result in dismissal of the case under S.D. Ind. B-1017-1(b). A request for an extension of time to file the other documents required by this rule shall comply with Fed.R.Bankr.P. 1007.

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(e) Transfer to Correct Division

If the Court determines that a case has been filed in the incorrect division, the Court may transfer the case to the correct division without notice.

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

(a) Application Form

The application shall conform substantially to Official Form 103A.

(b) Payment Schedule

A Debtor filing an application to pay initial filing fees in installments shall propose a payment plan consistent with the installment fee schedule maintained by the Clerk and available on the Court's website.

(c) Payment Due Dates

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

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(e) Requirement to Pay Installments Electronically

All payments must be made electronically if the Debtor is represented by counsel.

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

(a) Additional Requirements

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

- (1) contain a response to each request for information on the statement of affairs and the schedules, even if the 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 the exemption is claimed;
- (3) list the creditors on each schedule in alphabetical order, including the full mailing address and zip code for each listed creditor, or include a statement that the address is unknown;

- (4) provide on Schedule E/F the name and address of an entity holding a domestic support obligation, and identify that entity as the holder of a domestic support obligation, even if the Debtor is current on that obligation when the case is filed;
- (5) be accompanied by one of the following:
  - (A) pay advices as required by 11 U.S.C. §521(a)(1)(B)(iv);
  - (B) a certification that the Debtor has not been employed by an employer within the 60 days before filing of the petition; or
  - (C) a certification that the Debtor's employer does not issue pay advices and the Debtor has no other evidence of payment received within the 60 days before filing; and
- (6) list a state court or administrative agency only if that entity is the actual creditor and not just the tribunal for a claim, debt, or lawsuit.

(b) Providing Creditor Information for Cases Filed Non-Electronically

All cases and an amendment that adds creditors, filed non-electronically, must be accompanied by a CD, diskette, DVD, flash drive, or other acceptable medium with the complete names and addresses of the creditors listed in the filing. In Chapter 11 cases, the list 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.

(c) Extensions of Time

(1) Motions Generally

The Court shall treat the first motion for an extension of time to file the initial lists, schedules, statements, and other documents required to commence a new case as a request for an extension of 30 days and the Clerk will provide notice except as described in subparagraph (2). The Debtor shall serve a subsequent motion for an extension of time on any trustee, the UST, any examiner, and any committee, and that service shall constitute the notice required by Fed.R.Bankr.P. 1007(c).

(2) Presumption of No Objection

The UST and any trustee, examiner, or committee are deemed to have no objection to the first motion for extension of time within which to file schedules or related documents. The Clerk is not required to give notice of the first motion for extension of time.

(3) The Debtor's Waiver of Objection to Timeliness of Notice of Presumed Abuse

If the new date for filing documents is extended beyond the deadline in 11 U.S.C. §704(b)(1), the Debtor is deemed to have waived any objection to the timeliness of a notice of presumed abuse which is filed no later than 14 days after the missing documents are filed or after the Meeting of Creditors has been concluded, whichever is later.

## **B-1007-2. NOTICING, BALLOTING, AND CLAIMS AGENTS**

### (a) Noticing, Balloting, and Claims in Chapter 11 Cases with More than 300 Creditors

#### (1) Requirement

If the number of scheduled creditors in a Chapter 11 case exceeds 300, the Debtor or trustee shall, unless the Court orders otherwise, propose the retention under 28 U.S.C. §156(c) of an entity to handle noticing (the “Noticing Agent”), an entity to receive and process claims (the “Claims Agent”), and an entity to process plan ballots (the “Balloting Agent”). One entity may serve in all three capacities (the “Agent”).

#### (2) Motion

A motion to retain a Noticing, Claims, or Balloting Agent, a motion to be excused from compliance with this rule, or a motion for extension of time, shall be filed within 28 days after the filing of schedule or creditor list that results in more than 300 creditors in a case.

#### (3) Contact with Clerk

The proposed Agent shall meet with the Clerk or the Clerk’s designee, prior to employment, to agree on terms establishing the interactions between the proposed Agent and the Clerk. Those terms shall be incorporated in the order authorizing the employment of the Agent (the “Employment Order”) or in a written agreement between the Clerk and the Agent (the “Agreement”) that shall be made part of the record.

### (b) Noticing Agent

A Noticing Agent shall distribute notices as directed by the Court and provide to the Debtor proof of service that shall be filed as established by the Agreement or the Employment Order.

### (c) Claims Agent

If a Claims Agent is to be employed, then the Agreement or Employment Order shall:

- (1) establish procedures for handling of claims filed with the Clerk prior to and after the employment of the Claims Agent;
- (2) require the Claims Agent to mail a notice of bar date that reflects the scheduled amount of the creditor’s claim, instructs claimants to send claims to the Claims Agent and not the Court, and which notice complies substantially with Official Forms 410, 410A, 410S1, and 410S2 – unless alterations are approved by the Court, after notice to a committee and the UST;

- (3) provide that, upon receipt of a claim, the Claims Agent shall promptly date-stamp it, assign a claim number, scan the original, retain originals in a fire-proof safe or vault, and return a date-stamped copy to the claimant (if a self-addressed, postage paid envelope was provided);
- (4) require the Claims Agent to maintain the Claims Register, and that the Claims Agent shall list the claim on the register within 3 days of receipt, in alphabetical order, according to the name of the claimant (last name for individuals) and include the claimant's address, claim number assigned, date received, dollar amount claimed, and classification of claim;
- (5) allow the periodic audit of claims information by the Clerk, a representative of the creditors' committee, or some other entity;
- (6) provide the mechanism and timing for delivery of a final Claims Register to the Clerk;
- (7) require the Claims Agent to maintain, in addition to the Claims Register, a separate mailing list including the claimants' addresses, edited to reflect a notice of change of address;
- (8) establish responsibility and method for processing transfers of claims, including requiring the Claims Agent to review the Court's docket periodically, identify notices transferring claims, and issue the notices required by Fed.R.Bankr.P. 3001(e);
- (9) provide for the retention or destruction of documents received by the Claims Agent; and
- (10) provide for treatment and disposition of Proofs of Claim if the case is converted to Chapter 7.

(d) Balloting Agent

The Balloting Agent shall receive, record, and tabulate ballots. The Agreement or Employment Order shall provide for filing of a declaration showing the results of balloting and provide for the retention or destruction of original ballots.

**B-1007-5. RESTRICTED ACCESS TO PAY ADVICES**

The Clerk shall restrict access to documents required by 11 U.S.C. §521(a)(1)(B)(iv), filed either non-electronically – when permitted – or electronically through the “Pay Advices/Statement in Lieu” event, in the same manner as access is restricted to the Statement of Social Security Number. A party in interest who wants to receive a copy of the restricted documents may request them from the Debtor.

## **B-1008-1. VERIFICATION OF CREDITOR LIST**

In addition to the requirements of S.D. Ind. B-1007-1(b) and 1009-1(a)(2), the Debtor shall file a signed and dated Verification of Creditor List, a sample form of which is available on the Court's website. The Debtor is responsible for the accuracy and completeness of the creditor information.

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

### (a) Form of Amendments

#### (1) Generally

Amendments to voluntary petitions, lists, schedules, statements, and other documents shall:

(A) comply with Fed.R.Bankr.P. 1009 and S.D.Ind. B-1007-1;

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(E) be accompanied by an amended summary of schedules and an amended statistical summary of certain liabilities, if the amendment changes the total on a schedule.

#### (2) Amendments Adding Creditors

An amendment that adds a creditor shall state the date the debt was incurred, and if filed non-electronically, shall be accompanied by a CD, diskette, DVD, flash drive, or other acceptable medium listing only the added creditors.

### (b) Notice Requirements

#### (1) Amendments Adding or Changing Status of Creditors

(A) If an amendment adds creditors, the Debtor shall also upload creditor information at the time of filing or, if filed non-electronically, shall provide a new CD, diskette, DVD, flash drive, or other acceptable medium under S.D. Ind. B-1007-1(c).

(B) The Debtor shall give notice to added creditors and provide copies of notices and documents in the case, including the notice of the Meeting of Creditors with full SSN or ITIN, notice of possible assets, the most recent plan or amended plan, and confirmation hearing notice and shall file a Certificate of Service. If the Debtor asserts that no notice is required, the Debtor shall file a statement in lieu of notice. A sample form is available on the Court's website.

(C) If a Chapter 11 Debtor amends a schedule and changes the status of a claim to contingent, disputed, or unliquidated, or changes the scheduled amount of a claim, the Debtor shall give notice to the affected creditor of the change in



status or amount and of the bar date for the creditor to file a claim which is the later of the current deadline for filing claims or 45 days after the notice. A sample form is available on the Court's website.

(2) Amendments to SSN or ITIN

If a SSN or ITIN is incorrect and the notice of the Meeting of Creditors has not been issued, the Debtor shall alert the Clerk by telephone to determine the necessary steps to correct the error prior to issuance of the meeting notice. If the notice of the Meeting of Creditors was issued with an incorrect SSN or ITIN, the Debtor shall contact the Clerk and complete steps (A) through (D) below, as applicable:

- (A) if a SSN or ITIN on a Statement of Social Security Number is incorrect, submit an amended statement to the Clerk;
- (B) if the last four digits of the SSN or ITIN listed on the first page of the voluntary petition are incorrect, file an amended petition;
- (C) distribute notice of the corrected SSN or ITIN to all creditors, trustee, and the UST; and
- (D) file a Certificate of Service.

(3) Amendments Changing the Debtor's Name

If the Debtor's name is incorrect and the notice of the Meeting of Creditors has not been issued, the Debtor shall alert the Clerk by telephone to determine the necessary steps to correct the error prior to issuance of the meeting notice. If the notice of the Meeting of Creditors was issued with an incorrect Debtor name, the Debtor shall contact the Clerk and complete steps (A) through (D) below, as applicable:

- (A) if the Debtor's name on the petition is incorrect, submit an amended petition;
- (B) if the Debtor's name used for an electronic signature is incorrect, file a declaration under penalty of perjury affirming that the document filed with the incorrect electronic signature was signed in the original by the Debtor using the correct name, and that the document is true and correct to the best of the Debtor's knowledge, information, and belief. A sample declaration is available on the Court's website;
- (C) distribute notice of the corrected name to all creditors, the trustee, and the UST; and
- (D) file a Certificate of Service.

## **B-1010-1. INVOLUNTARY CASES: CONSENT TO ORDER FOR RELIEF**

The alleged Debtor can file a consent to the entry of an order for relief under the chapter proposed by the involuntary petition, at any time after the filing of the petition and before the adjudication of that petition. After the filing of a consent, the Court may enter the order for relief without further notice or hearing.

## **B-1010-2. INVOLUNTARY PETITIONS COMMENCED BY NON-ATTORNEYS**

(a) Seal upon Initial Filing

Upon the filing of an involuntary petition by a party who is not represented by counsel, the Clerk shall assign a number to the case and seal the names of the alleged debtor and the petitioning creditor(s), the petition, and documents filed with the petition. The Clerk shall facilitate service of the involuntary petition and the Summons to Debtor in Involuntary Case upon the alleged debtor.

(b) Review of and Continuation or Termination of Seal

The Court may, at any time after the initial filing and until its entry of an order for relief or an order dismissing the involuntary petition, review the petition and supporting documents and determine whether the seal should be continued, lifted, or modified and, if necessary, hold a hearing on same.

(c) Notice to UST

The Clerk shall, immediately upon filing of an involuntary petition subject to this rule, provide telephonic notice of the case to the UST

(d) Electronic Filing by Counsel for Alleged Debtor(s)

Counsel seeking to appear on behalf of the alleged debtor(s) must contact the Clerk for electronic filing access in a case filed under this rule.

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

(a) Joint Cases

A joint case commenced under 11 U.S.C. §302(a) shall be jointly administered, unless the Court orders otherwise. The separate estates of the Debtors in a joint case will only be consolidated upon motion, after notice.

(b) Joint Administration

Jointly administered cases shall be administered as follows, unless the Court orders otherwise:

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(2) Caption

All papers, except those filed in a Member Case under subparagraphs (b)(4) and (5) of this rule, shall have the caption with the name and case number of the Lead Case followed by the words “Jointly Administered,” except that if one of the Member Cases is for an individual Debtor then the caption shall include the Lead Case name and case number and the case name for an individual Debtor. The caption for a jointly administered case shall not include the word “Consolidated.”

(3) Docket

Except for the documents listed in subparagraphs (4) and (5) below, a pleading or document filed in a jointly administered case after the entry of the order for joint administration shall be docketed under the case number of the Lead Case. If joint administration is terminated, documents filed after the order terminating joint administration shall be filed and docketed in the separate cases.

(4) Claims

Claims shall be filed only in the name and case number of the Debtor against which the claim is asserted. A separate claims register shall be maintained for each case. A separate claim must be filed in each jointly administered case in which a claim is asserted. A pleading related to a claim filed in a Member Case shall also be filed in that Member Case, and its caption shall have the name and case number of the Member Case.

(5) Documents to Be Filed in Member Cases Separately

The following documents shall be filed on the dockets of the Member Case as to which the document applies, even if filed after the entry of the order for joint administration, and the caption of these documents shall have the name and case number of the Member Case:

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(6) Ballots

Ballots shall have the caption of the name and case number of the Member Case for which the plan being voted on was filed.

(c) Substantive Consolidation

Substantively consolidated cases shall be administered as follows, unless the Court orders otherwise:

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(2) Caption

All documents in substantively consolidated cases shall have the caption of the Lead Case, unless one of those cases is for an individual Debtor; then the caption shall include the Lead Case and the case name for an individual Debtor.

(3) Docket

A single case docket shall be maintained after the entry of the order for consolidation. If consolidation is later terminated, documents filed after the order terminating consolidation shall be filed in the separate cases.

(4) Claims

After consolidation all claims shall be filed in the Lead Case. Claims filed and docketed prior to consolidation shall be considered as filed in the substantively consolidated cases but shall remain on the claims register where originally filed.

### **B-1016-1. NOTICE OF THE DEBTOR'S DEATH**

The attorney for the Debtor shall file a notice of the Debtor's death as soon as possible after verifying that the Debtor is deceased.

### **B-1017-1. CONVERSION AND DISMISSAL**

(a) "Automatic" Dismissal

- (1) No case shall be deemed dismissed except upon entry of an order of dismissal notwithstanding 11 U.S.C. §521(i)(1).
- (2) If a party moves for dismissal under §521(i)(2) and if such motion specifically requests dismissal within 7 days, the Court may dismiss the case without further notice or hearing if the docket is missing one of the items identified in 11 U.S.C. §521(a)(1)(A) and (a)(1)(B)(i) through (v). If the docket contains a filing which purports to be the required filing but which the moving party contends fails to include all the required contents, the motion shall identify the alleged deficiency. The movant shall serve the motion on the Debtor, trustee, and UST along with a notice requiring a response to be filed within 14 days of service. If no response is timely filed, the Court may dismiss the case without further notice or hearing. If a response is timely filed, the Court will either rule on the motion or set a hearing.
- (3) The Court may also dismiss a case under 11 U.S.C. §521(i)(1) on its own motion.

(b) Dismissal for Failure to File Required Documents or Pay Filing Fee

- (1) The Court shall dismiss the case without further notice or hearing unless the document required by Fed.R.Bankr.P. 1007(f) (SSN statement, Official Form 121) is filed with the voluntary petition or within 7 days thereafter.
- (2) In a case where the lists, schedules, statements, and other documents described in Fed.R.Bankr.P. 1007(b)(1), (3), (4), (5), and (6) are not filed within 14 days after the filing of the petition, the Court shall dismiss the case without further notice or hearing unless a motion for extension of time has been filed.

- (3) In a case where the filing fee has not been paid at the time of filing or within 7 days thereafter, the Court shall dismiss the case without further notice or hearing unless an application to pay the filing fee in installments, or, if a Chapter 7, an application to waive the filing fee, has been filed. If a Debtor fails to pay a fee installment when due, the Court may dismiss the case without further notice or hearing.
  - (4) In a case where creditor information has not been provided at the time of filing or within 7 days thereafter, the Court shall dismiss the case without further notice or hearing unless a motion for extension of time has been filed.
- (c) Obtaining Relief from Dismissal Order
- (1) Reopening Case

If a dismissed case has been closed, a party seeking relief from the dismissal order shall file a motion to reopen and pay the required fee and a motion for relief from the dismissal order under Fed.R.Bankr.P. 9024 as set out in subparagraph (2). That motion for relief can be filed with the motion to reopen.
  - (2) Requirement of Motion for Relief from Dismissal Order

If the dismissed case has not been closed or has been reopened, then the party shall file the motion for relief from the dismissal order (unless it was filed with the motion to reopen). If the case was dismissed because of a failure to file required documents, the movant must submit the documents required with the motion(s), or file a motion seeking an extension of time for submitting those documents. If the case was dismissed for failure to pay the filing fee or an installment, then the movant must, with the motion for relief from the dismissal order, pay the filing fee or missed fee installment(s), or file a motion seeking an extension of time to pay the fees. If the movant fails to comply with these requirements, the motion for relief from the dismissal order will not be considered.
- (d) Conversion

A Debtor converting from Chapter 12 or 13 to Chapter 7 shall file a notice of conversion under Fed.R.Bankr.P. 1017(f)(3). A Debtor's motion to convert under Fed.R.Bankr.P. 1017(f)(2) shall be served on a trustee, the UST, and counsel of record.
- (e) Service of Motion to Dismiss

A Debtor's motion to dismiss under Fed.R.Bankr.P. 1017(f)(2) shall be served on a trustee, the UST, and counsel of record.

### **B1017-3. EFFECT OF DISMISSAL ON ADVERSARY PROCEEDINGS**

Whenever a case under the Bankruptcy Code is dismissed, an adversary proceeding then pending shall be dismissed without prejudice unless the Court orders otherwise either in the order dismissing the case or by separate order. A case removed to the Court shall be remanded to the Courts from which it was removed.

## **B-1019-1. CONVERSION TO CHAPTER 7**

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### **(b) Distribution of Notice of Bar Dates and Meeting of Creditors; Certificate of Service**

The Debtor shall distribute to added creditors the following, and shall file a Certificate of Service:

- (1) a notice providing 21 days for the filing of a motion for payment of an administrative expense and, unless a notice of insufficient assets to pay a dividend has been mailed under Fed.R.Bankr.P. 2002(e), the time for filing a claim of a kind specified in 11 U.S.C. §348(d). A form notice is available on the Court's website; and
- (2) a copy of the notice of the Meeting of Creditors under the new chapter with the Debtor's full SSN or ITIN, unless the schedule of post-petition debts was filed and creditors were added before issuance of the notice of the Meeting of Creditors under the new chapter.

### **(c) No Delay of First Meeting**

Failure of the trustee or the Debtor to comply with Fed.R.Bankr.P. 1019 shall not delay the issuance of the notice of the Meeting of Creditors.

### **(d) Waiver of Conversion Fee for Chapter 13 Trustees**

The conversion fee is waived for a motion to convert filed by a Chapter 13 Trustee.

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

### **(a) Obtaining Service of Pleadings and/or Notices**

Parties or their counsel who wish to receive copies of pleadings and documents – other than proofs of claim – shall file with the Clerk and serve the Debtor with an appearance in compliance with S.D. Ind. B-9010-1. A “Request for Notice” or similar pleading will be considered a request under Fed.R.Bankr.P. 2002(g) and will not entitle the filer to service of pleadings or of notices other than those to which the filer is already entitled.

### **(b) Notices Prepared and Distributed by Parties**

A notice prepared and distributed by a party shall:

- (1) be signed by the party, not the Clerk or the Judge, unless its form has been approved by the Court;

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(c) Limited Notice in Chapter 7 Cases

In Chapter 7 cases, 90 days after the first date set for the Meeting of Creditors or, if a report of possible assets has been filed, 90 days after the issuance of the Notice of Possible Assets, all notices required by Fed.R.Bankr.P. 2002(a), except the notice of the final report and of dismissal or denial of discharge, shall be mailed only to the Debtor, the trustee, the UST, creditors who have filed claims, and creditors who are still permitted to file claims by reason of an extension granted under Fed.R.Bankr.P. 3002(c)(1) or (2).

(d) Limited Notice in Chapter 13 Cases

In Chapter 13 cases, after the entry of a confirmation order all notices required by Fed.R.Bankr.P. 2002(a) shall be mailed only to the Debtor, the trustee, the UST, creditors who have filed claims, and creditors who are still permitted to file claims by reason of an extension granted under Fed.R.Bankr.P. 3002(c)(1) or (2).

(e) Authorization for Chapter 13 Trustee to Recover Noticing Costs from Estate

If the Chapter 13 Trustee uses an independent contractor for noticing, the trustee may recover the actual costs of noticing charged by that contractor from each estate. If noticing is performed by the trustee, the trustee may recover from each estate the actual costs of postage plus \$.18 for each notice or as otherwise ordered by the Court. These noticing fees can be recovered from the first and any subsequent funds received from the Debtor, whether before or after confirmation. The Chapter 13 Trustee shall list expenses charged for noticing in each case and separately identify the notices sent in the final report.

(f) Notice of Final Report with Notice of Applications for Compensation

In Chapter 7 cases in which the amount of net proceeds realized exceeds the amount set forth in Fed.R.Bankr.P. 2002(f)(8), or the amount of an application for compensation exceeds the amount set forth in Fed.R.Bankr.P. 2002(a)(6), the Chapter 7 trustee shall send a 21-day Objection Notice of the trustee's final report and of the applications for compensation and reimbursement of expenses. Trustee shall file a copy of the notice and Certificate of Service.

(g) Returned and Undeliverable Mail

(1) Designation of the Debtor as Return Addressee

The Debtor is designated as the return addressee for orders and notices distributed by the Bankruptcy Noticing Center ("BNC").

(2) Duty to Provide Accurate Address

The Debtor shall file a notice of change of address for a creditor or party in interest whose address may not be accurate based either on the Debtor's receipt of returned mail or information received from the BNC. In addition, the Debtor shall distribute the documents required by S.D.Ind. B-1009-1(b)(2) to a creditor with a revised address. If the Debtor is unable to determine a correct address for a creditor or party in interest, the Debtor may file a Notice of Address Unavailability specifying the creditor's name and reporting that a correct address cannot be located.

- (3) Returned Mail Received by the Clerk, Inaccurate Addresses Identified by Clerk's Noticing Agent, and Duty to Correct

The Clerk shall docket a returned notice of the Meeting of Creditors, unless the Court orders otherwise. The Debtor shall file a notice of change of address for such a creditor, if the correct address can be identified, shall distribute the documents required by S.D.Ind. B-1009-1(b) to a creditor with a revised address, and shall file a Certificate of Service. All other returned mail received by the Clerk shall be discarded.

## **B-2003-1. NOTICE OF CONTINUED MEETING OF CREDITORS**

- (a) Notice when Meeting of Creditors Continued at the Debtor's Request

A Debtor's request to continue the Meeting of Creditors shall be directed to the trustee in a Chapter 7, 12, or 13 case, and to the UST in a Chapter 11 case. The request shall not be filed with the Court. If the request is granted, the trustee shall file notice of the continued meeting date. The Debtor shall distribute notice of the continued meeting to all creditors, parties in interest, the trustee, and the UST, and file a Certificate of Service.

- (b) Notice when Meeting of Creditors Continued by Trustee

If a trustee, without request of the Debtor, continues a meeting before it has been convened, then the trustee shall file notice of the continued meeting date, distribute notice of the continued meeting to all creditors, parties in interest, and the UST, and file a Certificate of Service.

- (c) Notice when Meeting of Creditors Continued After Convened

When a meeting is continued after it has been convened, the trustee or UST shall provide oral notice of the continued date, time, and location of the meeting, and file notice of the continued meeting date, time, and location with the Court. No further distribution of notice is required.

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

- (a) Employment Applications Generally

A person (the "Applicant") seeking Court approval of the employment of a professional person (the "Professional") under 11 U.S.C. §§327, 1103(a), or 1114 shall file an application and a supporting affidavit or verified statement of the professional complying with Fed.R.Bankr.P. 2014 (an "Employment Application") and submit a proposed order. The Employment Application shall state the proposed terms of employment. If employment is at an hourly rate, the proposed hourly rates of all Professionals who will work on the case shall be provided. If employment is on a contingent fee basis, the percentages and triggering events shall be disclosed. After discovering any additional



material information relating to the employment, the Applicant and Professional shall file and serve a supplemental affidavit disclosing the additional information.

(b) Employment Applications in Chapter 11 Cases

(1) Service of Notice and Hearing

(A) Service of Employment Application

The Applicant shall serve on the Service List, the Employment Application, the supporting affidavit or verified statement, and any supplemental affidavit.

(B) Notice of the Employment Application

The Applicant shall also send a 21-day Objection Notice to the Service List and other parties as directed by the Court. The notice shall include the name of the Professional sought to be employed, a summary of the terms of employment, and – if the Employment Application also requests approval of a periodic payment procedure under subparagraph (b)(4) or (5) of this rule – the proposed terms for periodic payment. The Applicant shall file a copy of the notice and a Certificate of Service.

(C) Objections, Court Review, and Effective Date

An objection must be filed and served upon the Applicant, the Professional, the Service List and other parties as directed by the Court. If no objection is filed, the Court may grant the Employment Application and approve the proposed employment and a periodic payment procedure 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 the Court orders otherwise.

(2) Conflicts

If a Professional seeks to resolve a potential conflict of interest, the Professional shall comply with applicable Rules of Professional Conduct. All consents or waivers of conflicts of interest shall be in writing. The Professional shall serve copies of all waivers upon the Applicant and the Service List with the Employment Application or following receipt by the Professional.

(3) Treatment of Retainer

A proposed Professional shall obtain Court approval of the terms for applying a retainer to the payment of the Professional's fees and expenses. Those terms may be similar to the following:

- (A) apply the retainer to satisfy the Professional's fees and expenses as they are awarded by the Court under 11 U.S.C. §§330 and 331;

- (B) hold the entire retainer without an application for payment of fees and expenses until final award by the Court of the Professional's final application for fees and expenses, with allowed interim fees and expenses paid from other estate assets;
  - (C) draw against the retainer at specified intervals prior to the award of fees and expenses by the Court under subparagraph (b)(4) of this rule; or
  - (D) other Court-approved arrangements.
- (4) Procedure for Periodic Payment from Retainer

The Court may approve a request by the Professional for a streamlined procedure for periodic payment of fees and expenses from a retainer, prior to Court award of interim or final fees and expenses. The proposed procedure shall provide for payment of no more than 80% of requested fees but may provide for payment of 100% of expenses.

- (A) If requested as part of the Application, the proposed procedure shall be summarized in the Objection Notice. If requested separately, the Applicant shall provide notice in the same manner as required by subparagraph (b)(1)(B) of this rule.
  - (B) All such arrangements shall provide that prior to the fee draw the Professional shall 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. The CM/ECF event "Notice of Draw on Retainer/Payment of Fees or Expenses Pursuant to B-2014-1" should be used.
  - (C) The Notice of Draw shall be distributed to the Service List and 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 allowance of fees and expenses. All fees and expenses drawn are subject to disgorgement until the Court allows the final fee application of the Professional.
- (5) Other Periodic Payment Procedure

The Court may approve procedures for periodic payment, other than from a retainer, subject to the provisions of subparagraph (b)(4) of this rule.

## **B-2015-1. REPORT OF OPERATIONS**

(a) Operating Reports

For all Chapter 11 cases, and for Chapter 7 cases in which the trustee operates a business, the trustee or the Debtor shall file reports of operations, at intervals to be determined by the UST or an applicable rule, using forms approved by the UST. For all Chapter 12 cases, and

for Chapter 13 cases in which the Debtor operates a business, the Debtor shall file reports of operations as required by the trustee, at intervals to be determined by the trustee or an applicable rule, using forms acceptable to the trustee.

(b) Distribution

The report shall be distributed to the UST, the Debtor, a trustee and counsel for the trustee, the Service List in a Chapter 11 case, and a party requesting service.

(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.

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

Except as otherwise required by the United States Code, the UST, or other applicable law, the trustee or the Debtor may destroy or otherwise dispose of the Debtor's books and records 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 following shall be advised of the proposed disposition: the Debtor, the trustee, the UST, taxing agencies, and committee counsel. The Court may authorize an earlier disposition upon motion after notice and a hearing.

### **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 fee guidelines of the UST under 28 U.S.C. §586(a)(3)(A)(i) and the Policy of the United States Trustee for Region 10 for Implementation of Fee Guidelines. Applications for compensation and reimbursement of expenses shall be filed separately for the trustee and each professional.

(b) Chapter 13 Cases

(1) Traditional Fee Award Process

Compensation to an attorney representing a Chapter 13 Debtor ("Counsel") shall be disclosed, reviewed, and approved under applicable authority including, without limitation, 11 U.S.C. §§329 and 330 and Fed.R.Bankr.P. 2002, 2016, and 2017, unless Counsel opts for the alternative award process in subparagraph 2 of this section.

(2) Streamlined or "No Look" Fee Award Process

Counsel may have fees deemed awarded upon confirmation, without filing a separate application, if:

- (A) Counsel has filed an executed copy of the “Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys,” available on the Court’s website;
  - (B) Counsel has filed a proof of claim and served that claim upon the trustee;  
and
  - (C) Counsel seeks no more than the maximum fee set by general order.
- (3) Supplemental Fees

Counsel may apply for additional fees if Counsel opted for the fee award process set out in subparagraph (2), but later determines that the maximum fee is not sufficient. The application shall be accompanied by time records supporting the additional fees or by an affidavit explaining why the standard fee is inadequate in the case.

- (4) Fees Upon Case Dismissal

If Counsel opted for the fee award process in subparagraph (2) but the case is dismissed prior to confirmation of a plan, unless the Court orders otherwise, the trustee shall pay to Counsel subject to the trustee’s percentage fee, an administrative claim equal to 50% of the unpaid balance of an allowed fee claim. Counsel may request within 14 days of the dismissal an award of additional fees under subparagraph (3). Counsel shall not collect, receive, or demand additional fees from the Debtor for work already performed unless authorized by the Court, even after dismissal.

- (5) Source of Fee Payment

Except for pre-petition retainers, all fees shall be paid through the plan and Counsel may not receive fees directly from the Debtor other than the pre-petition retainer, unless the Court orders otherwise.

- (6) Review of Fees

On its own motion or the motion of a party in interest prior to entry of a final decree, the Court may order a hearing to review a fee paid or to be paid.

## **B-2070-1. MOTION FOR TURNOVER**

A trustee who files a motion for turnover against the Debtor shall provide a 21-day Objection Notice to the Debtor, the UST, and any committee. Along with the motion, the trustee shall file the notice and a Certificate of Service. The motion, notice, and Certificate of Service may be combined into one document, a sample of which is available on the Court’s website.

## **B-2081-2. PREPACKAGED CHAPTER 11 CASES**

If a Chapter 11 Debtor has solicited and obtained votes on a proposed plan before filing the case, and the Debtor seeks confirmation of that plan promptly after filing and without prior approval of a disclosure statement, the Debtor shall file a motion for authority as a "first day motion" under S.D.Ind. B-9013-3, seeking expedited scheduling of the confirmation hearing. If the motion seeking expedited scheduling is granted, the Debtor shall file as separate documents the proposed plan, the pre-petition solicitation document, and a report on voting.

## **B-3001-1. PROOF OF CLAIM**

(a) Method of Filing

A proof of claim shall substantially conform to Official Forms 410, 410A, 410S1, and 410S2 available on the Court's website. Registered users of CM/ECF shall file claims electronically. Entities not authorized or required to file documents electronically may file claims either on paper or by using the Court's electronic proof of claim option ("ePOC/eWOC"), found on the Court's website, and shall comply with S.D. Ind. B-5005-1(c).

(b) Redaction of Personal Identifiers

A claimant shall redact all personal identifiers on the proof of claim and attached documents filed with the Clerk as required by Fed.R.Bankr.P. 9037.

(c) Wage Claimant

A proof of claim for wages or salary shall include only the last four digits of the claimant's SSN or ITIN. The claimant shall provide the trustee or the Debtor the full SSN or ITIN and a telephone number.

## **B-3002.1-1. ADDITIONAL NOTICE REQUIREMENTS FOR MORTGAGE LENDERS IN CHAPTER 13**

(a) Notices of Payment Change and of Fees, Expenses, and Charges

A creditor with a claim secured by real estate shall comply with Fed.R.Bankr.P. 3002.1(b) and (c), even if the real estate is not the Debtor's principal residence.

(b) Motion to Determine Validity of Payment Change

A party in interest who objects to the payment change may file a Motion to Determine Validity of Payment Change. If no motion is filed by the day before the new amount is due, the change goes into effect, unless the Court orders otherwise.

(c) Notice of Change in Servicer

If the mortgage servicer changes while the bankruptcy is pending, the mortgage holder shall file with the Court and serve upon the Debtor and the trustee a notice providing the

name of the servicer, the payment address, a contact phone number, and a contact email address.

## **B-3002.1-2. NOTICE OF EXCEPTION TO FILING NOTICES OF PAYMENT CHANGE UNDER FED.R.BANKR.P. 3002.1(b)**

(a) Eligibility for Use of Notice of Exception to Filing a Notice of Payment Change

A creditor may use the procedure in subparagraph (b) if:

- (1) the creditor asserts a claim secured by a security interest in the Debtor's real estate;
- (2) the plan provides for the claim under §1322(b)(5); and
- (3) the monthly amount due on the claim changes more than once every 60 days because the creditor's agreement with the Debtor provides for a variable interest rate and/or a variable payment amount, or the creditor is eligible for the exception in subparagraph (e).

(b) Filing and Effect of Filing Notice of Exception to Filing a Notice of Payment Change

A creditor eligible under subparagraph (a) shall be excused from filing a notice of payment change 21 days prior to the change, if the creditor files a Notice of Exception to Filing a Notice of Payment Change ("Notice of Exception") and serves that Notice of Exception on the trustee, the Debtor, and the UST. If no objection to the Notice of Exception is filed under subparagraph (c), or if the Court determines after objection that the exception should apply, then the creditor is excused from filing a Notice of Payment Change other than a change resulting from a change in the interest rate.

(c) Duty to Provide Information

A creditor subject to the exception shall provide to the Debtor and the trustee each month a statement that clearly identifies the payment amount due on the claim. The creditor shall provide to the trustee or the Debtor, upon request, an updated total amount due.

(d) Objection

A party in interest may object to the Notice of Exception or the monthly statement provided pursuant to subsection (c) of this rule within 21 days after the Notice of Exception is filed or the monthly statement is served.

(e) Limited Exception During Loan Modification Process

If the Debtor files a Motion to Approve Loss Mitigation Agreement, a Motion to Approve a Trial Modification Agreement, or a Motion to Modify Secured Debt (collectively, a "Modification Motion"), the creditor is excused from filing a Notice of Payment Change while that Modification Motion is pending. No later than 21 days after the date of an order approving the Modification Motion, a creditor shall file and serve on the trustee, the Debtor, and the UST a Notice of Payment Change.

### **B-3002.1-3. MOTION FOR DETERMINATION OF FINAL CURE AND PAYMENT: HEARING DEEMED WAIVED**

If the trustee or the Debtor files a Motion for Determination of Final Cure and Payment under Fed.R.Bankr.P. 3002.1(h), and the holder of the claim has filed a response that agrees with the Notice of Final Cure Payment, or the holder of the claim files a Response to Notice of Final Cure Payment that concurs in the Motion for Determination, the holder of the claim is deemed to have waived further notice and the Court may enter an order on the motion without hearing.

### **B-3002.1-4. MOTIONS TO DEEM MORTGAGE CURRENT**

If the trustee is not required to file a Notice of Final Cure Payment, a Chapter 13 Debtor may file a Motion to Deem Mortgage Current after all payments have been made under the plan. The Chapter 13 Debtor shall provide the mortgage lender with a 21-day Objection Notice. Along with the motion, the Chapter 13 Debtor shall file the notice and a Certificate of Service.

### **B-3006-1. WITHDRAWAL OF PROOF OF CLAIM**

A claimant who files a motion to withdraw a proof of claim shall provide the Debtor, a trustee, a creditors' committee, the UST, and an entity that objected to the claim a 21-day Objection Notice. Along with the motion, the claimant shall file the notice and a Certificate of Service. The motion, notice, and Certificate of Service may be combined into one document, a sample of which is available on the Court's website.

### **B-3007-1. OBJECTIONS TO CLAIMS**

A party that objects to a claim shall provide a 30-day Objection Notice to the claimant to whom the objection is directed, the Debtor, a trustee, and the UST. Along with the objection, the objector shall file the notice and a Certificate of Service. The objection, notice, and Certificate of Service may be combined into one document, a sample of which is available on the Court's website.

### **B-3010-1. SMALL DIVIDENDS AND PAYMENTS**

Trustees in Chapters 7, 12, and 13 cases are authorized to distribute dividends and payments to creditors in any amount.

### **B-3011-1. UNCLAIMED FUNDS**

An application for payment of unclaimed funds shall comply with instructions from and be submitted on forms made available on the Court's website.

## **B-3015-1. FILING AND DISTRIBUTION OF CHAPTER 13 PLANS**

(a) Form of Plan

The Court has adopted a Local Form for the Chapter 13 plan (“the Local Form Plan”) which replaces Official Form 113 as permitted by Fed.R.Bankr.P. 3015.1. The Debtor shall use the Local Form Plan, which is available on the Court’s website or from the Bankruptcy Clerk.

(b) Extension of Time to File Plan

A motion to extend the time to file a Chapter 13 plan shall be filed within 14 days after the commencement of the case.

(c) Pre-confirmation Payments as Adequate Protection

Unless the Court orders otherwise for claims secured by personal property, “adequate protection” under 11 U.S.C. §1326(a)(1)(C) shall be paid by the Debtor to the trustee, as a portion of the payment made under 11 U.S.C. §1326(a)(1), in an amount equal to 1% of the allowed secured claim. Such amount shall be presumed to constitute adequate protection although that presumption may be rebutted. The trustee shall disburse adequate protection payments to the secured creditor as soon as practicable. All adequate protection payments shall be subject to the trustee’s percentage fee.

(d) Payment of Pre-Petition Arrearage through Trustee

The Debtor shall pay a pre-petition arrearage claim on a mortgage secured by the Debtor’s residential real estate, along with the post-petition mortgage installments, through the Chapter 13 Trustee. These disbursements shall be subject to the trustee’s percentage fee.

(e) Distribution of Plans and Amended Plans

The Chapter 13 Trustee shall distribute the original plan, the first and second amended plans and related notice, and file a Certificate of Service. If service of the plan other than by first-class mail is required by Fed.R.Bankr.P. 3012 or 4003, the trustee may require the Debtor to distribute the plan to that entity and provide proof of service to the trustee. The Debtor shall distribute a third amended or subsequent plan and related notice, and file a Certificate of Service.

## **B-3015-2. FILING AND DISTRIBUTION OF MODIFICATIONS TO CHAPTER 13 PLANS**

(a) Pre-Confirmation Modifications

(1) Agreed Modifications with Creditor: Filing and Notice

If the Debtor, a creditor, and the trustee agree upon a plan modification before confirmation, and that modification only affects the treatment of the creditor agreeing to the change, the parties shall file an agreed modification. Notice to creditors of the modification is not required. The Court will not approve the



agreement by separate order, as the agreement is deemed approved by the subsequent confirmation order.

(2) Agreed Modifications with Trustee: Filing and Notice

If the Debtor and the trustee agree upon a plan modification before confirmation that does not adversely affect the treatment of a creditor, the parties shall file an agreed modification. Notice to creditors of the modification is not required. The Court will not approve the modification by separate order, as the modification is deemed approved by the subsequent confirmation order.

(3) Other Pre-Confirmation Modifications

A pre-confirmation modification that affects the treatment of creditors that have not agreed to the modification requires the filing of an amended plan which the Trustee or the Debtor shall distribute under S.D. Ind. B-3015-1.

(b) Post-Confirmation Modifications

A proposed modification of a confirmed plan shall be filed as a Motion to Modify Plan. The movant shall distribute notice of the filing and the deadline for objections and file a Certificate of Service.

### **B-3015-3. CONFIRMATION HEARINGS**

Absent a contrary order or objection, it is in the best interests of creditors and the bankruptcy estate to hold a confirmation hearing prior to 28 days after the objection is filed.

### **B-3015-4. DISTRIBUTION OF CHAPTER 12 PLANS**

The Debtor in a Chapter 12 case shall distribute a plan, amended plan, or motion to modify a plan, and related notice, and shall file a Certificate of Service.

### **B-3017-2. CONSIDERATION OF DISCLOSURE STATEMENTS IN SMALL BUSINESS CASES AND CONFIRMATION DEADLINES**

(a) Expedited Processing of Disclosure Statement

If the proponent of a plan in a small business case requests that the Court:

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the proponent shall file a notice along with the proposed plan or disclosure statement. The notice shall specify why the relief requested is appropriate. A sample notice is available on the Court's website.

(b) Deadlines

At the hearing on a request under subparagraph (a) the Court may also, either on its own initiative or at the request of a party in interest, consider whether a deadline for confirming a proposed plan should be extended.

**B-3018-1. BALLOTS; VOTING ON PLAN - CHAPTER 11**

(a) Distribution of Plan

Within 7 days after the approval or conditional approval of the disclosures statement or determination that a disclosure statement is not needed, the party filing the plan (the “Plan Proponent”) shall distribute copies of the plan, disclosure statement, ballot(s), and notice of the confirmation hearing to all creditors and parties in interest. The Plan Proponent shall file within 14 days thereafter a Certificate of Service.

(b) Form of Ballot

The Plan Proponent shall use the ballot form available on the Court’s website, unless the Court has approved a different ballot form. The ballot shall be distributed to creditors, include the address of the Plan Proponent or the party designated to receive ballots, and indicate that ballots must be received no later than the deadline established by order of the Court.

(c) Submission of Ballots and Balloting Report

(1) Delivery and Retention of Ballots

All ballots shall be returned to the Plan Proponent, unless the Court orders otherwise. The Clerk shall forward original ballots received to the Plan Proponent. The Plan Proponent shall note the receipt date on each ballot. The Plan Proponent shall retain copies of the ballots in accordance with the Electronic Case Filing Administrative Policies and Procedures Manual, unless the Court orders otherwise.

(2) Tabulation, Report, and Certification

The Plan Proponent shall file a balloting report, certified as to accuracy, that lists for each class the total number of claims voting, total dollar amount of claims accepting, and percentages of claims voting that accept the plan. The report shall also state, for each class, whether it is impaired or unimpaired and whether the requisite vote has been attained in each class. A sample certified report form is available on the Court’s website.

(3) Filing and Service

The Plan Proponent shall file the certified balloting report at least 3 days before the confirmation hearing. Copies of the report shall be distributed to the UST, the Service List, and parties filing objections to the plan.

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

After the estate has been fully administered, the plan proponent or other entity administering the confirmed plan shall apply for a final decree. The application shall include the percentage paid or proposed to be paid to general unsecured creditors.

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

### (a) Application for Final Decree: Payments Completed

If the Debtor has completed all plan payments, then the Debtor shall apply for a final decree. The application shall include the percentage paid to general unsecured creditors. If the Debtor is otherwise eligible, the Court shall issue a discharge.

### (b) Request for Hardship Discharge

If the Debtor seeks a discharge under 11 U.S.C. §1141(d)(5)(B), the Debtor shall file a Motion for Hardship Discharge.

### (c) Closing Case Before Plan Payments Completed

If the Debtor wishes to close the case pending completion of the plan, the Debtor must file a Motion to Close Chapter 11 Case that states an intention to reopen the case upon plan completion. If the motion is granted, the Clerk shall not issue a Notice of No Discharge as otherwise required by Fed.R.Bankr.P. 4006. After completion of the plan and the reopening of the case, the Debtor shall file the Application for Final Decree and supporting documents as required in subparagraph (a).

## **B-3070-1. WAGE ASSIGNMENT ORDERS IN CHAPTER 13 CASES**

### (a) Trustee's Authority to Require Wage Assignment Order

The Chapter 13 Trustee may at any time request an order directing the Debtor's employer to remit plan payments.

### (b) Procedure

The trustee may:

- (1) submit an order ("the Wage Assignment Order" or "Order to Pay") directing a Debtor's employer to remit to the trustee the payment stated in the Debtor's plan – including amended plans and motions for post-confirmation modification – or in a confirmation order; or
- (2) require the Debtor to submit the Wage Assignment Order within 7 days.

(c) Service of Orders

The party who tendered the order shall serve a copy of the signed order on the entity to which the order is directed, the trustee, and the Debtor.

(d) Amended Orders Required

If the Debtor was required to submit a Wage Assignment Order, the order shall remain effective throughout the case, unless rescinded. The Debtor must submit a new order whenever the Debtor's employer or the plan payment changes, until plan payments have been completed. After plan payments have been completed, an order terminating wage assignment shall be submitted.

**B-4001-1. MOTIONS FOR RELIEF FROM STAY AND MOTIONS TO EXTEND OR IMPOSE THE STAY**

(a) Relief from Stay or Co-Debtor Stay

(1) Contents of Motion

A motion for relief from the automatic stay or relief from the stay as to a co-debtor under 11 U.S.C. §1301 shall include the following if applicable:

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(C) documents upon which the movant relies to establish its lien or security interest, or incorporate by reference the movant's proof of claim;

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(E) a post-petition payment history if the case is pending under Chapter 13 and a post-petition default is alleged; and

(F) the name of the co-debtor if the motion seeks relief from the co-debtor stay.

(2) Waiver of 30-Day Hearing Requirement

The motion may include a waiver of the 30-day hearing requirement in 11 U.S.C. §362(e). The movant shall note that waiver in the motion's caption by including the statement "with 30-day waiver." Selection of the waiver option when filing the motion electronically also results in a waiver of the 30-day hearing requirement.

(3) Notice and Disposition

(A) Chapters 7, 12, and 13

Except in Chapter 11 cases, the movant shall:

- (i) distribute a 14-day Notice of the motion to the Debtor, parties that have entered an appearance, a trustee, the UST, and a co-debtor in a Chapter 12 or 13 case, except as otherwise provided by S.D.Ind. B-2002-1(c);
- (ii) if the motion also seeks abandonment, distribute notice to all creditors and parties in interest, unless notice has been limited under B-2002-1(c) or (d); and
- (iii) file a copy of the motion and a Certificate of Service.

If no proper response to the motion is filed, the Court may grant relief from the stay without further notice or hearing. At a hearing on the motion the Debtor or objecting party has the burden of establishing payment(s) alleged to have been made but not set forth in the payment history.

(B) Chapter 11

In cases pending under Chapter 11, unless the Court has previously entered a case management order covering preparation and distribution of notices, movant shall:

- (i) contact the courtroom deputy to discuss who will prepare and distribute the notice and obtain a hearing date, if needed;
- (ii) distribute the notice to the Debtor, parties that have entered an appearance, a creditors' committee or if no committee has been appointed, the twenty largest unsecured creditors, a trustee, and the UST;
- (iii) if the motion also seeks abandonment, distribute the notice to all creditors and parties in interest; and
- (iv) file a Certificate of Service prior to the Court setting a hearing on the motion.

(4) Sample Form

The motion, notice, and Certificate of Service may be combined into one document, a sample of which is available on the Court's website.

(b) Extend or Impose the Stay

(1) Motion Filed 10 Days or Less after Petition Date

- (A) The Court shall set the motion for hearing, and issue notice of that hearing and the deadline for objections.
- (B) If the Debtor has filed an affidavit with sufficient facts to support the motion and no objection has been filed, the Court may, in its discretion, rule on the motion without hearing, conduct a telephonic hearing, or make such other

arrangements as will be most efficient for the Court and the Debtor, including but not limited to excusing the Debtor from appearing in person.

(2) Motion Filed More than 10 Days after Petition Date

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(D) The movant shall file a Certificate of Service on or before the hearing date.

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## **B-4001-4. MOTIONS TO MODIFY SECURED DEBT: MORTGAGES**

In a Chapter 13 case, the Debtor shall file a Motion to Modify Secured Debt to obtain approval of a modification of a debt secured by real estate that includes the following information as to the loan both immediately before and after the proposed modification: the principal loan balance, the rate of interest, the amount of the monthly escrow for taxes and insurance, the monthly payment, whether the payment will be made by the trustee or paid directly by the Debtor, and the maturity date of the proposed modified note. A sample motion is available on the Court's website.

## **B-4003-2. LIEN AVOIDANCE MOTIONS UNDER §522**

(a) Requirements

A Debtor seeking to avoid a lien under 11 U.S.C. §522(f) shall file a separate motion as to each lien holder. The motion shall identify:

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- (4) the lien to be avoided and its approximate amount;
- (5) if the motion seeks to avoid a judicial lien, the case number and the court where the underlying judgment was entered, the date of the judgment, and the common address and legal description of the real estate; and
- (6) if the motion seeks to avoid a nonpossessory, nonpurchase money security interest under 11 U.S.C. §522(f)(1)(B), the household goods subject to the security interest sought to be avoided and the date the debt that the lien secures was incurred.

(b) Service, Notice, and Filing

The Debtor shall serve the motion and a 21-day Objection Notice on the lien holder, in accordance with Fed.R.Bankr.P. 4003(d) and 7004. Along with the motion and notice, the Debtor shall file a Certificate of Service. The motion, notice, and Certificate of Service may be combined into one document, a sample of which is available on the Court's website.

(c) Orders

An order avoiding a lien on real estate shall include the common address and legal description of the real estate.

**B-4003-3. AVOIDING UNSECURED MORTGAGES IN CHAPTER 13 CASES**

(a) Adversary Proceeding Required

A Debtor seeking to avoid an unsecured mortgage in a Chapter 13 case shall file a separate adversary proceeding as to each lien holder. In addition to other required allegations, the complaint shall identify:

- (1) the mortgage to be avoided;
- (2) the other mortgages and liens on the real estate which the Debtor asserts have higher priority than the mortgage to be avoided, and the amount owed on those mortgages and liens, listed separately;
- (3) the value of the real estate; and
- (4) the common address and legal description of the real estate.

(b) Proposed Judgment

The Debtor shall tender a proposed judgment that includes the common address and legal description of the real estate.

**B-4004-1. DISCHARGE IN INDIVIDUAL CHAPTER 12 AND CHAPTER 13 CASES**

(a) Trustee's Notice of Completion

The Chapter 12 or 13 trustee shall file a Notice of Plan Completion after all payments have been received. Sample forms are available on the Court's website.

(b) The Debtor's Required Pleadings

Within 30 days after the trustee files the notice of completion, the Debtor shall file a Motion for Entry of Discharge and a Certification of Eligibility for Discharge. Each Debtor in a joint case shall file a separate Certification. Sample forms are available on the Court's website.

(c) Service and Notice

The Debtor shall serve a copy of the Motion for Entry of Discharge and a Certification of Eligibility for Discharge on the trustee and an entity to whom the Debtor owes a domestic support obligation. The trustee shall have 21 days from the date of filing to object to the Motion or the Certification. The Debtor shall serve a 21-day Objection Notice on the

holder of a domestic support obligation. A sample notice is available on the Court's website. The Debtor shall file a Certificate of Service as to the notice.

(d) Closing and Reopening

If no motion for entry of discharge is filed, the case may be closed without entry of a discharge after filing of the trustee's final report. If the case has been closed, the Debtor must first file a motion to reopen the case.

(e) Request for Hardship Discharge

If the Debtor seeks a discharge under 11 U.S.C. §§1228(b) or 1328(b), the Debtor shall file a Motion for Hardship Discharge and a Certification of Eligibility for Discharge. A sample Certification is available on the Court's website. The Debtor shall serve the Motion for Hardship Discharge and the Certification of Eligibility for Discharge as required by subparagraph (c).

**B-4004-2. OBTAINING DISCHARGE AFTER CASE CLOSED FOR FAILURE TO FILE FINANCIAL MANAGEMENT REPORT**

A Debtor may file a motion to reopen a case to obtain a discharge after entry of a Notice of No Discharge where the discharge was not entered because the Debtor failed to file a statement regarding completion of a course in personal financial management under Fed.R.Bankr.P. 1007(b)(7) and (c). The Debtor must pay the fee due to reopen the case and, contemporaneously with the Motion to Reopen, file the required statement of completion using Official Form 423.

**B-4004-3. MODIFICATION OF DEADLINE FOR OBJECTIONS TO DISCHARGE**

The deadlines under Fed.R.Bankr.P. 4004(a) for filing a complaint or motion objecting to discharge under §727, and for filing a motion objecting to discharge under §1328(f), are modified as follows:

(a) Case Dismissed and Reinstated

If a case is dismissed prior to the expiration of the deadline for objecting to discharge and subsequently reinstated:

- (1) in a case dismissed before the Meeting of Creditors is held, the new deadline for objecting to discharge under §§727 or 1328(f) shall be 60 days after the rescheduled Meeting of Creditors; or
- (2) in a case dismissed after the Meeting of Creditors is held, the new deadline for objecting to discharge under §§727 or 1328(f) shall be 60 days from entry of the order reinstating the case.



(b) Notice of New Deadline

The Clerk shall provide notice of new deadlines established under this rule.

**B-4007-1. MODIFICATION OF DEADLINE FOR OBJECTING TO DISCHARGEABILITY OF A DEBT**

The deadline under Bankruptcy Rule 4007(c) for filing a complaint objecting to dischargeability of a debt is modified in the following circumstances:

(a) Case Dismissed and Reinstated

If a case is dismissed prior to the expiration of the deadline for objecting to dischargeability and subsequently reinstated:

- (1) in a case dismissed before the Meeting of Creditors is held, the new deadline for filing objections to dischargeability shall be 60 days after the rescheduled Meeting of Creditors, and the Clerk shall serve a new Meeting of Creditors notice which notifies all creditors of the deadline; or
- (2) in a case dismissed after the Meeting of Creditors is held, the new deadline for filing objections to dischargeability shall be 60 days from entry of the order reinstating the case.

(b) Notice of New Deadline

The Clerk shall provide notice of new deadlines established under this rule.

**B-4008-1. REAFFIRMATION**

(a) Official Bankruptcy Forms Required

Reaffirmation agreements shall be filed using the Administrative Office of the U.S. Courts Director's Procedural Forms for reaffirmation agreements 2400A or 2400A/B Alt., as well as the cover sheet Official Form 427. Failure to use these required forms will result in a notice of deficient filing, and the Court will take no action on the reaffirmation agreement.

(b) The Debtor's Appearance Required

If the Court sets a hearing to consider a reaffirmation agreement, the Debtor shall appear at the hearing. The hearing will be evidentiary.

(c) Duties of the Debtor's Counsel

Unless the attorney has withdrawn as attorney for the Debtor under S.D.Ind. B-9010-1, an attorney who files a petition on behalf of a Debtor or an attorney in the same firm as the

filing attorney shall represent the Debtor during the negotiation and filing of a reaffirmation agreement and appear at related hearing.

## **B-5005-1. FILING OF DOCUMENTS: GENERAL REQUIREMENTS**

### (a) Method of Filing

An entity that filed more than 10 documents on paper in the previous calendar year is required to file electronically. A party not represented by counsel may file documents on paper.

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## **B-7007-1. MOTION PRACTICE IN ADVERSARY PROCEEDINGS**

### (a) Motions to Dismiss under Fed.R.Civ.P. 12(b)(6)

#### (1) Movant's Obligations

If a party files a motion to dismiss under Fed.R.Civ.P. 12(b)(6), made applicable to bankruptcy matters by Fed.R.Bankr.P. 7012(b), then that motion shall be accompanied by a supporting brief. Unless otherwise ordered by the Court, the supporting brief shall be no more than 35 pages. In the alternative, the moving party may file a separate motion asking to be excused from the briefing requirement.

#### (2) Non-Movant's Obligations

The responding party shall have 21 days after the movant serves the motion and a brief to file and serve a response and a brief, unless the movant is entitled to and first files an amended pleading as a matter of course under Fed.R.Civ.P. 15(a)(1). The response and brief may be combined into one document. Unless otherwise ordered by the Court, the response brief shall be no more than 35 pages. If the moving party has been excused from filing a brief, then the responding party may elect not to file a brief but shall so state in the response. If no response is filed by the deadline, the Court shall consider the motion to dismiss.

#### (3) Reply

If the responding party filed a response brief, the movant may file and serve a reply brief within 14 days after a response is served. Unless otherwise ordered by the Court, the reply brief shall be no more than 20 pages.

### (b) Motions Other than under Fed.R.Civ.P. 12(b)(6)

Unless the Court orders otherwise, if a party files a motion to dismiss other than pursuant to Fed.R.Civ.P. 12(b)(6), then the responding party shall have 21 days after the movant serves the motion to file and serve a response. If no response is filed, the Court shall consider the motion.

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**B-7041-2. COMPLAINTS TO DENY OR REVOKE DISCHARGE: DISMISSAL OR SETTLEMENT**

- (a) Contents and Service of Notice of, Motion for, or Stipulation Regarding Voluntary Dismissal of Complaint to Deny or Revoke Discharge

The proposed dismissal, whether by notice, motion, or stipulation, of a complaint to deny or revoke the Debtor's discharge under 11 U.S.C. §727, shall be served upon the UST, a trustee, counsel of record, and a party that has intervened in the adversary proceeding under Fed.R.Bankr.P. 7024. The notice, motion, or stipulation shall contain a recital concerning the consideration, if any, for the dismissal or the terms and conditions of an agreement concerning the dismissal.

- (b) Objection to Dismissal

Unless the UST, the trustee, or another entity seeks to intervene or to be substituted for the plaintiff in the proceeding or objects to the dismissal within 28 days following service of the notice, motion, or stipulation, the Court may dismiss the complaint and/or close the adversary proceeding, upon such terms and conditions as it deems proper, without further notice or hearing.

**B-9006-1. PROCEDURE FOR OBTAINING SHORTENED AND/OR LIMITED NOTICE OF NON-FIRST DAY MOTIONS**

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- (d) Service and Distribution of 9006(c) Request, Underlying Motion, and Order Shortening Notice and/or Setting Expedited Hearing

The movant shall serve, by fax, e-mail, hand or overnight delivery the 9006(c) Request and the Underlying Motion, along with the Order Shortening Notice and/or Setting Expedited Hearing, on the Service List, a party that has, or claims to have, an interest in the property to be affected by the relief requested in the Underlying Motion, parties required to receive notice under the applicable Federal Rule of Bankruptcy Procedure, and other parties as directed by the Court. If the documents are more than 3 pages in length, the movant may fax the first page of the motion with instructions for obtaining all documents on the movant's website or by e-mail. 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 only upon the parties to the adversary proceeding and other parties as directed by the Court.

## **B-9010-2. SUBSTITUTION AND WITHDRAWAL OF APPEARANCE**

(a) Substitution

If a party in an adversary proceeding or a Debtor in a case wishes to substitute attorneys, a substitution of appearance signed by the original attorney and the substituted attorney shall be filed. If a trustee, a Debtor, or official committee wishes to substitute attorneys or another professional whose employment was subject to approval by the Court, an application to employ the new professional must also be filed. If the attorney being replaced is unavailable to sign the substitution of appearance, the substituted attorney or the Debtor shall include an affidavit stating the reasons for the unavailability.

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## **B-9013-3. FIRST DAY MOTIONS IN CHAPTER 11 CASES**

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(d) Service of First Day Motions and Notice

The Debtor shall serve copies of all First Day Motions and notice of the hearing on the initial Service List, known counsel for a party, and named respondents. Notice of the hearing and copies of the First Day Motions shall be served by fax, e-mail, hand or overnight delivery. If the documents are more than 3 pages in length, the movant may fax the first page of the motion with a statement as to the total number of pages in the document and instructions for obtaining all documents on the movant's website or by e-mail. Prior to the hearing, the Debtor shall file a Certificate of Service. Failure to give timely notice may result in relief being denied or the hearing continued.