

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



**LOCAL RULES**

**Effective June 1, 2010  
As Amended Through December 1, 2018**

**Chief Judge Robyn L. Moberly  
Judge Basil H. Lorch, III  
Judge James M. Carr  
Judge Jeffrey J. Graham**

# TABLE OF CONTENTS

<b>INTRODUCTIONS .....</b>	<b>1</b>
<b>B-1000-1. ABBREVIATIONS AND DEFINITIONS .....</b>	<b>3</b>
(a) Abbreviations Applicable to All Rules .....	3
(b) Definitions Applicable to All Rules .....	3
<b>B-1002-1. FILING REQUIREMENTS TO COMMENCE A VOLUNTARY CASE.....</b>	<b>4</b>
(a) Initial Filing.....	4
(b) Emergency Filing: Minimum Required .....	4
(c) Emergency Filing: Dismissal for Failure to Provide Required Documents.....	5
(d) Filing a Case Non-Electronically .....	5
(e) Transfer to Correct Division .....	5
<b>B-1006-1. PAYMENT OF FILING FEE IN INSTALLMENTS.....</b>	<b>5</b>
(a) Application Form .....	5
(b) Payment Schedule .....	5
(c) Payment Due Dates .....	5
(d) Installment Fees in Chapter 13 Cases .....	5
(e) Requirement to Pay Installments Electronically .....	5
<b>B-1007-1. LISTS, SCHEDULES AND STATEMENTS; TIME LIMITS.....</b>	<b>6</b>
(a) Additional Requirements .....	6
(b) Providing Creditor Information for Cases Filed Non-Electronically.....	6
(c) Extensions of Time .....	6
(1) Motions Generally.....	6
(2) Presumption of No Objection .....	7
(3) The Debtor’s Waiver of Objection to Timeliness of Notice of Presumed Abuse .....	7
<b>B-1007-2. NOTICING, BALLOTING, AND CLAIMS AGENTS.....</b>	<b>7</b>
(a) Noticing, Balloting, and Claims in Chapter 11 Cases with More than 300 Creditors .....	7
(1) Requirement .....	7
(2) Motion .....	7
(3) Contact with Clerk .....	7
(b) Noticing Agent .....	8
(c) Claims Agent.....	8
(d) Balloting Agent .....	9
<b>B-1007-5. RESTRICTED ACCESS TO PAY ADVICES .....</b>	<b>9</b>
<b>B-1008-1. VERIFICATION OF CREDITOR list .....</b>	<b>9</b>
<b>B-1009-1. AMENDMENTS OF VOLUNTARY PETITIONS, LISTS, SCHEDULES, AND STATEMENTS OF FINANCIAL AFFAIRS .....</b>	<b>9</b>
(a) Form of Amendments .....	9
(1) Generally .....	9

	(2) Amendments Adding Creditors.....	10
(b)	Notice Requirements .....	10
	(1) Amendments Adding or Changing Status of Creditors .....	10
	(2) Amendments to SSN or ITIN.....	10
	(3) Amendments Changing the Debtor’s Name .....	11
<b>B-1010-1.</b>	<b>INVOLUNTARY CASES: CONSENT TO ORDER FOR RELIEF .....</b>	<b>11</b>
<b>B-1010-2.</b>	<b>INVOLUNTARY PETITIONS COMMENCED BY NON-ATTORNEYS .....</b>	<b>11</b>
(a)	Seal upon Initial Filing.....	11
(b)	Review of and Continuation or Termination of Seal .....	11
(c)	Notice to UST .....	12
(d)	Electronic Filing by Counsel for the Alleged Debtor(s) .....	12
<b>B-1015-1.</b>	<b>CONSOLIDATION OR JOINT ADMINISTRATION OF CASES PENDING IN SAME COURT .....</b>	<b>12</b>
(a)	Joint Cases.....	12
(b)	Joint Administration.....	12
	(1) Designation of Lead Case .....	12
	(2) Caption .....	12
	(3) Docket .....	12
	(4) Claims .....	12
	(5) Documents to Be Filed in Member Cases Separately .....	13
	(6) Ballots .....	13
(c)	Substantive Consolidation.....	13
	(1) Designation of Lead Case .....	13
	(2) Caption .....	13
	(3) Docket .....	13
	(4) Claims .....	14
<b>B-1016-1.</b>	<b>NOTICE OF THE DEBTOR’S DEATH .....</b>	<b>14</b>
<b>B-1017-1.</b>	<b>CONVERSION AND DISMISSAL .....</b>	<b>14</b>
(a)	“Automatic” Dismissal.....	14
(b)	Dismissal for Failure to File Required Documents or Pay Filing Fee .....	14
(c)	Obtaining Relief from Dismissal Order .....	15
	(1) Reopening Case.....	15
	(2) Requirement of Motion for Relief from Dismissal Order.....	15
(d)	Conversion .....	15
(e)	Service of Motion to Dismiss.....	15
<b>B-1017-3.</b>	<b>EFFECT OF DISMISSAL ON ADVERSARY PROCEEDINGS .....</b>	<b>15</b>
<b>B-1019-1.</b>	<b>CONVERSION TO CHAPTER 7 CASE.....</b>	<b>16</b>
(a)	Schedule of Post-Petition Debts.....	16

(b)	Distribution of Notice of Bar Dates and Meeting of Creditors; Certificate of Service .....	16
(c)	No Delay of First Meeting .....	16
(d)	Waiver of Conversion Fee for Chapter 13 Trustees.....	16
<b>B-2002-1.</b>	<b>NOTICES TO CREDITORS, EQUITY SECURITY HOLDERS, AND UNITED STATES TRUSTEE .....</b>	<b>16</b>
(a)	Obtaining Service of Pleadings and/or Notices .....	16
(b)	Notices Prepared and Distributed by Parties.....	16
(c)	Limited Notice in Chapter 7 Cases .....	17
(d)	Limited Notice in Chapter 13 Cases .....	17
(e)	Authorization for Chapter 13 Trustee to Recover Noticing Costs from Estate .....	17
(f)	Notice of Final Report with Notice of Applications for Compensation .....	17
(g)	Returned and Undeliverable Mail .....	17
(1)	Designation of the Debtor as Return Addressee .....	17
(2)	Duty to Provide Accurate Address.....	18
(3)	Returned Mail Received by the Clerk, Inaccurate Addresses Identified by Clerk’s Noticing Agent, and Duty to Correct .....	18
<b>B-2003-1.</b>	<b>NOTICE OF CONTINUED MEETING OF CREDITORS .....</b>	<b>18</b>
(a)	Notice when Meeting of Creditors Continued at the Debtor’s Request .....	18
(b)	Notice when Meeting of Creditors Continued by Trustee .....	18
(c)	Notice when Meeting of Creditors Continued After Convened .....	18
<b>B-2014-1.</b>	<b>EMPLOYMENT OF PROFESSIONAL PERSONS AND TREATMENT OF RETAINERS IN CHAPTER 11 CASES .....</b>	<b>19</b>
(a)	Employment Applications Generally.....	19
(b)	Employment Applications in Chapter 11 Cases .....	19
(1)	Service of Notice and Hearing .....	19
(A)	Service of Employment Application.....	19
(B)	Notice of the Employment Application .....	19
(C)	Objections, Court Review, and Effective Date .....	19
(2)	Conflicts .....	19
(3)	Treatment of Retainer .....	20
(4)	Procedure for Periodic Payment from Retainer .....	20
(5)	Other Periodic Payment Procedure .....	21
<b>B-2015-1.</b>	<b>REPORT OF OPERATIONS .....</b>	<b>21</b>
(a)	Operating Reports .....	21
(b)	Distribution .....	21
(c)	Penalties for Failure to File .....	21
<b>B-2015-3.</b>	<b>TRUSTEES: REPORTS AND DISPOSITION OF RECORDS.....</b>	<b>21</b>

<b>B-2016-1.</b>	<b>APPLICATIONS FOR COMPENSATION FOR SERVICES RENDERED AND REIMBURSEMENT OF EXPENSES.....</b>	<b>21</b>
(a)	Generally .....	21
(b)	Chapter 13 Cases.....	22
(1)	Traditional Fee Award Process .....	22
(2)	Streamlined or “No Look” Fee Award Process .....	22
(3)	Supplemental Fees .....	22
(4)	Fees Upon Case Dismissal.....	22
(5)	Source of Fee Payment.....	22
(6)	Review of Fees.....	23
<b>B-2070-1.</b>	<b>MOTIONS FOR TURNOVER.....</b>	<b>23</b>
<b>B-2081-2.</b>	<b>PREPACKAGED CHAPTER 11 CASES .....</b>	<b>23</b>
<b>B-3001-1.</b>	<b>PROOF OF CLAIM .....</b>	<b>23</b>
(a)	Method of Filing .....	23
(b)	Redaction of Personal Identifiers.....	23
(c)	Wage Claimant.....	23
<b>B-3002.1-1.</b>	<b>ADDITIONAL NOTICE REQUIREMENTS FOR MORTGAGE LENDERS IN CHAPTER 13.....</b>	<b>24</b>
(a)	Notice of Payment Change and of Fees, Expenses, and Charges .....	24
(b)	Motion to Determine Validity of Payment Change .....	24
(c)	Notice of Change in Servicer .....	24
<b>B-3002.1-2.</b>	<b>NOTICE OF EXCEPTION TO FILING NOTICES OF PAYMENT CHANGE UNDER FED.R.BANKR.P. 3002.1(b) .....</b>	<b>24</b>
(a)	Eligibility for Use of Notice of Exception to Filing a Notice of Payment Change .....	24
(b)	Filing and Effect of Filing Notice of Exception to Filing a Notice of Payment Change .....	24
(c)	Duty to Provide Information .....	25
(d)	Objection.....	25
(e)	Limited Exception During Loan Modification Process .....	25
<b>B-3002.1-3.</b>	<b>MOTION FOR DETERMINATION OF FINAL CURE AND PAYMENT: HEARING DEEMED WAIVED .....</b>	<b>25</b>
<b>B-3002.1-4.</b>	<b>MOTIONS TO DEEM MORTGAGE CURRENT.....</b>	<b>25</b>
<b>B-3006-1.</b>	<b>WITHDRAWAL OF PROOF OF CLAIM .....</b>	<b>25</b>
<b>B-3007-1.</b>	<b>OBJECTIONS TO CLAIMS: NOTICE .....</b>	<b>26</b>
<b>B-3010-1.</b>	<b>SMALL DIVIDENDS AND PAYMENTS.....</b>	<b>26</b>
<b>B-3011-1.</b>	<b>UNCLAIMED FUNDS .....</b>	<b>26</b>
<b>B-3015-1.</b>	<b>FILING AND DISTRIBUTION OF CHAPTER 13 PLANS .....</b>	<b>26</b>
(a)	Form of Plan.....	26
(b)	Extension of Time to File Plan.....	26

(c)	Pre-confirmation Payments as Adequate Protection.....	26
(d)	Payment of Pre-Petition Arrearage through Trustee.....	26
(e)	Distribution of Plans and Amended Plans .....	27
<b>B-3015-2.</b>	<b>FILING AND DISTRIBUTION OF MODIFICATIONS TO CHAPTER 13 PLANS.....</b>	<b>27</b>
(a)	Pre-Confirmation Modifications .....	27
(1)	Agreed Modifications with Creditor: Filing and Notice .....	27
(2)	Agreed Modifications with Trustee: Filing and Notice .....	27
(3)	Other Pre-Confirmation Modifications .....	27
(b)	Post-Confirmation Modifications .....	27
<b>B-3015-3.</b>	<b>CONFIRMATION HEARINGS.....</b>	<b>27</b>
<b>B-3015-4.</b>	<b>DISTRIBUTION OF CHAPTER 12 PLANS .....</b>	<b>28</b>
<b>B-3017-2.</b>	<b>CONSIDERATION OF DISCLOSURE STATEMENTS IN SMALL BUSINESS CASES AND CONFIRMATION DEADLINES.....</b>	<b>28</b>
(a)	Expedited Processing of Disclosure Statement.....	28
(b)	Deadlines.....	28
<b>B-3018-1.</b>	<b>BALLOTS; VOTING ON PLAN - CHAPTER 11 .....</b>	<b>28</b>
(a)	Distribution of Plan .....	28
(b)	Form of Ballot.....	28
(c)	Submission of Ballots and Balloting Report.....	29
(1)	Delivery and Retention of Ballots.....	29
(2)	Tabulation, Report, and Certification.....	29
(3)	Filing and Service .....	29
<b>B-3022-1.</b>	<b>FINAL DECREE IN CHAPTER 11 CASES WHERE THE DEBTOR IS NOT AN INDIVIDUAL .....</b>	<b>29</b>
<b>B-3022-2.</b>	<b>FINAL DECREE IN CHAPTER 11 CASES WHERE THE DEBTOR IS AN INDIVIDUAL .....</b>	<b>29</b>
(a)	Application for Final Decree: Payments Completed .....	29
(b)	Request for Hardship Discharge .....	29
(c)	Closing Case Before Plan Payments Completed .....	30
<b>B-3070-1.</b>	<b>WAGE ASSIGNMENT ORDERS IN CHAPTER 13 CASES.....</b>	<b>30</b>
(a)	Trustee’s Authority to Require Wage Assignment Order.....	30
(b)	Procedure.....	30
(c)	Service of Orders.....	30
(d)	Amended Orders Required.....	30
<b>B-4001-1.</b>	<b>MOTIONS FOR RELIEF FROM STAY AND MOTIONS TO EXTEND OR IMPOSE THE STAY.....</b>	<b>30</b>
(a)	Relief from Stay or Co-Debtor Stay.....	30
(1)	Contents of Motion .....	30

(2)	Waiver of 30-Day Hearing Requirement .....	31
(3)	Notice and Disposition.....	31
(A)	Chapters 7, 12, and 13.....	31
(B)	Chapter 11 .....	31
(4)	Sample Form .....	32
(b)	Extend or Impose the Stay .....	32
(1)	Motion Filed 10 Days or Less after Petition Date.....	32
(2)	Motion Filed More than 10 Days after Petition Date.....	32
<b>B-4001-2.</b>	<b>MOTIONS TO USE CASH COLLATERAL AND TO OBTAIN CREDIT ....</b>	<b>33</b>
(a)	Contents of Motion to Use Cash Collateral .....	33
(b)	Other Provisions to Be Disclosed .....	33
(1)	Cross-Collateralization of Pre-Petition Debt .....	33
(2)	Professional Fee Provisions .....	33
(3)	Priming of Existing Liens .....	33
(4)	Loan Documentation Costs .....	33
(5)	Plan Restrictions .....	33
(c)	Summary of Essential Terms .....	34
(d)	Interim Relief .....	34
<b>B-4001-3.</b>	<b>OBTAINING CREDIT IN CHAPTER 13 CASES.....</b>	<b>34</b>
(a)	Dollar Limits .....	34
(1)	One Thousand Dollars (\$1,000.00) or Less .....	34
(2)	Greater than One Thousand Dollars (\$1,000.00).....	34
(b)	Request Directed to Trustee.....	34
(c)	Filing Approved Request with the Court .....	35
(d)	Motion Directed to Court.....	35
<b>B-4001-4.</b>	<b>MOTIONS TO MODIFY SECURED DEBT: MORTGAGES .....</b>	<b>35</b>
<b>B-4002-1.</b>	<b>THE DEBTOR’S DUTIES .....</b>	<b>36</b>
(a)	Notice to Other Tribunals.....	36
(1)	Notice in Matters Pending at Time Bankruptcy Case Filed.....	36
(2)	Notice in Matters Commenced After Bankruptcy Case Filing .....	36
(3)	Notice to Other Parties .....	36
(4)	Sample Form Available.....	36
(b)	Notice to Garnishing Creditor and Garnishee Defendants.....	36
(c)	Notice to Employer .....	36
(d)	Production of Business Records .....	37
(e)	Additional Documents upon Request.....	37
<b>B-4003-2.</b>	<b>LIEN AVOIDANCE MOTIONS UNDER §522.....</b>	<b>37</b>
(a)	Requirements.....	37

(b)	Service, Notice, and Filing.....	37
(c)	Orders.....	38
<b>B-4003-3.</b>	<b>AVOIDING UNSECURED MORTGAGES IN CHAPTER 13 CASES.....</b>	<b>38</b>
(a)	Adversary Proceeding Required .....	38
(b)	Proposed Judgment .....	38
<b>B-4004-1.</b>	<b>DISCHARGE IN INDIVIDUAL CHAPTER 12 AND CHAPTER 13 CASES.....</b>	<b>38</b>
(a)	Trustee’s Notice of Completion.....	38
(b)	The Debtor’s Required Pleadings .....	38
(c)	Service and Notice .....	38
(d)	Closing and Reopening .....	39
(e)	Request for Hardship Discharge .....	39
<b>B-4004-2.</b>	<b>OBTAINING DISCHARGE AFTER CASE CLOSED FOR FAILURE TO FILE FINANCIAL MANAGEMENT REPORT .....</b>	<b>39</b>
<b>B-4004-3.</b>	<b>MODIFICATION OF DEADLINE FOR OBJECTIONS TO DISCHARGE .</b>	<b>39</b>
(a)	Case Dismissed and Reinstated.....	39
(b)	Notice of New Deadline.....	40
<b>B-4007-1.</b>	<b>MODIFICATION OF DEADLINE FOR OBJECTING TO DISCHARGEABILITY OF A DEBT .....</b>	<b>40</b>
(a)	Case Dismissed and Reinstated.....	40
(b)	Notice of New Deadline.....	40
<b>B-4008-1.</b>	<b>REAFFIRMATION .....</b>	<b>40</b>
(a)	Official Bankruptcy Forms Required.....	40
(b)	The Debtor’s Appearance Required.....	40
(c)	Duties of the Debtor’s Counsel .....	40
<b>B-5005-1.</b>	<b>FILING OF DOCUMENTS: GENERAL REQUIREMENTS .....</b>	<b>41</b>
(a)	Method of Filing .....	41
(b)	Form .....	41
(1)	Legibility .....	41
(2)	Caption: Official Forms .....	41
(3)	Signature .....	41
(c)	Filing Non-Electronically.....	41
(1)	Over the Counter .....	41
(2)	Proof of Identification for Initial Pleadings .....	41
(3)	By Mail .....	42
(4)	Failure to Provide Copy or Self-Addressed, Stamped Envelope .....	42
<b>B-5005-3.</b>	<b>SIZE OF PAPERS .....</b>	<b>42</b>
<b>B-5005-4.</b>	<b>ELECTRONIC FILING.....</b>	<b>42</b>



<b>B-5011-1.</b>	<b>WITHDRAWAL OF REFERENCE .....</b>	<b>42</b>
(a)	Form of Request; Place of Filing .....	42
(b)	Recommendation by Bankruptcy Court.....	42
(c)	Stay.....	43
(d)	Designation of Record.....	43
(e)	Responses to Motions to Withdraw Reference; Reply .....	43
(f)	Transmittal of Record to District Court .....	43
<b>B-5071-1.</b>	<b>CONTINUANCES .....</b>	<b>43</b>
<b>B-5080-3.</b>	<b>DEFERRAL OF FILING FEES DUE FROM TRUSTEE.....</b>	<b>43</b>
<b>B-6004-1.</b>	<b>SALE OF ASSETS OUTSIDE THE ORDINARY COURSE PURSUANT TO 11 U.S.C. §363: GENERALLY .....</b>	<b>44</b>
(a)	Applicability of Local Rule.....	44
(b)	Employment and Compensation of Professionals .....	44
(c)	Sale of Co-Owned Property .....	44
(d)	Procedure; Contents of Motion; Notice .....	44
<b>B-6004-2.</b>	<b>PRIVATE SALE .....</b>	<b>44</b>
(a)	“Private Sale” Defined .....	44
(b)	Contents of Motion: All Chapters .....	44
(c)	Contents of Motion: Additional Requirements in Chapter 11 Cases .....	45
(d)	Notice .....	45
(1)	Distribution; Contents; Certificate of Service Generally .....	45
(2)	Chapter 7, 12, and 13 Cases .....	46
(3)	Chapter 11 Case .....	46
(e)	Report of Sale.....	46
<b>B-6004-3.</b>	<b>PRIVATE SALE BY AGENT.....</b>	<b>46</b>
(a)	“Private Sale by Agent” Defined .....	46
(b)	Contents of Motion .....	46
(c)	Combining Retention and Compensation of Agent with Motion .....	47
(d)	Notice .....	47
(e)	Report of Sale.....	47
<b>B-6004-4.</b>	<b>SALE BY AUCTION.....</b>	<b>47</b>
(a)	“Sale by Auction” Defined.....	47
(b)	Contents of Motion .....	47
(c)	Notice .....	48
(d)	Report of Sale.....	48
<b>B-6004-5.</b>	<b>SALE WITH PROSPECTIVE PURCHASER IDENTIFIED BUT BIDS CONSIDERED .....</b>	<b>48</b>
(a)	“Sale with Prospective Purchaser Identified but Bids Considered” Defined.....	48

(b)	Contents of Motion to Sell with Bid Procedures .....	48
(c)	Notice of Motion to Sell and to Approve Bid Procedures .....	49
(d)	Order Establishing Bid Procedures and Notice of Sale Hearing.....	50
(e)	Order Approving Sale .....	50
(1)	Sale to Prospective Purchaser .....	50
(2)	Sale to Different Entity: No Change in Terms Except Price .....	50
(3)	Sale to Different Entity with Change in Terms.....	50
(f)	Report of Sale.....	50
<b>B-6005-1.</b>	<b>LIQUIDATORS/AUCTIONEERS AND APPRAISERS .....</b>	<b>51</b>
(a)	Bond Required .....	51
(b)	Remittance of Gross Proceeds .....	51
(c)	Validity of Checks.....	51
(d)	Liquidator/Auctioneer Purchasing at Sale .....	51
<b>B-6006-1.</b>	<b>ASSUMPTION, REJECTION, OR ASSIGNMENT OF EXECUTORY CONTRACTS OR UNEXPIRED LEASES: NOTICE .....</b>	<b>51</b>
(a)	Assumption, Rejection, or Assignment.....	51
(b)	Compelling Assumption or Rejection.....	51
<b>B-6007-1.</b>	<b>ABANDONMENT OF PROPERTY .....</b>	<b>52</b>
(a)	Notice Procedure in Chapter 7 Cases.....	52
(1)	Abandonment by Trustee by Filing Report of No Distribution .....	52
(A)	Language in Meeting of Creditors Notice.....	52
(i)	Report of No Distribution as Notice of Proposed Abandonment.....	52
(ii)	Obtaining Notice of Report of No Distribution.....	52
(B)	Request for Notice.....	52
(2)	Notation of Abandonment on Docket .....	52
(3)	Trustee’s Notice of Possible Assets and Abandonment.....	53
(4)	Trustee’s Abandonment After Report of Possible Assets.....	53
(5)	Motion to Abandon Filed by Party in Interest .....	53
(b)	Notice Procedure in All Other Chapters .....	53
<b>B-6008-1.</b>	<b>REDEMPTION OF PROPERTY.....</b>	<b>53</b>
(a)	Service.....	53
(b)	Filing and Certificate of Service .....	53
<b>B-7001-1.</b>	<b>ADVERSARY PROCEEDING COVER SHEET.....</b>	<b>54</b>
(a)	Cover Sheet Required .....	54
(b)	Addresses for Defendants Required.....	54
<b>B-7001-2.</b>	<b>COMPLAINTS TO OBTAIN APPROVAL OF SALE OF CO-OWNED PROPERTY .....</b>	<b>54</b>

(a)	Adversary Required .....	54
(b)	Relief Requested .....	54
(c)	Motion to Sell Required .....	54
(d)	Adversary Proceeding Excused .....	54
<b>B-7005-2.</b>	<b>FILING OF DISCOVERY MATERIALS.....</b>	<b>54</b>
(a)	Relevant to Certain Motions .....	55
(b)	For Anticipated Use at Trial.....	55
(c)	Materials Necessary for Appeal.....	55
<b>B-7006-1.</b>	<b>EXTENSIONS OF TIME.....</b>	<b>55</b>
(a)	Initial Extensions.....	55
(b)	Other Extensions .....	55
<b>B-7007-1.</b>	<b>MOTION PRACTICE IN ADVERSARY PROCEEDINGS.....</b>	<b>55</b>
(a)	Motions to Dismiss under Fed.R.Civ.P. 12(b)(6) .....	55
(1)	Movant’s Obligations.....	55
(2)	Non-Movant’s Obligations .....	56
(3)	Reply .....	56
(b)	Motions Other than under Fed.R.Civ.P. 12(b)(6) .....	56
(c)	Motions for Summary Judgment.....	56
(d)	Motions to Dismiss Actions Concerning Denial of Discharge .....	56
<b>B-7016-1.</b>	<b>PRETRIAL PROCEDURES IN ADVERSARY PROCEEDINGS.....</b>	<b>56</b>
(a)	Use of Pretrial or Pre-Hearing Conferences.....	56
(b)	Applicability of S.D.Ind. L.R. 16-1 .....	56
(c)	Telephonic Pre-Hearing or Pretrial Conference.....	57
<b>B-7026-2.</b>	<b>FORM OF CERTAIN DISCOVERY DOCUMENTS .....</b>	<b>57</b>
(a)	Form of Discovery Requests .....	57
(b)	Form of Discovery Responses .....	57
<b>B-7030-1.</b>	<b>CONDUCT OF DEPOSITIONS.....</b>	<b>57</b>
(a)	Questions About an Asserted Privilege .....	57
(b)	Private Conference Regarding a Pending Question.....	57
(c)	Raising Objections with the Court.....	57
(d)	Scheduling Depositions.....	58
<b>B-7036-1.</b>	<b>REQUESTS FOR ADMISSIONS.....</b>	<b>58</b>
<b>B-7037-1.</b>	<b>DISCOVERY DISPUTES.....</b>	<b>58</b>
(a)	Required Actions Prior to Court Involvement .....	58
(b)	Requirements of Motion to Compel.....	58
(c)	<i>Pro Se</i> Parties .....	58
<b>B-7041-1.</b>	<b>DISMISSAL FOR FAILURE TO PROSECUTE.....</b>	<b>58</b>

<b>B-7041-2.</b>	<b>COMPLAINTS TO DENY OR REVOKE DISCHARGE: DISMISSAL OR SETTLEMENT .....</b>	<b>59</b>
(a)	Contents and Service of Notice of, Motion for, or Stipulation Regarding Voluntary Dismissal of Complaint to Deny or Revoke Discharge.....	59
(b)	Objection to Dismissal .....	59
<b>B-7055-1.</b>	<b>DEFAULT.....</b>	<b>59</b>
(a)	Application for Entry of Default .....	59
(b)	Motions for Default Judgment .....	59
(c)	Certificate of Service.....	60
<b>B-7056-1.</b>	<b>SUMMARY JUDGMENT PROCEDURE .....</b>	<b>60</b>
(a)	Movant’s Obligations.....	60
(b)	Non-Movant’s Obligations .....	60
(c)	Reply .....	60
(d)	Surreply .....	60
(e)	Citations to Supporting Facts.....	60
(f)	Oral Argument or Hearing .....	61
(g)	Notice Requirement for <i>Pro Se</i> Cases.....	61
(h)	Compliance .....	61
<b>B-7065-2.</b>	<b>MOTIONS FOR PRELIMINARY INJUNCTIONS AND TEMPORARY RESTRAINING ORDERS.....</b>	<b>61</b>
(a)	Adversary Proceeding Required .....	61
(b)	Motion for Temporary Restraining Order or for Preliminary Injunction .....	61
(c)	Proposed Order.....	61
<b>B-7067-1.</b>	<b>REGISTRY FUNDS .....</b>	<b>62</b>
(a)	Interpleader and Other Deposit Motions: Contents .....	62
(b)	Fees Charged Against Deposits .....	62
<b>B-7069-1.</b>	<b>EXECUTION/ENFORCEMENT OF JUDGMENTS .....</b>	<b>62</b>
(a)	Availability of Enforcement Remedies.....	62
(b)	Applicability of District Court Rules.....	62
<b>B-8006-1.</b>	<b>RECORD ON APPEAL .....</b>	<b>62</b>
(a)	Designation of Record.....	62
(b)	Failure to Designate Record on Appeal .....	63
<b>B-9006-1.</b>	<b>PROCEDURE FOR OBTAINING SHORTENED AND/OR LIMITED NOTICE OF NON-FIRST DAY MOTIONS .....</b>	<b>63</b>
(a)	General Application .....	63
(b)	Filing Requirements .....	63
(c)	Content of Order Shortening Notice and/or Setting Expedited Hearing.....	63
(d)	Service and Distribution of 9006(c) Request, Underlying Motion, and Order Shortening Notice and/or Setting Expedited Hearing .....	64

(e)	Certificate of Service.....	64
(f)	Motion to Limit Notice .....	64
<b>B-9006-2.</b>	<b>PRESUMPTIVE OBJECTION PERIOD IN CHAPTER 11 CASES.....</b>	<b>64</b>
<b>B-9010-1.</b>	<b>APPEARANCES .....</b>	<b>65</b>
(a)	Appearances: When Required.....	65
(1)	Bankruptcy Cases.....	65
(2)	Adversary Proceedings.....	65
(3)	Removed and Transferred Cases.....	65
(b)	Content of Appearance; Service.....	65
<b>B-9010-2.</b>	<b>SUBSTITUTION AND WITHDRAWAL OF APPEARANCE.....</b>	<b>65</b>
(a)	Substitution .....	65
(b)	Notice of Withdrawal.....	66
(c)	Motion to Withdraw: Requirements.....	66
(d)	Service.....	66
(e)	Effect of Failure to Comply .....	66
(f)	Attorney Status in Court Record After Withdrawal or Substitution.....	66
<b>B-9010-3.</b>	<b>BAR ADMISSION .....</b>	<b>67</b>
<b>B-9013-1.</b>	<b>MOTION PRACTICE; OBJECTIONS TO MOTIONS .....</b>	<b>67</b>
(a)	Separate Motions and Objections.....	67
(b)	Stay Relief or Adequate Protection Motions .....	68
(c)	Motions Where Hearing Scheduled by “Block Scheduling” .....	68
(d)	Content of Objections .....	68
(e)	Duty to Confer .....	68
<b>B-9013-2.</b>	<b>CERTIFICATE OF SERVICE.....</b>	<b>68</b>
(a)	Filing .....	68
(b)	Requirements.....	68
(c)	Failure to Comply .....	68
<b>B-9013-3.</b>	<b>FIRST DAY MOTIONS IN CHAPTER 11 CASES .....</b>	<b>69</b>
(a)	Motions Included .....	69
(b)	Procedure Prior to Filing.....	69
(c)	Procedure upon Filing .....	69
(d)	Service of First Day Motions and Notice.....	69
(e)	Contents of Notice.....	69
(f)	List of Included Motions .....	70
<b>B-9014-1.</b>	<b>APPLICABILITY OF ADVERSARY PROCEEDING RULES TO CONTESTED MATTERS .....</b>	<b>70</b>
<b>B-9015-1.</b>	<b>JURY TRIALS .....</b>	<b>71</b>
(a)	Authorization.....	71

(b)	Applicability of District Court Rules .....	71
(c)	Time for Consent.....	71
<b>B-9016-1.</b>	<b>SUBPOENAS.....</b>	<b>71</b>
<b>B-9019-1.</b>	<b>STIPULATIONS AND SETTLEMENTS .....</b>	<b>71</b>
(a)	Notice .....	71
(1)	When a Hearing Has Been Set.....	71
(2)	Objection Deadline.....	72
(3)	Filing; Certificate of Service.....	72
(b)	Adversary Proceedings.....	72
(1)	Generally .....	72
(2)	Settlements Under Fed.R.Bankr.P. 9019(a) or (b).....	72
(3)	Settlements of Complaints to Deny or Revoke Discharge.....	72
<b>B-9019-2.</b>	<b>ALTERNATIVE DISPUTE RESOLUTION .....</b>	<b>72</b>
(a)	Scope of the Rule .....	72
(b)	Applicability of the Rule.....	73
(c)	Referral to Mediation: Process.....	73
(1)	Motion to Refer to Mediation .....	73
(2)	Court’s Referral to Mediation .....	73
(A)	Court’s Notice of Status Conference to Discuss Mediation.....	73
(B)	Court’s Proposal During Other Scheduled Hearing or Status Conference .....	73
(d)	Jurisdiction and Pendency of Matter: Deadlines and Discovery .....	73
(e)	Selection of the Mediator .....	74
(1)	Selection by Agreement .....	74
(2)	Selection of Candidates by the Court.....	74
(3)	Qualification and Immunity .....	74
(4)	Disqualification .....	74
(5)	Affidavit.....	74
(6)	Replacement of Mediator.....	75
(f)	Compensation.....	75
(g)	The Mediation .....	75
(1)	Control of the Mediation.....	75
(2)	Termination of the Mediation by Mediator.....	75
(3)	Termination of the Mediation by a Party .....	75
(4)	Conclusion of the Mediation.....	76
(5)	Release of Mediator .....	76
(h)	Confidentiality .....	76
(1)	Protection of Information Disclosed at Mediation.....	76

	(2) No Discovery from Mediator .....	76
	(3) Protection of Proprietary Information .....	77
	(4) Preservation of Privileges .....	77
	(i) Sanctions .....	77
<b>B-9022-1.</b>	<b>NOTICE OF ENTRY OF JUDGMENT .....</b>	<b>77</b>
	(a) Clerk’s Duty to Provide Notice.....	77
	(b) Notice to Electronic Filers .....	77
	(c) Notice to Other Parties .....	77
<b>B-9027-1.</b>	<b>REMOVAL.....</b>	<b>77</b>
	(a) Claim or Cause of Action Filed or Pending in a State Court Within the Jurisdiction of the Southern District of Indiana .....	77
	(b) Claim or Cause of Action Filed or Pending in the District Court for the Southern District of Indiana and the Bankruptcy Case Is Pending in This District.....	78
	(c) Court Review of Removal.....	78
<b>B-9029-1.</b>	<b>LOCAL RULES: GENERAL .....</b>	<b>78</b>
	(a) Title and Citation.....	78
	(b) Effective Date.....	78
	(c) Scope of Rules .....	78
	(d) Relationship to Prior Rules; Actions Pending on Effective Date .....	78
	(e) Modification or Suspension of Rules.....	78
	(f) Conflicts Between S.D.Ind. L.R., Local, and National Bankruptcy Rules .....	78
<b>B-9037-1.</b>	<b>PRIVACY PROTECTION FOR FILINGS MADE WITH THE COURT .....</b>	<b>79</b>
	(a) Proper CM/ECF Events for Addressing Unredacted Personal Identifiers .....	79
	(b) No Notice or Hearing Required .....	79
	(c) No Fee for Motion for Protective Order .....	79
<b>B-9070-1.</b>	<b>DISPOSITION OF EXHIBITS.....</b>	<b>79</b>
	(a) Custody During Pendency of Action .....	79
	(b) Claiming Items After Disposition of Action.....	79
	(c) Procedure for Claiming Items .....	79
	(d) Failure to Claim Items.....	80
	(e) Withdrawal of Original Records and Papers.....	80

## **INTRODUCTION TO RULES EFFECTIVE JUNE 1, 2010**

This newest version of the local rules focuses on capturing the procedural changes that have evolved since the arrival of electronic filing and BAPCPA. Many of the current general orders become new rules or are incorporated into existing rules. The rules join the Court's Procedures Manual and its ECF Administrative Policies and Procedures Manual as the third source of guidance on how bankruptcy cases and proceedings are handled.

The rules follow the national numbering system for local rules, which in turn closely parallels the numbering system for the Federal Rules of Bankruptcy Procedure. The rules are accompanied by an expanded table of contents, to make searching for a specific topic simpler.

*The Introductions to Amendments for changes made prior to 2016 have been deleted to save space. Contact the United States Bankruptcy Clerk to obtain those Introductions.*

## **INTRODUCTION TO AMENDMENTS EFFECTIVE FEBRUARY 29, 2016**

The amendments effective February 29, 2016, clarify the proper way to give notice of the bankruptcy filing to a state court or other tribunal. Actual filing in that other forum is required; it is not appropriate to list the state court or tribunal as a creditor on the schedules, as the Court is only required to give notice of the filing to actual creditors, and state court staff have complained about their inability to link a notice of the meeting of creditors to a state court matter. The amendments also add a new rule requiring specific information in any motion to modify a mortgage. The Court has also decided to restrict viewing access to pay advices, because of persistent problems with the disclosure of personal identifiers. Finally, the amendments supplement the December 1 clarification on periodic payment in Chapter 11 cases other than by draw on a retainer, by matching the permissible terms for such a process to the limits set on retainer draw.

## **INTRODUCTION TO AMENDMENTS EFFECTIVE AUGUST 29, 2016**

The major change resulting from the amendments effective August 29, 2016, is the elimination of the "order in no asset case" and replacement with a streamlined process for abandonment in no asset Chapter 7 cases. The revisions also shift responsibility for noticing an application to employ in Chapter 11 cases onto the applicant. Rules on motions to sell were modified slightly, to require disclosure of liens and to clarify the process for seeking a sale with a designated purchaser but consideration of higher bids. Other changes are for clarity.

## **INTRODUCTION TO AMENDMENTS EFFECTIVE DECEMBER 1, 2016**

These amendments primarily eliminate local rules which have been replaced by national rules requiring parties to indicate their consent to the Bankruptcy Judge's entry of final judgment. Edits also updated the rule on auctioneers, primarily as to bond coverage, and also require highlighting of amendments to initial case documents, to make it easier for the reader to identify what has changed.

## **INTRODUCTION TO AMENDMENTS EFFECTIVE DECEMBER 1, 2017**

These amendments change the local rules to establish a local Chapter 13 plan form, pursuant to new Fed.R.Bankr.P. 3015.1. Other edits clean up rule language concerning the Chapter 13 confirmation



process to better conform with actual practice, and for consistency with the new plan form. Outside the Chapter 13 area, rules edits establish a standard extension of time for objections to discharge and dischargeability when the meeting of creditors is not noticed timely or when the case gets dismissed and then reinstated while the deadline period was running. The local rules concerning attorney appearances and withdrawals are completely overhauled. Other minor edits clarify the process for withdrawing a proof of claim; for sales of co-owned property; and for designating the record on appeal or withdrawal of the reference.

## **INTRODUCTION TO AMENDMENTS EFFECTIVE DECEMBER 1, 2018**

These amendments capture the first half of a comprehensive style overhaul of the local rules, which covers the rules from 1000-1 through most of the 4000 series. Most edits are for uniformity and clarity, and are not substantive. However, the edits do make changes required by edits to Fed.R.Bankr.P. 3002.1 and 5005. New definitions have been added to 1001-1. New 1008-1 establishes the requirement of verifying the original and any amended creditor list. Rule 1010-2 on involuntary petitions commenced by pro se parties has been overhauled. Rule 2081-2 on prepackaged Chapter 11 cases has been simplified. The process for tabulating ballots in Chapter 11 cases has been spelled out more fully in 3018-1. Other, minor amendments capture actual practice.

## **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 an 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 with 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);
- (2) if the Debtor is an individual, a Statement of Social Security Number (Official Form 121);
- (3) the appropriate filing fee, an Application to Pay Filing Fee in Installments (Official Form 103A) or, if a Chapter 7, an application requesting waiver of the filing fee (Official Form 103B);
- (4) uploaded creditor information necessary to provide proper notice to all scheduled creditors or, if filed non-electronically, the CD, diskette, DVD, flash drive, or other acceptable medium required by S.D.Ind. B-1007-1(b); and
- (5) in a Chapter 11 case, the list of the twenty largest unsecured creditors and a list of creditors who have or claim to have a secured claim.

(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.

(d) Filing a Case Non-Electronically

For cases filed non-electronically, the filing party shall comply with the filing requirements in S.D.Ind. B-5005-1(c).

(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.

(d) Installment Fees in Chapter 13 Cases

Installment fees authorized in a Chapter 13 case shall be paid directly by the Debtor to the office of the Clerk in the division where the case is pending and not through the Chapter 13 plan.

(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 a 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, 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 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;
- (B) be verified and signed by the Debtor under penalty of perjury;
- (C) note the information that has changed in the document, either by highlighting or description;
- (D) include all information from the original document that remains accurate; and
- (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, the 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 the 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:

(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 (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:

- (A) schedules, statements of financial affairs, and amendments thereto;
- (B) in Chapter 11 cases, plans and disclosure statements and objections or other pleadings related thereto, and ballot reports;
- (C) trustee final reports and accounts and related notices; and
- (D) motions to dismiss.

(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-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, 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, 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.

### **B-1017-3. 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 Court from which it was removed.

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

(a) Schedule of Post-Petition Debts

The schedule of post-petition debts required by Fed.R.Bankr.P. 1019 shall comply with the requirements of S.D.Ind. B-1007-1(a).

(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;

- (2) instruct recipients to file pleadings with the Bankruptcy Clerk and provide the correct address of the division of the Bankruptcy Clerk's Office where pleadings should be delivered; and
- (3) be docketed separately unless included in another pleading.

(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, 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) Notice 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, 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 under 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: NOTICE**

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:

- (1) determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;
- (2) approve a disclosure statement submitted on an approved official form; or
- (3) conditionally approve a disclosure statement subject to final approval at a hearing where the Court will also consider confirmation of the proposed plan,

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 disclosure 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, 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:

- (A) a description of the property as to which stay relief is sought;
- (B) the amount of principal and interest due as of the date of the motion;
- (C) documents upon which the movant relies to establish its lien or security interest, or incorporate by reference the movant's proof of claim;
- (D) evidence of perfection of the movant's lien or security interest (or incorporate by reference the movant's proof of claim if documentation attached);
- (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

- (A) Notwithstanding Fed.R.Bankr.P. 9006(a)(1)(c), and as permitted by Fed.R.Bankr.P. 9006(c), a motion to extend or impose the stay shall be subject to this subsection even if the tenth day after the petition date falls on a Saturday, Sunday, or legal holiday.
- (B) The movant shall contact the courtroom deputy for the Judge assigned to the case and obtain a hearing date.
- (C) The movant shall send notice of the motion and the hearing to those creditors as to whom it is proposed that the stay be imposed or extended.
- (D) The movant shall file a Certificate of Service on or before the hearing date.
- (E) Debtor's attendance at the hearing may be required, even if no objection is filed.

## **B-4001-2. MOTIONS TO USE CASH COLLATERAL AND TO OBTAIN CREDIT**

(a) Contents of Motion to Use Cash Collateral

In addition to the requirements of Fed.R.Bankr.P. 4001(b)(1)(B), motions to use cash collateral shall also comply with the requirements of Fed.R.Bankr.P. 4001(c)(1)(B) unless otherwise directed by the Court.

(b) Other Provisions to Be Disclosed

In addition to the provisions listed in Fed.R.Bankr.P. 4001(b)(1)(B) and (c)(1)(B), any motion to use cash collateral or motion to obtain credit (collectively “Financing Motions”) must also disclose as a “material provision” any provision of the type indicated below:

(1) Cross-Collateralization of Pre-Petition Debt

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

(2) Professional Fee Provisions

Provisions that provide disparate treatment for the professionals retained by a creditors’ committee from that provided for the professionals retained by the Debtor with respect to a professional fee carve-out (payment from a secured creditor’s collateral);

(3) Priming of Existing Liens

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

(4) Loan Documentation Costs

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

(5) Plan Restrictions

Provisions that limit, restrict, or otherwise affect the terms of a proposed plan of reorganization.



(c) Summary of Essential Terms

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

(d) Interim Relief

When Financing Motions are filed as First Day Motions, the Court may grant interim relief pending review by the interested parties of the proposed arrangements. Such interim relief is intended to avoid immediate and irreparable harm to the estate pending a final hearing. Absent extraordinary circumstances, the Court may not enter interim orders that include any of the provisions identified in subparagraph (b) above, or any provision listed in Fed.R.Bankr.P. 4001(c)(1)(B)(ii)-(xi).

### **B-4001-3. OBTAINING CREDIT IN CHAPTER 13 CASES**

(a) Dollar Limits

(1) One Thousand Dollars (\$1,000.00) or Less

The Debtor may incur non-emergency consumer debt up to one thousand dollars (\$1,000.00), including the refinancing of real property debt, without written approval of the trustee or order of the Court.

(2) Greater than One Thousand Dollars (\$1,000.00)

The Debtor must seek approval of the trustee or an order from the Court before incurring non-emergency consumer debt of more than one thousand dollars (\$1,000.00) using the procedures set out in subparagraphs (b) through (d) of this rule.

(b) Request Directed to Trustee

If the proposed debt is unsecured or to be secured by personal property, the Debtor shall first request approval to incur debt by written application to the trustee. Such request shall not be filed with the Clerk. If approved by the trustee, the Debtor may incur the debt in accordance with the terms and conditions approved by the trustee. If the trustee has not directed use of a specific form, the application shall include the following information:

- (1) a statement in support of the feasibility of the request;
- (2) a description of the item to be purchased or the collateral affected by the credit to be obtained;
- (3) a description of the interest held by any other entity in any collateral affected by the credit;

- (4) the reasons for which the Debtor has the need for the credit;
- (5) the terms of any financing involved, including the interest rate;
- (6) a description of any method or proposal by which the interest held by any other entity in the collateral affected by the credit may be protected; and
- (7) copies of all documents by which the interest of all entities in the collateral affected by the credit was created or perfected, or, if any of those documents are unavailable, the reason for the unavailability.

(c) Filing Approved Request with the Court

If the Debtor seeks an order from the Court on a request that has been approved by the trustee, the Debtor may file the approved request with the Court and provide an order. If the pleading is filed without documentation showing the trustee's approval, it will be treated as a Motion to Incur Debt filed under subparagraph (d). The trustee's approval can be documented by reference to same within the motion or by attaching a document signed by the trustee.

(d) Motion Directed to Court

If the proposed debt is greater than one thousand dollars (\$1000.00) and is to be secured by real property or if Debtor's request under subparagraph (b) is not approved by the trustee, the Debtor may file a motion to incur such debt. The motion shall contain all of the information required for the request by subparagraph (b) and be served on the trustee. If the new debt will replace an existing obligation secured by the debtor's property, then the motion shall also include the principal loan balance of the original debt, the rate of interest, the amount of any monthly escrow for taxes or insurance, the monthly payment, and the maturity date. The Court shall give the trustee fourteen (14) days' notice of the opportunity to object to the Motion to Incur Debt.

#### **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-4002-1. THE DEBTOR'S DUTIES**

### (a) Notice to Other Tribunals

#### (1) Notice in Matters Pending at Time Bankruptcy Case Filed

Upon the entry of an order for relief in the bankruptcy case, the Debtor shall file written notice in any action in which the Debtor is a party that is pending in another tribunal. That notice shall contain:

- (A) the caption and case number of the non-bankruptcy action;
- (B) the name and case number of the bankruptcy case; and
- (C) the name and contact information of any attorney for the Debtor in the bankruptcy case, if other than the attorney filing the notice.

#### (2) Notice in Matters Commenced After Bankruptcy Case Filing

If an action is commenced subsequent to the date of the order for relief, the Debtor shall file a written notice with that tribunal that contains the information required in subparagraph (a)(1) of this rule.

#### (3) Notice to Other Parties

The Debtor shall deliver a copy of the notice filed with the tribunal to the parties and counsel involved in that action.

#### (4) Sample Form Available

A sample notice is available on the Court's website at [www.insb.uscourts.gov](http://www.insb.uscourts.gov).

### (b) Notice to Garnishing Creditor and Garnishee Defendants

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

### (c) Notice to Employer

If the Debtor has authorized deductions from the Debtor's employment compensation in repayment of an unsecured claim or if the Debtor's employment compensation is subject to an involuntary garnishment, then upon the entry of an order for relief, the Debtor shall notify the employer and the entity authorized to receive any voluntary deduction that such deduction shall cease as of the date of the entry of the order for relief. If the employer or the entity authorized to receive a voluntary deduction is notified orally, the Debtor shall send to the employer, within three (3) days thereafter, a written notice which includes copies of the petition and that portion of the schedules listing the creditor receiving the deductions. If the Debtor has authorized the deduction from the Debtor's compensation for repayment of a secured claim which the Debtor intends to reaffirm, or the withholding of income governed by 11 U.S.C. §362(b)(19), or if the Debtor's compensation is subject to

garnishment for a debt not dischargeable pursuant to 11 U.S.C. §523(a)(5), then the Debtor may elect not to provide the notice required by this subsection.

(d) Production of Business Records

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

(e) Additional Documents upon Request

In addition to the documents required by Fed.R.Bankr.P. 4002, the Debtor shall produce such other documents as the trustee or UST requests.

## **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:

- (1) the value of the subject collateral;
- (2) the amount, listed separately, of all mortgages and other liens on the property which the Debtor will not seek to avoid, and a list of the liens on the property which the Debtor will seek to avoid;
- (3) the amount of the exemption to which the Debtor would be entitled but for the lien;
- (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 set 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 hearings.

## **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.

(b) Form

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

(1) Legibility

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

(2) Caption: Official Forms

The caption and form of all petitions, pleadings, schedules, and other documents shall be in substantial compliance with the Federal Rules of Bankruptcy Procedure, Official Forms, or local rules for the Southern District of Indiana. Each document or set of documents filed shall bear the name of the Debtor and chapter of the case. Each document other than the original petition shall also have the case number.

(3) Signature

Every pleading, whether filed electronically or on paper, shall be signed. Any pleading lacking a signature shall be stricken from the record, if not corrected after notice to the filer.

(c) Filing Non-Electronically

(1) Over the Counter

A party filing a document over the counter shall provide a signed original and a copy (or two originals). The file-marked original will be returned to the filer, and shall be retained by the filer as required by the Court's Electronic Case Filing Administrative Policies and Procedures Manual available on the Court's website.

(2) Proof of Identification for Initial Pleadings

A *pro se* party filing a voluntary petition, an involuntary petition, or an adversary proceeding over the counter must appear in person and shall be required to provide a valid photo driver's license or other government-issued photo identification before the petition or complaint will be accepted for filing. For *pro se* joint cases



filed under 11 U.S.C. §302, only one spouse need be present. An exception may be granted if the Debtor, creditor, or plaintiff has executed a power of attorney, and the holder of the power of attorney has presented that document and sufficient identification.

(3) By Mail

For documents submitted by mail, the filer shall provide a signed original, a copy (or two originals), and a self-addressed, stamped envelope. A file-marked original will be returned to the filer and shall be retained by the filer as required by the Electronic Case Filing Administrative Policies and Procedures Manual, available on the Court's website.

(4) Failure to Provide Copy or Self-Addressed, Stamped Envelope

A party who fails to provide a copy (or second original) or a self-addressed, stamped envelope for pleadings submitted by mail shall be presumed to have retained an original as required by the Electronic Case Filing Administrative Policies and Procedures Manual (available on the Court's website). The Clerk shall not return the original to the filer. Documents that are not returned to the filer will be discarded by the Clerk after scanning.

### **B-5005-3. SIZE OF PAPERS**

Papers submitted for filing shall be no larger than 8-1/2" by 11" in size.

### **B-5005-4. ELECTRONIC FILING**

The Court has adopted Electronic Case Filing Administrative Policies and Procedures to permit filing, signing, service, and verification of documents by electronic means. These Administrative Policies and Procedures, as described in the Manual available on the Court's website, are incorporated into this local rule.

### **B-5011-1. WITHDRAWAL OF REFERENCE**

(a) Form of Request; Place of Filing

A motion for withdrawal of a case or proceeding shall be filed in the Bankruptcy Court. In addition, all such motions shall clearly and conspicuously state that "relief is sought from a U.S. District Judge."

(b) Recommendation by Bankruptcy Court

The Bankruptcy Court, on its own motion, may recommend to the District Court that a case or proceeding be withdrawn under 28 U.S.C. §157(d). Any such recommendation must be served on the parties to the case or proceeding and forwarded to the Clerk of the District Court for assignment to and resolution by a District Judge.

(c) Stay

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

(d) Designation of Record

The moving party shall serve and file, together with the motion to withdraw the reference, a designation of those portions of the record believed to be necessary or pertinent to the District Court's consideration of the motion. Within fourteen (14) days after service of such designation of record, any other party may serve and file a designation of additional portions of the record. All designated documents shall be identified by document number and document title as noted on the docket. A marked up copy of the docket or any portion thereof will not be accepted as a proper designation. If the record designated by any party includes a transcript of any proceeding, that party shall file a written request for the transcript and include with the request the fee for preparation of the transcript. The docketed electronic file of any recording made at the hearing is not the official record and may not be included in the designation of the record.

(e) Responses to Motions to Withdraw Reference; Reply

Opposing parties shall file with the Clerk, and serve all parties to the matter, their written responses to the motion within fourteen (14) days after being served a copy of the motion. The moving party may serve and file a reply within fourteen (14) days after service of a response.

(f) Transmittal of Record to District Court

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

## **B-5071-1. CONTINUANCES**

Unless otherwise ordered by the Court, all requests to continue a scheduled hearing, conference, or trial must be made by written motion. The motion to continue shall indicate whether the opposing party consents to the continuance. If the movant has been unable to reach the opposing party, the motion shall recite what efforts were made to contact the opposing party.

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

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

## **B-6004-1. SALE OF ASSETS OUTSIDE THE ORDINARY COURSE PURSUANT TO 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, pursuant to 11 U.S.C. §363 (the “Motion to Sell”), including motions filed by a trustee or a Debtor. This rule, and B-6004-2 through B-6004-5, do not apply to sales proposed as part of a Chapter 11 plan.

(b) Employment and Compensation of Professionals

Except as otherwise permitted by Local Rule 6004-3, 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 Local Rule 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

Before filing a Motion to Sell co-owned property, the party proposing the sale shall comply with Local Rule B-7001-2.

(d) Procedure; Contents of Motion; Notice

Unless otherwise ordered, any Motion to Sell shall follow the procedures outlined in and provide the information required by Local Rules B-6004-2 through B-6004-5, depending on the type of sale.

## **B-6004-2. PRIVATE SALE**

(a) “Private Sale” Defined

For the purpose of this rule, a “private sale” is defined as a sale to a specific entity on terms that are fixed at the time the Motion to Sell is filed, with no consideration of competing bids contemplated.

(b) Contents of Motion: All Chapters

Any Motion to Sell by private sale shall identify:

- (1) the property to be sold;
- (2) the prospective purchaser (“Prospective Purchaser”);
- (3) the sales price and an estimate of the net proceeds to be received by the estate (including a deduction for any exemption);

- (4) a brief summary of all material contingencies to the sale, together with a copy of the agreement, if available;
- (5) a description of the manner in which the property was marketed for sale, and a description of any other offer to purchase;
- (6) a description of any known relationship between the Prospective Purchaser and its insiders and the Debtor and its insiders or the trustee;
- (7) a statement setting forth any relationship or connection the trustee or the Debtor (including its insiders) will have with the Prospective Purchaser or its insiders after the consummation of the sale, assuming it is approved;
- (8) a disclosure if the property to be sold contains personally identifiable information and, if so, the measures that will be taken to comply with 11 U.S.C. §363(b)(1); and
- (9) the names of the lien or interest holders to the extent such names are known, if the proposed sale seeks to sell property free and clear of liens or other interests pursuant to 11 U.S.C. § 363(f).

(c) Contents of Motion: Additional Requirements in Chapter 11 Cases

Any Motion to Sell by private sale in a Chapter 11 case that proposes the sale of all or substantially all of the Debtor's assets shall include, in addition to the requirements in subparagraph (b), the following:

- (1) if schedules have not been filed by the Debtor, a summary of the Debtor's debt structure, including the amount of the Debtor's secured debt, priority claims, and general unsecured claims; and
- (2) if a creditors' committee, or its equivalent, existed pre-petition, the identity of the members of the committee and the companies with which they are affiliated and the identity of any counsel.

(d) Notice

(1) Distribution; Contents; Certificate of Service Generally

Unless otherwise ordered by the Court, the movant shall distribute notice of any hearing or of any deadline to object to a Motion to Sell, as determined by subparagraphs (2) and (3) below. The notice shall contain all of the information required by subparagraph (b) and (c) of this rule. The movant shall file a certificate of service that complies with S.D.Ind. B-9013-2. The motion, notice, and certificate of service may be combined into one document. A sample combined Motion to Sell, Notice, and Certificate of Service is available on the Court's website.

(2) Chapter 7, 12, and 13 Cases

Unless the Court by separate order shortens the notice period, in a Chapter 7, Chapter 12, or Chapter 13 case, the movant shall distribute notice that provides twenty-one (21) days after the date of service for objections to be filed.

(3) Chapter 11 Case

In a Chapter 11 case, the movant shall contact the courtroom deputy to obtain direction as to whether the Court desires a notice with opportunity to object to the Motion to Sell or a notice of the hearing date. The movant shall distribute the notice and file a certificate of service.

(e) Report of Sale

No later than fourteen (14) days after a private sale has been completed, the movant shall file a report of sale pursuant to Fed.R.Bankr.P. 6004(f)(1).

**B-6004-3. PRIVATE SALE BY AGENT**

(a) “Private Sale by Agent” Defined

A “private sale by agent” is defined as the sale by the trustee or Debtor of estate property other than real estate using an agent that is in the business of selling such property in a “commercially reasonable manner” that would satisfy Indiana Code §26-1-9.1-610. At the time approval of the sale is sought, the trustee or Debtor has not identified the purchaser or the exact purchase price.

(b) Contents of Motion

Any Motion to Sell by private sale using an agent shall identify:

- (1) the property to be sold;
- (2) information to support the determination that the agent is in the business of selling similar property in a commercially reasonable manner;
- (3) the amount of any exemption claimed in the property;
- (4) a disclosure if the property to be sold contains personally identifiable information and, if so, the measures that will be taken to comply with 11 U.S.C. §363(b)(1); and
- (5) the names of the lien or interest holders to the extent such names are known, if the proposed sale seeks to sell property free and clear of liens or other interests pursuant to 11 U.S.C. § 363(f).

(c) Combining Retention and Compensation of Agent with Motion

The trustee or Debtor may combine a request to retain and to compensate the agent with the Motion to Sell. Any such request shall provide the information required by Fed.R.Bankr.P. 2014, describe how compensation will be determined, and estimate the fees to be paid.

(d) Notice

Unless the Court by separate order shortens the notice period, the movant shall distribute notice that provides twenty-one (21) days after the date of service for objections to be filed. The notice shall include a description of the property to be sold; the name of and contact information for the agent; the proposed terms of compensation for the agent, if proposed retention has not been noticed separately; and the location of the property prior to sale. The movant shall also file a certificate of service that complies with S.D.Ind. B-9013-2. The motion, notice, and certificate of service may be combined into one document. A sample combined Motion to Sell, Notice, and Certificate of Service is available on the Court's website.

(e) Report of Sale

No later than fourteen (14) days after a private sale by agent has been completed, the movant shall file a report of sale pursuant to Fed.R.Bankr.P. 6004(f)(1). If retention and compensation of the agent were authorized by the order granting the Motion to Sell, pursuant to subparagraph (c), the report of sale shall include the amount of compensation actually paid to the agent.

#### **B-6004-4. SALE BY AUCTION**

(a) "Sale by Auction" Defined

A "sale by auction" is any sale by public auction, with no previously identified initial bidder.

(b) Contents of Motion

Any Motion to Sell by auction shall identify:

- (1) the property to be sold;
- (2) the name of and contact information for the entity conducting the auction;
- (3) the date, time, and place of the sale, if known, or instructions on how that information can be obtained;
- (4) any bid procedures proposed for the sale, even if those bid procedures were previously disclosed in an application to employ an auctioneer;

- (5) a disclosure if the property to be sold contains personally identifiable information and, if so, the measures that will be taken to comply with 11 U.S.C. §363(b)(1); and
- (6) the names of the lien or interest holders to the extent such names are known, if the proposed sale seeks to sell property free and clear of liens or other interests pursuant to 11 U.S.C. § 363(f).

(c) Notice

Unless the Court by separate order shortens the notice period, the movant shall distribute notice that provides twenty-one (21) days after the date of service for objections to be filed. The notice shall provide the information required by subparagraph (b) of this rule. The movant shall also file a certificate of service that complies with S.D.Ind. B-9013-2. The motion, notice, and certificate of service may be combined into one document. A sample combined Motion to Sell, Notice, and Certificate of Service is available on the Court’s website.

(d) Report of Sale

Unless otherwise ordered by the Court, no later than fourteen (14) days after an auction, the auctioneer or the party that filed the application to employ the auctioneer shall file the report pursuant to Fed.R.Bankr.P. 6004(f)(1).

**B-6004-5. SALE WITH PROSPECTIVE PURCHASER IDENTIFIED BUT BIDS CONSIDERED**

(a) “Sale with Prospective Purchaser Identified but Bids Considered” Defined

A “sale with prospective purchaser identified but bids considered” is also known as a “sale with a stalking horse bidder,” and is a proposed sale to a specific entity for a set price, with competitive bids to be considered.

(b) Contents of Motion to Sell with Bid Procedures

Any Motion to Sell to a prospective purchaser but with bids considered shall identify or include:

- (1) the property to be sold;
- (2) the prospective purchaser (“Prospective Purchaser”);
- (3) the sales price and an estimate of the net proceeds to be received by the estate (including a deduction for any exemption);
- (4) a brief summary of all material contingencies to the sale, together with a copy of the agreement, if available;

- (5) the names of the lien or interest holders to the extent such names are known, if the proposed sale seeks to sell property free and clear of liens or other interests pursuant to 11 U.S.C. § 363(f);
  - (6) the executory contracts and leases proposed to be assumed or rejected as part of the sale, if any;
  - (7) a description of the manner in which the property was marketed for sale, and a description of any other offer to purchase;
  - (8) a description of any known relationship between the Prospective Purchaser and its insiders and the Debtor and its insiders or the trustee;
  - (9) a statement setting forth any relationship or connection the trustee or the Debtor (including its insiders) will have with the Prospective Purchaser after the consummation of the sale, assuming it is approved;
  - (10) if a topping fee or break-up fee is proposed to be paid to the Prospective Purchaser if another bidder prevails at the sale, a statement of the conditions under which the topping fee or break-up fee would be payable and the factual basis on which the seller determined the provision was reasonable;
  - (11) the identities of any other entity that expressed to the movant an interest in the purchase of all or a material portion of the assets to be sold within ninety (90) days prior to the filing of the sale motion, the offers made by them (if any), and the nature of the offer;
  - (12) the bid procedures proposed for the sale;
  - (13) a disclosure if the property to be sold contains personally identifiable information and, if so, the measures that will be taken to comply with 11 U.S.C. §363(b)(1); and
  - (14) if the case is pending under Chapter 11, and proposes the sale of all or substantially all of the Debtor's assets, the following:
    - (A) if schedules have not been filed by the Debtor, a summary of the Debtor's debt structure, including the amount of the Debtor's secured debt, priority claims, and general unsecured claims; and
    - (B) if a creditors' committee, or its equivalent, existed pre-petition, the identity of the members of the committee and the companies with which they are affiliated and the identity of any counsel.
- (c) Notice of Motion to Sell and to Approve Bid Procedures

The movant shall prepare, for Court review, a notice of the Motion to Sell and of the proposed bid procedures that contains the information required by subsection (b) of this rule. If the Court directs a notice of the opportunity to object, the notice shall provide twenty-one (21) days after the date of service for objections to be filed, unless the Court by separate order has shortened the notice period. The Court may instead direct the issuance



of a hearing notice and will provide the movant with a hearing date and time and an objection deadline, if any, that shall be included in the notice. Upon distribution of the notice, the movant shall also file a certificate of service that complies with S.D.Ind. B-9013-2.

(d) Order Establishing Bid Procedures and Notice of Sale Hearing

Upon expiration of the objection period or upon conclusion of a hearing on the proposed bid procedures, the movant shall provide the Court with an Order Establishing Bid Procedures and Notice of Sale Hearing. The order shall include the bid procedures; the date, time, and place where bids will be considered; the date, time, and place of the hearing to approve the sale; and the deadline, if any, by which parties must object to the proposed sale. Upon entry of the order, the movant shall make distribution and shall also file a certificate of service that complies with S.D.Ind. B-9013-2.

(e) Order Approving Sale

(1) Sale to Prospective Purchaser

If the Prospective Purchaser prevails at the sale, then the Court shall enter an order approving that sale.

(2) Sale to Different Entity: No Change in Terms Except Price

If a sale pursuant to this rule results in a sale to a party other than the identified Prospective Purchaser, with no change in terms other than the purchase price, then at the hearing on approval of the sale the movant shall identify the successful purchaser and the change in price, and shall make any request for approval of a topping or break-up fee if one was disclosed in the Motion to Sell. The Court shall enter an order approving that sale.

(3) Sale to Different Entity with Change in Terms

If a sale pursuant to this rule results in a sale to a party other than the identified Prospective Purchaser, and the terms of that sale other than price have changed, including but not limited to the proposed assumption or rejection of leases and contracts, then the movant shall identify the successful purchaser and the change in terms and shall make any request for approval of a topping or break-up fee if one was disclosed in the Motion to Sell. The Court shall consider whether the change in terms requires additional notice to parties who may be affected by those changes. If no additional notice is required, the Court shall enter an order approving the sale. If additional notice is required, the Court shall enter the order approving the sale only after such additional notice period.

(f) Report of Sale

No later than fourteen (14) days after a sale pursuant to this rule has been completed, the movant shall file a report of sale pursuant to Fed.R.Bankr.P. 6004(f)(1).

## **B-6005-1. LIQUIDATORS/AUCTIONEERS AND APPRAISERS**

(a) Bond Required

All liquidators/auctioneers retained by a trustee or Debtor in any case who will come into possession or control of the assets or proceeds of assets of an estate shall post a bond with the UST on behalf of the United States of America for the full value of the assets in the possession or control of the liquidator/auctioneer, unless otherwise ordered by the Court.

(b) Remittance of Gross Proceeds

Unless otherwise ordered by the Court, all gross proceeds shall be remitted to the trustee or Debtor within fourteen (14) days of the sale. Upon motion of any party in interest and for good cause shown, the Court may authorize the liquidator/auctioneer to submit net proceeds or to turn over to a secured creditor the net proceeds realized from the sale of that creditor's collateral.

(c) Validity of Checks

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

(d) Liquidator/Auctioneer Purchasing at Sale

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

## **B-6006-1. ASSUMPTION, REJECTION, OR ASSIGNMENT OF EXECUTORY CONTRACTS OR UNEXPIRED LEASES: NOTICE**

(a) Assumption, Rejection, or Assignment

A party seeking to assume, reject, or assign an executory contract or unexpired lease shall give notice of the motion. Notice shall be given to the parties identified in Fed.R.Bankr.P. 6006(c) as well as to any sublessee. The notice shall allow fourteen (14) days from the date of service to file objections. Along with the motion, the moving party shall file a copy of the notice and a certificate of service that complies with S.D.Ind. B-9013-2. The motion, notice, and certificate of service may be combined into one document. A sample combined motion for assumption or rejection or assignment, notice, and certificate of service is available on the Court's website.

(b) Compelling Assumption or Rejection

A party seeking to compel the trustee or the Debtor to assume or reject an executory contract or lease shall give notice of the motion. Notice shall be given to the Debtor, any trustee, counsel of record, the United States Trustee, any other party to the contract or lease, and any sublessee identified on the Debtor's schedules. The notice shall give fourteen (14) days from the date of service to file objections. Along with the motion, the moving party shall file a copy of the notice and certificate of service that complies with

S.D.Ind. B-9013-2. The motion, notice, and certificate of service may be combined into one document. A sample combined motion to compel assumption or rejection, notice, and certificate of service is available on the Court's website.

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

### (a) Notice Procedure in Chapter 7 Cases

#### (1) Abandonment by Trustee by Filing Report of No Distribution

##### (A) Language in Meeting of Creditors Notice

##### (i) Report of No Distribution as Notice of Proposed Abandonment

The §341 meeting notice for a Chapter 7 case shall inform creditors and other parties in interest that the trustee's filing of a report of no distribution shall serve as a notice of proposed abandonment pursuant to Fed.R.Bankr.P. 6007 of all property of the estate listed on the Debtor's schedules ("Listed Property").

##### (ii) Obtaining Notice of Report of No Distribution

The §341 meeting notice shall also provide that no further notice to creditors and other parties in interest is required for the abandonment of any property to become effective fourteen (14) days after the filing of the report of no distribution unless a party in interest, no later than one (1) day before the first date set for the §341 meeting, files a request for further notice of abandonment.

##### (B) Request for Notice

If a party files a request for notice pursuant to subparagraph (a)(1)(A)(ii) of this rule, then if the trustee files a report of no distribution, the Clerk shall give notice of that filing to the requesting party. That notice shall give the requesting party fourteen (14) days from the service of the notice to object to the abandonment. If the request for notice was filed by an attorney participating in the Court's CM/ECF system, then the notice of electronic filing generated at the time the report of no distribution was filed is sufficient.

#### (2) Notation of Abandonment on Docket

Fourteen (14) days after the trustee's filing of a report of no distribution, or if a party has requested notice of the filing of the report of no distribution, then fourteen (14) days after that notice, if no objection to the proposed abandonment is filed, the Clerk shall note on the case docket that pursuant to this local rule all Listed Property is deemed abandoned.

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

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

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

In a Chapter 7 case where the trustee files a notice of abandonment more than one (1) day after filing a notice of possible assets, the trustee shall distribute the notice to parties in interest and all creditors, except as otherwise provided in S.D.Ind. B 2002 1(b). The notice shall allow fourteen (14) days from the date of service to file objections. Along with the notice, the trustee shall file a certificate of service that complies with S.D.Ind. B-9013-2. A sample notice is available on the Court’s website.

(5) Motion to Abandon Filed by Party in Interest

A motion to abandon in a Chapter 7 case filed by any party other than the trustee shall comply with subparagraph (b) of this rule.

(b) Notice Procedure in All Other Chapters

A motion to abandon filed by a party in interest shall be served on the Debtor and parties in interest. Notice of the motion shall be distributed to the Debtor, parties in interest, and all creditors, except as otherwise provided by S.D.Ind. B-2002-1(b). The notice shall allow fourteen (14) days from the date of service to file objections. Along with the motion, the moving party shall file a copy of the notice and a certificate of service that complies with S.D.Ind. B-9013-2. A sample notice is available on the Court’s website.

**B-6008-1. REDEMPTION OF PROPERTY**

(a) Service

The Debtor shall serve the motion and notice thereof on the lien holder, in accordance with Fed.R.Bankr.P. 9014(b) and 7004. The notice shall allow at least twenty-one (21) days from the date of service to file objections. The motion and notice may be combined in one document. A sample combined motion and notice is available on the Court’s website.

(b) Filing and Certificate of Service

Along with the motion, the Debtor must file with the Court a copy of the notice and a certificate of service that complies with S.D.Ind. B-9013-2.

## **B-7001-1. ADVERSARY PROCEEDING COVER SHEET**

(a) Cover Sheet Required

A party filing an adversary proceeding non-electronically shall also file a cover sheet using Official Form 1040. Failure to provide the adversary proceeding cover sheet may result in dismissal of the complaint.

(b) Addresses for Defendants Required

A plaintiff filing an adversary proceeding without counsel is required to provide the addresses of all defendants, to facilitate service of the summons by the Clerk.

## **B-7001-2. COMPLAINTS TO OBTAIN APPROVAL OF SALE OF CO-OWNED PROPERTY**

(a) Adversary Required

Any sale of property co-owned by an entity other than the Debtor requires an adversary proceeding, unless excused by subparagraph (d) of this rule.

(b) Relief Requested

A complaint filed pursuant to Fed.R.Bankr.P. 7001(3) and 11 U.S.C. §363(h) shall request only the authority to sell property co-owned by the estate and another entity or entities. The complaint shall not seek approval of any terms of sale.

(c) Motion to Sell Required

If the Court authorizes the sale of co-owned property, then the party seeking the sale shall file a Motion to Sell pursuant to 11 U.S.C. §363 and Local Rules B-6004-1 through 6004-5, as applicable.

(d) Adversary Proceeding Excused

If the party seeking the sale obtains the consent of all co-owners, then an adversary proceeding is not required and a Motion to Sell can be filed. Co-owner consent shall be shown by affidavit, and all affidavits shall be attached as exhibits to the Motion to Sell.

## **B-7005-2. FILING OF DISCOVERY MATERIALS**

Discovery materials (whether discovery requests, responses, or deposition transcripts) may not be filed with the Court except in the following circumstances:

(a) Relevant to Certain Motions

A party seeking relief under Fed. R. Civ. P. 26(c) or 37, or by way of a pretrial motion that could result in a final order on an issue, must file with the motion those parts of the discovery materials relevant to the motion.

(b) For Anticipated Use at Trial

When a party can reasonably anticipate using discovery materials at trial, the party must file the relevant portions at the start of the trial.

(c) Materials Necessary for Appeal

A party seeking for purposes of appeal to supplement the record with discovery materials not previously filed may do so by stipulation of the parties or by Court order approving the filing.

## **B-7006-1. EXTENSIONS OF TIME**

(a) Initial Extensions

In every adversary proceeding pending in this Court in which a party wishes to obtain an initial extension of time not exceeding twenty-eight (28) days within which to file a responsive pleading or a response to a written request for discovery or request for admission, or response to a motion, the party shall contact counsel for the opposing party, or if the opposing party is not represented by counsel, the opposing party, and solicit that person's agreement to the extension. In the event that person does not object to the extension or cannot with due diligence be reached, the party requesting the extension shall file a notice with the Court reciting the lack of objection to the extension or the fact that the person could not with due diligence be reached. The notice shall state the original due date and the date to which the time is extended. No further filings with the Court nor action by the Court shall be required for the extension.

(b) Other Extensions

Any other request for an extension of time, unless made in open Court or at a telephonic pretrial conference, shall be made by written motion.

## **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 under 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.

(c) Motions for Summary Judgment

Local Rule B-7056-1 sets the procedure for motions for summary judgment in adversary proceedings.

(d) Motions to Dismiss Actions Concerning Denial of Discharge

If the motion to dismiss concerns a proceeding that includes a request to deny discharge, Local Rule B-7041-2 governs as to notice.

## **B-7016-1. PRETRIAL PROCEDURES IN ADVERSARY PROCEEDINGS**

(a) Use of Pretrial or Pre-Hearing Conferences

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

(b) Applicability of S.D.Ind. L.R. 16-1

The Court may determine on its own motion or on the request of any party in interest which provisions of S.D.Ind. L.R. 16-1 shall apply to an adversary proceeding governed by Fed.R.Bankr.P. 7001, et seq.

(c) Telephonic Pre-Hearing or Pretrial Conference

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

**B-7026-2. FORM OF CERTAIN DISCOVERY DOCUMENTS**

(a) Form of Discovery Requests

A party propounding written discovery under Fed.R. Civ.P. 33, 34, or 36 must number each interrogatory or request sequentially and supply the written discovery to the responding party in an editable word processing format.

(b) Form of Discovery Responses

A party responding (by answer or objection) to written discovery must fully quote each interrogatory or request immediately before each response and number each response to correspond with the interrogatory or request.

**B-7030-1. CONDUCT OF DEPOSITIONS**

(a) Questions About an Asserted Privilege

An attorney may question a deponent who refuses to answer a question on the basis of privilege about information related to the appropriateness of the privilege, including whether:

- (1) the privilege applies under the circumstances;
- (2) the privilege has been waived; or
- (3) circumstances exist to overcome a claim of qualified privilege.

(b) Private Conference Regarding a Pending Question

A deponent's attorney may not initiate a private conference with the deponent during the deposition about a pending question except to determine whether to assert a claim of privilege.

(c) Raising Objections with the Court

A party may recess a deposition to submit an objection by phone to a judicial officer if the objection:



- (1) could cause the deposition to be terminated; and
  - (2) can be resolved without submitting written materials to the Court.
- (d) Scheduling Depositions

Attorneys will make a good faith effort to schedule depositions in a manner that avoids scheduling conflicts. Unless agreed by counsel or otherwise ordered by the Court, no deposition will be scheduled on less than fourteen (14) days' notice.

### **B-7036-1. REQUESTS FOR ADMISSIONS**

No party may serve on any other party more than twenty-five (25) requests for admission without leave of Court. Requests relating to the authenticity or genuineness of documents are not subject to this limitation. Any party desiring to serve additional requests for admission must file a written motion setting forth the proposed additional requests for admission and the reason(s) for their use.

### **B-7037-1. DISCOVERY DISPUTES**

- (a) Required Actions Prior to Court Involvement

Prior to involving the Court in any discovery dispute, including disputes involving depositions, counsel must confer in a good faith attempt to resolve the dispute. If any such dispute cannot be resolved in this manner, counsel are encouraged to contact the chambers of the assigned Judge to determine whether the Judge is available to resolve the discovery dispute by way of a telephone conference or other proceeding prior to counsel filing a formal discovery motion. When the dispute involves an objection raised during a deposition that threatens to prevent completion of the deposition, any party may recess the deposition to contact the Judge's chambers.

- (b) Requirements of Motion to Compel

In the event that the discovery dispute is not resolved at the conference, counsel may file a motion to compel or other motion raising the dispute. Any motion raising a discovery dispute must contain a statement setting forth the efforts taken to resolve the dispute, including the date, time, and place of any discovery conference and the names of all participating parties. The Court may deny any motion raising a discovery dispute that does not contain such a statement.

- (c) Pro Se Parties

Discovery disputes involving *pro se* parties are not subject to this rule.

### **B-7041-1. DISMISSAL FOR FAILURE TO PROSECUTE**

The Court may dismiss an adversary proceeding if:

- (a) the plaintiff has not taken any action for six (6) months;

- (b) the Judge assigned to the case or the Clerk has given notice to the parties that the case will be dismissed for failure to prosecute it; and
- (c) at least twenty-eight (28) days have passed since the notice was given.

## **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-7055-1. DEFAULT**

- (a) Application for Entry of Default

A party seeking an entry of default from the Clerk pursuant to Fed.R.Bankr.P. 7055(a) must file an application seeking such relief. Such application must be accompanied by an affidavit indicating that the defendant(s) has failed to plead or otherwise defend and that the defendant(s) is not protected by the Servicemembers Civil Relief Act of 2003 and is not a minor or incompetent person.

- (b) Motions for Default Judgment

Notwithstanding Fed.R.Bankr.P. 7055(b)(1), a party seeking a default judgment shall present a motion to the Judge, rather than to the Clerk, and shall also tender a proposed judgment. If the claim to which no response was made is for a "sum certain," then the motion shall be accompanied by an affidavit showing the principal amount due and owing, not exceeding the amount sought in the claim, plus any interest computed by the movant, with credit for all payments received to date clearly set forth, and any costs pursuant to 28 U.S.C. §1920. If the amount of the claim is not readily ascertainable or if the amount requested in the motion exceeds the amount stated in the claim, the Court may conduct a hearing on the motion for default judgment.

(c) Certificate of Service

Both the application for entry of default and motion for default judgment must be accompanied by a certificate of service that complies with S.D.Ind. B-9013-2.

## **B-7056-1. SUMMARY JUDGMENT PROCEDURE**

(a) Movant's Obligations

A party seeking summary judgment must file and serve a supporting brief and any evidence (that is not already in the record) that the party relies on to support the motion. Unless otherwise ordered by the Court, the supporting brief shall be no more than thirty-five (35) pages. The brief must include a section labeled "Statement of Material Facts Not in Dispute" containing the facts:

- (1) that are potentially determinative of the motion; and
- (2) as to which the movant contends there is no genuine issue.

(b) Non-Movant's Obligations

A party opposing a summary judgment motion must, within twenty-eight (28) days after the movant serves the motion, file and serve a response brief and any evidence (that is not already in the record) that the party relies on to oppose the motion. Unless otherwise ordered by the Court, the response brief shall be no more than thirty-five (35) pages. The response must include a section labeled "Statement of Material Facts in Dispute" that identifies the potentially determinative facts and factual disputes that the party contends demonstrate a dispute of fact precluding summary judgment.

(c) Reply

The movant may file and serve a reply brief within fourteen (14) days after a response is served. Unless otherwise ordered by the Court, the reply brief shall be no more than twenty (20) pages.

(d) Surreply

A party opposing a summary judgment motion may file a surreply brief only if the movant cites new evidence in the reply or objects to the admissibility of the evidence cited in the response. The surreply must be filed and served within seven (7) days after the movant serves the reply and must be limited to the new evidence and objections

(e) Citations to Supporting Facts

A party must support each fact the party asserts in a brief with a citation to a discovery response, a deposition, an affidavit, or other admissible evidence. The evidence must be in the record or in an appendix to the brief. The citation must refer to a page or paragraph number or otherwise similarly specify where the relevant information can be found in the supporting evidence.

(f) Oral Argument or Hearing

Unless a party has requested a hearing, the Court **may** decide summary judgment motions without oral argument or hearing.

(g) Notice Requirement for *Pro Se* Cases

A party seeking summary judgment against an unrepresented party must serve that party with a notice that:

- (1) briefly and plainly states that a fact stated in the moving party's Statement of Material Facts and supported by admissible evidence will be accepted by the Court as true unless the opposing party cites specific admissible evidence contradicting that statement of material fact;
- (2) sets forth the full text of Fed.R.Civ.P. 56 and this rule; and
- (3) otherwise complies with applicable case law regarding required notice to *pro se* litigants opposing summary judgment motions.

(h) Compliance

The Court may, in the interest of justice or for good cause, excuse failure to comply strictly with this rule.

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

(a) Adversary Proceeding Required

Prior to submitting a motion for a temporary restraining order or for a preliminary injunction, an adversary proceeding shall be initiated by the filing of a complaint pursuant to Fed.R.Bankr.P. 7001(7).

(b) Motion for Temporary Restraining Order or for Preliminary Injunction

A motion for a temporary restraining order or for preliminary injunction shall be made by a document separate from the complaint and shall be accompanied by:

- (1) a separate memorandum in support of the motion;
- (2) a declaration or affidavit by the movant or counsel for the movant showing compliance with Fed.R.Bankr.P. 7065 regarding notice to opposing parties; and
- (3) a copy of the filed complaint.

(c) Proposed Order

Along with the motion for temporary restraining order or preliminary injunction, the movant shall upload an appropriate proposed order.

## **B-7067-1. REGISTRY FUNDS**

(a) Interpleader and Other Deposit Motions: Contents

Any action in interpleader or that seeks to deposit funds with the Clerk pursuant to Fed.R.Bankr.P. 7067 shall include the filer's certification that the proposed deposit has been discussed with the Clerk or the Clerk's financial supervisor and that the filer understands the terms and conditions that will be imposed upon the deposit.

(b) Fees Charged Against Deposits

The Clerk or its agents shall deduct from income earned on registry funds invested in interest-bearing accounts or instruments a fee, not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office of the U.S. Courts in accordance with the schedule which shall be published periodically by the Director in the Federal Register. Funds deposited with the Court pursuant to 11 U.S.C. §347(a) are not subject to this rule.

## **B-7069-1. EXECUTION/ENFORCEMENT OF JUDGMENTS**

(a) Availability of Enforcement Remedies

A trustee or Debtor who seeks to enforce a judgment in an adversary proceeding or an order of turnover for the benefit of the bankruptcy estate may pursue collection in the Bankruptcy Court. The order of turnover must be for a sum certain or direct turnover of specific tangible property.

(b) Applicability of District Court Rules

S.D.Ind. L.R. 69-1 (Execution), S.D.Ind. L.R. 69-2 (Interrogatories to Garnishees), and S.D.Ind. L.R. 69-3 (Final Orders in Wage Garnishment) apply to adversary proceedings and to orders directing a Debtor to turn over property. Answers to Interrogatories should not be filed with the Court but should be sent to the trustee or Debtor only.

## **B-8006-1. RECORD ON APPEAL**

(a) Designation of Record

The party filing the designation of items to be included in the record on appeal shall list the items with the Court's document numbers and document title as displayed on the docket. A marked up copy of the docket or any portion thereof will not be accepted as a proper designation. If the record designated by any party includes a transcript of any proceeding, that party shall file a written request for the transcript and include with the request the fee for preparation of the transcript. The docketed electronic file of any recording made at the hearing is not the official record and may not be included in the designation of the record.

(b) Failure to Designate Record on Appeal

If the parties fail to file a timely designation of record with the Clerk pursuant to Fed.R.Bankr.P. 8006, the Clerk shall forward a certification that no designation of record was filed.

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

(a) General Application

This provision shall govern the procedures to be followed for any matter as to which shortened notice or shortened notice and expedited hearing is requested pursuant to Fed.R.Bankr.P. 9006(c) (a “9006(c) Request”) except for any First Day Motion as defined by S.D.Ind. B-9013-3. The 9006(c) Request shall be considered by the Court without a hearing. If granted, the Court will issue an Order Shortening Notice and/or Setting Expedited Hearing.

(b) Filing Requirements

A 9006(c) Request shall be made by separate written motion and shall clearly refer to the non-First Day Motion or the contested matter to which it pertains (the “Underlying Motion”), shall specifically state the nature of the emergency or why the need for expedited treatment, and shall state the time by which the notice is to be shortened or the requested expedited hearing is to be held. The movant shall notify the chambers of the Judge assigned to the case of the filing of the 9006(c) Request and shall upload or otherwise tender an Order Shortening Notice and/or Setting Expedited Hearing as described below.

(c) Content of Order Shortening Notice and/or Setting Expedited Hearing

The Order Shortening Notice and/or Setting Expedited Hearing shall provide:

- (1) the date and time of the hearing, if any;
- (2) a brief description of the relief requested in the Underlying Motion;
- (3) the last date to object to the Underlying Motion, and if no objection date is established, that objections are due immediately before the hearing;
- (4) that any objection must be in writing and filed with the Clerk;
- (5) that a copy of the written objection must also be served upon counsel for the movant, or the movant if not represented by counsel;
- (6) the Clerk’s address for the division in which the case is pending;
- (7) if no hearing was set in the initial notice, a statement that if any objection is filed, a hearing will be scheduled on the Underlying Motion and objections thereto by separate notice; and

(8) if objections are due immediately before the hearing, that telephonic notice of the filing of the objection shall be given to the chambers of the Judge to whom the case is assigned.

(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.

(e) Certificate of Service

Prior to the hearing on, or the deadline for filing objections to, the Underlying Motion, the movant shall file a certificate of service that complies with S.D.Ind. B-9013-2 certifying that copies of the 9006(c) Request, Underlying Motion, and Order Setting Emergency Hearing and/or Expedited Notice were sent to all parties required to receive notice.

(f) Motion to Limit Notice

If expedited service on the parties required to receive under the Federal Rules of Bankruptcy Procedure is impractical or cost-prohibitive, the movant may also seek to limit notice by filing a separate Motion to Limit Notice. Unless otherwise directed, notice may be limited to the UST, Debtor, the Unsecured Creditors Committee or its counsel if applicable, or if there is no Committee, the list of twenty (20) largest unsecured creditors, any trustee serving in the case, any party that has or claims to have an interest in the property to be affected by the Underlying Motion, and all other counsel of record.

## **B-9006-2. PRESUMPTIVE OBJECTION PERIOD IN CHAPTER 11 CASES**

In a Chapter 11 case, when the Court opts to set an objection period on a motion or application rather than a set a hearing, if no other time period is set by the Federal Rules of Bankruptcy Procedure or these local rules, objections shall be filed within twenty-one (21) days from the service of the motion or application. The Court on its own or on the motion of a party, filed pursuant to L.R. B-9006-1, may shorten the time period for objection.

## **B-9010-1. APPEARANCES**

### (a) Appearances: When Required

#### (1) Bankruptcy Cases

Each attorney representing a party, whether in person or by filing any document [other than a proof of claim, a reaffirmation agreement, request pursuant to Fed.R.Bankr.P. 2002(g), or creditor change of address], must file a separate appearance for such party. An attorney who files a case for a Debtor using the Court's electronic filing system and is designated as counsel for the Debtor in that process need not file a separate appearance for that case.

#### (2) Adversary Proceedings

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

#### (3) Removed and Transferred Cases

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

Within twenty-one (21) days of removal or transfer of a case to this Court, any attorney of record who is not admitted to practice before this Court must either comply with this Court's admission policy, as set forth in S.D. Ind. B-9010-3, or withdraw his/her appearance, as permitted under S.D.Ind. B-9010-2.

### (b) Content of Appearance; Service

The appearance shall include the attorney's address, telephone number, and an e-mail address for electronic service. The appearance shall be served upon all counsel of record, the Debtor if not represented by counsel, and in an adversary proceeding on any party not represented by counsel. Any change to an appearance shall be filed with the Clerk and served upon all counsel of record, the Debtor if not represented by counsel, and in an adversary proceeding on any party not represented by counsel.

## **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.



(b) Notice of Withdrawal

An attorney for a party other than the Debtor may withdraw an appearance by filing a notice of withdrawal:

- (1) when another attorney remains attorney of record for the party; or
- (2) when the party has no controversy pending before the Court.

Otherwise, a motion to withdraw is required.

(c) Motion to Withdraw: Requirements

When a motion to withdraw is required, the motion shall provide:

- (1) satisfactory evidence of a written request from the party to withdraw; or
- (2) an attached a copy of a notice to the party of the intent to withdraw sent at least seven days (7) before the filing of the motion to withdraw, which includes a statement either that no hearing, conference, or deadline involving the party is set in the next thirty (30) days or that gives the details of that hearing, conference, or deadline; and
- (3) provide the party's last known telephone number.

(d) Service

Substitutions of appearance and motions to withdraw shall be served:

- (1) in an adversary proceeding, on all parties to the proceeding; and
- (2) in a bankruptcy case, on all counsel of record, and the Debtor if not represented by counsel.

(e) Effect of Failure to Comply

Until compliance with paragraph (a), (b), or (c) as applicable, and paragraph (d) and entry of an order, if necessary, permitting withdrawal, the original attorney remains the party's attorney of record.

(f) Attorney Status in Court Record After Withdrawal or Substitution

Upon the Court's entry of an order granting a motion to withdraw, or the filing of a notice of withdrawal or substitution of appearance, the Court shall remove the attorney from the list of attorneys receiving notices and orders in the case or adversary proceeding. The Court's docket will continue to show the attorney, with a notation that the attorney's appearance has been terminated.

### **B-9010-3. BAR ADMISSION**

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

However, for the purposes of filing any document as to which an appearance is not required under S.D. Ind B-9010-1(a)(1) or participating in a meeting conducted pursuant to 11 U.S.C. §341, a creditor need not be represented or appear by an attorney.

- (c) In order to obtain leave of this Court to appear in a specific action, the attorney seeking to be admitted must file with the Court a Motion to Appear *Pro Hac Vice*. A separate motion for each attorney shall be filed, shall be in a form that complies substantially with the form available on the Court's website, and shall be accompanied by:
  - (1) if not admitted to practice in the State of Indiana, an affidavit that substantially complies with the form available on the Court's website; and
  - (2) a proposed form of order granting the motion.
- (d) The Court may refuse to consider or act upon any request for relief filed by an attorney who is required to obtain leave to appear and has failed to do so.
- (e) Whenever necessary to facilitate the conduct of the case, the Court may require any attorney appearing in any action in this Court to retain as local counsel a member of the bar of the Southern District of Indiana who maintains an office in this district.
- (f) The Rules of Professional Conduct, as adopted by the Indiana Supreme Court, shall provide the rules governing conduct for those practicing in this Court.

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

- (a) Separate Motions and Objections

Every application, motion, or other request for an order from the Court, including motions initiating contested matters, shall be filed separately, except that requests for alternative relief may be filed together, subject to subparagraphs (b) and (c). All such requests shall be named in the caption, shall state with particularity the order or relief sought, and contain a

short and plain statement concerning the factual basis or grounds for the motion. If the alternative relief requested has varying requirements for notice, the notice must provide the longest of the alternative periods. Objections to separately filed motions must also be filed separately.

(b) Stay Relief or Adequate Protection Motions

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

(c) Motions Where Hearing Scheduled by “Block Scheduling”

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

(d) Content of Objections

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

(e) Duty to Confer

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

## **B-9013-2. CERTIFICATE OF SERVICE**

(a) Filing

All pleadings and documents filed in a bankruptcy case pursuant to Fed.R.Bankr.P. 9013 or 9014 shall comply with Fed.R.Civ.P. 5(d).

(b) Requirements

In addition to identifying the pleading or document served, certificates of service shall conform substantially to the certificate of service form adopted with the Administrative Policies and Procedures Manual and available on the Court’s website.

(c) Failure to Comply

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

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

(a) Motions Included

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

(b) Procedure Prior to Filing

Prior to filing, the Debtor shall attempt to confer with and provide copies of any First Day Motions to the UST. Counsel shall include in any First Day Motion, or in a separate pleading, a statement of efforts made to meet with the UST and affected parties prior to filing when possible. The Debtor shall also contact the courtroom deputy for the Chief Judge 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 (2) 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 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.

(e) Contents of Notice

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

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

(f) List of Included Motions

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

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

**B-9014-1. APPLICABILITY OF ADVERSARY PROCEEDING RULES TO CONTESTED MATTERS**

Unless otherwise ordered by the Court, the following adversary proceeding rules apply in contested matters other than motions to dismiss or convert a case:

7026-2 Filing of Discovery Materials  
7030-1 Depositions  
7036-1 Requests for Admissions  
7037-1 Discovery Disputes  
7041-1 Dismissal for Failure to Prosecute  
7056-1 Summary Judgment

## **B-9015-1. JURY TRIALS**

(a) Authorization

Pursuant to S.D.Ind. L.R. 39-1, the District Court has authorized the Bankruptcy Judges of this District to conduct jury trials with the express consent of all parties.

(b) Applicability of District Court Rules

The following District Court rules concerning jury trials apply unless otherwise ordered by the Court:

- 38-1 Notation of a jury demand in a pleading
- 47-1 Voir dire
- 47-2 Communication with jurors
- 47-3 Juror costs
- 47-4 Jury; unanimous verdict

(c) Time for Consent

Unless within thirty (30) days after the demand for jury trial is filed the other parties to the proceeding file a consent, the Bankruptcy Judge shall request that the District Court withdraw the reference of the matter. Even if all parties consent, the Bankruptcy Judge will determine whether the request for a jury trial is proper.

## **B-9016-1. SUBPOENAS**

If a subpoena to produce or permit is to be served upon a nonparty, a copy of the proposed subpoena must be served on all other parties at least seven (7) days prior to service of the subpoena on the nonparty, unless the parties agree to a different time frame or the case management plan provides otherwise. Provided, however, that if such subpoena relates to a matter set for hearing within such seven (7) day period or arises out of a bona fide emergency, such subpoena may be served upon a nonparty one (1) day after a notice and copy of the subpoena is served on each party.

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

(a) Notice

(1) When a Hearing Has Been Set

When parties reach a settlement in a matter that has been set for hearing, the parties shall promptly advise the Court of the settlement and, within the time promised or as required by the Court, shall file the appropriate pleadings and any proposed order concerning the settlement. The Court may extend the time for filing upon request. Failure to file the settlement pleading may result in dismissal of the matter at issue.

(2) Objection Deadline

When approval of a settlement or compromise is required by Fed.R.Bankr.P. 9019, the parties to the agreement shall file a motion to approve the settlement in the bankruptcy case. One of the parties to the agreement shall serve notice on creditors, any trustee, and the UST in accordance with Fed.R.Bankr.P. 2002 and to any other entity as the Court may direct. The notice shall allow twenty-one (21) days from the date of service to file objections to the settlement.

(3) Filing; Certificate of Service

The moving party shall file a copy of the notice and a certificate of service that complies with S.D.Ind. B-9013-2. The motion, notice, and certificate of service may be combined into one document. (A sample combination motion, notice, and certificate of service is available on the Court's website). If no proper objection is filed, the Court may approve the settlement without further notice or hearing.

(b) Adversary Proceedings

(1) Generally

Except as set forth in subparagraph (b) (3) of this rule, if an adversary proceeding is settled before an answer has been filed, the parties may file a stipulation of dismissal. No Court order is entered on that stipulation. However, if the agreement of the parties resulting in dismissal contains conditions precedent or subsequent, then the parties shall file an agreed consent to judgment. The Court shall enter a separate order on that consent to judgment, after notice, if required.

(2) Settlements Under Fed.R.Bankr.P. 9019(a) or (b)

When approval of a settlement or compromise is required by Fed.R.Bankr.P. 9019(a) or (b), the trustee or debtor-in-possession shall file a motion to approve the settlement in the bankruptcy case and shall serve notice. The trustee or debtor-in-possession shall file a copy of the notice and a certificate of service that complies with S.D.Ind. B-9013-2. Once the motion is granted, the parties to the adversary proceeding shall then dismiss the adversary proceeding or file an agreed consent to judgment so that the adversary may be closed.

(3) Settlements of Complaints to Deny or Revoke Discharge

Settlements of complaints to deny or revoke discharge are governed by S.D. Ind. B-7041-2.

## **B-9019-2. ALTERNATIVE DISPUTE RESOLUTION**

(a) Scope of the Rule

The alternative dispute resolution method governed by this rule is mediation. This rule does not preclude the parties from agreeing to the use of any other reasonable method of

alternative dispute resolution. However, any use of arbitration by the parties will be governed by 28 U.S.C. §§654-647.

(b) Applicability of the Rule

This rule applies to all contested matters and adversary proceedings pending before a Bankruptcy Judge of this district.

(c) Referral to Mediation: Process

(1) Motion to Refer to Mediation

Any party may file a motion to refer a matter to mediation (“Motion to Refer to Mediation”). If a party’s Motion to Refer to Mediation certifies that all parties to the matter consent to mediation and have been served with the motion, and the Court finds the motion to be appropriate under the circumstances, the Court may enter an order referring the matter to mediation without further notice or hearing. If a motion does not so certify, the motion shall be set for hearing. The Bankruptcy Judge may decide not to grant a motion to refer a particular matter to mediation if the Court determines that the motion was filed to delay the case or proceeding or if the matter involved is not likely to be resolved by mediation, given the issue or the parties involved.

(2) Court’s Referral to Mediation

(A) Court’s Notice of Status Conference to Discuss Mediation

The Court may refer a matter to mediation on its own by setting a status conference to consider the referral. At the status conference, the parties can oppose the referral or indicate consent. After the hearing, the Court may enter an order referring the matter to mediation.

(B) Court’s Proposal During Other Scheduled Hearing or Status Conference

The Court may propose referral to mediation at any other hearing or status conference. The parties can oppose referral, indicate consent, or request a separate status conference on the proposal. The Court may enter an order referring the matter to mediation or may set a status conference for a later date.

(d) Jurisdiction and Pendency of Matter: Deadlines and Discovery

At all times during the course of mediation, the matter remains under the jurisdiction of the Judge to whom the matter is assigned. Referral to mediation does not abate or suspend the matter. As to discovery matters, absent Court order or the agreement of the parties, no scheduled dates shall be deferred or delayed. Whenever possible, parties are encouraged to limit discovery to the development of information needed to facilitate mediation.



(e) Selection of the Mediator

(1) Selection by Agreement

Any person may be selected to serve as a mediator. Parties are encouraged to consider those appearing on the Court's list of mediators maintained by the Clerk. If a proposed mediator has been agreed upon by the parties, then within fourteen (14) days after the order referring the matter to mediation, the parties shall file a Notice of Selection of Mediator. The notice shall designate the name of the proposed mediator.

(2) Selection of Candidates by the Court

If the parties cannot agree on a mediator within fourteen (14) days after entry of the order referring the matter to mediation, or if the parties elect to request the Court to name a panel for their consideration before expiration of the fourteen (14)-day period, a party to the mediation shall file a Motion to Select a Panel of Mediator Candidates. The fourteen (14)-day selection period may be extended upon motion of either party to the matter. The Court will issue a Notice of Designation of Mediator Candidates which designates three (3) potential mediators. Each side, alternately, shall strike the name of one (1) mediator. The side initiating the controversy will strike first, and shall do so no later than three (3) days after the filing of the Notice of Designation of Mediator Candidates. The parties shall complete the striking process within seven (7) days of the Court's designation and shall file a Notice of Selection of Mediator with the Court. During the striking process, the parties can agree on a mediator other than one named on the panel of candidates. If a party fails to strike from the list when required to do so, then the first name on the list that has not previously been stricken is deemed stricken by the party with the duty to strike. The other party then exercises its right to strike or, if only one name remains, files the Notice of Selection of Mediator.

(3) Qualification and Immunity

A mediator becomes qualified upon the filing of the affidavit required by subparagraph (e)(5). To the extent permitted under applicable law, a qualified mediator shall have immunity in the same manner and to the same extent as would a duly appointed Judge.

(4) Disqualification

Any person selected to serve as a mediator shall disqualify himself or herself from the matter if impartiality might reasonably be questioned. A mediator is also subject to the disqualification rules found in 28 U.S.C. §455. A party that reasonably believes the mediator should be disqualified may file a Request for Disqualification of Mediator.

(5) Affidavit

A person proposed for selection as a mediator shall prepare an affidavit disclosing any connections with the parties or counsel involved with the controversy which in any way could affect the neutrality or partiality of the mediator and setting forth

any other reason which could result in disqualification under subparagraph (e)(2) of this rule. The affidavit shall summarize the anticipated rate of compensation and terms of payment of the proposed mediator. The affidavit shall be filed no later than seven (7) days after the notice specified in subparagraphs (e)(1) and (2). The time period for filing the affidavit can be extended upon motion of any party to the matter.

(6) Replacement of Mediator

If at any time the mediator is disqualified or opts not to continue to serve, the parties may agree upon another mediator and file the appropriate notice, or they may request that the Court designate a panel of candidates pursuant to subparagraph (e)(2).

(f) Compensation

Unless otherwise agreed by the parties or ordered by the Court, the compensation and costs of the mediation shall be borne equally by the parties to the mediation. If one of the parties is a trustee or debtor-in-possession, the amount of compensation to be paid by that party shall be treated as an administrative expense and paid by the estate.

(g) The Mediation

(1) Control of the Mediation

The mediator shall control all procedural aspects of the mediation, including but not limited to:

- (A) setting dates, times, and places for conducting sessions of the mediation;
- (B) requiring the submission of confidential statements;
- (C) requiring the attendance of representatives of each party with sufficient authority to negotiate and settle all disputed issues and amounts;
- (D) designing and conducting the mediation sessions; and
- (E) establishing a deadline for the parties to act upon a settlement proposal.

(2) Termination of the Mediation by Mediator

The mediator may terminate the mediation whenever the mediator believes that continuation of the process would harm or prejudice one or more of the parties; whenever the ability or willingness of any party to participate meaningfully in the mediation is so lacking that a reasonable agreement is unlikely; or whenever the mediator determines that continuing the mediation process would be futile.

(3) Termination of the Mediation by a Party

Parties are required to appear for mediation and to participate in good faith. However, parties are not compelled to reach an agreement. Either party may

withdraw from the mediation if the party determines that continuing the mediation would be futile.

(4) Conclusion of the Mediation

- (A) If the mediation results in a full settlement of the contested matter or adversary proceeding, the mediator or the party who requested the mediation shall within seven (7) days of the conclusion of the mediation file a Report of Mediation so advising the Court. Within a reasonable time thereafter, the parties shall submit to the Court an agreed entry, agreed consent to judgment, or motion for approval of compromise or settlement and provide such notice as is required by the Federal Rules of Bankruptcy Procedure or as the Court may direct. If mediation results in a partial settlement, such that a motion to compromise and settle is not required, the parties shall file a notice of submission of any appropriate stipulation.
- (B) If the mediation is terminated or does not result in a settlement, and the mediator, after appropriate consultation with the parties and their counsel, is reasonably satisfied that no further mediation effort is feasible at that time, then the mediator or the party who initiated the mediation shall file a Report of Mediation with the Court, serving all parties to the controversy, that states only that the mediation was concluded without a settlement.

(5) Release of Mediator

Upon the filing of the report under subparagraph (g)(4), the mediation shall be deemed concluded and the mediator shall be relieved of all further duties or responsibilities.

(h) Confidentiality

(1) Protection of Information Disclosed at Mediation

Any written or oral communication made during the course of any process or proceeding covered under this rule is confidential unless otherwise agreed by the parties. The unauthorized disclosure of confidential communication by any person may result in the imposition of sanctions pursuant to subparagraph (i). In addition, without limiting the foregoing, Rule 408 of the Federal Rules of Evidence and any applicable federal or state statute, rule, common law, or judicial precedent relating to the privileged nature of settlement discussions, mediation, or other alternative dispute resolution procedure shall apply. Information otherwise discoverable or admissible in evidence, however, does not become exempt from discovery, or inadmissible in evidence, merely by being used by a party in mediation.

(2) No Discovery from Mediator

The mediator shall not be compelled to disclose to the Court or to any person outside the mediation conference any of the records, reports, summaries, notes, communications, or other documents received or made by a mediator while serving in such capacity. The mediator shall not testify or be compelled to testify in regard

to the mediation in connection with any arbitral, judicial, or other proceeding. The mediator shall not be a necessary party in any proceeding relating to the mediation.

(3) Protection of Proprietary Information

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

(4) Preservation of Privileges

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

(i) Sanctions

Upon motion by any party, the Court may impose sanctions against any person who fails to comply with this rule.

## **B-9022-1. NOTICE OF ENTRY OF JUDGMENT**

(a) Clerk's Duty to Provide Notice

The Clerk shall mail or deliver by electronic means to the contesting parties a copy of a judgment or order showing the date the judgment or order was entered. The certificate of notice docketed by the Bankruptcy Noticing Center or other agent qualifies as the notice required by Fed.R.Bankr.P. 9022.

(b) Notice to Electronic Filers

Immediately upon entry of an order or judgment in a case or adversary proceeding, the Clerk shall transmit electronically to the registered users in the case or adversary proceeding a "Notice of Electronic Filing." Electronic transmission of that Notice of Electronic Filing constitutes the notice required by Fed.R.Bankr.P. 9022.

(c) Notice to Other Parties

The Clerk shall give notice in paper form to contesting parties who have not consented, or are not permitted to consent, to electronic service.

## **B-9027-1. REMOVAL**

(a) Claim or Cause of Action Filed or Pending in a State Court Within the Jurisdiction of the Southern District of Indiana

If the bankruptcy case is filed or pending in the Southern District of Indiana, removal is accomplished by filing a notice of removal as an adversary proceeding in the bankruptcy case. If the bankruptcy case is filed or pending in another jurisdiction, the party requesting the removal (or movant) shall contact the Clerk of the Bankruptcy Court to open a

miscellaneous proceeding. (After the filing with the Bankruptcy Court, a copy of the notice of removal should be filed in the state court where the matter is pending.)

(b) Claim or Cause of Action Filed or Pending in the District Court for the Southern District of Indiana and the Bankruptcy Case Is Pending in This District

A motion for a directed reference to the Bankruptcy Court may be filed with the District Court.

(c) Court Review of Removal

The Bankruptcy Court may set a hearing, upon notice to the parties, to determine the propriety of the removal and whether the Court should abstain or remand.

## **B-9029-1. LOCAL RULES: GENERAL**

(a) Title and Citation

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

(b) Effective Date

These rules become effective on June 1, 2010.

(c) Scope of Rules

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

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

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

(e) Modification or Suspension of Rules

In individual cases or proceedings, the Court, upon its own motion or the motion of any party, may suspend or modify any of these rules if the interests of justice so require.

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

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

## **B-9037-1. PRIVACY PROTECTION FOR FILINGS MADE WITH THE COURT**

### (a) Proper CM/ECF Events for Addressing Unredacted Personal Identifiers

- (1) If a party seeks to remove the party's own document, the party shall file a Motion to Remove Document Pursuant to Fed.R.Bankr.P. 9037.
- (2) If a party seeks removal of a document filed by a different party, then the party shall file a Motion for Protective Order Pursuant to Fed.R.Bankr.P. 9037.
- (3) The event Motion to Restrict Access is intended for use with requests pursuant to 11 U.S.C. §107. That event should not be used when requesting removal of personal identifiers.

### (b) No Notice or Hearing Required

The Court may rule upon a Motion for a Protective Order filed pursuant to Fed.R.Bankr.P. 9037(d) or a motion to remove a document without notice or hearing.

### (c) No Fee for Motion for Protective Order

No filing fee will be charged for a Motion for Protective Order Pursuant to Fed.R Bankr.P. 9037.

## **B-9070-1. DISPOSITION OF EXHIBITS**

### (a) Custody During Pendency of Action

Any item offered into evidence in a case will be placed in the Clerk's custody. Unless the Court orders otherwise, these items may not be claimed from the Clerk until the case is disposed of as to all issues, including appeals.

### (b) Claiming Items After Disposition of Action

The party that offered the items into evidence must claim them from the Clerk:

- (1) if the case is not appealed, within ninety (90) days after the case is disposed of as to all issues; or
- (2) if the case is appealed, within twenty-eight (28) days after the mandate of the reviewing court is filed in the Clerk's office and the case is disposed of as to all issues, unless otherwise ordered.

### (c) Procedure for Claiming Items

No motion or order is necessary to claim the items. The party withdrawing them must give the Clerk a detailed receipt when the items are withdrawn. The Clerk must file the receipt in the cause.

(d) Failure to Claim Items

If the parties fail to claim the items within the deadline in subparagraph (b), the Clerk may dispose of them in any manner directed by the Court.

(e) Withdrawal of Original Records and Papers

No one may withdraw an original pleading, paper, record, model, or exhibit from the Clerk's custody except as provided by this rule or by Court order.