

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA

IN RE: )  
 )  
ORDER AMENDING ) GENERAL ORDER 21-0004  
LOCAL BANKRUPTCY RULES )  
 )

**ORDER**

Notice of proposed amendments to the local rules of this Court was given to the bar and the public on May 13, 2021. The last date for submitting comments concerning the proposed amendments was June 18, 2021. No comments have been received.

Effective July 1, 2021, the local rules are amended as shown in the attachments to this order.

Date: June 23, 2021

  
ROBYN L. MOBERLY  
CHIEF BANKRUPTCY JUDGE

### **B-1010-3. CORPORATE OWNERSHIP STATEMENT TO BE FILED BY EACH NON-INDIVIDUAL PETITIONER IN AN INVOLUNTARY CASE**

The Corporate Ownership Statement required to be filed by a corporate petitioner with an involuntary petition under Fed.R.Bankr.P. 1010~~(a)(2)~~(b) shall also be filed by each non-individual petitioner that is not a governmental unit.

### **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:

(1) Designation of Lead Case

The case with the lowest number shall be designated as the “Lead Case.” The other jointly administered cases are known as “Member Cases.”

(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, 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 (b)(4) and (5) of this rule, 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 and Related Pleadings

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 shall 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 Lead or Member Cases 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:

(A) All Chapters

- (i) amended petitions;
- (ii) schedules, statements of financial affairs, and amendments thereto;
- (iii) proofs of claim and objections thereto;
- (iv) Motions to Dismiss;
- (v) Motions to Continue Hearing (if notice of hearing issued in Member Case):
- (vi) UST's Notice of Revocation of Appointment of Trustee;
- (vii) 341 Meeting Adjourned/Continued;
- (viii) trustee final reports and accounts and related notices;
- (ix) adversary proceedings filed under Fed.R.Bankr.P. 7001(4) or (6);
- (x) a notice of appeal and related documents concerning an order entered only in the member case; ~~and~~
- (xi) corporate ownership statements;
- (xii) Verifications of Creditor List; and
- (xiii) documents related to the foregoing.

(B) Chapter 11 & 12 Cases

- (i) plans, disclosure statements, ballot reports, and objections or other documents related thereto;
  - (ii) debtor monthly operating reports;
  - (iii) Motions to Extend Exclusivity Period/Deadlines Under 11 U.S.C. §§ 1121, 1129, or 1221;
  - (iv) Applications for Final Decree; and
  - (v) documents related to the foregoing.
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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:

(1) Designation of Lead Case

The case with the lowest number shall be designated as the “Lead Case.”

(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-2014-2. EMPLOYMENT OF PROFESSIONALS IN CHAPTER 13 CASES**

If the Debtor is using a Professional to pursue the sale, determination or collection of property of the estate pursuant to 11 U.S.C. § 1306, including claims that arise post-petition, the Debtor shall file a Notice of Retention and Compensation Terms as to any Professional retained. The Notice shall report the consent of the trustee to the terms of compensation and shall confirm the instructions given to the Professional on the disposition of any proceeds. A sample form Notice of Retention and Compensation Terms is available on the Court's website.

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

Trustees in Chapters 7, Sub V 11, 12, and 13 cases shall distribute dividends and payments to creditors in any amount, unless the Court orders otherwise.

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## **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

#### (1) Motion to Modify Plan

A proposed modification of a confirmed plan shall be filed as a Motion to Modify Plan, which shall set forth, in the body of the motion and not as an attachment, both the current and proposed new plan payment amounts if the plan payment is changing or a statement indicating that the payment is not changing. The movant shall distribute notice of the filing and the deadline for objections and file a Certificate of Service.

#### (2) Supplemental Schedules I and J

A Motion to Modify Plan filed by the Debtor or an objection to the trustee's Motion to Modify Plan that is based in whole or in part on a change in the Debtor's income and/or expenses shall be accompanied by a supplemental Schedule I and Schedule J.

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## **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 in individual cases, a Certification of Eligibility for Discharge. Each individual 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 individual cases, 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. The requirements to file a Certification of Eligibility for Discharge and a Certificate of Debtor Education are waived if the debtor seeking the hardship discharge is deceased and a verified statement of the debtor's death has been filed as required by S.D.Ind. B-1016-1. 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) of this rule.

## **B-6004-1. SALE OF ASSETS OUTSIDE THE ORDINARY COURSE UNDER 11 U.S.C. §363: GENERALLY**

(a) Applicability of Local Rule

This rule applies to any motion to approve the sale of assets, outside the ordinary course of business, under 11 U.S.C. §363 (the "Motion to Sell"). This rule, and S.D.Ind. B-6004-2 through B-6004-4, do not apply to sales proposed as part of a Chapter 11 or 12 plan.

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(b) Employment and Compensation of Professionals

~~The~~ Unless S.D. Ind. B-2014-2 applies, the movant shall file a separate application to employ, and a separate application to compensate, any broker, auctioneer, or other professional to be retained to assist with any sale. The retention of liquidators, auctioneers, and appraisers is also governed by S.D.Ind. B-6005-1. No payment shall be made to any professional before the Court has entered an order approving compensation and reimbursement of expenses.

(c) Sale of Co-Owned Property

A party proposing to sell co-owned property shall satisfy the requirements of S.D.Ind. B-7001-2.

(d) Procedure; Contents of Motion; Notice

A Motion to Sell shall comply with S.D.Ind. B-6004-2 through B-6004-4, depending on the type of sale, unless the Court orders otherwise.

**B-6007-1. ABANDONMENT OF PROPERTY**

(a) Trustee Abandonment in Chapter 7 Cases

(1) Report of No Distribution

The Meeting of Creditors notice (“Meeting Notice”) shall inform the UST, all creditors, indenture trustees, and committees elected under §705 or appointed under §1102 of the Code that the trustee’s filing of a report of no distribution shall serve as a notice of proposed abandonment under Fed.R.Bankr.P. 6007 of all property of the estate listed on the Debtor’s schedules (“Scheduled Property”). The Meeting Notice shall also provide that no further notice of abandonment will be given unless a creditor or other party in interest files a request for notice (“Requesting Party”) no later than one day before the first date set for the Meeting of Creditors. The Clerk shall provide a 14-day Objection Notice of the trustee’s report of no distribution to a Requesting Party.

(2) Notation of Abandonment on Docket

The Clerk shall note on the case docket that all Scheduled Property is deemed abandoned if no objection to the proposed abandonment is filed within the time provided under subparagraph (a)(1) of this rule.

(3) Trustee’s Notice of Possible Assets and Abandonment

The Clerk shall give notice of the filing of a trustee’s notice of possible assets and abandonment to the UST, all creditors, indenture trustees, and committees elected under §705 or appointed under §1102 of the Code. The notice shall identify those assets which are not being abandoned by the trustee and the proposed abandonment of all other Scheduled Property.

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(4) Trustee's Abandonment After Report of Possible Assets

The trustee shall provide a 14-day Objection Notice of abandonment filed more than one day after the filing of a notice of possible assets to the UST, all creditors, indenture trustees, and committees elected under §705 or appointed under §1102 of the Code. Along with the notice, the trustee shall file a Certificate of Service. A sample notice is available on the Court's website.

(5) Motion to Abandon Filed by Party in Interest

A motion to abandon filed by a party other than the trustee shall comply with subparagraph (b) of this rule.

(b) Motion to Abandon: Service, Notice and Filing

The movant shall serve the motion and a 14-day Objection Notice on the trustee or debtor-in-possession, the UST, all creditors, indenture trustees, and committees elected under §705 or appointed under §1102 of the Code, except that distribution may be limited in the manner prescribed by S.D. Ind. B-2002-1(d) ~~if the motion is filed in a voluntary Chapter 7, Chapter 12 or Chapter 13 case and more than 70 days have passed since the entry of the order for relief in that chapter or the order converting to Chapter 12 or Chapter 13.~~ In a Chapter 7 case where notice of insufficient assets to pay a dividend was given, notice can be limited pursuant to this subparagraph 90 days following the mailing of the notice setting a claims bar date. Along with the motion, the movant shall file a copy of 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-7007-2. CORPORATE OWNERSHIP STATEMENT TO BE FILED BY EACH NON-INDIVIDUAL PARTY TO AN ADVERSARY PROCEEDING**

The Corporate Ownership Statement required to be filed by a corporation under Fed.R.Bankr.P. 7007.1 shall also be filed by each non-individual party to an adversary proceeding, including those that seek to intervene, that is not a governmental unit.

**B-9013-3. FIRST DAY MOTIONS IN CHAPTER 11 AND 12 CASES**

(a) Motions Included

To qualify as a First Day Motion, the motion shall be filed with the Chapter 11 or 12 petition, or within two days thereafter, state in its caption that it is a First Day Motion, and be one of the motions included within subparagraph (f) of this rule. First Day Motions shall be scheduled for an expedited hearing without any formal request by the Debtor. All other requests for expedited treatment shall comply with S.D.Ind. B-9006-1.

(b) Procedure Prior to Filing

Prior to filing, the Debtor shall attempt to confer with and provide copies of any First Day Motions to the UST and/or Chapter 12 Trustee. The Debtor shall include in any First Day Motion, or in a separate pleading, a statement of efforts made to meet with the UST and/or Chapter 12 Trustee and affected parties prior to filing when possible. The Debtor shall also



contact the Clerk or Chief Deputy to advise that a case with First Day Motions will be filed.

(c) Procedure upon Filing

Upon filing, the Debtor 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 days of their filing, if possible, unless the Debtor requests a later hearing date.

(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 parties in interest. 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 three 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.

(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 mailing address, fax number, telephone number, and e-mail address of the Debtor's counsel.

(f) List of Included Motions

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

- (1) joint administration;
  - (2) use of cash collateral (interim hearing only) under S.D.Ind. B-4001-2;
  - (3) post-petition financing (interim hearing only) under S.D.Ind. B-4001-2;
  - (4) pay pre-petition employee wage claims (to the limit provided by 11 U.S.C. §507);
  - (5) limit notice generally;
  - (6) provide adequate assurance to utilities;
  - (7) pay pre-petition trust fund taxes;
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- (8) honor pre-petition obligations to customers (to the limit provided by 11 U.S.C. §507);
  - (9) vary UST financial requirements, such as motion to authorize maintenance of existing bank accounts, existing business forms, cash management system, investment procedures, etc.;
  - (10) authority to pay pre-petition claims of alleged critical vendors;
  - (11) reject leases and contracts;
  - (12) not appoint a creditors' committee under 11 U.S.C. §1102(a)(3); and
  - (13) seeking expedited scheduling of the confirmation hearing under S.D.Ind. B-2081-2.
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