

## **POLICIES AND PROCEDURES**

### **COMMUNICATION WITH THE COURT**

Generally, the Courtroom Deputy, Vickie Hensley, should be contacted by telephone at (937) 225-7684 with all questions about policies, procedures, and case status, or to advise the court of continuances, settlements, or hearing cancellations. Chambers staff may not provide legal advice or comment on the merits of any pending matter.

### **CHAPTER 13 DOCKET**

The most current updates to the court's Chapter 13 docket may be found at the Chapter 13 website, [www.dayton13.com](http://www.dayton13.com).

### **COURTROOM CONDUCT**

- All parties shall stand and remain silent as the judge enters or exits the courtroom.
- At the commencement of the proceeding when "appearances" are requested, each attorney shall stand, state his or her name, and introduce by name the parties and witnesses present for that attorney's cause.
- All parties shall be formally addressed by surnames.
- Following the initial "appearances," any party addressing the court shall do so from the lectern except with leave of court.

### **WIRELESS TELEPHONES AND OTHER PORTABLE ELECTRONIC DEVICES**

Pursuant to [General Order Number 10](#) and [General Order Number 11](#), wireless telephones or other portable electronic devices ("PEDs") are not allowed in the Dayton Bankruptcy Court Building unless in the possession of a licensed attorney. All PEDs must be turned *off* prior to entry into the courtroom. Failure to comply with this policy and the General Orders may result in confiscation of the PED subject to payment of a \$100 fine.

### **PRESENTATION OF EXHIBITS AT HEARINGS AND TRIALS**

- Exhibit list(s) and copies of all exhibits shall be exchanged with opposing counsel prior to trial.
- Each party shall pre-mark all exhibits as follows:
  - o Numbers – Plaintiff/Movant
  - o Letters – Defendant/Respondent
- At trial or hearing, counsel shall provide an original hard copy of each exhibit to be retained by the court as part of the record.
- Presentation of all exhibits during trial shall be by means of the court's electronic display system.

- If counsel intends to present exhibits electronically from a laptop computer or use other digital presentation devices, then counsel must provide at least three (3) days advance notice to the court to ensure security clearance and technical compatibility.
- Courtroom equipment testing and setup of counsel-provided devices are the responsibility of counsel and should be completed prior to the trial commencement time. Practice and testing arrangements can be made by telephoning Judge Walter's courtroom deputy.

### **TELEPHONE PARTICIPATION**

- Pretrial conferences, status conferences, and other matters are frequently conducted by telephone at the court's discretion.
- Telephone participation in hearings and trials is not permitted absent extraordinary circumstances; attorneys may monitor (listen to) certain Chapter 11 proceedings by telephone with prior approval of the court.

### **AVOIDANCE OF WHOLLY UNSECURED MORTGAGES IN CHAPTER 13 CASES**

Judge Walter permits either motions or adversary proceedings for avoiding wholly unsecured mortgages in Chapter 13 cases. In either instance, service must comply with Bankruptcy Rule 7004.

### **MOTIONS TO AVOID JUDICIAL LIENS PURSUANT TO § 522(F) OF THE BANKRUPTCY CODE**

Motions to avoid judicial liens encumbering real property must include the following information:

- 1) the address of the property on which the judicial lien is to be avoided;
- 2) the specific certificate of judgment to be avoided, including the amount of the certificate of judgment;
- 3) all other liens (mortgages, other certificates of judgment, etc.) on the property, including the amount of each lien; and
- 4) the exemption the debtor is claiming to be impaired and the amount of the exemption.

For a motion filed within a Chapter 13 case, any proposed order to avoid a judicial lien must be conditioned on the debtor completing all payments in the plan or the debtor's discharge.

Service must comply with Bankruptcy Rule 7004. Failure to comply with all of these requirements may result in the motion being denied without prejudice.

## **SERVICE ON INSURED DEPOSITORY INSTITUTIONS**

See Bankruptcy Rule 7004(h) concerning service upon an insured depository institution. Subject to the limited exceptions set forth in the Rule, the court will require service upon an insured depository institution by certified mail addressed to the attention of a specific officer, identified by name, for all adversary proceedings and for any extraordinary relief sought against such an institution, including but not limited to motions for violation of the stay or for violation of the discharge injunction. The court will also require in such instances that the specific name of an officer and the officer's title be included as part of the certificate of service.

Information concerning whether an entity is an insured depository institution can be found at <http://research.fdic.gov/bankfind/>.

This rule applies to adversary proceedings and motions to avoid liens.