

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA

**PROPOSED AMENDMENTS TO LOCAL RULES:
PUBLIC COMMENT PERIOD**

The Court is proposing amendments to its local rules to be effective December 1, 2022. A complete set of the proposed revisions accompanies this notice.

While most edits are minor in nature, a few substantive changes are proposed, including:

B-2014.2: A chapter 13 trustee who does not consent to the terms of a debtor's Notice of Retention and Compensation Terms can file an objection within 14 days of the filing of the Notice.

B-7007-1: The requirement for a supporting brief is expanded to include all motions filed pursuant to Federal Rule of Civil Procedure 12, not just those filed under FRCP 12(b)(6).

The Judges reserve the right to make additional changes to the rules, including those based upon comments received, prior to the December 1 effective date.

Comments to or questions about the proposed rules edits can be made by sending an email to Local_Rules_Comments@insb.uscourts.gov. The deadline to submit comments is **5:00 p.m. Eastern on Tuesday, November 15, 2022**.

October 18, 2022

/s/ Eric Kleis
Clerk of Court

B-1003-1. POWER OF ATTORNEY

(a) General Requirements

- (1) ~~A petition~~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 ~~Debtor~~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 ~~petition~~ 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) ~~The~~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.

Comment

Subparagraph (a)(1) is revised to account for situations in which the first document filed by an attorney-in-fact is something other than a petition, while subparagraph (a)(3) is amended to clarify the requirement that a petition-filing attorney-in-fact is to attend the Meeting of Creditors.

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 ~~of~~ 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.

Comment

Subparagraph (c)(1) is revised to specify that the first motion for extension of time to file initial case documents only grants relief through the 30th day from the petition date, rather than from the date the extension motion was filed or the date an order granting the extension motion is entered.

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. ~~If requested as part of the Application, the proposed procedure shall be summarized in the Objection Notice.~~ 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 objection to an interim or final fee application.

Comment

Subparagraph (b)(4) is amended to confirm that a request for treatment of a retainer in a chapter 11 or 12 case that differs from 11 U.S.C. § 331 can be made within an Employment Application or by separate pleading.

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.

Comment

The current rule is silent as to those instances in which a trustee does not consent to the terms of compensation agreed to by the Debtor and the Professional. The amendment provides an opportunity for a trustee to file an objection to the Notice of Retention and Compensation Terms, which the Court may set for hearing, if appropriate.

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 Report

(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.

~~(b)~~(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.

~~(e)~~(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.

Comment

New subparagraph (b) is added to outline whether the Debtor or a trustee is to file reports of operations in Sub V Chapter 11 cases.

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) Legal Cases

Counsel may apply for additional fees if Counsel opted for the fee award process set out in subparagraph (b)(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 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)(A) 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.

Comment

New subparagraph (c)(3)(B) is added to incorporate the supplemental fee in adversary proceedings provisions of rescinded General Order 14-0005. The changes to subparagraphs (c)(3)(A) and (c)(4) are made to correct erroneous internal rule references.

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) Proof of Identification for Initial Pleadings

~~A *pro se* party filing a voluntary petition, an involuntary petition, or an adversary proceeding over the counter must appear in person and shall be required to provide a valid photo driver's license or other government-issued photo identification before the petition or complaint will be accepted for filing. For *pro se* joint cases filed under 11 U.S.C. §302, only one spouse need be present. An exception may be granted if the Debtor, creditor, or plaintiff has executed a power of attorney, and the holder of the power of attorney has presented that document and sufficient identification.~~

~~(3)~~(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.

~~(4)~~(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.

Comment

Subparagraph (c)(2) is deleted due to the Court's elimination of the requirement for pro se parties filing an initial document over-the-counter to present photo identification. The joint case filing provision previously found in subparagraph (c)(2) is moved to subparagraph (c)(1).

B-7007-1. MOTIONS PRACTICE IN ADVERSARY PROCEEDINGS FILED UNDER FED.R.BANKR.P. 7012

(a) Motions to Dismiss under Fed.R.Civ.P. 12(b)(6) Supporting Brief Required

(1) Movant's Obligations

If a party files filing a motion to dismiss under Fed.R.Civ.P. 12(b)(6), for judgment on the pleadings, or for a more definite statement under Fed.R.Civ.P. 12, (made applicable to in bankruptcy matters by Fed.R.Bankr.P. 7012(b)), that motion shall be accompanied by shall file and serve a supporting brief. Unless otherwise ordered by the Court, the supporting brief shall be no more than 35 pages 35 pages, unless the Court orders otherwise. In the alternative, the moving party may file a separate motion asking to be excused from the briefing requirement The motion and supporting brief may be combined into one document.

(2) Non-Movant's Obligations

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

(3) Reply

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

(b) Motions Other than under Fed.R.Civ.P. 12(b)(6) Response and Reply Briefs

A party opposing a Rule 7012 motion shall, Unless the Court orders otherwise, if a party files a motion to dismiss other than under Fed.R.Civ.P. 12(b)(6), the responding party shall have within 21 days after the movant serves the motion to file and serve a response. If no response is filed, the Court shall consider the motion 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 services of the response brief. The reply brief shall be no more than 21 pages, unless the Court orders otherwise.

~~(c) Motions for Summary Judgment~~

~~S.D.Ind. B-7056-1 sets the procedure for motions for summary judgment in adversary proceedings.~~

~~(d) Motions to Dismiss Actions Concerning Denial of Discharge~~

~~If the motion to dismiss concerns a proceeding that includes a request to deny discharge, S.D.Ind. B-7041-2 governs as to notice.~~

Comment

The Rule has been edited to expand the current briefing requirements and is more in line with District Court's comparable local rule. The rule clarifies that a supporting brief is required for all motions filed pursuant to Federal Rule of Civil Procedure 12, not just motions to dismiss under FRCP 12(b)(6). This includes motions for judgment on the pleadings and for a more definitive statement, as well as motions to dismiss on bases such as a lack of subject matter jurisdiction. Beyond the substantive benefit of briefing from the moving party, these changes will also simplify the quality control process for motions to dismiss and the ECF event.

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) ~~post-petition financing~~ 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
- ~~(13)~~ (16) maintain existing insurance policies/programs.

Comment

The name of the post-petition financing motion is changed to a motion to obtain credit (subparagraph (f)(3)) and three new first day motions are added as new subparagraphs (f)(14-16).

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 trustee-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.

Comment

Subparagraph (b) is revised to reflect that a Motion to Approve Settlement Distribution may be filed by a case trustee or a debtor.