

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



**LOCAL RULES**

**Effective June 1, 2010  
As Amended Through December 1, 2022**

**Chief Judge Jeffrey J. Graham  
Judge Robyn L. Moberly  
Judge James M. Carr  
Judge Andrea K. McCord**

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## **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) Non-Sub V Small Business Case: a case filed under Chapter 11 of the U.S.C. in which the Debtor is a small business debtor as defined by 11 U.S.C. § 101(51D) and the Debtor has not elected to proceed under Subchapter V of Chapter 11 of the U.S.C.
- (9) 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.
- (10) 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.
- (11) Professional: an attorney, accountant, appraiser, auctioneer or other professional person whose employment was approved by the Court under 11 U.S.C. §§327, 1103(a), or 1114(b)(2).
- (12) Service List: the Debtor, the Debtor's counsel, the 20 largest unsecured creditors in a Chapter 11 case or, if applicable, the unsecured creditors' committee, the UST, a Trustee, 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.
- (13) Sub V Small Business Case: a case filed under Chapter 11 of the U.S.C. in which the Debtor is defined by 11 U.S.C. § 1182(1) and the Debtor has elected to proceed under Subchapter V of Chapter 11 of the U.S.C.
- (14) Trustee or trustee: the trustee appointed in a bankruptcy case under U.S.C. §§701, 702, 1104, 1183, 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 and 1007, 11 U.S.C. §§301 and 521, or by subparagraph (b) of this rule. Filings can be made either electronically or non-electronically under S.D. Ind. B-5005-1 and B-5005-4.

### (b) Eviction Judgments and Rent Deposits

- (1) A Debtor who reports that a landlord has obtained an eviction judgment shall file, separately from the petition, the required Initial Statement About an Eviction Judgment Against You (Form 101A), serve a copy of the form on the landlord and

the landlord's counsel, and file a Certificate of Service. If applicable, the Debtor shall deliver to the Clerk, along with the voluntary petition and Form 101A (or within one day of filing, if the voluntary petition is filed electronically), a check or money order, made payable to the landlord, in the amount of rent due during the 30-day period after the filing of the voluntary petition.

- (2) A Debtor who files the Statement About Payment of an Eviction Judgment Against You (Form 101B) shall do so within 30 days after the petition is filed and shall serve a copy of the form on the landlord and the landlord's counsel and file a Certificate of Service.

(c) 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, creditor information in a form required by S.D.Ind. B-1007-1(b); and
- (5) in a Chapter 11 case, the list of the 20 largest unsecured creditors and a list of creditors who have or claim to have a secured claim.

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

Failure to submit the above required items at the time of filing or within seven 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.

(e) 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).

(f) 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-1003-1. POWER OF ATTORNEY**

### (a) General Requirements

- (1) The first document filed by an attorney-in-fact in a case shall be accompanied by a copy of the power of attorney authorizing the signer to act on behalf of the filing party. The power of attorney shall be either a general power of attorney authorizing the attorney-in-fact to take any action which the principal could take or a special or limited power of attorney authorizing the attorney-in-fact to file the document.
- (2) The power of attorney shall:
  - (A) be in writing, signed by the principal and properly notarized;
  - (B) provide the attorney-in-fact's name, mailing address, telephone number and email address; and
  - (C) be properly executed and valid under applicable non-bankruptcy law.
- (3) An attorney-in-fact that files a petition on behalf of a Debtor shall appear at the Meeting of Creditors to respond to trustee inquiries regarding the commencement of the case.
- (4) The attorney-in-fact may not complete either the pre-petition credit counseling requirement or post-petition financial management course on the debtor's behalf.

### (b) Court Review

On its own motion or the motion of a party in interest, the Court may order a hearing to review the power of attorney and the attorney-in-fact's authority.

## **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. Debtor's counsel in receipt of good funds intended for the payment of a filing fee installment shall remit those funds to the Court within 14 days of receipt.

(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, shall 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 shall 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. The Clerk may accept a typed list of creditors if the information cannot be submitted in an electronic format.

(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 to a date 30 days from the petition date and the Clerk will provide notice except as described in subparagraph (2) of this rule. 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 single, consolidated, or jointly administered 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 single, consolidated, or jointly administered 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, file the claim electronically with the Court, 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) provide that the Claims Agent shall process all claims filed using the Court's electronic proof of claim option ("ePOC/eWOC");
- (5) require the Claims Agent to maintain the Claims Register, and that the Claims Agent shall list the claim on the register three 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;

- (6) allow the periodic audit of claims information by the Clerk, a representative of the creditors' committee, or some other entity;
  - (7) provide the mechanism and timing for delivery of a final Claims Register to the Clerk;
  - (8) 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;
  - (9) 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);
  - (10) provide for the retention or destruction of documents received by the Claims Agent; and
  - (11) 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-1007-4. CORPORATE OWNERSHIP STATEMENT TO BE FILED BY A NON-INDIVIDUAL DEBTOR WITH VOLUNTARY PETITION**

The Corporate Ownership Statement required to be filed by a corporate Debtor with a voluntary petition under Fed.R.Bankr.P. 1007(a)(1) shall also be filed by a non-individual Debtor.

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

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

**B-1010-4. CORPORATE OWNERSHIP STATEMENT TO BE FILED BY EACH NON-INDIVIDUAL RESPONDENT TO AN INVOLUNTARY PETITION**

The Corporate Ownership Statement required to be filed by a corporation responding to an involuntary petition under Fed.R.Bankr.P. 1011(f) shall also be filed by each non-individual respondent that is not a governmental unit.

**B-1012-1. CORPORATE OWNERSHIP STATEMENT TO BE FILED BY EACH NON-INDIVIDUAL RESPONDENT TO A PETITION FOR RECOGNITION OF A FOREIGN PROCEEDING**

The Corporate Ownership Statement required to be filed by a corporation responding to a petition for recognition of a foreign proceeding under Fed.R.Bankr.P. 1012(c) shall also be filed by each non-individual respondent.

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

(a) Joint Cases

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

(b) Joint Administration

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

(1) Designation of Lead Case

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

(2) Caption

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

(3) Docket

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

(4) Claims and Related Pleadings

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

(5) Documents to Be Filed in Member Cases Separately

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

(A) All Chapters

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

(xii) Verifications of Creditor List; and

(xiii) documents related to the foregoing.

(B) Chapter 11 & 12 Cases

(i) plans, disclosure statements, ballot reports, and objections or other documents related thereto;

(ii) debtor monthly operating reports;

(iii) Motions to Extend Exclusivity Period/Deadlines Under 11 U.S.C. §§ 1121, 1129, or 1221;

(iv) Applications for Final Decree;

(v) in addition to documents required by this subparagraph (B) of this rule, in Sub V Cases:

(a) Notices of Completion of 1192 Payments;

(b) Notices of Substantial Consummation of Subchapter V Plan;

(c) Objections to Small Business/Subchapter V Designation/Request for Determination;

(d) Statements of Small Business/Subchapter V Designation; and

(e) Subchapter V Status Reports Pursuant to 1188(c); and

(vi) documents related to the foregoing.

(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, or a personal representative empowered to make decisions on behalf of the Debtor's estate, shall file a verified statement 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 seven 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 seven 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 seven 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) of this rule. 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) Notices in Chapter 11 Cases in Which A Committee Has Been Appointed

Under Fed.R.Bankr.P. 2002(i) and unless otherwise ordered by the Court, the notices required by Fed.R.Bankr.P. 2002(a)(2)(excluding those related to the sale of substantially all of a debtor's assets), (3), and (6) may be served only on the Service List.

(d) Limited Notice in a Voluntary Case

In a voluntary Chapter 7, 12 or 13 case, 70 days following entry of the order for relief or the date of the order converting the case to Chapter 12 or 13, 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). In a Chapter 7 case where notice of insufficient assets to pay a dividend was given, notice can be limited pursuant to this subparagraph 90 days following the mailing of the notice setting a claims bar date.

(e) Limited Notice in an Involuntary Case

In an involuntary Chapter 7 case, after 90 days following entry of the order for relief, 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).

(f) 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.

(g) 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.

(h) 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 PROFESSIONALS AND TREATMENT OF RETAINERS IN CHAPTER 11 AND 12 CASES**

(a) Employment Applications Generally

A person (the “Applicant”) seeking Court approval of the employment of a Professional shall file an application and a supporting affidavit or verified statement of the Professional that complies 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 shall file and serve a supplemental affidavit disclosing the additional information.

(b) Employment Applications in Chapter 11 and 12 Cases

(1) Time to File

An Employment Application for the Debtor’s counsel in a Chapter 11 and 12 case shall be filed within 14 days after the commencement of the case or conversion of the case to Chapter 11 or 12.

(2) Service of Notice and Hearing

(A) Service and Notice of Employment Application

The Applicant shall serve the Employment Application, including the supporting affidavit or verified statement, and a 21-day Objection Notice on the Service List and other parties as directed by the Court. Along with the Employment Application, the Applicant shall file a Certificate of Service. The application, notice, and Certificate of Service may be combined into one document, a sample of which is available on the Court’s website.

(B) Objections, Court Review, and Effective Date

An objection shall 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.

(3) 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.

(4) Periodic Compensation Other Than Pursuant to 11 U.S.C. § 331

A proposed Professional shall obtain Court approval of the terms for applying a retainer to the payment of the Professional's fees and expenses or any other procedure for receiving compensation before a final fee application that does not comply with 11 U.S.C. § 331. Such request may be included in the Employment Application or made separately. If requested separately, the Applicant shall provide notice in the same manner as required by subparagraph (b)(2)(A) of this rule. Any proposed procedure shall include the following terms:

- (A) a limit on payment without a fee application to 80% of the fees requested, but the procedure may provide for payment of 100% of expenses;
- (B) the proposed schedule for filing a Notice of Draw on Retainer/Payment of Fees and Expenses Pursuant to B-2014-1 ("Notice of Draw") and for making available the documents that support the requested payment;
- (C) the proposed distribution of the Notice of Draw and supporting documents; and
- (D) suspension of the proposed procedure as to any Professional who does not comply with the periodic filing requirements of S.D.Ind. B-2016(b)(2)(i).

(5) Effect of Court's Approval of Procedure for Interim Payments

Court approval of an interim payment procedure is not allowance of fees and expenses that are subject to the interim payment procedure. All fees and expenses are paid subject to court approval of the Professional's final fee application. Failure of a party to object to a Professional's Notice of Draw does not affect the party's right to object to an interim or final fee application.

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

If the Debtor is using a Professional to pursue the sale, determination or collection of property of the estate pursuant to 11 U.S.C. § 1306, including claims that arise post-petition, the Debtor shall file a Notice of Retention and Compensation Terms as to any Professional retained. The Notice shall report the consent of the trustee to the terms of compensation and shall confirm the instructions given to the Professional on the disposition of any proceeds. If the trustee has not consented to the terms of the Professional's retention or compensation, the trustee shall file an

objection to the Notice of Retention and Compensation Terms within 14 days of its filing. A sample form Notice of Retention and Compensation Terms is available on the Court's website.

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

(a) Non-Sub V Operating Reports

For all Non-Sub V Chapter 11 cases, and for Chapter 7 cases in which the trustee operates a business, and until the case is closed or converted, the trustee or the Debtor shall file reports of operations, at intervals to be determined by the UST or an applicable rule or regulation, 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) Sub V Operating Reports

(1) Prior to Plan Confirmation

For Sub V Chapter 11 cases until the earlier of the Court entering an order confirming a plan, closing the case, dismissing the case, or converting the case to one under another chapter, the trustee or the Debtor shall file reports of operations, at intervals to be determined by the UST or an applicable rule or regulation, using forms approved by the UST.

(2) After Plan Confirmation

For Sub V Chapter 11 cases where the Court enters an order confirming a plan under 11 U.S.C. § 1191(b) and orders the trustee to make payments under 11 U.S.C. § 1194(a) or (b), until the case is closed, dismissed, or converted the trustee shall file reports of operations, at intervals to be determined by the UST or an applicable rule or regulation, using forms approved by the UST. For all other Sub V Chapter 11 cases, no operating reports are required to be filed for any period beginning after the date of entry of the plan confirmation order.

(c) Distribution

Unless the Court orders otherwise, the report shall be distributed to the UST, the Debtor, a trustee and counsel for the trustee, any governmental unit charged with responsibility for collection or determination of any tax arising out of the estate's operation, the Service List in a Chapter 11 case, and a party requesting service.

(d) 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 six 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 11 and 12 Cases

(1) Cases Under Traditional Fee Award Process

If the Professional is not subject to a procedure allowing periodic payments under S.D.Ind. B-2014-1(b)(4), then the Professional shall file a final fee application under 11 U.S.C. § 330 no later than 14 days after entry of a dismissal order or the filing of an application for final decree or other pleading that will result in the closing of the case, except a motion under S.D.Ind. B-3022-2(c). If no application is filed by the deadline the Professional shall return to the Debtor any portion of the retainer the application of which has not been approved by the Court and the Professional is prohibited from seeking any further compensation related to the bankruptcy case.

(2) Cases with Periodic Payment Process

(A) If the Professional has obtained Court approval of a periodic payment procedure under S.D.Ind. B-2014-1(b)(4), then the Professional shall file an application for interim fees and expenses under 11 U.S.C. § 331 no less frequently than 180 days after the order for relief and no later than every 180 days thereafter. The authorization for periodic payment procedures is suspended if the required applications are not filed.

(B) The Professional shall file a final fee application under 11 U.S.C. § 330 no later than 14 days after entry of a dismissal order or the filing of an application for final decree or other pleading that will result in the closing of the case, except a motion under S.D.Ind. B-3022-2(c). If no application is filed by the deadline the Professional shall return to the Debtor any portion of the retainer the application of which has not been approved by

the Court and the Professional is prohibited from seeking any further compensation related to the bankruptcy case.

(c) 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 (b)(2) of this rule.

(2) Streamlined or “Presumed Reasonable” 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;
- (C) Counsel seeks no more than the maximum fee set by general order (the “Presumed Reasonable Fee”); and
- (D) No other counsel in the case has been awarded and paid any amount using the award process in this subparagraph.

(3) Supplemental Fees

(A) Lead Bankruptcy Case

Counsel may apply for additional fees if Counsel opted for the fee award process set out in subparagraph (c)(2) of this rule, but later determines that the Presumed Reasonable Fee is not sufficient. The application shall request only the amount in excess of the Presumed Reasonable Fee and be accompanied by time records supporting the total fees sought by Counsel in the case or by an affidavit explaining why the Presumed Reasonable Fee is inadequate and describing the services rendered in the case. The Clerk shall provide notice of the total fees requested.

(B) Adversary Proceedings Seeking to Avoid an Unsecured Mortgage

Counsel who files an adversary proceeding seeking to avoid an unsecured mortgage pursuant to S.D.Ind. B-4003-3 is entitled to an additional \$500 above the Presumed Reasonable Fee per adversary proceeding, provided that counsel

- (i) discloses the additional fee in the original or an amended Disclosure of Compensation of Attorney for Debtor (Form 2030); and



(ii) includes the additional fee within counsel's original or amended proof of claim.

(4) Fees Upon Case Dismissal

If Counsel opted for the fee award process in subparagraph (b)(2) of this rule but the case is dismissed prior to confirmation of a plan and the filing fee was paid in full, 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, unless the Court orders otherwise. Counsel may request within 14 days of the dismissal an award of additional fees under subparagraph (b)(3) of this rule. Counsel shall not collect, receive, or demand additional fees from the Debtor for work performed, even after dismissal, unless the Court orders otherwise.

(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, 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.

(7) Debtor's Non-Bankruptcy Professionals and Distribution of Settlements

As to any Professional whose employment was disclosed under S.D.Ind. B-2014-2, the proposed compensation to the Professional shall be disclosed in any Motion to Approve Settlement Distribution filed under S.D.Ind. B-9019-1(b), unless the information is provided in a Motion to Modify Plan.

## **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) of this rule 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) of this rule.

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

A creditor eligible under subparagraph (a) of this rule 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) of this rule, 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. NOTICE OF AND RESPONSE TO FINAL CURE PAYMENT**

If the trustee or the Debtor files a Notice of Final Cure Payment under Fed.R.Bankr.P. 3002.1(f), a creditor shall file a Response to a Notice of Final Cure Payment that substantially complies with Directors' Bankruptcy Form 4100R. A Response to a Notice of Final Cure Payment shall include a copy of the payoff statement as defined by 12 C.F.R. § 1026.36(c)(3) and provide, as an attachment, the following information, as of the date of the response:

- (a) date last payment received on the mortgage;
- (b) date next post-petition payment;
- (c) amount of the next post-petition payment;
- (d) unpaid principal of the loan;
- (e) additional amounts due for any deferred or accrued interest;
- (f) balance of the escrow account; and
- (g) balance of unapplied funds or funds held in a suspense account.

### **B-3002.1-4. 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 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-3002.1-5. 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) Notice of Withdrawal

A notice of withdrawal of a proof of claim may only be filed if, and shall state that:

- (1) no objection to the claim has been filed;
- (2) the claimant is not a defendant in an adversary proceeding in the case; and

(3) in a Chapter 11, 12 or 13 case, the claimant has not accepted or rejected the plan or otherwise participated meaningfully in the case.

(b) Motion to Withdraw

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 shall include the number of the claim as it appears on the claims docket. 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, Sub V 11, 12, and 13 cases shall distribute dividends and payments to creditors in any amount, unless the Court orders otherwise.

### **B-3011-1. TRUSTEE REMITTANCE OF UNCLAIMED FUNDS AND COURT FEES**

An application for payment of unclaimed funds shall comply with the instructions set forth on and shall be submitted on the Application for Payment of Unclaimed Funds form made available on the Court's website. Trustees shall remit both fees owed by the estate and unclaimed funds to the Court as Automated Clearing House transactions.

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

(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) Definition of Pre-Petition Arrearage

For the purposes of subparagraph (e), a “pre-petition arrearage” is defined as the amount asserted in Part 3 of Official Form 410A attached to the proof of claim if filed by a mortgage creditor, less any amount asserted as a projected escrow shortage.

(e) Payment of Pre-Petition Arrearage through Trustee

If, on the petition date, a pre-petition arrearage of more than one monthly mortgage payment exists on a mortgage secured by the Debtor’s principal residential real estate, then the Debtor shall make all payments on the mortgage through the Chapter 13 trustee. Such payments made by the Trustee to the mortgage creditor shall include on-going post-petition mortgage installments, pre-petition arrearage, and any uncontested or allowed post-petition costs, fees, and charges asserted by the mortgage creditor. The Trustee shall notify the Debtor 30 days before the Debtor is obligated to resume direct mortgage payments.

(f) 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.

(g) Distribution of Notice of Confirmation

After the Court has entered an order confirming a plan, the Chapter 13 Trustee shall distribute notice of confirmation as required by Fed.R.Bankr.P. 2002(f)(7) 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

#### (1) Motion to Modify Plan

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

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

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

## **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 NON-SUB V SMALL BUSINESS CASES AND CONFIRMATION DEADLINES**

### **(a) Expedited Processing in Non-Sub V Small Business Cases**

If the proponent of a plan in a Non-Sub V 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 of Proposed Expedited Processing of Non-Sub V Small Business Case is available on the Court's website.

### **(b) Deadlines**

At the hearing on a request under subparagraph (a) of this rule 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; CONFIRMATION ORDER - CHAPTER 11**

### **(a) Distribution of Plan and Related Documents**

In a Non-Sub V Case, within seven 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. In a Sub V Case, the Court shall enter an order setting the requirements for plan distribution.



(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 three 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.

(d) Confirmation Order

After the confirmation hearing, if the plan is confirmed the plan proponent shall submit a proposed confirmation order. In a Sub V Case, the caption of the confirmation order shall state whether confirmation was obtained under 11 U.S.C. § 1191(a) or (b).

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

In a Non-Sub V Case or a Sub V Case confirmed under 11 U.S.C. § 1191(a) in which the Debtor is not an individual, the Plan Proponent or other entity administering the confirmed plan shall apply for a final decree, after the estate has been fully administered. In a Sub V Case confirmed under 11 U.S.C. § 1191(b) in which the Debtor is not an individual, the Debtor shall apply for a final decree after the trustee has filed the final report. 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) Timing of Application for Final Decree

In a case confirmed under 11 U.S.C. § 1191(a), the individual Debtor may apply for a final decree any time after docketing of the confirmation order. In a case confirmed under 11 U.S.C. § 1129 or § 1191(b), the individual Debtor shall apply for a final decree upon completion of all plan payments. The application shall include the percentage paid to general unsecured creditors.

### (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

In a case confirmed under 11 U.S.C. § 1129 for which the Debtor is the entity administering the confirmed plan, a Debtor that wishes to close the case pending completion of the plan 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) of this rule.

## **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 seven 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 AND TO EXTEND OR IMPOSE THE STAY AND FOR ADEQUATE PROTECTION**

(a) Relief from Stay or Co-Debtor Stay

(1) Contents of Motion

A motion for relief from the automatic stay under 11 U.S.C. § 362(a), for adequate protection under 11 U.S.C. § 361, or relief from the stay as to a co-debtor under 11 U.S.C. §1301(a) 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;
- (F) the name of the co-debtor if the motion seeks relief from the co-debtor stay; and
- (G) the statement in the motion's caption "with waiver of deadlines" if the filer waives the preliminary and final hearing requirements under 11 U.S.C. § 362(e).

(2) Notice: Co-Debtor Stay or Waiver of Deadlines

A movant that consents to the waiver of the 11 U.S.C. § 362(e) hearing requirements or that seeks only relief from the co-debtor stay shall:

- (A) serve a 14-day Objection Notice on the Service List, a trustee, any creditor asserting a lien on the same property, parties in interest, and any co-debtor in a Chapter 12 or 13 case. If the motion also seeks abandonment, additionally distribute the notice to all creditors, unless notice has been limited under S.D. Ind. B-6007-1; and

- (B) 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.

(3) Notice: No Waiver of Deadlines

If the movant has not waived the 11 U.S.C. § 362(e) hearing requirements:

- (A) the Court shall, after filing, prepare a notice that sets the objection deadline and the hearing date. The Court may distribute the notice or direct the movant to distribute it;
- (B) if directed by the Court, the movant shall serve the notice identified in subparagraph (a)(3)(A) of this rule on the Service List, a trustee, any creditor asserting a lien on the same property, parties in interest, and any co-debtor in a Chapter 12 or 13 case. If the motion also seeks abandonment, the movant shall additionally distribute the notice to all creditors, unless notice may be limited under S.D. Ind. B-6007-1(b); and
- (C) the movant shall file a Certificate of Service no later than the objection deadline.

(4) Resolution of Motion

Unless the notice provides otherwise, the Court may grant relief from the stay, and abandonment if requested, without further notice and may cancel any hearing if no response to the motion is timely filed. At any hearing on the motion the Debtor or objecting party has the burden of establishing payments alleged to have been made but not set forth in the payment history.

(b) Extend or Impose the Stay

(1) Motion Filed Ten 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 Ten 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 subparagraph 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 extended or imposed.
- (D) The movant shall file a Certificate of Service on or before the hearing date.
- (E) The Debtor's attendance at the hearing may be required, even if no objection is filed.

(3) Contents of Motion

(A) Motion to Extend or Impose the Stay

A motion to extend or impose the stay shall include, if applicable, the name of a creditor that had filed a Motion for Relief from Stay that was pending at the time of, or was granted within the 60 days prior to, dismissal of the prior case.

(B) Motion to Impose the Stay

A motion to impose the automatic stay shall include the following if applicable:

- (i) if the motion is intended to stop a sheriff's sale or other involuntary sale of property of the estate, the caption and the case number of the non-bankruptcy action pending in a state court or other tribunal; and
- (ii) the name of and contact information, if available, for the creditors involved in the non-bankruptcy action and their counsel, if any.

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

(a) Contents of Motion to Use Cash Collateral

A motion to use cash collateral shall comply with the requirements of both Fed.R.Bankr.P. 4001(b)(1)(B) and Fed.R.Bankr.P. 4001(c)(1)(B) unless the Court orders otherwise.

(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), a motion to use cash collateral or motion to obtain credit (collectively "Financing Motions") shall also disclose the total dollar amount requested, an estimate of the value of the collateral which secures the creditor's asserted interest, and disclose as a "material provision" any provision that:

(1) Cross-Collateralization of Pre-Petition Debt

Grants cross-collateralization protection other than replacement liens or other adequate protection by:

- (A) securing 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;
- (B) deeming pre-petition secured debt to be post-petition debt; or
- (C) using post-petition loans from a pre-petition secured lender to pay all or part of that lender's pre-petition claim;

(2) Professional Fee Provisions

Provides different treatment for the professionals retained by a creditors' committee from professionals retained by the Debtor;

(3) Priming of Existing Liens

Primes a secured lien without the consent of the lien holder;

(4) Loan Documentation Costs

Calls for the payment of fees or costs by the Debtor other than reasonable attorney's fees for loan documentation; and

(5) Plan Restrictions

Limits, restricts, or otherwise affects the terms of a proposed plan of reorganization.

(c) Proposed Budget

All Financing Motions shall also have attached as an exhibit the Debtor's proposed budget for the use of the funds. The budget shall include, but not be limited to, a detailed four-week cash flow projection for a motion for interim use of cash collateral and a detailed 13-week cash flow projection for a motion for final use of cash collateral, unless the Court orders otherwise.

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

(a) Dollar Limits

(1) \$2,500.00 or Less

The Debtor may incur non-emergency consumer debt up to \$2,500.00 without the trustee's written approval or Court order.

(2) Greater than \$2,500.00

The Debtor shall seek the trustee's approval or a Court order under subparagraphs (b) and (c) of this rule before incurring non-emergency consumer debt of more than \$2,500.00.

(b) Request Directed to Trustee

The Debtor's request to incur debt, other than debt to be secured by real estate, shall first be made to the trustee. If approved by the trustee, the Debtor may incur the debt. If the trustee has not directed use of a specific form, the request 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 another entity in collateral affected by the credit;
- (4) the reasons why the Debtor needs the credit;
- (5) the terms of the proposed financing, including the interest rate; and
- (6) the protection proposed for the interest held by another entity in the collateral.

(c) Obtaining a Court Order

(1) When Required

The Debtor shall file a Motion to Incur Debt if:

- (A) the proposed debt is greater than \$2,500.00 and is to be secured by real estate;
- (B) the Debtor's request under subparagraph (b) of this rule has not been approved by the trustee; or
- (C) the Debtor seeks a Court order on a request that has been approved by the trustee.

(2) Contents

The motion shall include all the information required by subparagraph (b) of this rule. If the new debt will replace an existing obligation secured by the Debtor's property, the motion shall also include the principal loan balance of the original debt, the rate of interest, the amount of monthly escrow for taxes and insurance, the monthly payment, and the maturity date. Unless the motion states or documents the trustee's approval, the Court shall give the trustee 14 days to object to the motion.

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

The Debtor in a Chapter 13 case 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 loan information both immediately before and after the proposed modification: the principal loan balance, the rate of interest, the maturity date of the proposed modified note, and the estimated total monthly payment, which shall include mortgage insurance, property insurance, and real estate taxes. 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.

### (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) 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 shall produce any documents concerning the business requested by the trustee at or before the meeting of creditors.

(d) 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. The motion shall identify:

- (1) the petition date;
- (2) the value of the subject collateral;
- (3) 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;
- (4) the amount of the exemption to which the Debtor would be entitled but for the lien;
- (5) the lien to be avoided and its approximate amount;
- (6) 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
- (7) 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 CHAPTER 12 AND CHAPTER 13 CASES**

(a) Trustee's Notice of Completion

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

(b) The Debtor's Required Pleadings

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

(c) Service and Notice

The Debtor shall serve a copy of the Motion for Entry of Discharge and in individual cases, a Certification of Eligibility for Discharge on the trustee and an entity to whom the Debtor owes a domestic support obligation. The trustee shall have 21 days from the date of filing to object to the Motion or the Certification. The Debtor shall serve a 21-day Objection Notice on the holder of a domestic support obligation. A sample notice is available on the Court's website. The Debtor shall file a Certificate of Service as to the notice.

(d) Closing and Reopening

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

(e) Request for Hardship Discharge

If the Debtor seeks a discharge under 11 U.S.C. §§1228(b) or 1328(b), the Debtor shall file a Motion for Hardship Discharge and a Certification of Eligibility for Discharge. The requirements to file a Certification of Eligibility for Discharge and a Certificate of Debtor Education are waived if the debtor seeking the hardship discharge is deceased and a verified statement of the debtor's death has been filed as required by S.D.Ind. B-1016-1. A sample Certification is available on the Court's website. The Debtor shall serve the Motion for Hardship Discharge and the Certification of Eligibility for Discharge as required by subparagraph (c) of this rule.

**B-4004-2. DISCHARGE IN SUB V CHAPTER 11 CASES**

(a) Discharge in Case Confirmed Under §1191(a)

If the case has been confirmed under 11 U.S.C. §1191(a) and the Debtor is an individual, the Court shall enter the discharge immediately after entry of the confirmation order.

(b) Discharge in Case Confirmed Under §1191(b)

(1) Notice of Completion of § 1192 Payments

The entity administering the confirmed plan shall file a Notice of Completion of § 1192 Payments after the Debtor has made the number of payments required to be eligible for a discharge. A sample form is available on the Court's website.

(2) The Debtor's Required Pleadings

Within 30 days after the filing of the Notice of Completion of § 1192 Payments, 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.

(3) 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. The trustee shall have 21 days from the date of filing to object to the Motion or the Certification.

(4) 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

and the Debtor seeks entry of the discharge, the Debtor must first file a motion to reopen the case.

(5) Request for Hardship Discharge

If the Debtor seeks a discharge under 11 U.S.C. §1141(d)(5), the Debtor shall file a Motion for Hardship Discharge and a Certification of Eligibility for Discharge. The requirement to file a Certification of Eligibility for Discharge is waived if the Debtor seeking the hardship discharge is deceased and a verified statement of the Debtor's death has been filed as required by S.D.Ind. B-1016-1. A sample Certification is available on the Court's website.

**B-4004-3. 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 shall 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-4004-4. 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 as follows:

(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 ten 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. For *pro se* joint cases filed under 11 U.S.C. §302, only one spouse need be present.

(2) 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.

(3) 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 the electronic filing, signing, service, and verification of documents. 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) Place of Filing

A motion for withdrawal of a case or proceeding shall be filed in the Bankruptcy Court.

(b) Recommendation by Bankruptcy Court

The Bankruptcy Court may recommend to the District Court that a case or proceeding be withdrawn under 28 U.S.C. §157(d). Any such recommendation shall be served on the parties to the case or proceeding.

(c) Stay

The filing of a motion, or the Bankruptcy Court's recommendation, for withdrawal does not stay the proceedings in the Bankruptcy Court. Fed.R.Bankr.P. 5011(c) governs requests for a stay pending decision on withdrawal.

(d) Designation of Record

Along with the motion for withdrawal, the movant shall file and serve a designation of those portions of the record necessary or pertinent to the District Court's consideration of the motion. Within 14 days after service of the designation of the record, any other party may file and serve 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 is not a proper designation. If the record designated by any party includes a transcript, 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. The Bankruptcy Court shall transmit only those documents designated under this subsection to the District Court.

(e) Response to Motion for Withdrawal; Reply

A party opposing the motion shall have 14 days after the movant serves the motion to file and serve its response. The movant may file and serve a reply within 14 days after service of a response.

(f) Transmittal to District Court

After the time for filing a response or reply has expired, but without awaiting the filing of any transcripts, the Clerk of the Bankruptcy Court shall transmit the motion, any responses and replies, and the designated portions of the record to the Clerk of the District Court for docketing and the issuance of a District Court case number.

(g) Filing of Documents After Transmittal

After the transmittal to the District Court described in subparagraph (f) of this rule, documents pertaining to the motion for withdrawal under review by the District Court shall be filed with the Clerk of the District Court. Documents related to other matters in the bankruptcy case or adversary proceeding shall continue to be filed with the Clerk of the Bankruptcy Court, unless either Court orders otherwise. Parties shall advise both Courts of pleadings filed in either forum that affect matters pending in the other forum.

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

A request to continue a scheduled hearing, conference, or trial shall be by written motion, unless the Court orders otherwise. The motion shall state whether the opposing party consents to the continuance. If the movant has been unable to reach the opposing party, the motion shall state the efforts made to contact the opposing party.

## **B-5080-1. DEFERRAL OF FILING FEES DUE FROM TRUSTEE**

The Clerk shall defer the filing fee in an adversary proceeding if the trustee certifies that the estate lacks the funds necessary to pay a filing fee. If the estate later receives funds, 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 UNDER 11 U.S.C. §363: GENERALLY**

(a) Applicability of Local Rule

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

(b) Employment and Compensation of Professionals

Unless S.D. Ind. B-2012-2 applies, the movant shall file a separate application to employ, and a separate application to compensate, any broker, auctioneer, or other professional to be retained to assist with any sale. The retention of liquidators, auctioneers, and appraisers is also governed by S.D.Ind. B-6005-1. No payment shall be made to any professional before the Court has entered an order approving compensation and reimbursement of expenses.

(c) Sale of Co-Owned Property

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

(d) Procedure; Contents of Motion; Notice

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

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

(a) “Private Sale” Defined

A “private sale” is the 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.

(b) Contents of Motion: All Chapters

A Motion to Sell by private sale shall have attached a copy of the agreement and identify:

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

- (6) a description of the manner in which the property was marketed for sale, and a description of any other offer to purchase;
- (7) a description of any relationship between the Prospective Purchaser and its insiders and the Debtor and its insiders or the trustee;
- (8) a statement setting forth any relationship or connection the trustee or the Debtor or its insiders will have with the Prospective Purchaser or its insiders after sale consummation;
- (9) 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
- (10) if the proposed sale seeks to sell property free and clear of liens or other interests under 11 U.S.C. §363(f), the names of the lien or interest holders.

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

A 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) of this rule, a summary of the Debtor's debt structure, including the amount of the Debtor's secured debt, priority claims, and general unsecured claims.

(d) Notice

(1) Distribution; Contents; Certificate of Service Generally

The movant shall distribute notice of any hearing or deadline to object to a Motion to Sell, as determined by subparagraphs (d)(2) and (3) of this rule, unless the Court orders otherwise. The notice shall contain all of the information required by subparagraphs (b) and (c) of this rule. The movant 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.

(2) Chapter 7, 12, and 13 Cases

In a Chapter 7, Chapter 12, or Chapter 13 case, the movant shall provide a 21-day Objection Notice of the Motion to Sell, unless the Court orders otherwise.

(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 hearing notice. The movant shall distribute the notice and file a Certificate of Service.

(e) Report of Sale

The movant shall file a report of sale under Fed.R.Bankr.P. 6004(f)(1) within 14 days of the later of the completion of sale under this rule or the last scheduled sale date, should the transaction fail to close.

**B-6004-3. SALE BY AUCTION**

(a) “Sale by Auction” Defined

A “sale by auction” is a sale by public auction, with no previously identified initial bidder.

(b) Contents of Motion

A Motion to Sell by auction shall identify:

- (1) the property to be sold;
- (2) the amount of a claimed exemption in the property;
- (3) the name of and contact information for the entity conducting the auction;
- (4) the date, time, and place of the sale, if known, or instructions on how that information can be obtained;
- (5) any bid procedures proposed for the sale;
- (6) 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
- (7) if the proposed sale seeks to sell property free and clear of liens or other interests under 11 U.S.C. §363(f), the names of the lien or interest holders.

(c) Notice

The movant shall provide a 21-day Objection Notice of the Motion to Sell, unless the Court orders otherwise. The notice shall provide the information required by subparagraph (b) of this rule. The movant shall also 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.

(d) Report of Sale

The auctioneer or the party that filed the application to employ the auctioneer shall file a report of sale under Fed.R.Bankr.P. 6004(f)(1) within 14 days of the later of the completion of a sale under this rule or the last scheduled sale date, should the transaction fail to close, unless the Court orders otherwise.

#### **B-6004-4. 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

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

- (1) the property to be sold;
- (2) the amount of a claimed exemption in the property;
- (3) the prospective purchaser (“Prospective Purchaser”);
- (4) the sales price and an estimate of the net proceeds to be received by the estate, including a deduction for any exemption;
- (5) a brief summary of all material contingencies to the sale, together with a copy of the agreement, if available;
- (6) if the proposed sale seeks to sell property free and clear of liens or other interests under 11 U.S.C. §363(f), the names of the lien or interest holders;
- (7) the executory contracts and leases proposed to be assumed or rejected as part of the sale, if any;
- (8) a description of the manner in which the property was marketed for sale, and a description of other purchase offers;
- (9) a description of any relationship between the Prospective Purchaser and its insiders and the Debtor and its insiders or the trustee;
- (10) a statement setting forth any relationship or connection the trustee or the Debtor or its insiders will have with the Prospective Purchaser after the consummation of the sale;
- (11) if a fee is proposed to be paid to the Prospective Purchaser and another bidder prevails at the sale, a statement of the conditions under which the fee would be payable and the factual basis on which the seller determined the provision is reasonable;
- (12) 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 90 days prior to the filing of the sale motion, the offers made by them, if any, and the nature of the offer;

- (13) the bid procedures proposed for the sale;
- (14) 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
- (15) 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 subparagraph (b) of this rule. The movant shall provide a 21-day Objection Notice of the Motion to Sell or the Court may instead direct the issuance of a hearing notice and will provide the movant with a hearing date and time and any objection deadline that shall be included in the notice. Upon distribution of the notice, the movant shall file a Certificate of Service.

(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 any deadline by which parties shall object to the proposed sale. Upon entry of the order, the movant shall make distribution and shall also file a Certificate of Service.

(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 under 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 a request for approval of a fee to

the Prospective Purchaser 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 under 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, the movant shall identify the successful purchaser and the change in terms and shall make a request for approval of a 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

The movant shall file a report of sale under Fed.R.Bankr.P. 6004(f)(1) within 14 days of the later of the completion of a sale under this rule or the last scheduled sale date, should the transaction fail to close.

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

(a) Bond Required

All liquidators/auctioneers who will come into possession or control of the assets of an estate shall obtain a bond for the full value of the assets in the possession or control of the liquidator/auctioneer, unless the Court orders otherwise.

(b) Disclosures

An application to employ a liquidator/auctioneer shall:

- (1) contain an affirmative statement that the liquidator/auctioneer sought to be employed by a trustee or the Debtor is bonded; and
- (2) disclose the name of the bonding company.

(c) Remittance of Gross Proceeds

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

(d) 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 provide a 14-day Objection Notice of the motion to the parties identified in Fed.R.Bankr.P. 6006(c) as well as to any sublessee. Along with the motion, the movant shall file a copy of the notice and a Certificate of Service. The motion, notice, and Certificate of Service may be combined into one document, a sample of which is available on the Court's website.

(b) Compelling Assumption or Rejection

A party seeking to compel assumption or rejection of an executory contract or lease shall provide a 14-day Objection Notice of the motion to the Debtor, any trustee, counsel of record, the UST, any other party to the contract or lease, and any sublessee identified on the Debtor's schedules. Along with the motion, the movant shall file a copy of the notice and 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-6007-1. ABANDONMENT OF PROPERTY**

(a) Trustee Abandonment in Chapter 7 Cases

(1) Report of No Distribution

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

(2) Notation of Abandonment on Docket

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

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

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

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

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

(5) Motion to Abandon Filed by Party in Interest

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

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

The movant shall serve the motion and a 14-day Objection Notice on the trustee or debtor-in-possession, the UST, all creditors, indenture trustees, and committees elected under §705 or appointed under §1102 of the Code, except that distribution may be limited in the manner prescribed by S.D. Ind. B-2002-1(d). In a Chapter 7 case where notice of insufficient assets to pay a dividend was given, notice can be limited pursuant to this subparagraph 90 days following the mailing of the notice setting a claims bar date. Along with the motion, the movant shall file a copy of the notice and a Certificate of Service. The motion, notice, and Certificate of Service may be combined into one document, a sample of which is available on the Court’s website.

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

The Debtor shall serve a motion to redeem and provide a 21-day Objection Notice on the lien holder, in accordance with Fed.R.Bankr.P. 9014(b) and 7004. Along with the motion, the Debtor shall file a copy of the notice and a Certificate of Service. The motion, notice, and Certificate of Service may be combined into one document, a sample of which is available on the Court’s website.

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

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



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

(a) Adversary Required

A 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 under 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. 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, the party seeking the sale shall file a Motion to Sell under 11 U.S.C. §363 and S.D.Ind. B-6004-1 through 6004-4, as applicable.

(d) Adversary Proceeding Excused

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

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

Discovery materials shall not be filed with the Court except as follows:

(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, shall file with the motion those parts of the discovery materials relevant to the motion.

(b) Anticipated Use at Trial

When a party anticipates using discovery materials at trial, the party shall file the relevant portions at the start of the trial.

(c) Necessary for Appeal

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

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

### (a) Initial Extensions

A party in an adversary proceeding that wishes to obtain an initial extension of time not exceeding 28 days within which to file a responsive pleading, a response to a written discovery request, or a response to a motion shall contact counsel for the opposing party, or if the opposing party is not represented by counsel, the opposing party, and request that person's agreement to the extension. In the event that person does not object to the extension or cannot be reached, the requesting party shall file a notice with the Court reciting the lack of objection to the extension or the fact that the person could not be reached. The notice shall state the original due date and the date to which the time is extended. No further filings with 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. MOTIONS FILED UNDER FED.R.BANKR.P. 7012**

### (a) Supporting Brief Required

A party filing a motion to dismiss, for judgment on the pleadings, or for a more definite statement under Fed.R.Civ.P. 12 (made applicable in bankruptcy by Fed.R.Bankr.P. 7012) shall file and serve a supporting brief. The supporting brief shall be no more than 35 pages, unless the Court orders otherwise. The motion and supporting brief may be combined into one document.

### (b) Response and Reply Briefs

A party opposing a Rule 7012 motion shall, within 21 days after the movant serves the motion and brief, file a response brief unless that party is entitled to and first files an amended pleading under Fed.R.Civ.P. 15. The response brief shall be no more than 35 pages, unless the Court orders otherwise. If no response is filed, the Court may consider the motion to dismiss. The movant may file a reply brief within 14 days after service of the response brief. The reply brief shall be no more than 21 pages, unless the Court orders otherwise.

## **B-7007-2. CORPORATE OWNERSHIP STATEMENT TO BE FILED BY EACH NON-INDIVIDUAL PARTY TO AN ADVERSARY PROCEEDING**

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

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

(a) Use of Pretrial Conferences

The Court may, at its discretion, conduct a pre-trial conference in an adversary proceeding upon notice.

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

The Court may determine on its own motion or on the request of a party which provisions of S.D.Ind. L.R. 16-1 shall apply to an adversary proceeding.

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

(a) Form of Discovery Requests

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

(b) Form of Discovery Responses

A party responding by answer or objection to discovery shall quote each interrogatory or request 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

Counsel 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

Counsel for a deponent 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 Judge 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

Counsel shall make a good faith effort to schedule depositions in a manner that avoids scheduling conflicts. No deposition will be scheduled on less than 14 days' notice unless agreed by counsel or the Court orders otherwise.

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

A party may serve no more than 25 requests for admission on another party without leave of Court. Requests relating to the authenticity or genuineness of documents are not subject to this limitation. A party seeking to serve additional requests for admission shall file a written motion setting forth the proposed requests and the reason(s) for their use.

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

(a) Required Actions Prior to Court Involvement

Counsel shall confer in a good faith attempt to resolve any discovery dispute prior to involving the Court. If a dispute cannot be resolved, counsel may contact the chambers of the assigned Judge to determine whether the Judge is available to resolve the discovery dispute by telephone conference or other proceeding prior to the filing of 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

If the discovery dispute is not resolved at the conference, counsel may file a motion to compel. A motion raising a discovery dispute shall 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 a 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 months;
- (b) the Judge has directed and the Clerk has given notice to the parties that the case will be dismissed for failure to prosecute it; and
- (c) at least 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 in both the bankruptcy case and the adversary proceeding, 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 21 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 under Fed.R.Bankr.P. 7055(a) shall file an application seeking relief. The application shall be accompanied by an affidavit stating that the defendant has failed to plead or otherwise defend and that the defendant 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," 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 under 28 U.S.C. §1920. 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 shall be accompanied by a Certificate of Service.

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

(a) Movant's Obligations

A party seeking summary judgment shall file and serve a supporting brief and any affidavits and other materials referred to in Fed.R.Civ.P. 56(c)(1) that the movant relies on to support the motion. The supporting brief shall be no more than 35 pages, unless the Court orders otherwise. The brief shall include a section labeled "Statement of Material Facts Not in Dispute" that lists the facts:

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

(b) Non-Movant's Obligations

A party opposing a summary judgment motion shall, within 28 days after the movant serves the motion, file and serve a response brief and any affidavits and other materials referred to in Fed.R.Civ.P. 56(c)(1) that the party relies on to oppose the motion. The response brief shall be no more than 35 pages, unless the Court orders otherwise. The response shall include a section labeled "Statement of Material Facts in Dispute" that identifies the potentially determinative facts that the party contends demonstrate a dispute of fact precluding summary judgment.

(c) Reply

The movant may file and serve a reply brief within 14 days after a response is served. The reply brief shall be no more than 20 pages, unless the Court orders otherwise.

(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 shall be filed and served within seven days after the movant serves the reply and shall be limited to the new evidence and objections.

(e) Citations to Supporting Facts

A party shall support each fact asserted in a brief with a citation to a discovery response, a deposition, an affidavit, or other admissible evidence. The evidence shall be in the record

or in an appendix to the brief. The citation shall refer to a page or paragraph number or otherwise specify where the relevant information can be found in the supporting evidence.

(f) Oral Argument or Hearing

The Court may decide a summary judgment motion without oral argument or hearing unless a party has requested a hearing.

(g) Notice Requirement for *Pro Se* Cases

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

- (1) briefly and plainly states that a fact stated in the movant'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; and
- (2) sets forth the full text of Fed.R.Civ.P. 56 and this rule

(h) Compliance

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

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

(a) Adversary Proceeding Required

A motion for a temporary restraining order or preliminary injunction shall be preceded by an adversary proceeding initiated by the filing of a complaint under Fed.R.Bankr.P. 7001(7).

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

A motion for a temporary restraining order or preliminary injunction shall be filed separately from the complaint and shall be accompanied by a brief in support of the motion and 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.

(c) Notice

If notice is provided to a defendant under Fed.R.Bankr.P. 7065, the movant shall serve a copy of the motion, supporting brief, declaration or affidavit, and a copy of the complaint, and shall file a Certificate of Service.

## **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 under 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 according to and published in the Federal Register. Funds deposited with the Court under 11 U.S.C. §347(a) are not subject to this rule.

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

(a) Availability of Enforcement Remedies

A trustee or a 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 shall be for a sum certain or direct turnover of specific 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 be sent to the trustee or the Debtor only and should not be filed with the Court.

## **B-8009-1. 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.

(b) Transcripts

If the record designated by a party includes a transcript of a proceeding, that party shall file a written request for the transcript. The docketed electronic file of a recording made at the hearing is not the official record and shall not be included in the designation of the record.



(c) Failure to Designate Record on Appeal

If the parties fail to file a timely designation of record with the Clerk under Fed.R.Bankr.P. 8006, the Clerk shall advise the District Court 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 under 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 three 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 a motion or notice 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, the Debtor, the Unsecured Creditors Committee or its counsel if applicable, or if there is no Committee, the list of 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-9010-1. APPEARANCES**

(a) Initial Filing Constitutes Appearance

A document filed using the Court's electronic filing system, with the exception of a proof of claim, a reaffirmation agreement, a request under Fed.R.Bankr.P. 2002(g), or a creditor change of address, constitutes an appearance by the attorney for the party on whose behalf the document is filed.

(b) Appearance Form

An attorney whose appearance has not been previously established under subparagraph (a) of this rule may file an appearance that shall include the attorney's name, 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 a 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 new 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 shall also be filed. If the attorney being replaced is unavailable to sign the substitution of appearance, the new attorney or the Debtor shall include an affidavit stating the reasons for the unavailability.

### (b) Motion to Withdraw: Exceptions

An attorney for a party other than the Debtor shall file a motion to withdraw an appearance except that a notice of withdrawal may be filed:

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

### (c) Motion to Withdraw: Requirements

A motion to withdraw shall provide:

- (1) satisfactory evidence of a written request from the party to withdraw; or
- (2) an attached copy of a notice to the party of the intent to withdraw sent at least seven days 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 30 days or that identifies the hearing, conference, or deadline; and

### (d) Service

A substitution of appearance, a motion to withdraw, or a notice of withdrawal 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

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

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

The Court shall remove the attorney from the list of attorneys receiving notices and orders in the case or adversary proceeding 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's docket shall continue to list the attorney, with a notation that the attorney's appearance has been terminated.

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

(a) Bar of the Court

The bar of this Court consists of those persons admitted to practice in the Southern District of Indiana and under subparagraph (c) of this rule. The Rules of Professional Conduct, as adopted by the Indiana Supreme Court, and the District Court's Local Rules of Disciplinary Enforcement, govern the conduct of those practicing in this Court.

(b) Exceptions

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 unless such person:

- (1) appears on his or her own behalf as a party;
- (2) 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 under subparagraph (c) of this rule, granted leave to appear in a specific action;
- (3) appears as an attorney for the United States; or
- (4) files a document as to which an appearance is not required under S.D.Ind. B-9010(a)(4).

(c) Pro Hac Vice

An attorney seeking leave to appear in a specific action shall file a Motion to Appear *Pro Hac Vice*. A separate motion that complies substantially with the form available on the Court's website shall be filed for each attorney seeking admission under this subparagraph and 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 order granting the motion.

## **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) of this rule. All requests shall be named in the caption, state the order or relief sought, and contain a short and plain statement of the basis for the motion. If the alternative relief requested has varying requirements for notice, the notice shall provide the longest of the alternative periods. Objections to separately filed motions shall 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) Joinder in Other Party’s Motion, Application, or Objection

A party may join in a motion, application, or objection previously filed by another party in a bankruptcy case or adversary proceeding by filing a Notice of Joinder. Unless the Court orders otherwise, a Notice of Joinder shall not be treated as a separate request for relief or require a response or objection thereto by any other party. A request to join in an adversary proceeding as a party plaintiff or defendant shall be filed as a Motion for Joinder under Fed.R.Bankr.P. 7020.

## **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 be accompanied by a Certificate of Service.

(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 which fails to comply with subparagraphs (a) or (b) of this rule.

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

(a) Motions Included

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

(b) Procedure Prior to Filing

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

(c) Procedure upon Filing

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

(d) Service of First Day Motions and Notice

The Debtor shall serve copies of all First Day Motions and notice of the hearing on the initial Service List, known counsel for a party, and named parties in interest. Notice of the hearing and copies of the First Day Motions shall be served by fax, e-mail, hand, or overnight delivery. If the documents are more than three pages in length, the movant may fax the first page of the motion with a statement as to the total number of pages in the document and instructions for obtaining all documents on the movant's website or by e-

mail. Prior to the hearing, the Debtor shall file a Certificate of Service. Failure to give timely notice may result in relief being denied or the hearing continued.

(e) Contents of Notice

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

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

(f) List of Included Motions

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

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

(15) retain a claims, noticing and/or balloting agent; and

(16) maintain existing insurance policies/programs.

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

The following local rules apply in contested matters other than motions to dismiss or convert a case, unless the Court orders otherwise:

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

Under 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) Form of Demand

(1) A demand for trial by jury, where permitted by Fed.R.Civ.P. 38, shall be filed with a party's first pleading or within 30 days of the filing of a notice of removal, whichever is earlier, and shall include the demand in the title by way of a notation placed on the front page of the pleading, immediately following the title of the pleading, stating "Demand for Jury Trial."

(2) Any notation on an adversary cover sheet filed under S.D.Ind. B-7001-1 shall not constitute a demand for trial by jury under this rule.

(3) The demand may specify the issues which the party wishes to be tried to a jury; otherwise the party shall be deemed to have demanded to have all issues tried by jury.

### (c) Consent

A demand for trial by jury shall state whether the party making the demand consents to the Bankruptcy Judge conducting the jury trial. Within 30 days of the demand, any adverse party shall file a statement stating its consent or a lack of consent to the Bankruptcy Judge conducting the jury trial. The statement may be included in the party's responsive pleading or filed separately.



(d) Waiver and Withdrawal

The failure of a party to serve and file a demand as required by this rule constitutes a waiver by the party of trial by jury. A demand for trial by jury may be withdrawn at any time.

(e) Determination of Right

On its own motion or upon the motion of a party, the Court shall determine, as early as practicable, whether the demand for trial by jury is proper and whether the party has a right to a jury trial and, if so, as to which issues. If there is no consent, the Court may direct a party to file a motion to withdraw the reference.

(f) Applicability of District Court Local Rules

The following District Court local rules concerning jury trials apply unless the Court orders otherwise:

- 47-1 Voir dire
- 47-2 Communication with jurors
- 47-3 Juror costs
- 47-4 Jury; unanimous verdict

(g) No Right Created

This rule does not expand or create any right to trial by jury where the right does not otherwise exist.

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

If a subpoena to produce or permit inspection is to be served upon a nonparty, a copy of the proposed subpoena shall be served on all other parties at least seven 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. However, if such subpoena relates to a matter set for hearing within such seven-day period or arises out of an emergency, the subpoena may be served upon a nonparty one day after a notice and copy of the subpoena is served on each party.

## **B-9018-1. SEALED CASES AND DOCUMENTS**

(a) Filing a Case or Document Under Seal

A party seeking to file a case or document under seal shall follow the Sealed Cases and Documents procedures in the Court's ECF Administrative Policies and Procedures Manual.

(b) Termination of Seal

Five years after the order imposing the seal, unless the Court in establishing the seal has set a different date for the seal to be terminated, the Clerk shall give notice to the party that requested the seal and any party that objected to the request that the seal will be terminated if no objection is filed within 21 days of the notice. If no objection is filed, or if the Court overrules the objection, the Clerk shall terminate the seal and make the documents available.

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

(a) Notice

When the trustee or debtor-in-possession is required to obtain approval of a settlement or compromise under 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 provide a 21-day Objection Notice to the Debtor, creditors, any trustee, the UST, and to any other entity as the Court may direct. The movant shall file a copy of the notice and a Certificate of Service. The motion, notice, and Certificate of Service may be combined into one document, a sample of which is available on the Court's website.

(b) Chapter 13 Motion to Approve Settlement Distribution

The Debtor in a Chapter 13 case is required to report to the trustee the resolution of any matter for which a Notice of Retention and Compensation Terms under S.D. Ind. B-2014-2 was filed. The Debtor shall not disburse any settlement proceeds until consent of the trustee has been obtained. The Debtor or trustee may file a Motion to Approve Settlement Distribution that discloses any amount proposed to fund the plan, any amount proposed to be paid to the Debtor, the proposed compensation to Professionals and whether that compensation is subject to Court approval. If the trustee negotiates receipt of funds sufficient to pay all claims in full, the trustee may instead file a Report to Court. The movant shall provide a 21-day Objection Notice to the Debtor, creditors, any trustee, the UST and to any other entity as the Court may direct, and shall file a copy of the notice and a Certificate of Service.

(c) Adversary Proceedings

(1) 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 the debtor-in-possession shall file a motion to approve the settlement in the bankruptcy case and shall serve notice. The trustee or the debtor-in-possession shall file a copy of the notice and a Certificate of Service. Once the motion is granted, the parties to the adversary proceeding shall dismiss the adversary proceeding or file an agreed consent to judgment so that the adversary may be closed.

(2) 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

This rule governs mediation. Parties may agree to the use of any other method of alternative dispute resolution. However, use of arbitration is governed by 28 U.S.C. §§654-657.

(b) Applicability of the Rule

This rule applies to all contested matters and adversary proceedings.

(c) Referral to Mediation: Process

(1) Party Request

(A) Written Request

A party may file a Motion to Refer a Matter to Mediation. If a party certifies in the motion that all parties consent and the Court finds the motion to be appropriate, the Court may enter an order referring the matter to mediation without further notice or hearing. If a motion does not certify the consent of all parties, the motion shall be set for hearing.

(B) Oral Request

Any party may request referral to mediation at any hearing or conference if all other parties are present.

(2) Court's Proposal to Refer to Mediation

The Court may propose to refer a matter to mediation at any time all parties appear before the Court. The parties can oppose referral, indicate consent, or request a separate status conference on the proposal.

(3) Order Directing Mediation

If the Court determines that mediation is appropriate, it shall enter an order referring a matter to mediation.

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

During mediation, the matter remains under the jurisdiction of the Court. Referral to mediation does not abate or suspend any deadlines. Parties may limit discovery to the development of information needed to facilitate mediation.

(e) Selection of the Mediator

(1) Selection by Agreement

Parties may select any person to serve as mediator but are encouraged to consider those listed on the Court's Mediator Panel, available on the Court's website. The Notice of Selection of Mediator may be filed at any time but no later than 14 days after the order referring the matter to mediation. This time period may be extended upon motion by any party.

(2) Selection of Candidates by the Court

If the parties cannot agree on a mediator, or if the parties elect to request the Court to name a panel for their consideration, a party shall file a Motion to Select a Panel of Mediator Candidates. The Court will issue a Notice of Designation of Mediator Candidates which designates three potential mediators. Each side, alternately, shall strike the name of one mediator. The side initiating the controversy will strike first, no later than three days after the filing of the Notice of Designation of Mediator Candidates. The parties shall complete the striking process within seven days of the Court's designation and shall file a Notice of Selection of Mediator. During the striking process, the parties can agree on a mediator and that mediator is not required to be one named on the panel of candidates. If a party fails to strike from the list when required to do so, the first name on the list that has not previously been stricken is deemed stricken by that 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) Affidavit

A person selected 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 impartiality of the mediator and setting forth any other reason which could result in disqualification under subparagraph (e)(6) of this rule. The affidavit shall summarize the anticipated rate of compensation and terms of payment. The affidavit shall be filed no later than seven days after the notice specified in subparagraphs (e)(1) and (2) of this rule. The time for filing the affidavit may be extended upon motion of any party.

(4) Qualification and Immunity

A mediator becomes qualified upon the filing of the affidavit required by subparagraph (e)(3) of this rule. 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.

(5) Replacement of Mediator

If the mediator is disqualified or withdraws, the parties may agree upon another mediator and file the appropriate notice, or they may request that the Court designate a panel of candidates under subparagraph (e)(2) of this rule.

(6) Withdrawal or Disqualification

A mediator may withdraw from service at any time by filing a notice of withdrawal. A mediator is also subject to the disqualification rules found in 28 U.S.C. §455. A party may file a Request for Disqualification of Mediator.

(f) Filing by Mediator

A mediator is not required to be authorized to file electronically. If the mediator does not have the ability to file documents electronically, the mediator may submit documents to the Judge's chambers and chambers staff will ensure docketing.

(g) Compensation

The compensation and costs of the mediation shall be borne equally by the parties unless otherwise agreed or ordered by the Court. If one of the parties is a trustee or a 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. The mediator shall file a motion for payment of administrative expense, unless compensation was set in the Order Directing Mediation.

(h) 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 unsuccessful.

(3) Termination of the Mediation by a Party

Parties are required to appear for mediation and to participate in good faith. Either party may withdraw from the mediation if the party determines that continuing the mediation would be unsuccessful.

(4) Conclusion of the Mediation

- (A) If the mediation results in settlement of the contested matter or adversary proceeding, the mediator or the party who requested the mediation shall within seven days of the conclusion of the mediation file a Report of Mediation. Within a reasonable time thereafter, the parties shall submit to the Court an agreed entry, agreed consent to judgment, stipulation of dismissal, and/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 appropriate, the parties may file a Report to Court.
- (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 will be successful at that time, 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 of Mediation under subparagraph (h)(4) of this rule, the mediation shall be deemed concluded and the mediator shall be relieved of all further duties or responsibilities.

(i) Confidentiality

(1) Protection of Information Disclosed at Mediation

Any written or oral communication made during mediation is confidential unless otherwise agreed by the parties. The unauthorized disclosure of confidential communication by any person may result in the imposition of sanctions under subparagraph (j) of this rule. 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 admission, because of its use in mediation. If the Court so orders, the mediator's report on the parties' participation, to assist the Court in determining if the parties participated in the mediation in good faith, shall not be considered a violation of these confidentiality requirements.

(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 information received or distributed by a mediator while serving in such capacity. The mediator shall not testify or be compelled to testify concerning the mediation in any 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.

(j) 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.

## **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

- (1) 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.
- (2) If the bankruptcy case is filed or pending in another jurisdiction, the party requesting the removal shall contact the Clerk of the Bankruptcy Court to open a miscellaneous proceeding. Upon 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 to refer the matter 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.

- (d) Deadline to File Motion for Remand

A motion for remand of a claim or cause of action removed to the bankruptcy court, other than one based upon the lack of subject matter jurisdiction, shall be filed within 30 days after the filing of the notice of removal and shall be served upon all parties to the removed action.

## **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) Scope of Rules

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

- (c) 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.

- (d) Modification or Suspension of Rules

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



## **B-9033-1. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW ISSUED BY BANKRUPTCY COURT**

An objection to the proposed findings of fact and conclusions of law issued by a Bankruptcy Judge shall be filed with the Clerk in accordance with Fed.R.Bankr.P. 9033(b). When a party has properly objected under Fed.R.Bankr.P. 9033(b), for the purpose of preparing the record and identifying the issues for the District Court, the parties shall follow the procedures set forth within Fed.R.Bankr.P. 8009 by treating an objection as an appeal. In the event no objection is filed within the time specified in Fed.R.Bankr.P. 9033, the Clerk shall immediately transmit the proposed findings of fact and conclusions of law to the Clerk of the District Court for docketing and the issuance of a District Court case number.

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

### **(a) Motion to Redact a Previously Filed Document**

A party seeking to redact from a previously filed document information that is protected under Fed.R.Bankr.P. 9037(a) shall:

- (1) file a Motion to Redact a Previously Filed Document that identifies the proposed redactions;
- (2) include within the motion the docket or claim number of the previously filed document; and
- (3) serve the motion and attachments on the Debtor, Debtor's attorney, trustee (if any), UST, the filer of the previously filed document (the "Original Filer"), and any individual whose personal identifying information is to be redacted.

The event Motion to Restrict Access is intended for use with requests under 11 U.S.C. §107 and should not be used when requesting removal of personal identifiers.

### **(b) Restricting Public Access to the Unredacted Document; Docketing the Redacted Document**

The Clerk shall promptly restrict public access to the Motion to Redact a Previously Filed Document and the unredacted document pending the Court's ruling. If the Court grants the motion, the Original Filer shall docket the redacted version of the document and the restrictions on public access to the motion and the unredacted document remain in effect, unless the Court orders otherwise. If the Court denies the motion, the restrictions shall be lifted, unless the Court orders otherwise.

### **(c) No Notice or Hearing Required**

The Court may rule upon a Motion to Redact a Previously Filed Document without notice or hearing.

(d) Filing Fee

The required filing fee is due if the Motion to Redact a Previously Filed Document is filed by the Original Filer. The fee is waived for all other parties.

(e) Omnibus Motion to Redact Procedure

A party that seeks redaction of documents in more than ten cases may file a miscellaneous proceeding in accordance with the Court's Procedures Manual.

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

(a) Custody During Pendency of Action

An item offered into evidence in a case other than by electronic submission shall be placed in the Clerk's custody. These items may not be claimed from the Clerk until the case is disposed of as to all issues, including appeals, unless the Court orders otherwise.

(b) Claiming Items After Disposition of Action

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

- (1) if the case is not appealed, within 90 days after the case is disposed of as to all issues; or
- (2) if the case is appealed, within 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 the Court orders otherwise.

(c) Procedure for Claiming Items

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

(d) Failure to Claim Items

The Clerk may dispose of those items not claimed by the parties within the deadline set under subparagraph (b) of this rule, after notice to the party presenting the exhibit.

(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.

(f) Disposal of Exhibit Submitted Electronically

Exhibits that may have been presented to the Court electronically but are not docketed in the case may be disposed of by the Clerk after expiration of the deadline set under subparagraph (b) of this rule.