

**United States Bankruptcy Court  
for the Southern District of Ohio**

**Local Bankruptcy Rules, Forms and Procedures**

**Amendments Effective: November 1, 2016**

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**The Philosophy and Policy of  
The Local Rules, Forms and Procedures Committee  
for the Bankruptcy Court for the  
Southern District of Ohio**

In reviewing our existing Local Rules, forms and procedures for revision, the Committee, composed of members from each court location, has adopted certain policies and philosophy to guide its work. The Committee will strive to:

(a) Revise the Local Rules to accommodate all periodic statutory and national rule changes and to make all Local Rules comply with the requirement of Bankruptcy Rule 9029 that local rules be consistent with and non-duplicative of governing statutes and national rules.

(b) Attempt to incorporate any relevant existing and viable general orders into the Local Rules and to discourage the creation and use of such general orders.

(c) Streamline procedures and practices by eliminating motions, applications, or orders whenever possible, consistent with the requirements of the Bankruptcy Code and Rules.

(d) Attempt to standardize the Local Rules, forms and procedures for practice under chapters 12 and 13 throughout the district.

(e) Recognize the significance of electronic case filing. [See Southern District of Ohio Administrative Procedures for Electronic Case Filing available at the court's website at [www.ohsb.uscourts.gov](http://www.ohsb.uscourts.gov).]

(f) Encourage, by example, order, education, consequence, and other means, careful observation of these Local Rules by the bench, clerk, and bar throughout the district.



## **PART I**

### **1002-1 PETITION — GENERAL**

(a) **Filing.** The clerk shall accept any petition presented for filing, except that the clerk may refuse to accept for filing a petition not accompanied by the proper filing fee, unless otherwise authorized by law.

(b) **Form of Petition.** All petitions shall comply with the appropriate Official Bankruptcy Form. The debtor's address shall include the domicile address, as well as the mailing address, if different.

(c) **LBR Form 1015-2 Required.** In a voluntary case, the debtor shall file LBR Form 1015-2 with the petition.

### **1004-1 PETITION — PARTNERSHIP (Reserved)**

### **1005-1 PETITION — CAPTION (Reserved)**

### **1006-1 FEES — INSTALLMENT PAYMENTS**

The clerk may refuse to accept any payment tendered as an installment filing fee that does not conform to the court's order entered pursuant to Rule 1006(b)(2). Unless otherwise ordered by the court, any installment payment tendered to the clerk shall not be in an amount less than \$30.00.

### **1007-1 LISTS, SCHEDULES AND STATEMENTS**

If a petition is filed without schedules, such schedules, when filed, shall be accompanied by either (1) a certification by the filer that the schedules do not contain any additional or

different creditors or parties in interest or (2) a verified amended mailing list consistent with the schedules, adding or deleting creditors as appropriate pursuant to LBR 1007-2.

## **1007-2 MAILING — LIST OR MATRIX (Hard Copy and Disk)**

**(a) Time to File; Format.** In addition to the requirements of the Rules, unless otherwise ordered, the debtor at the time of filing a petition in a voluntary case, or not later than seven (7) days after the entry of an order for relief in an involuntary case, shall file a mailing list of creditors and parties in interest in the following format:

(1) The print style shall be Courier 10 pitch, Times New Roman or Letter Gothic.

(2) The mailing list shall be printed in a single column, centered on a page with letters no closer than one inch from any edge.

(3) The addresses must be no longer than four lines with at least one blank line separating each entry on the mailing list.

(4) Each line must be 40 characters or less in length.

(5) The mailing list should not include the debtor, the debtor's attorney, or the office of the United States trustee.

**(b) Verification.** The mailing list shall be separately verified pursuant to Rule 1008.

**(c) Amendments.** Any amendment to the debtor's schedules that amends, deletes or adds to any of the information contained in the original mailing list shall be accompanied by an amended or supplemental mailing list.

**(d) Electronic Filing of Mailing List.** The debtor shall file the mailing list in accordance with the procedures set forth in the ECF Procedures.

## **1007-3 STATEMENT OF INTENTION**

**(Reserved)**

## **1007-4 FINANCIAL DISCL. BY CORP. DEBTOR**

**(Reserved)**

## **1007–5 STATEMENT OF SSN (PRIVACY)**

**(Reserved)**

## **1009–1 AMENDMENTS TO LISTS AND SCHEDULES**

**(a) Pending Cases.** When the debtor amends schedules to add or make any change concerning any prepetition creditor or party in interest, the debtor shall also file a corresponding amendment to the mailing list in accordance with LBR 1007-2(c) containing the names and addresses of those prepetition creditors or parties in interest added or modified.

**(1) Section 341 Notice of First Meeting of Creditors.** If the debtor files schedules after the petition date that include prepetition creditors not on the original mailing list or if prepetition creditors are added by a separate amendment, the debtor shall serve a copy of the § 341 notice upon each such added creditor.

**(2) Chapter 13 Cases.** In a chapter 13 case, in addition to the requirement in (1) above, the debtor shall serve a copy of the debtor's most recent plan on any prepetition creditor added by amendment.

**(3) Additional Requirements.** Any amendment shall be accompanied by the proper filing fee and contain the unsworn declaration of the debtor. The format of any mailing list(s) is prescribed by LBR 1007–2. The debtor shall file a certificate of service of any amendment, § 341 notice, or plan required by this Local Rule.

**(b) Reopening Case to Add Prepetition Creditor.** When the debtor wishes to amend schedules to add a prepetition creditor in a closed case, a motion to reopen the case must be filed pursuant to LBR 5010–1. If the court enters an order reopening the case, the amendment must be filed in accordance with (a) above within fourteen (14) days of the entry date of the order reopening the case.

**(c) Amendment to Exemptions.** If Schedule C, Property Claimed as Exempt, is amended, the debtor shall serve a copy of the amendment on the trustee, the United States trustee, and all creditors and parties in interest, and shall file a certificate of service evidencing compliance.

**(d) Separately Filed Document.** Amendments of schedules shall be filed separately from other documents.

**(e) Date of Debt.** Any amendment to add a creditor shall provide all the information required by the schedules, including the date the debt arose.

**(f) Section 1305 of the Code.** This Local Rule is not applicable to postpetition claims defined in § 1305 of the Code.

## **1010–1 PETITION — INVOLUNTARY**

A petitioning creditor shall serve the petition and summons.

## **1014–1 TRANSFER OF CASES (Reserved)**

## **1014–2 VENUE — CHANGE OF (Reserved)**

## **1015–1 JOINT ADMINISTRATION/CONSOLIDATION (Reserved)**

## **1015–2 RELATED CASES**

**(a) Definition.** If venue is otherwise proper in the Southern District of Ohio, a petition involving a prior voluntary or involuntary related case shall be filed at the court location where the first related case was filed. Related cases include cases in which the debtors are:

- (1) Identical individuals or entities, including DBAs, FDBAs;
- (2) Identical business entities;
- (3) A corporation/limited liability company and any major shareholder/member thereof (see §§ 101(2), (9) and (31) of the Code);
- (4) Affiliates (see § 101(2) of the Code);
- (5) A partnership and any of its general partners;
- (6) An individual and his or her general partner or partners;

(7) An individual and his or her spouse or former spouse; or

(8) Entities having substantial identity of financial interests or assets.

**(b) LBR Form 1015-2 Required.** In a voluntary case, for the purpose of disclosing certain prior, related bankruptcy filings, the debtor shall file LBR Form 1015-2 with the petition.

**(c) Assignment of Related Cases by Clerk.** When the petition or an LBR Form 1015–2 discloses that a related case is or was pending in this district, the newly–filed case shall be assigned by the clerk to the judge to whom the related case was most recently assigned.

**(d) Reassignment of Cases.**

**(1) By the Court.** The judge before whom a later–filed case is pending may, with or without motion, notice or hearing, order the reassignment of such case to the judge before whom a prior related case is or was pending. The judge before whom a prior case is pending or was pending may, with or without motion, notice, or hearing, order the reassignment to his or her docket of a later–filed case pending before another judge. The judges to whom related cases have been assigned may, by mutual consent, order the assignment of a prior related case to the judge to whom a later–filed case has been assigned for good cause based upon the convenience of the parties or when justice requires.

**(2) Judicial Concurrence Required.** Any reassignment of a case pursuant to (1) above shall require the concurrence of the judges to whom and from whom such case is to be reassigned.

**(3) By Motion.** A motion requesting reassignment or consolidation of related cases or adversary proceedings shall be made to the judge to whom the prior case is or was assigned.

**1017–1 CONVERSION — REQUEST FOR/NOTICE OF (Reserved)**

**1017–2 DISMISSAL OR SUSPENSION — (Reserved)  
CASE OR PROCEEDINGS**

**1019–1 CONVERSION — PROCEDURE FOLLOWING (Reserved)**

**1020–1 CHAPTER 11 SMALL BUSINESS CASES — (Reserved)**  
**GENERAL**

**1070–1 JURISDICTION (Reserved)**

**1071–1 DIVISIONS — BANKRUPTCY COURT**

**(a) Locational Assignment of Cases and Proceedings.** The filing of cases or proceedings properly venued within this district shall be assigned to the court in the division serving the following counties:

**EASTERN DIVISION:**

**Columbus**

**COUNTIES:**

Athens, Belmont, Coshocton, Delaware,  
Fairfield, Fayette, Franklin, Gallia,  
Guernsey, Harrison, Hocking, Jackson,  
Jefferson, Knox, Licking, Logan, Madison,  
Meigs, Monroe, Morgan, Morrow, Muskingum,  
Noble, Perry, Pickaway, Pike, Ross, Union,  
Vinton, and Washington

**WESTERN DIVISION:**

**Cincinnati**

Adams, Brown, Butler, Clermont, Hamilton,  
Highland, Lawrence and Scioto

**Dayton**

Champaign, Clark, Clinton, Darke,  
Greene, Miami, Montgomery, Preble, Shelby,  
and Warren

**(b) Proper Filing Location.** If a case or proceeding is filed in an improper location, the clerk shall without further order forward the case or proceeding to the proper location and advise the debtor, the debtor's attorney, and all parties who received notice through the clerk's office that the case has been reassigned.

(c) **Change of Location.** A party in interest may request by motion that a case or proceeding be reassigned to another court location within this district.

(d) **Court Addresses.** The following are the mailing addresses and telephone numbers of each court, as of the effective date of these Local Rules:

United States Bankruptcy Court  
Atrium Two, Suite 800  
221 East Fourth Street  
Cincinnati, Ohio 45202  
(513) 684-2572

United States Bankruptcy Court  
170 North High Street  
Columbus, Ohio 43215  
(614) 469-6638

United States Bankruptcy Court  
120 West Third Street  
Dayton, Ohio 45402  
(937) 225-2516

(e) **Court Website.** The court's website is [www.ohsb.uscourts.gov](http://www.ohsb.uscourts.gov)

## **1072-1 PLACES OF HOLDING COURT**

The **Cincinnati** court holds regularly scheduled proceedings in **Cincinnati**. The **Columbus** court holds regularly scheduled proceedings in **Columbus**. The **Dayton** court holds regularly scheduled proceedings in **Dayton**. Hearings scheduled by the court may also be held at any other location in the district.

## **1073-1 ASSIGNMENT OF CASES**

(a) **Core and Related to Matters and Proceedings.** Proceedings and matters arising in or related to a case shall be assigned to the bankruptcy judge to whom the case is assigned.

(b) **Unavailability of Assigned Judge.** In the event of the absence of a bankruptcy judge from the judge's office or court, any other bankruptcy judge at the absent judge's court location

or, if no other bankruptcy judge is available at the absent judge's court location, then any other bankruptcy judge of the district who is available, may act temporarily for the absent bankruptcy judge and determine any matter in a case or proceeding assigned to the absent bankruptcy judge.

**(c) Unavailability of Chief Judge.** The chief judge for the United States Bankruptcy Court for the Southern District of Ohio may designate any other active bankruptcy judge in the district to perform the duties of the chief judge in the absence of the chief judge.

## **1074-1 CORPORATIONS (AND OTHER BUSINESS ENTITIES)**

**(a) Attorney Required.** No corporation, partnership, limited liability company or entity other than an individual shall file a petition or appear as a debtor in any case or proceeding unless it is represented by an attorney.

**(b) Authorization for Filing.** A copy of the duly attested resolution or other appropriate authorization of the filing of a voluntary petition by an entity other than an individual shall be filed with the petition.

### **(c) Responsible Person.**

**(1) Corporation.** The individual occupying the position of chief executive officer, or the individual who most recently served in that capacity if no such individual is serving in that capacity as of the date of the petition, shall be responsible for any and all acts required by the Code or the Rules to be performed by a debtor corporation and shall attend on behalf of the debtor any examination, meeting or hearing unless the court orders otherwise. The individual occupying or who most recently occupied the position of president is presumed to be the chief executive officer.

**(2) Partnership.** The individual occupying the following positions shall be responsible for any and all acts required by the Code or the Rules to be performed by a debtor partnership and shall attend on behalf of the debtor any examination, meeting or hearing unless the court orders otherwise:

**(A)** an individual who is general partner; or

**(B)** an individual who is the chief executive officer of a corporation that is a general partner; or

**(C)** an individual who bears the relationship described in (A) and (B) above to a partnership that is a general partner of the debtor.



**(3) Limited Liability Company.** The individual occupying the position of managing member or who has had management responsibility shall be responsible for any and all acts required by the Code or the Rules to be performed by a debtor limited liability company and shall attend on behalf of the debtor any examination, meeting or hearing unless the court orders otherwise.

**(d) Designation of Responsible Person.** No later than fourteen (14) days after the filing of the petition in a voluntary case or the entry of the order for relief in an involuntary case, an individual who occupies the position designated in (c) above, shall be identified by name and title in a paper filed with the clerk.

**(e) Change in Designation of Responsible Person.** A party in interest may move for the designation of a different individual as the responsible person under (c) above.

## **PART II**

### **2002–1 NOTICE TO CREDITORS AND OTHER INTERESTED PARTIES**

**(a) Notice of Information Required from the Debtor.** The notice sent pursuant to § 342(b) of the Code to the debtor and the debtor’s attorney shall include a list of the documents required to be brought to the § 341 meeting pursuant to LBR 4002–1(a).

**(b) Returned Notices.** The clerk shall use the debtor’s attorney’s address, or pro se debtor’s address, as the return address on all § 341 notices and final orders of discharge it sends, unless multiple notices sent to the same entity are batched in a single envelope as a cost-savings device. The clerk is not required to maintain a record of or retain returned notices.

**(c) Debtor’s Duty.** The debtor shall correct any address errors by amending the proper schedule or list, renoticing the creditor and filing a certification of such noticing. The debtor shall also notify the clerk of any clerk’s office error that the clerk shall then correct by renote when appropriate.

**(d) Summary of Chapter 7 Trustee’s Final Report.** Pursuant to Rule 2002(f)(8), the trustee is directed to serve the Summary of the Chapter 7 Trustee’s Final Report and Applications for Compensation together with the thirty (30) day Notice of Deadline to Object (UST Form 101-7-NFR) on the debtor, the debtor’s attorney, the United States trustee, and all creditors and parties in interest if the net proceeds realized exceed \$1,500. The summary shall be served together with a thirty (30) day notice.

### **2002–2 NOTICE TO THE UNITED STATES OR FEDERAL AGENCY**

The contact information for the United States trustee may be found at [www.justice.gov/ust-regions-r09](http://www.justice.gov/ust-regions-r09).

### **2002–3 UNITED STATES AS CREDITOR OR PARTY (Reserved)**

## **2003–1 MEETING OF CREDITORS AND EQUITY SECURITY HOLDERS**

**(a) Rescheduled § 341 Meeting.** Any request for the rescheduling of a § 341 meeting shall be addressed in the first instance to the trustee or, in a chapter 11 case, to the United States trustee or chapter 11 trustee. If a rescheduling request is granted prior to the originally scheduled § 341 meeting date, the debtor shall file and serve on all creditors and parties in interest a notice of the rescheduled meeting date, time, and location, and shall file a certification of service evidencing compliance.

**(b) Motion and Response.** Only upon denial of a request for rescheduling of a § 341 meeting may the party whose request was denied move the court to reschedule a § 341 meeting. The memorandum accompanying the motion must set forth the steps taken to secure a rescheduled meeting. Any response to the motion shall be filed within seven (7) days from the date of service as set forth on the certificate of service attached to the motion.

**(c) Adjourned § 341 Meeting.** If a § 341 meeting is convened and then adjourned (continued) to a later date, the statement specifying the date and time to which the meeting is adjourned shall be filed pursuant to Rule 2003(e).

**(d) Transcript Request.** Any request for the transcript of a § 341 meeting shall be made to the local United States trustee office.

## **2004–1 DEPOSITIONS AND EXAMINATIONS (Reserved)**

## **2007.1–1 TRUSTEES AND EXAMINERS (CHAPTER 11)**

**(a) (Reserved)**

**(b) Service of Papers Relating to Election of Chapter 11 Trustee.** Any request under Rule 2007.1(b)(1) to convene a meeting of creditors for the purpose of electing a trustee in a chapter 11 reorganization case, any report and application under Rule 2007.1(b)(3)(A) for approval of the appointment of the elected person, and any report under Rule 2007.1(b)(3)(B) concerning a disputed election shall be served as required by LBR 9013–3 and upon the person elected trustee.

**2014–1 EMPLOYMENT OF PROFESSIONALS**

**(a) Application Required.** A trustee, debtor in possession, or committee requesting employment of a professional person shall apply to the court for approval of such employment and any person employed shall be subject to the jurisdiction of the court for approval of all fees.

**(b) Required Contents of Application.** Any application for employment as a professional shall conform to the requirements of the Code and to Rule 2014 and shall further state:

(1) the professional's customary and proposed hourly rates of compensation or other proposed formula for determining compensation,

(2) the amount, date paid, and source of any fees paid to the applicant from a period of one (1) year prior to the filing of the petition through the time of application, and

(3) the amount, date paid, and source of any retainer sought or received by the professional within such period.

**(c) Required Contents of Affidavit.** An affidavit or verified statement of the person to be employed shall accompany the application for employment and in addition to the requirements set forth in Rule 2014, shall:

(1) set forth any known past or present relationship to the debtor, the trustee, or any creditor or equity security holder of the debtor. For every past or present relationship so disclosed the applicant shall provide a separate affidavit to the United States trustee stating the gross revenues received for the preceding twelve months from any such party when said gross revenues exceed one percent of the applicant's total gross revenues;

(2) establish the lack of any adverse interest to the estate; and

(3) establish that the proposed employment is not prohibited by or improper under Rule 5002.

**(d) Appraisers, Auctioneers, Brokers and Real Estate Agents.** The affidavit or verified statement of an appraiser, auctioneer, broker, or real estate agent shall contain, in addition to the information required by (c) above, the following:

(1) a statement that the appraiser, auctioneer, broker, or real estate agent is not an officer or employee of the Judicial Branch of the United States or the United States Department of Justice;

(2) a statement that gross proceeds of any sale conducted by the auctioneer or real estate agent will be immediately turned over to the trustee or debtor in possession unless otherwise ordered by the court; and

(3) an acknowledgment that the appraiser, auctioneer, broker, or real estate agent will not under any circumstances, directly or indirectly, purchase or acquire any interest in any of the property to be appraised by or sold by that appraiser, auctioneer, broker, or real estate agent.

**(e) Notice.** An application by a chapter 7 trustee to employ himself or herself as attorney for the trustee and/or an application to employ the trustee's law firm as attorney for the trustee shall be served on the debtor, the debtor's attorney, any parties requesting notice, and the United States trustee. If the application is granted, the employment shall be effective as of the date the application was filed unless otherwise ordered by the court.

**(f) Supplemental Disclosure.** Upon learning of any new or additional information required to be disclosed under Rule 2014 or this Local Rule (including but not limited to potential or actual conflicts of interest), any professional employed or to be employed shall promptly file and serve a supplemental affidavit setting forth the additional information.

**(g) Optional Forms.** Optional application and affidavit forms are available in the Forms section of these Local Rules.

## **2015-1 TRUSTEES — GENERAL**

**(Reserved)**

## **2015-2 DEBTOR-IN-POSSESSION DUTIES**

**(Reserved)**

## **2015-3 TRUSTEES — REPORTS AND DISPOSITION OF RECORDS**

**(Reserved)**

**2015-5 TRUSTEES — CHAPTER 13**

**(a) Prescribed Fees for All Chapter 13 Cases.** In addition to the fees promulgated under 28 U.S.C. § 1930 and collected by the clerk at the time filings are made, the estate may be assessed noticing fees and claims processing fees. The fee for each notice generated by the trustee shall be fifty cents (\$.50) plus actual postage. The fees shall be payable only from the estate and only to the extent there are assets in the estate. The noticing fees, if assessed, must be assessed prior to the filing of the final report and account. The total fees paid to the trustee will be shown on the trustee's final report and account.

**(b) Addresses for Chapter 13 Trustee Offices.** As of the effective date of these Local Rules, addresses, telephone numbers, and facsimile (fax) numbers for the trustee offices for the district are as follows:

<b>Columbus:</b>	Chapter 13 Trustee Frank M. Pees 130 E. Wilson Bridge Rd. Suite 200 Worthington, Ohio 43085 (614) 436-6700 – telephone (614) 436-0190 – facsimile (fax)
	Chapter 13 Trustee Faye D. English One Columbus 10 West Broad Street Suite 900 Columbus, Ohio 43215-3449 (614) 420-2555 –telephone (614) 420-2550 – facsimile (fax)
<b>Cincinnati:</b>	Chapter 13 Trustee Margaret A. Burks 600 Vine Street Suite 2200 Cincinnati, Ohio 45202 (513) 621-4488 – telephone (513) 621-2643 – facsimile (fax)
<b>Dayton:</b>	Chapter 13 Trustee Jeffrey M. Kellner 131 North Ludlow Street, Suite 900 Dayton, Ohio 45402-1161 (937) 222-7600 – telephone (937) 222-7383 – facsimile (fax)

**(c) Lockbox Addresses for Chapter 13 Trustee.** Plan payments shall be sent to the following addresses:

<b>Columbus:</b>	Chapter 13 Trustee Frank M. Pees Department 781158 P.O. Box 78000 Detroit, Michigan 48278-1158
	Chapter 13 Trustee Faye D. English P.O. Box 1718 Memphis, TN 38101-1718
<b>Cincinnati:</b>	Chapter 13 Trustee Margaret A. Burks P.O. Box 290 Memphis, Tennessee 38101-0290
<b>Dayton:</b>	Chapter 13 Trustee Jeffrey M. Kellner 1722 Solutions Center Chicago, Illinois 60677-1007

## **2016–1      COMPENSATION OF PROFESSIONALS**

### **(a) Compensation of Professionals in Chapter 11 Cases.**

#### **(1) Interim Fees for Professional Persons.**

**(A) Content of Application.** Optional LBR Form 2016-1(a)(1)(A) is available in the Forms section of these Local Rules. An application for compensation or reimbursement of expenses shall include the following:

**(i)** a description of the services performed that identifies each service separately in sufficient detail to allow evaluation of the benefit derived from the service, the date each service was performed, and the time expended for each service.

**(ii)** the professional time expended set forth either (i) by each professional or paraprofessional in chronological order, or (ii) by day in

chronological order showing all professionals or paraprofessionals that expended time on each day; and

(iii) an itemized list by category and amount of expenses for which reimbursement is sought.

**(B) Privileged Information and Work Product.** Should compliance with this Local Rule require disclosure of privileged information or work product, then, upon leave of the court on motion with proper notice, such information may be separately tendered for filing *in camera*, unless to do so would constitute an *ex parte* communication concerning matters before the court. If leave is given to file *in camera*, such materials may be omitted from the copies served on other parties and their attorneys.

**(C) Notice.**

(i) The application shall be accompanied by a notice specifying the identity of the professionals requesting compensation and reimbursement of expenses, the period covered by the interim application, the specific amounts requested for fees and reimbursement of expenses, and the deadline for objections. A notice that conforms substantially to LBR Form 2016–1 (a)(1)(C) satisfies the requirements of this section.

(ii) Objections to the application shall be served in accordance with LBR 9013–3 and on any party having requested copies pursuant to the Rules.

**(D) Monthly Compensation and Reimbursement of Expenses.** A professional may file a motion for approval of procedures permitting payment of monthly compensation and reimbursement of expenses. Optional LBR Form 2016-1(a)(1)(D) is available in the Forms section of these Local Rules.

**(2) Final Fee Applications.**

**(A) Contents.** Application for final fee awards shall contain all information required of interim fee applications under (a)(1) above.

**(B) Notice.** The application shall be accompanied by a notice specifying the identity of the professionals requesting compensation and reimbursement of expenses, the period covered by the final application, the specific amounts requested for fees and reimbursement of expenses, and the deadline for objections. A notice that conforms substantially to LBR Form 2016–1(a)(1)(C) satisfies the requirements of this section.



**(b) Compensation of Attorneys in Chapter 13 Cases.**

**(1) LBR Form 2016-1(b) Required.** At the time the petition is filed, and at the time of substitution of an attorney pursuant to LBR 2091-1, the debtor's attorney shall file LBR Form 2016-1(b) (Disclosure of Compensation of Attorney for Debtor and Application for Allowance of Fees in Chapter 13 Case).

**(2) Initial Fee Applications.**

**(A) No-Look Fee.** Upon confirmation of the plan, fees may be allowed up to \$3,500 ("no-look fee") without further application or specific itemization for services rendered. The no-look fee includes the general legal services performed in a chapter 13 case listed below, whether performed preconfirmation or postconfirmation:

(i) initial client interview, preparation and signing of any retainer or representation agreement, analysis of the debtor's financial situation, and rendering advice to the debtor in determining whether, and under what chapter, to file a petition in bankruptcy;

(ii) advising the debtor concerning his or her obligations and duties pursuant to the Code, the Rules, these Local Rules, applicable court orders, and provisions of his or her chapter 13 plan;

(iii) preparation and filing of any document required by § 521 of the Code, including Official Form 122C-1 and Official Form 122C-2 (if applicable), the petition, schedules, statement of financial affairs and any amendments thereto that may be required;

(iv) preparation and filing of the chapter 13 plan, and any preconfirmation amendments thereto that may be required;

(v) preparation and filing of payroll orders and amended payroll orders, except amended payroll orders prepared in connection with the modification of a plan or the temporary suspension of payments;

(vi) representation of the debtor at the § 341 meeting of creditors and confirmation hearing, and at any adjournments thereof;

(vii) filing of address changes for the debtor;

(viii) review of claims;

(ix) review of notice of intention to pay claims;

(x) preparation and filing of objections to non-real estate and non-tax claims, exclusive of any hearings;

(xi) preparation and filing of first motion to suspend or temporarily reduce plan payments;

(xii) representation of the debtor in addressing any routine tax return or tax refund inquiries by the trustee, exclusive of any motion, objection, or hearing;

(xiii) filing of a notice of final cure payment, when filed by the debtor, exclusive of any hearings;

(xiv) preparation and filing of debtor's certification regarding issuance of discharge order;

(xv) routine phone calls and questions;

(xvi) file maintenance and routine case management; and

(xvii) any other duty as required by local decision or policy.

The amount of the no-look fee may be changed from time to time by general order.

**(B) Order Allowing No-Look Fee.** The amount of the initial fee allowed to the debtor's attorney may be specified in the confirmation order. No separate order allowing the fee is necessary.

**(C) No-Look Fee Opt Out.** The debtor's attorney may opt out of the no-look fee by filing an application for allowance of fees that includes an itemization of all legal services performed, the amount of the total fee requested, the amount and itemization of any expenses for which reimbursement is sought, the identification and hourly billing rate of any attorney, paralegal or other professional person for whom fees are sought, and the actual time spent by the attorney, paralegal, or other professional person for whom fees are sought. The application must be filed no later than sixty (60) days from the entry date of the confirmation order. If the request exceeds the amount set forth in Rule 2002(a), the debtor, the United States trustee, the trustee, and all creditors and parties in interest shall be served.

**(3) Additional Attorney Fees.** Additional attorney fees for services performed by the debtor's attorney beyond those set forth in (b)(2)(A) or (b)(2)(C) above must be requested by separate application and shall be filed no later than six (6) months after completion of the services for which compensation is sought.

**(A) Application Contents.** The application shall include:

(i) a description of the legal services performed and by whom the services were performed;

(ii) the results obtained by the legal services;

(iii) the amount and itemization of expenses for which reimbursement is sought, the identification and hourly billing rate of any attorney, paralegal, or professional person for whom fees are sought, and the actual time spent by the attorney, paralegal, or other professional person for whom fees are sought;

(iv) a statement that no previous application has been made for the services for which the application is made;

(v) the proposed percentage payment to unsecured creditors; and

(vi) the amount of fee requested.

**(B) Service.** If the request exceeds the amount set forth in Rule 2002(a), the debtor, the United States trustee, the trustee, all creditors and parties in interest shall be served.

**(4) Separate Application.** Other than LBR Form 2016-1(d) (Disclosure of Compensation of Attorney for Debtor and Application for Allowance of Fees in Chapter 13 Case), any fee application filed under this Local Rule shall not be combined with any other filing or other paper.

**(5) Fees in Cases Dismissed Prior to Confirmation.** The no-look fee does not apply in cases dismissed prior to confirmation. An attorney seeking payment of fees for services performed, or reimbursement of expenses, in a case dismissed prior to confirmation must file an application that includes an itemization of all legal services performed, the amount of the total fee requested, the amount and itemization of expenses for which reimbursement is sought, the identification and hourly billing rate of any attorney, paralegal, or other professional person for whom fees are sought, and the actual time spent by the attorney, paralegal, or other professional person for whom fees are sought. The fee application in a dismissed case shall be filed no later than fourteen (14) days after the entry of the order of dismissal.

**(6) Fees in Cases When Debtor's Attorney Does Not Continue to Represent Debtor.**

**(A) Application Required.** If the debtor's attorney withdraws from a case, is terminated, or is otherwise unable to continue as the debtor's attorney, then any undistributed portion of the no-look fee set forth in (b)(2)(A) above shall

be held by the trustee until further order of the court. Any such attorney seeking payment of fees must file an application that includes an itemization of all legal services performed, the amount of the total fee requested, the amount and itemization of expenses for which reimbursement is sought, the identification and hourly billing rate of any attorney, paralegal, or other professional person for whom fees are sought, and the actual time spent by the attorney, paralegal, or other professional person for whom fees are sought. The fee application shall be filed no later than thirty (30) days after legal representation has discontinued.

**(B) Application Not Required.** Upon filing of a notice of substitution as set forth in LBR 2091-1(b)(1), if the attorneys have agreed upon the disposition of the undistributed portion of the no-look fee, the parties may submit an agreed order, signed by the attorneys and the debtor, in lieu of an application for allowance of fees.

**(7) Hearings.** Any fee application may be set for hearing at the discretion of the court or at the request of a party in interest.

**(8) Payment of Allowed Fees.** This Local Rule shall be interpreted by the trustee and applied as is administratively efficient to carry out the intent that allowed attorney fees for customary and ordinary work in a case be paid within a year from the date of the confirmation order, and any additional allowed attorney fees shall be paid only after full payment of the original allowed attorney fees.

**2019–1 REPRESENTATION OF MULTIPLE PARTIES (Reserved)**

**2020–1 UNITED STATES TRUSTEES (Reserved)**

**2070–1 ESTATE ADMINISTRATION (Reserved)**

**2071–1 COMMITTEES**

Within seven (7) days of the first meeting of an official committee, unless previously filed by the United States trustee, such committee shall file a report designating the name and

address of the chairperson and the name and address of the person designated for purposes of service, if different from the chairperson.

**2072–1 NOTICE TO OTHER COURTS (Reserved)**

**2080–1 CHAPTER 9 (Reserved)**

**2081–1 CHAPTER 11 — GENERAL (Reserved)**

**2082–1 CHAPTER 12 — GENERAL**

Reporting and other requirements, including administrative fees if applicable, will be imposed by specific orders entered in each case.

**2083–1 CHAPTER 13—GENERAL**

**Chapter 13 Cases—Mortgage Loan Modification.** Any party seeking court approval of a trial mortgage loan modification or a permanent mortgage loan modification may file a motion directed to the court. Any such motion shall state whether the trustee should continue or cease distributions on any arrearage. If applicable, a motion to modify the plan shall be filed pursuant to LBR 3015-2.

**2090–1 ATTORNEYS — ADMISSION TO PRACTICE**

**(a) Admission.** Admission to practice in the United States District Court for the Southern District of Ohio shall constitute admission to practice in the bankruptcy court for this district.

**(b) Pro Hac Vice.** Membership in good standing of the bar of the highest court of a state and admission to practice in any United States district court shall be a prerequisite to practice in the bankruptcy court for this district. Any attorney not admitted to practice before the United States District Court for the Southern District of Ohio shall, at or before the attorney's initial filing or appearance before the court in every case or adversary proceeding, file a motion for pro hac vice status.

**(1) Motion Requirements.** The motion shall include the attorney's name and office address, telephone number, facsimile number, email address, state bar number, the courts to which the attorney has been admitted to practice and the dates of admission, a statement that the attorney is in good standing to practice before the courts to which the attorney has been admitted and whether any disciplinary actions are pending.

**(2) Not Available to Regular Practitioners.** Attorneys who regularly practice or file documents in the bankruptcy court of this district shall not be permitted to repeatedly appear pro hac vice, but must obtain permanent admission to practice in this district.

**(3) Withdrawal; Additional Requirements.** Permission to appear pro hac vice may be withdrawn by the court at any time. The judges of this bankruptcy court, should they so determine as a group, may also impose additional admission requirements based upon the unique requirements of bankruptcy practice.

**(c) Attorney Representation Required.** Unless otherwise ordered by the court, in all cases and adversary proceedings filed in, referred to, transferred to or removed to this court, all parties not appearing *pro se* shall be represented by an attorney who is admitted to practice pursuant to this Local Rule.

**(d) Compliance.** All attorneys admitted to practice before this court shall comply with these Local Rules.

## **2090-2      ATTORNEYS — DISCIPLINE, SUSPENSION AND DISBARMENT**

**(a) Relevant Codes and Rules.** The Rules of Professional Conduct adopted by the Ohio Supreme Court, as amended from time to time, apply in this court, except that service on a debtor as required by these Local Rules and the Federal Rules of Bankruptcy Procedure shall not be a violation of the Ohio Rules of Professional Conduct as an unauthorized contact with a represented person. Disciplinary standards governing the conduct of attorneys, as provided in the Model Federal Rules of Disciplinary Enforcement as adopted by the United States District Court for the Southern District of Ohio, and modified by this Local Rule, will be enforced by the bankruptcy judges, and all proceedings thereon shall be conducted in this court.

**(b) Court's Inherent Power.** Whenever appropriate, this court, through its inherent powers, may discipline attorneys who practice before it, including for violations of the Federal Rules of Bankruptcy Procedure, these Local Rules, orders of this court, and the Rules of Professional Conduct relating to representation of one or more parties before the court. Such disciplinary actions, for substantial cause or repetitive actions shown, will be taken only after proper notice and due process, and may include the imposition of monetary sanctions and suspension from the practice of law before this court.

**(c) Special Procedure for Suspension from the United States Bankruptcy Court.**

**(1) Order to Show Cause.** When misconduct or allegations of misconduct which, if substantiated, would warrant suspension or disbarment of an attorney admitted to practice before this court shall come to the attention of a judge of this court, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by these Local Rules, the judge shall issue an order requiring the respondent-attorney to show cause within thirty (30) days after service of that order upon the attorney why the attorney should not be disciplined.

**(2) Hearing.** Upon the respondent-attorney's answer to the order to show cause, if any issue of fact is raised or the respondent-attorney wishes to be heard in mitigation, the court shall set the matter for prompt hearing. If the disciplinary proceeding is predicated upon the complaint of a judge of this court, the hearing shall be conducted before a panel of three other judges of this court appointed by the chief judge of this court, or, if the chief judge is the complainant, by the active judge (other than the chief judge) having the most years of service on this court.

**(3) Suspension and Notice.** Unless otherwise specifically authorized, any attorney suspended from practice before this court shall be precluded from engaging in the practice of law, in a representative capacity, before this court, including, but not limited to, meeting with and counseling bankruptcy clients, reviewing and/or signing bankruptcy-related pleadings, attending creditors' meetings and bankruptcy court hearings, and communicating with creditors, debtors, trustees and parties in interest with reference to any bankruptcy case. Nothing in an interim or final order shall be construed to prohibit or excuse such a suspended attorney from compliance with applicable disciplinary and ethical requirements of the Supreme Court of the State of Ohio or any other governing body or jurisdiction. All bankruptcy clients of record of the suspended attorney will be notified of the suspension by the clerk of this court.

**(4) Reinstatement to the United States Bankruptcy Court After Suspension.**

**(A) Reinstatement by Affidavit.** An attorney suspended for three months or less shall be reinstated at the end of the period of suspension upon the filing with the court of an affidavit acceptable to the court evidencing compliance with the provisions of the order. An attorney suspended for more than three months may not resume practice until reinstated by order of this court.

**(B) Reinstatement by Application.** Petitions for reinstatement by an attorney suspended for more than three months under this Local Rule shall be submitted to the clerk of court by conventional filing (i.e., by paper and not electronically) for consideration by the chief judge of this court. Upon receipt of the petition, the chief judge shall promptly assign the matter for prompt hearing before one or more judges of this court, provided, however, that if the disciplinary proceeding was predicated upon the complaint of a judge of this court, the hearing shall be conducted before a panel of three other judges of this court appointed by the chief judge, or, if the chief judge was the complainant, by the active judge other than the chief judge having the most years of service on this court. The judge or judges assigned to the matter shall within thirty (30) days after referral schedule a hearing at which the petitioner shall have the burden of demonstrating by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission to practice law before this court and that his resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or subversive of the public interest.

**(C) Conditions of Reinstatement.** If the petitioner is found fit to resume the practice of law, the judgment shall reinstate him, provided that the judgment may make reinstatement conditional upon the payment of all or part of the costs of the proceedings, and upon the making of partial or complete restitution to parties harmed by the petitioners whose conduct led to the suspension or disbarment. If the petitioner has been suspended for five years or more, reinstatement may be conditioned, in the discretion of the judge or judges before whom the matter is heard, upon the furnishing of proof of competency and learning in the law, which proof may include certification by the bar examiners of a state or other jurisdiction of the attorney's successful completion of an examination for admission to practice subsequent to the date of suspension.

**(D) Denial of a Petition for Reinstatement.** If the petitioner is found unfit to resume the practice of law, the petition shall be denied. If the petitioner has been suspended for more than two years as of the date the petition is denied, the denial shall be treated as a recommendation of disbarment, and subject to (d)(2) below.

**(E) Successive Petitions.** No petition for reinstatement under this Local Rule shall be filed within one year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.

**(d) Special Procedures for Disbarment from the United States Bankruptcy Court.**

**(1) Recommendation of Bankruptcy Judge or Panel of Judges.** The procedures set forth in (c)(1) and (2) above shall apply in any disbarment proceeding. After the hearing conducted pursuant to (c)(2) above, the bankruptcy judge or panel of three



judges may recommend disbarment of an attorney from practice in the United States Bankruptcy Court for the Southern District of Ohio.

**(2) Filing and Disposition of Recommendation.** If the bankruptcy judge or panel of three judges recommends disbarment, the disbarment recommendation (with an attached proposed order) shall be filed with the clerk of the district court and transmitted to the chief judge of the United States District Court for the Southern District of Ohio. Upon receipt, the chief district judge will consider the disbarment recommendation without hearing, and will enter an interim order adopting the bankruptcy judge's recommendation or will reject the recommendation by order.

**(3) Finality of District Judge Order.** If the chief district judge adopts the recommendation and enters an interim order, the interim order shall become a final order upon the expiration of the objection period set forth in (d)(4) below or, if a timely objection is filed, upon the conclusion of any proceedings in the district court convened to review that recommendation and the issuance of an order therefrom.

**(4) Objections and Hearing.** An attorney objecting to any interim order issued under (d)(3) above must file such objection and a memorandum in support of the objection with the clerk of the district court within fourteen (14) days from the date the chief district judge's interim order is entered by the clerk of the district court. Any hearing on such an objection will not be a de novo hearing, but will be based upon the chief district judge's review of the bankruptcy judge's recommendation and the record of the bankruptcy court hearing.

**(5) Reinstatement After Disbarment.** Petitions for reinstatement after disbarment shall be submitted to the United States District Court for the Southern District of Ohio and resolved as set forth in the rules of the district court.

**(e) Applicability.** An attorney admitted to practice before this court pursuant to LBR 2090–1(a) shall be subject to the disciplinary processes of this court.

**(f) Effective Date.** This Local Rule shall become effective on the effective date of these Local Rules; provided, however, that any formal disciplinary proceeding then pending before this court shall be concluded under the procedure existing prior to the effective date of this Local Rule.

## **2091–1 ATTORNEYS — WITHDRAWALS AND SUBSTITUTIONS**

**(a) Withdrawal of Debtor's Attorney.** The withdrawal of a debtor's attorney shall be permitted only upon the following:

**(1) With the Client's Signature.** The withdrawal of a debtor's attorney may be effected by the filing of a notice of withdrawal signed by the withdrawing attorney and the client. The notice shall be served pursuant to LBR 9013-3.

**(2) Without the Client's Signature.** The withdrawal of a debtor's attorney may be effected by the filing of a motion for withdrawal, a showing of good cause and upon such terms as the court shall impose. The motion shall be served pursuant to LBR 9013-3.

**(b) Substitution of Debtor's Attorney.** The substitution of a debtor's attorney shall be permitted only upon the following:

**(1) With All Relevant Parties Signatures.** The substitution of a debtor's attorney may be effected by the filing of a notice of substitution signed by the client, the substituting attorney, and the withdrawing attorney; provided, however, that the withdrawing attorney's signature is not necessary if the withdrawing attorney has been suspended or prohibited from the practice of law, or has otherwise withdrawn from practice in this District and that fact is so stated in the notice. The notice shall be served pursuant to LBR 9013-3.

**(2) Without the Client's Signature.** Neither the client's signature nor the withdrawing attorney's signature is required if the substituting attorney is a member of the same partnership or legal professional association as the withdrawing attorney and the notice affirmatively states that the substitution is made with the client's knowledge and consent. The notice shall be served pursuant to LBR 9013-3.

**(3) Without Withdrawing Attorney's Signature.** The substitution of a debtor's attorney may be effected by the filing of a motion for substitution. The motion shall be served pursuant to LBR 9013-3 and upon the withdrawing attorney.

**(c) Limitations on Substitution and Withdrawal of Attorney.** Unless otherwise ordered, an attorney shall not be permitted to withdraw from a case or proceeding at any time within twenty-one (21) days prior to a trial or hearing on any matter. Unless otherwise ordered, the substitution of an attorney shall not serve as the basis for a postponement of any trial or hearing. Until a motion for withdrawal is granted, an attorney shall continue to act as attorney.

**(d) Disclosure.** An attorney appearing in substitution for a debtor's attorney shall, at the time of substitution, make all disclosures required of a debtor's attorney by § 329 of the Code, Rule 2014, LBR 2014-1, Rule 2016, and LBR 2016-1.

## **PART III**

### **3001–1 CLAIMS AND EQUITY SECURITY INTERESTS — GENERAL**

**(a) Number of Copies.** A single proof of claim shall be filed. A claimant requesting return of a file-stamped copy must provide an additional copy of the claim and a stamped, self-addressed envelope.

**(b) Supersession by Duplicate.** A timely filed proof of claim that duplicates an earlier claim filed by the same entity, in the same amount, based upon the same transaction(s) and containing at least the same supporting documentation, and that is in all material aspects a “duplicate” claim, shall be deemed to supersede the earlier claim without need for an objection by any party or a court order to that effect.

**(c) Address of Claimant.**

**(1) Notice Address.** A claimant shall file and serve on the debtor, the debtor’s attorney, and the trustee any change of notice address.

**(2) Payment Address.** A claimant shall file and serve on the trustee any change of payment address. Failure of the claimant or its agent to maintain a correct and updated payment address may cause the return of distribution checks to the trustee and may result in nonpayment of the claim.

**(d) Chapter 12 and 13 Cases.** Any unsecured creditor and any creditor asserting secured status as to property of the debtor or the estate, shall, in order to receive payments under a confirmed plan, file a proof of claim. A secured creditor’s proof of claim shall include appropriate documentation evidencing the creditor’s secured status.

**(1) Mortgage Claims.** If regular monthly payments to a mortgage creditor are to be disbursed by the trustee, or there is an arrearage as of the petition filing date, the mortgage proof of claim shall include Official Form 410A Mortgage Proof of Claim Attachment.

**(2) Effect of Relief from Stay.** An entity holding an allowed secured claim that obtains relief from the automatic stay shall receive no payments provided for in a confirmed plan on account of such secured claim after entry of the order lifting the stay. The entity may file an amended proof of claim for any deficiency claim after the collateral has been sold or otherwise disposed of. In the event the debtor retains the collateral after the stay has been lifted, payments to the creditor from the trustee may continue upon order of the court.

**(3) Payment of Claims.** Payment of claims shall be as provided for under the provisions of a confirmed plan or an order confirming a modified plan and the trustee is not required to accumulate funds for any claim for which a proof of claim has not been filed.

**(4) Status.** Except as otherwise provided by law, by specific order of the court, or by stipulation, the status of a claim as secured or unsecured will be determined from the claim as filed rather than as scheduled.

### **3006–1 CLAIMS — WITHDRAWAL**

A withdrawal of a proof of claim shall comply with the requirements of Rule 3006 and LBR 9004-2, and shall state with specificity the date the affected proof of claim was filed, the amount of the claim, and the proof of claim number assigned by the clerk.

### **3007–1 CLAIMS — OBJECTIONS**

**(a) Filing and Service.** An objection to a proof of claim together with the notice of objection to claim shall be filed and served on the person or entity that filed the proof of claim at the notice address (not the payment address) set forth in the proof of claim, on the filing attorney (if any) at the attorney’s address set forth in the proof of claim, and on any party required to be served by LBR 9013–3.

**(b) Contents.** An objection shall state the claimant’s name, the date the claim was filed, and any claim number assigned by the clerk. As to each claim, the objection shall further contain a concise statement of the grounds for the objection and a specific request for treatment of the claim. A notice of objection to claim shall be filed and served with the objection and shall substantially comply with the sample thirty (30) day notice set forth below or with Official Form 420B.

#### **Sample 30 Day Notice**

#### **NOTICE OF OBJECTION TO CLAIM**

(Name) has filed an objection to your claim in this bankruptcy case.

**Your claim may be reduced, modified, or eliminated.** You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to reduce, modify or eliminate your claim, then on or before **thirty (30) days from the date set forth in the certificate of service for the objection to claim**, you must file with the court a response explaining your position by mailing your response by ordinary U.S. Mail to (address of bankruptcy court clerk's office) OR your attorney must file a response using the court's ECF System.

The court must **receive** your response on or before the above date.

You must also send a copy of your response either by 1) the court's ECF System or by 2) ordinary U.S. Mail to (objector's name and address) and (names and addresses of others to be served).

If you or your attorney do not take these steps, the court may decide that you do not oppose the objection to claim and may enter an order reducing, modifying, or eliminating your claim without further notice or hearing.

**(c) Separately Filed Notice.** If the thirty (30) day notice is not included in the same document as the objection, the notice shall state the claimant's name, any claim number assigned by the clerk, and the objecting party's name.

**(d) Response.** The claimant whose claim is the subject of a filed objection shall file a response to the objection and serve a copy thereof as directed by the notice not later than thirty (30) days after service of the objection. Any response shall state clearly in the caption the objection to which it is responding.

**(e) Failure to Respond.** If a claimant fails to timely file a response to an objection, the claimant shall be deemed to have waived any objection to the relief sought and the court may grant the relief requested without further notice or a hearing. The objecting party shall submit an appropriate order to the court.

**(f) Requirements for Omnibus Objection.** An omnibus objection may be filed for reasons other than those set forth in Rule 3007(d). In addition to those requirements set forth in Rule 3007(e), an omnibus objection shall contain an exhibit to the objection detailing the following:

(1) name of claimant;

(2) claim number;

(3) claim amount;

(4) reason for proposed disallowance or, if the objection seeks modification of a claim, the proposed claim amount and a concise reason for the proposed modification;

(5) if the objection seeks to change the classification of a claim, the current claim status, proposed claim status and reason for proposed reclassification;

(6) if the objection seeks to change the priority of a claim, the current priority treatment, proposed priority treatment and reason for the proposed change; and

(7) if the objection seeks to expunge an amended, duplicate, or late claim, the number of the amended, duplicate or late claim to be expunged.

Each exhibit shall contain only those claims based upon one common objection (e.g., exhibit A for duplicate claims, exhibit B for amended or superseded claims, etc.). A claim objected to for multiple reasons shall be identified separately in each applicable exhibit. Each exhibit shall list claimants in alphabetical order, by the last name of the claimant if the claimant is an individual, or by the name of the entity.

### **3008–1 CLAIMS — RECONSIDERATION**

**(Reserved)**

### **3009–1 DIVIDENDS — CHAPTER 7**

**(Reserved)**

### **3010–1 DIVIDENDS — SMALL**

**(Reserved)**

### **3011–1 UNCLAIMED FUNDS**

**(a) Deposit of Unclaimed Funds by Clerk of Courts.** Unless otherwise ordered, the clerk shall deposit unclaimed funds into a registry account designated by the United States Treasurer.

**(b) General Requirements for Requesting Unclaimed Funds.** A request for unclaimed funds must be made by motion and served on the debtor, debtor’s attorney, the trustee, the United States trustee, and the United States attorney in accordance with 28 U.S.C. § 2042.

**(c) Contents of Motion.** The motion must provide proof of the right to the funds including: the full name and address of the claimant, the amount due, and, if the claim was assigned, supporting documentation such as an affidavit and power of attorney. Parties requesting

unclaimed funds are urged to use the form motion that is located on the court's website at [www.ohsb.uscourts.gov](http://www.ohsb.uscourts.gov).

**(d) Required Document Accompanying Motion.** The claimant must complete and submit to the court an IRS Form W-9, Request for Taxpayer Identification Number and Certification, containing the full social security number or tax identification number of the owner of the funds (not the legal representative or the funds locator). The form must be filed separately from the motion. The form must be filed electronically using the "Request for Taxpayer Identification Number" ECF System event. More detailed instructions may be found at [www.ohsb.uscourts.gov](http://www.ohsb.uscourts.gov).

**(e) Legal Representatives and Funds Locators.** When an entity other than the original claimant or assignee files a motion for unclaimed funds, the motion must include the following additional requirements, where applicable, to establish the right to payment of the unclaimed funds: proper authority by the claimant requesting release of the funds, letter of administration or probated will, and/or corporate documents showing proof of ownership of the funds through amendment, merger or dissolution.

### **3012–1 VALUATION OF COLLATERAL — (PERSONAL PROPERTY IN CHAPTER 13 CASES)**

Objections to the value of personal property in chapter 13 cases are governed by this Local Rule.

**(a) General Rule.** Unless otherwise ordered by the court, stipulated between the parties, or evidenced by uncontested appraisal, personal property secured by valid consensual or judicial liens shall be valued for purposes of § 506(a) of the Code at the lower of the claimant's representation on its proof of claim or the debtor's representation in the chapter 13 plan. Any amount by which a proof of claim exceeds that valuation shall be allowed and treated as an unsecured claim unless otherwise ordered.

#### **(b) Objection and Hearing.**

**(1) Form of Objection.** An objection to value or an objection to confirmation based on value in an original or amended plan shall be in writing and shall identify specific items of property to which the objection relates. Blanket objections are not permitted. The objection shall set forth the value that the debtor places on the property and the value that the creditor places on the property.

**(2) Time of Hearing.** A written objection to value is treated as an objection to confirmation, is heard at the time of confirmation, and is governed by LBR 3015–3(a).

**(c) Time to Object.** An objection to confirmation based on the value of personal property and upon which there is a consensual or judicial lien, or an objection for failure to list an item of personal property as being secured by a consensual or judicial lien and to indicate a value therefor, shall be filed and served on the trustee, United States trustee, the debtor, and the debtor's attorney within fourteen (14) days after the § 341 meeting is concluded. If the objection is filed after the deadline, it must be accompanied by a separate motion to file objection out of time. The motion must state a valid reason for the delay and must be served on the same entities as the objection. For cases heard in any satellite location, the notice to creditors of the filing of the petition and meeting of creditors may authorize a different date for filing objections to confirmation based on valuation.

**(d) Appraisals and Other Evidence of Value.**

**(1) Time of Appraisal.** The creditor's attorney is encouraged to attend the § 341 meeting of creditors. If there is no agreement as to the value of the property at the conclusion of the § 341 meeting of creditors, the creditor's attorney and the debtor's attorney shall hold a settlement conference and cooperate in arranging for a timely appraisal. Failure by the creditor's attorney, the debtor's attorney, or the debtor to cooperate may result in the imposition of sanctions.

**(2) Service of Appraisal.** The creditor shall file and serve on the debtor, the debtor's attorney, the trustee and the United States trustee a copy of the appraisal within fourteen (14) days after the § 341 meeting of creditors.

**(3) Motor Vehicles.** Nationally recognized value guides for the month the debtor's petition was filed may be used as evidence of value.

**(e) Resolution of Objection by Agreement.** If an objection to value or an objection to confirmation based on value is resolved by agreement, a stipulation determining the value and withdrawing the objection shall be signed by the parties and the trustee and filed.

## **3015-1      CHAPTER 13 — PLAN**

**(a) Mandatory Form Chapter 13 Plan.**

**(1) Mandatory Form Plan Available on Court's Website.** Except as provided below, in all cases filed under chapter 13, the plan filed by the debtor shall conform to the mandatory chapter 13 plan ("Mandatory Form Plan") adopted in the locality in which the plan is to be filed. Each locality (Cincinnati, Columbus and Dayton) has adopted its own Mandatory Form Plan, which is available on the court's website at [www.ohsb.uscourts.gov](http://www.ohsb.uscourts.gov). The Mandatory Form Plan for each locality may be amended from time to time.



**(2) Variations from the Mandatory Form Plan.** Any debtor who wishes to use a plan that varies from the Mandatory Form Plan must file a motion requesting leave to do so. Absent exceptional circumstances related to the particular chapter 13 case, leave will not be granted.

**(3) Special Plan Provisions.** Special provisions, if any, may be added only in the area of the Mandatory Form Plan specifically designated for special provisions. Special provisions are restricted to those items applicable to the particular circumstances of the debtor. Special provisions shall not contain a restatement of provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules, or the Mandatory Form Plan. Noncompliance with LBR 3015-1(a) may result in the reduction or disallowance of attorney fees and/or the suspension of the provisions of LBR 2016-1(b)(2)(A) or other appropriate sanctions.

**(b) Service of Plan.**

**(1) Plan Not Filed with Petition.** If the chapter 13 plan is not filed with the petition or within seven (7) days thereafter, the debtor shall serve a copy of the plan on the trustee and all creditors and parties in interest, and shall file a certificate of service evidencing compliance.

**(2) Service of Plan in Converted Case.** If a case is converted from a chapter 7 case, the clerk shall serve a copy of the plan on all creditors and parties in interest. If the chapter 13 plan is not filed within seven (7) days of the order of conversion, the debtor shall serve a copy of the plan on all creditors and parties in interest, and shall file a certificate of service evidencing compliance.

**(c) Contents of Plan.**

**(1) Minimal Requirements.** The plan shall be signed by the debtor and shall clearly set forth the specified payment to be made to the trustee, the estimated length of the plan, and provisions showing compliance with § 1322(a) of the Code.

**(2) Payment to General Unsecured Creditors.** The plan must set forth the percentage payments to be made to general unsecured creditors or the total amount to be paid to the trustee under the plan. If the plan calls for a specific amount to be paid, an estimated percentage shall be set forth which assumes all claims will be filed as scheduled or estimated by the debtor.

**(d) Treatment of Personal Property Loans, Leases and Executory Contracts.**

**(1) Proposed Treatment.** The plan shall state clearly the treatment and payment proposed for each loan, lease or executory contract.

**(2) Motor Vehicles.** Unless otherwise ordered by the court, all vehicle payments, whether lease or loan, shall be made by the trustee. The plan shall specify the month in which the trustee's regular monthly disbursement on the lease or loan shall begin.

**(3) Other Personal Property.** Unless otherwise ordered by the court, all other lease or loan payments shall be made by the debtor.

**(e) Treatment of Real Estate Mortgages.**

**(1) Method of Payment.** Unless otherwise ordered by the court, regular monthly payments on a real estate mortgage pursuant to § 1322(b)(5) of the Code shall be disbursed by the trustee if the obligation is in arrears as of the petition filing date.

**(2) Regular Monthly Payments to Mortgage Creditor.** If regular monthly payments to a mortgage creditor are to be disbursed by the trustee, the plan shall specify the month in which the trustee's regular monthly disbursement to the mortgage creditor shall begin.

**(f) Payment Method.** Unless otherwise ordered by the court or agreed to by the trustee, funding of a chapter 13 plan shall be by payroll deduction. Payroll deduction shall be effected by order of the court. The order may be tendered by the debtor with the filing of the plan. No motion for payroll deduction is necessary.

**(g) Exclusive Payment Through Plan.** Unless otherwise ordered by the court, a debtor shall not pay directly a debt which the plan provides shall be paid by the trustee.

**3015-2      CHAPTER 13 — AMENDMENTS TO PLAN AND  
MODIFICATIONS TO PLAN**

**(a) Preconfirmation Amendments.**

**(1)** An amended plan filed prior to confirmation shall clearly show any changes from the prior plan by reflecting the changes in bold, italics, strikethrough, or otherwise.

**(2)** For cases heard in Dayton and Cincinnati, a plan amendment proposed prior to confirmation must be filed at least three (3) days prior to the confirmation hearing. For cases heard in Columbus, a plan amendment proposed prior to confirmation must be filed at least ten (10) days prior to the confirmation hearing. All plan amendments shall be served on the trustee, United States trustee, and upon all adversely affected parties and shall be accompanied by a notice giving the trustee and affected parties twenty-one (21) days to object in writing to the amendment. For cases heard in St. Clairsville, the

notice setting the meeting of creditors or court order will specify the time requirements for amendments and objections thereto.

**(b) Postconfirmation Modifications.** A plan modification proposed after confirmation shall be made by motion and must be filed and served on the trustee, United States trustee, and all adversely affected parties, including, when appropriate, the debtor and the debtor's attorney. When appropriate, proposed plan modifications shall include:

(1) A particular reference to the provisions of the confirmed plan that are being modified, including any proposed percentage to be paid to unsecured creditors and the approximate number of months required to complete the proposed modified plan;

(2) The extent to which the proposed modification affects the rights of creditors or other parties in interest;

(3) The date(s) of the confirmation order of the original plan and of any previous modified plan(s);

(4) If a motion to modify the plan proposes to decrease the dividend to unsecured creditors or to extend the length of the plan, the reason for the modification, including any change in circumstances since confirmation; and

(5) If the motion to modify proposes to change the amount of each periodic payment to the plan, an amended schedule I and J, unless the motion is for a temporary suspension of payments.

**(c) Objections to Modifications.** Objections to modifications are governed by LBR 3015–3(b) and must be filed and served within twenty-one (21) days after the date of service of the motion to modify, or as otherwise noticed by the trustee or ordered by the court.

**(d) Separate Motion.** A motion to modify a plan may not be combined with any other filing or other paper.

**(e) Modification for Temporary Suspension or Temporary Reduction of Payments to Extend Length.** Any request for temporary suspension or temporary reduction of payments to a confirmed plan shall be initiated by motion. The motion shall state the reason for the suspension and the period of time requested. It is not necessary to file amended schedules I and J.

## 3015–3 CHAPTER 13 — CONFIRMATION

### (a) Objections to Confirmation.

**(1) Time and Service Requirements.** Objections to confirmation of a plan shall be in writing, filed and served on the debtor, the debtor's attorney, the trustee, and the United States trustee, and shall bear a certificate of service dated not later than fourteen (14) days after the § 341 meeting is concluded. If the objection is filed after this deadline, it must be accompanied by a separate motion to file objection out of time. The motion must state a valid reason for the delay and must be served on the same entities as the objection. For cases heard in any satellite location, the notice to creditors of the filing of the petition and meeting of creditors may authorize a different date for filing objections to confirmation. If the last date to object to confirmation is less than seven (7) days before the date scheduled for the confirmation hearing, any hearing on the objection will be rescheduled.

**(2) Contents.** An objection to confirmation and objection to valuation shall include:

**(A)** the specific provision of the Code upon which the objection is grounded;

**(B)** the specific alleged facts which support the objection to confirmation and;

**(C)** a brief memorandum in support of the objection.

**(3) Hearing.** All parties shall be prepared to present all witnesses and other evidence at the confirmation hearing.

**(4) Separate Objection.** The objection to confirmation shall not be combined with any other filing, paper, or request for relief, including a motion for relief from the automatic stay.

**(5) Mootness.** If a modified plan is filed after an objection to confirmation, the objection shall not be considered moot unless withdrawn.

**(b) Objections to Modified Plans.** Objections to modification of a confirmed plan shall be in writing, filed and served on the debtor, the debtor's attorney, the trustee, and the United States trustee. The objection shall conform to the requirements of (a)(2) above.

**(c) Consent Docket.** Plans that appear to the court to meet all statutory tests for confirmation and to which no objections to confirmation have been filed may be confirmed on the consent docket without actual presentation. Cases in which plans are confirmed on the consent docket may be read into the record at the confirmation hearing, may be posted on the court's or trustee's website any time prior to the scheduled confirmation hearing date, or may

be listed on the hearing docket. It is the duty of the debtor's attorney, the trustee, or parties in interest to inform the court of any existing bar to confirmation. Cases with pending objections will not be placed on a consent docket. Deficiencies in the plan noted by the trustee at the § 341 meeting must be cured in a manner which is evident upon review of the case file or the plan will not be scheduled on a consent docket.

**(d) Confirmation Orders.** The trustee shall prepare the confirmation order. The clerk shall serve a copy of the entered confirmation order on the debtor, the debtor's attorney, the trustee, the United States trustee, and all creditors and parties in interest.

**(e) Special Confirmation and Postconfirmation Requirements.**

**(1) Payments.** Plan payments shall be in the amount proposed in the plan to be paid over the period of not less than one month, and shall be made only in the following form: money order, certified check, cashier's check, check drawn on an attorney's trust account, or in such other form as the trustee may direct. Pursuant to § 1326(a)(1) of the Code, preconfirmation payments must continue on a regular basis, at least monthly, from the date of the first payment until the plan is confirmed or confirmation is denied and the case is dismissed. All payments will be held in trust pending confirmation, except for any preconfirmation lease or adequate protection payments which are otherwise authorized to be paid by the trustee pursuant to LBR 3070-1.

**(2) Time to Perform Other Confirmation Requirements.** The debtor shall file all amendments, appraisals, stipulations, and other papers necessary to place the plan in a posture for confirmation at least three (3) days prior to the confirmation hearing for cases assigned to Dayton and Cincinnati; and ten (10) days prior to the confirmation hearing for cases assigned to Columbus or its satellite locations.

**(3) Appraisals of Real Property.** Unless otherwise ordered by the court, an appraisal performed within the preceding twelve (12) months must be filed and served on the trustee on or before the § 341 meeting of creditors for each parcel of real property in which the debtor has a legal, equitable, or beneficial interest. An auditor's valuation is an acceptable appraisal unless the property is subject to lien avoidance, cramdown, or bifurcation.

**(4) Business Records and Periodic Reports.**

**(A) Duty of Debtor Engaged in Business.** On or before the § 341 meeting of creditors, a debtor engaged in business shall supply financial records and information as requested by the trustee.

**(B) Postconfirmation Reporting.** In addition to the requirements of LBR 4002-1, postconfirmation reporting shall be as required by the confirmation order or by separate order on motion of the trustee or a party in interest or by request of the trustee at the meeting of creditors.

## **3016-1      CHAPTER 11 — PLAN**

The enlargement of the exclusivity period is governed by this Local Rule.

**(a) Motion.** A debtor wishing to enlarge the exclusivity period contained in § 1121 of the Code for the filing of a plan shall file a motion. The memorandum supporting the motion shall contain:

(1) a brief description of the procedural status of the case, including the petition filing date and any previous enlargements of time to file a plan;

(2) the reason for the requested enlargement;

(3) whether a committee appointed under the Code has consented to the requested enlargement; and

(4) the length of time for which the enlargement is sought.

**(b) Proposed Order.** A proposed order granting the enlargement of time shall be submitted at the time the motion is filed. The order shall contain a provision that all creditors and parties in interest shall have twenty-one (21) days from the date of service of the order within which to file objections.

**3016-2   DISCLOSURE STATEMENT — GENERAL                      (Reserved)**

**3017-1   DISCLOSURE STATEMENT — APPROVAL                      (Reserved)**

**3017-2   DISCLOSURE STATEMENT —                                      (Reserved)**  
**SMALL BUSINESS CASE**

## **3018–1    BALLOTS — VOTING ON PLANS**

**(Reserved)**

## **3018–2    ACCEPTANCE OR REJECTION OF PLANS**

**(a) Ballot Requirements in Chapter 11 Cases.** The plan proponent shall file with the proposed disclosure statement the form of the ballot clearly marked “draft” to be circulated for acceptance or rejection of the plan. The ballot shall contain the address of the plan proponent and shall specify that the original of the completed ballot is to be returned to the attorney for the plan proponent. Ballots shall not be filed with the court.

**(b) Certification of Acceptances and Rejections of Chapter 11 Plans.** Unless otherwise ordered by the court, at least three (3) business days prior to the hearing on confirmation, the plan proponent shall file a certification of the amount and number of allowed claims of each class accepting or rejecting the plan and the amount of allowed interests of each class accepting or rejecting the plan. The court may find that the plan has been accepted or rejected on the basis of the certification.

## **3019–1    CHAPTER 11 — AMENDMENTS TO PLANS**

In the event the plan proponent proposes to further amend or modify the plan in response to any objections prior to the hearing on confirmation, the plan proponent shall file a redlined copy of the plan reflecting such amendments.

## **3020–1    CHAPTER 11 — CONFIRMATION**

Unless otherwise ordered by the court, any party wishing to present a witness or other evidence in support of or in opposition to a plan or objection to confirmation shall, not later than seven (7) days prior to the confirmation hearing, file and serve witness and exhibit lists in the form prescribed by LBR Form 7016-1, attachments A & B, upon the attorney for the plan proponent, the debtor’s attorney if the debtor is not the plan proponent, the United States trustee, all parties required to be served by LBR 9013-3, and any opposing party. The plan proponent need not file witness or exhibit lists if it wishes to present witnesses or other evidence in support of an uncontested plan.

## **3020–2      CHAPTER 11 — POSTCONFIRMATION PROCEDURES**

Six (6) months after entry of a confirmation order and every six (6) months thereafter, or within such other time as the court may direct, the proponent of the confirmed plan shall file a report and serve a copy of the report pursuant to LBR 9013–3, provided, that the twenty (20) largest unsecured creditors need not be served and, provided further, that any disbursing agent shall be served. Such report shall set forth the actions taken, the progress made toward the consummation of the plan, and the time frame anticipated until a final report and motion for final decree can be filed.

### **3021–1    DIVIDENDS — UNDER PLAN (Chapter 11)                      (Reserved)**

### **3022–1      FINAL REPORT/DECREE (Chapter 11)**

**(a) On Motion of Court.** One year from the date of the entry of an order confirming a plan, the court may notify all creditors and parties in interest that a final decree closing the case may be entered thirty (30) days from the date of the notice unless a party in interest objects.

**(b) On Motion of Plan Proponent.** A motion for a final decree closing the case by the proponent of a confirmed plan shall certify that the court’s role in the administration of the case is complete and that no contested matters or adversary proceedings are pending. The motion shall include an accounting, if available, as required by the clerk.

**(c) On Motion of the United States Trustee.** The United States trustee may file a motion for a final decree closing the chapter 11 case.

**(d) Procedure for Closing.** Upon the filing of a motion for a final decree, the clerk shall send to the attorney for the plan proponent a notice of any outstanding fees.

## **3070–1      CHAPTER 13 — PAYMENTS**

**(a) Preconfirmation Personal Property Lease Payments.** Preconfirmation personal property lease payments governed by § 1326(a)(1)(B) of the Code shall be made as part of the total plan payment to the trustee. Following the filing of an appropriate proof of claim, the trustee shall pay the lessor the required payments.



**(b) Preconfirmation Adequate Protection Payments.** Preconfirmation adequate protection payments governed by § 1326(a)(1)(C) of the Code shall be made as part of the total plan payment to the trustee. Following the filing of an appropriate proof of claim, the trustee shall pay the secured creditor the required payments.

## **PART IV**

### **4001–1      AUTOMATIC STAY — RELIEF FROM AND CONTINUATION OR IMPOSITION OF**

**(a) Procedure for Obtaining Relief from the Automatic Stay.** A request for relief from the automatic stay in accordance with § 362 of the Code or the codebtor stay in accordance with § 1201 or § 1301 of the Code, shall be made by motion.

**(1) Arrearage.** The motion shall state the month and year that the arrearage began.

**(2) Real Estate.** If the motion relates to real estate, movant shall attach LBR Form 4001–1(a) to the motion. Movant shall also attach to such motion a copy of the deed upon which the debtor acquired title to the property, note(s), mortgages, and other evidence of security interests upon which movant bases its secured claim. The deed and mortgage(s) as attached shall be a copy as recorded with the applicable public recording agency and bearing notations evidencing such recordation. The address of the real estate shall be included in the caption of the motion. The address of the real estate shall be included in the docketing event of the motion in the court’s ECF System.

**(3) Motor Vehicle.** If the motion relates to a motor vehicle, movant shall set forth in the motion the value of such motor vehicle based upon a valuation from any recognized used motor vehicle guide, and the balance claimed due by movant. Movant shall also attach to the motion a copy of the certificate of title to the motor vehicle or a copy of the motor vehicle registration (Ohio Bureau of Motor Vehicle Form BMV 1149 0301) pursuant to Ohio Revised Code § 4503.26 showing notation of any lien thereon evidencing movant’s secured claim and indicating proper perfection under applicable state law. The year, make, and model of the motor vehicle shall be included in the caption of the motion. The year, make, and model of the motor vehicle shall be included in the docketing event of the motion in the court’s ECF System.

**(4) Personal Property.** If the motion relates to personal property other than a motor vehicle, movant shall set forth in such motion a description of the personal property, the estimated value or the appraised value of the personal property, and the balance claimed due for movant’s secured claim. Movant shall also attach a copy of the security agreement and/or retail installment contract and, if applicable, copies of financing statements bearing notations of filing with the appropriate public recording agency and indicating proper perfection of such liens under applicable state law.

**(5) Parties for Service.** Parties who must be served shall include the parties set forth in LBR 9013–3, any applicable codebtor when relief is sought from the codebtor stay, and all holders of liens or encumbrances known to the movant or scheduled by the debtor on the property concerning which relief is sought.

**(6) Notice.** The motion shall be accompanied by the notice required in LBR 9013–1(a) and shall specify that a failure to file a response and accompanying memorandum on a timely basis may cause the stay to be lifted.

**(7) Response.** Any response to a motion for relief from stay shall state with particularity the reasons that the motion is opposed and, if appropriate, make a specific offer of adequate protection.

**(8) Procedure in Reorganization Cases.** Upon the filing of a motion for relief from the stay in chapters 11, 12, or 13 or from the codebtor stay in chapters 12 or 13, the court will issue an order providing that a hearing shall be held on a date set within thirty (30) days of the filing of the motion, fixing a day for the filing of any response to the motion, providing that the stay shall be continued pending the hearing, and providing that the hearing will not be held should a timely response not be filed. In Columbus, this subsection applies only in chapter 11 cases; the Columbus procedure for chapters 12 and 13 cases is available on the court’s website.

**(9) Preliminary Hearing.** Any party may request a preliminary hearing on the motion, supported by a memorandum providing the grounds for the request. Any such request shall be filed no later than seven (7) days after entry of the order setting the final hearing or service of the motion. The request for a preliminary hearing may be included in the motion or the response.

**(10) Separate Motion.** A motion for relief from the stay or for relief from the codebtor stay shall be filed separately from and not combined in the same filing with any other request for relief except:

**(A)** a request in the alternative for adequate protection may be included; and

**(B)** a motion for relief from the stay imposed by § 362 of the Code may be combined with a motion for relief from the codebtor stay imposed by § 1201 or § 1301 of the Code.

**(11) Effect of Relief in Chapter 12 and 13 Cases.** In chapter 12 and 13 cases the effect of relief from stay upon an entity holding an allowed secured claim is governed by LBR 3001–1(d)(2).

**(b) Procedure for Continuation or Imposition of the Automatic Stay.** A motion to continue the automatic stay under § 362(c)(3) of the Code or to impose the automatic stay under § 362(c)(4) of the Code filed within five (5) days of the petition filing date need not be accompanied by a motion for an expedited hearing or a motion for a shortened notice period.

**(c) Rent.** Any deposit of rent made by the debtor or an adult dependent of the debtor pursuant to § 362(l)(1)(B) of the Code shall be in the form of a certified check, cashier’s check, or money order payable to the order of the lessor. The deposit shall be delivered to the clerk

along with the petition, the certification made under § 362(l)(1)(A) of the Code, and a copy of the judgment of possession. Upon receipt of all of the above, the clerk shall transmit the certified check, cashier's check or money order to the lessor, by certified mail/return receipt requested, at the lessor's address listed on the petition.

## **4001–2 CASH COLLATERAL**

**(a) Motion.** Except as provided herein and elsewhere in these Local Rules, in a chapter 11 case, all cash collateral and financing requests under §§ 363 and 364 of the Code shall be by motion filed pursuant to Rules 2002, 4001 and 9014. Stipulations or agreed orders regarding the use of cash collateral or financing requests are subject to the provisions of this Local Rule.

### **(b) Contents.**

**(1) Concise Statement.** The motion shall include a concise statement meeting the requirements set forth in Rule 4001(b)(1)(B) and Rule 4001(c)(1)(B) (as applicable).

**(2) Provisions to be Highlighted.** If the proposed relief, form of order and/or stipulation contains any of the following, the motion must (1) recite which of the following is included, (2) identify and highlight the location of any such provision in the proposed order and/or stipulation, (3) state the justification for the inclusion of such provision, and (4) identify any such provision that is proposed to remain in effect if interim approval is granted, but final relief is denied, as provided under Rule 4001(c)(2).

**(A)** Provisions providing for adequate protection or priority for a claim that arose before the commencement of the case, including:

**(i)** Cross-collateralization clauses (i.e., clauses that secure the repayment of prepetition debt with postpetition assets in which the secured creditor would not otherwise have a security interest by virtue of its prepetition security agreement or applicable law); or

**(ii)** Roll-up clauses (i.e., clauses that provide for the use of property of the estate or the proceeds of a postpetition loan to make cash payments on prepetition debt).

**(B)** Provisions or findings of fact that release, waive, or limit any claim or other cause of action belonging to the estate or the trustee, including but not limited to:

**(i)** the release, waiver, or limitation of claims or other causes of action against any secured creditor without first giving parties in interest

at least 75 days from the entry of the order and the creditors' committee, if appointed, at least 60 days from the date of its appointment to investigate such matters-;

(ii) the release, waiver, or limitation of claims or other causes of action against any secured creditor for alleged prepetition torts or breaches of contract;

(iii) the waiver of avoidance actions under the Code; or

(iv) any modification of the statute of limitations or other deadline to commence an action.

(C) Provisions or findings of fact that determine the validity, enforceability, priority, or amount of a claim that arose before the commencement of the case, or of any lien securing the claim.

(D) Provisions that grant a lien on property of the estate that is not otherwise subject to a lien, grant a junior lien on property of the estate that is subject to a lien, or create a lien senior or equal to any existing lien without the consent of that lienholder.

(E) Provisions that release, waive or limit any right under § 506(c) of the Code.

(F) Provisions that grant a lien on any claim or cause of action arising under §§ 544, 545, 547, 548, 549, 553(b), 723(a), or 724(a) of the Code.

(G) Provisions that provide disparate treatment with regard to professional fee carveouts for the professionals retained by a creditors' committee from that provided for the professionals retained by the debtor.

(H) Provisions that prime administrative expenses of the kind specified in § 503(b) or 507(a) of the Code.

(I) Provisions that waive or modify any entity's authority or right to file a plan or seek an extension of time in which the debtor has the exclusive right to file a plan or otherwise operate to divest the debtor of any discretion in the administration of the estate or limit access to the court to seek any relief under other applicable provisions of law.

(J) Provisions that establish deadlines for filing a plan of reorganization, for approval of a disclosure statement, for a hearing on confirmation, or entry of a confirmation order.

(K) Provisions providing for the indemnification of any entity.

(L) Provisions waiving or modifying provisions of the Code or applicable Rules relating to the automatic stay.

(M) Provisions that waive or modify the applicability of nonbankruptcy law relating to the perfection of a lien on property of the estate, or on the foreclosure or other enforcement of the lien.

(N) Provisions that waive or modify the debtor's right to move for a court order pursuant to § 363(c)(2)(B) of the Code authorizing the use of cash collateral or § 362 of the Code to obtain credit.

(O) Provisions that grant a lien in an amount in excess of the dollar amount of cash collateral authorized under the applicable cash collateral order.

(P) Findings of fact on matters extraneous to the approval process.

(Q) Provisions that bar the debtor from future bankruptcy filings.

**(3) Checklist.** The motion shall be accompanied by a checklist in the format adopted as LBR Form 4001–2 identifying the location and type of each highlighted provision. Compliance with this subsection negates the need to file a separate checklist under Rule 4001.

**(4) Documents.** The motion shall be accompanied by copies of all documents by which the interest of all entities in the cash collateral was created or perfected, or if any of those documents is unavailable, the reason for the unavailability. The debtor shall use its best effort to obtain and file any documents that are unavailable as soon as possible after the motion is filed and unless otherwise approved by the court, not later than seven (7) business days after the filing of the motion.

**(c) Interim Relief at Outset of Case.** When a motion is filed with the court on or shortly after the date of the entry of the order for relief, the court may grant interim relief pending review of the proposed debtor-in-possession financing arrangements by the interested parties. Such interim relief is intended to avoid immediate and irreparable harm to the estate pending a final hearing. In the absence of extraordinary circumstances, the court will not approve interim financing orders that include any of the provisions previously identified in (b)(2)(A) through (b)(2)(Q) above.

**(d) Immediate Relief During Pendency of Case.** If, during the pendency of the case, the debtor asserts an immediate need for the use of cash collateral, the court may schedule a preliminary hearing on the motion after notice has been provided to any entity claiming an interest in the cash collateral. Notice provided pursuant to LBR 9013–3 may be by telephone, facsimile (fax) or email if time does not permit notification by mail.

## **4001–3      OBTAINING CREDIT**

**(a) Chapter 11 Cases.** All financing motions and stipulations or agreed orders related to financing motions filed shall comply with LBR 4001–2.

**(b) Chapter 13 Cases.** The debtor may not incur non-emergency consumer debt in excess of one thousand dollars (\$1,000.00), including the refinancing of real property debt, without written approval of the trustee or order of the court under the procedure set forth herein.

**(1) Application Directed to Trustee.** The debtor shall first request approval to incur debt by written application to the trustee which shall include the items in (c) below. Such application shall not be filed with the clerk. If approved by the trustee, the trustee shall file the application and the approval and the debtor may incur the debt in accordance with the terms and conditions approved by the trustee.

**(2) Motion Directed to Court.** If the debtor’s application is not approved by the trustee, the debtor may file a motion to incur such debt. The motion shall contain a copy of the trustee’s denial of the application.

**(c) Contents of Application or Motion.** Any motion filed under Rule 4001(c), including any application or motion pursuant to (b) above, shall contain:

- (1)** a statement in support of the feasibility of the request;
- (2)** a description of the item to be purchased or the collateral affected by the credit to be obtained;
- (3)** a description of the interest held by any other entity in any collateral affected by the credit;
- (4)** the reasons the debtor needs the credit;
- (5)** the terms of any financing involved, including the interest rate;
- (6)** a description of any method or proposal by which an interest held by any other entity in the collateral affected by the credit may be protected; and
- (7)** copies of all documents by which the interest of all entities in the collateral affected by the credit was created or perfected, or, if any of those documents are unavailable, the reason for the unavailability. The debtor shall make its best effort to obtain and file any documents which are unavailable as soon as possible after the motion is filed.

**(d) Preliminary Hearing.** If the debtor asserts an immediate need for the obtaining of credit, the court may schedule a preliminary hearing on the motion after notice has been provided to any entity claiming an interest in the collateral affected by the credit to be obtained.

Notice provided pursuant to LBR 9013–3 may be by telephone, facsimile (fax) or email if time does not permit notification by mail.

## **4002–1      DEBTOR — DUTIES**

**(a) Documentation to be Brought to § 341 Meeting by Debtor.** Each debtor shall bring to the § 341 meeting either the following documentation or a statement why such documentation is not applicable or available. This Local Rule is not applicable to a chapter 11 business debtor who has made other arrangements with the United States trustee.

(1) A picture identification issued by a governmental unit, or other personal identifying information that establishes the debtor’s identity.

(2) Evidence of social security number(s) or tax identification number(s).

(3) Evidence of current income, such as the most recent payment advice or paystub.

(4) Copies of all original and duplicate certificates of title or copies of motor vehicle registrations (Ohio Bureau of Motor Vehicle Form BMV 1149 0301) pursuant to Ohio Revised Code § 4503.26 for all titled personal property, including, but not limited to, motor vehicles, boats, motorcycles, trailers, and mobile homes.

(5) Copies of any personal property leases, including motor vehicle leases.

(6) Title documents to all real estate in which the debtor has an interest, including deeds, registered land certificates of title, land contracts, or leases.

(7) Closing statements for any interest in real estate sold or conveyed by the debtor within the year preceding the petition filing date.

(8) Evidence of the value of real estate in which the debtor has an interest (county auditor appraisal or independent appraisal, if available).

(9) Copies of all mortgages and liens upon real estate in which the debtor has an interest showing all recording information, and details of all certificates of judgment, including the name of the judgment creditor, date of filing, judgment docket number, page and amount.

(10) All life insurance policies owned by the debtor, and evidence of the cash surrender value and the beneficiary.

(11) Copies of the United States, state, and local income tax returns, including any amendments, of the debtor and of any business entities wholly owned by the debtor,



for the three (3) years preceding the petition filing date, including the most recently filed tax return.

(12) Statements for each of the debtor's depository and investment accounts, including checking, savings, and money market accounts, mutual funds and brokerage accounts for the time period that includes the petition filing date.

(13) Copies of any separation agreements or decrees of dissolution or divorce entered into or granted during the twelve (12) months prior to the petition filing date.

(14) All documents evidencing the debtor's interest in any retirement account, including plans established under 26 U.S.C. § 401(k) or 26 U.S.C. § 403(b), including individual retirement accounts, account statements, summary plan descriptions and qualification letters from the IRS. For individual retirement accounts, an accounting of all contributions to the account since its inception.

(15) Copies of security agreements, and financing statements.

(16) Copies of stock certificates, bonds, credit union accounts, and other evidence of investments or savings.

**(b) Payment Advices.**

**(1) Submission to Trustee and United States Trustee in Lieu of Filing.** Unless otherwise ordered by the court, copies of all payment advices or other evidence of payment (e.g., paystubs) received within sixty (60) days before the date of the filing of the petition from an employer of the debtor shall not be filed with the court and shall instead be provided to the trustee and the United States trustee at least seven (7) days prior to the first date set for any § 341 meeting, but not later than forty-five (45) days after the date of the filing of the petition. In the event no such payment advices or other evidence of payment have been received by the debtor, the debtor shall provide the trustee and the United States trustee with a certification of that fact under the time limitations set out above.

**(2) Consequences of Noncompliance.** If the debtor fails to timely provide to the trustees the documentation or certification required by this Local Rule, then either the trustee or the United States trustee may file a notice with the court indicating such failure and suggesting dismissal of the case. The court may immediately dismiss the case without notice or a hearing.

**(c) Disclosure of Property Acquired Postpetition.** If the debtor acquires an interest in property of the kind listed in § 541(a)(5) within 180 days after the date of filing of the petition or property of the kind listed in § 1306, the debtor shall immediately notify the trustee and provide copies of all documents related to the interest.

**(d) Chapter 13 Cases.** Prior to the issuance of a discharge order, the debtor must file a Debtor's Certification Regarding Issuance of Discharge Order. The form is available from the trustee's office or website.

**(e) Converted Cases.** In the event a case is converted, a debtor shall bring to the § 341 meeting of creditors in the converted case all of the documentation required by (a)(1) above.

**(f) Procedure.**

**(1) Requests by Trustee.** The debtor shall comply promptly with all trustee requests for information whether oral or written. Absent a written extension of time from the trustee, within twenty-one (21) days after service of any written request on the debtor, the debtor shall serve on the trustee the information and/or documents requested, or shall file and serve on the trustee a motion for a protective order.

**(2) Limited Filing with the Court.** The trustee shall not file a copy of a request for information unless the debtor fails to comply with this Local Rule and the trustee or any other party in interest requests the court to compel compliance. The debtor shall not file a copy of a response to a request for information unless it is in the form of amendments to schedules, statements of financial affairs or other statements or lists required to be filed by Rule 1007, or unless the debtor is otherwise required to do so.

**(3) Sanctions.** Failure to comply with a trustee's request for information may result, after notice and hearing, in the imposition of sanctions.

## **4002–2 ADDRESS OF DEBTOR**

The change of address required to be filed by Rule 4002 shall be filed and served by the debtor on the trustee, the United States trustee and all creditors who have filed a request for notice.

## **4003–1 EXEMPTIONS**

**(Reserved)**

## **4003–2 LIEN AVOIDANCE**

**(Reserved)**

## **4004–1 DISCHARGE HEARINGS**

**(Reserved)**

## **4004–2 OBJECTIONS TO DISCHARGE**

A debtor who is represented by an attorney may enter into a stipulation with the trustee or creditor to extend the deadline for filing a complaint objecting to discharge. Such stipulation must be filed with the court.

## **4007–1 DISCHARGEABILITY COMPLAINTS**

**(a) Extension to file by Stipulation.** A debtor who is represented by an attorney may enter into a stipulation with a creditor to extend the deadline for filing a complaint to determine the dischargeability of a debt. Such stipulation must be filed with the court.

**(b) Hardship Discharge.** The proposed order granting a motion for a hardship discharge under § 1328(b) of the Code shall inform the parties that the period to file a complaint seeking to except a debt from discharge under § 523 (a)(6) of the Code shall expire thirty (30) days after the entry of the order as set forth under Rule 4007(d).

## **4008–1 REAFFIRMATION**

**(Reserved)**

## **4070–1 INSURANCE**

**(Reserved)**

## **4071–1 AUTOMATIC STAY — VIOLATION OF**

**(Reserved)**

## **PART V**

### **5001–1 COURT ADMINISTRATION**

**(Reserved)**

### **5001–2 CLERK — OFFICE LOCATION/HOURS**

The following are the mailing addresses and telephone numbers of each clerk's office, as of the effective date of these Local Rules:

United States Bankruptcy Court  
Atrium Two  
221 East Fourth Street  
Suite 800  
Cincinnati, Ohio 45202  
(513) 684–2572

United States Bankruptcy Court  
170 North High Street  
Columbus, Ohio 43215  
(614) 469–6638

United States Bankruptcy Court  
120 West Third Street  
Dayton, Ohio 45402  
(937) 225–2516

The office of the clerk is open from the hours of 9:00 a.m. to 4:00 p.m. on business days and open for purposes of accepting electronic filings 24 hours a day, 7 days a week.

### **5003–1 CLERK — GENERAL/AUTHORITY**

#### **Clerk Register of Federal and State Governmental Units.**

(a) **LBR Form 5003-1(a).** To be included in the register, a LBR Form 5003–1(a) request must be submitted to the clerk. If a governmental unit wishes to have more than one address listed in the register, it must submit a separate LBR Form 5003–1(a) request for each address

and include a brief explanation, subject to the approval of the clerk, of the proper use for each address.

**(b) Updating the Register.** A governmental unit may update its address or related information at any time by submitting a new LBR Form 5003–1(a) request.

**(c) Availability of the Register.** The register is available at the clerk’s office or on the court’s website at [www.ohsb.uscourts.gov](http://www.ohsb.uscourts.gov).

## **5003–2 COURT PAPERS — REMOVAL OF (Reserved)**

## **5003–3 CLAIMS — REGISTER (Reserved)**

## **5005–1 FILING PAPERS — REQUIREMENTS**

**(a) Filing with the Clerk.** Filings and other papers required to be filed shall be filed with the clerk pursuant to the ECF Procedures. [See Southern District of Ohio Administrative Procedures For Electronic Case Filing available at the court’s website at [www.ohsb.uscourts.gov](http://www.ohsb.uscourts.gov).] The clerk may refuse to accept for filing any filing or other paper not accompanied by the proper filing fee, unless otherwise provided by law.

**(b) Facsimiled Filings or Other Papers.** Filings or other papers received on a court facsimile (fax) machine will not be accepted for filing.

**(c) Identification of Attorney.** Every pleading or other paper filed by an attorney shall include the attorney’s name, mailing address, telephone number, facsimile (fax) number, email address, and state bar number in the signature block under the signature line.

## **5005–2 FILING PAPERS — NUMBER OF COPIES (Reserved)**

## **5005–3 FILING PAPERS — SIZE OF PAPER (Reserved)**

## **5005–4 ELECTRONIC FILING**

**(a) Mandatory Electronic Filing.** All documents submitted in all cases and proceedings shall be filed electronically, signed or verified by electronic means that comply with procedures established by the United States Bankruptcy Court for the Southern District of Ohio. [See Southern District of Ohio Administrative Procedures For Electronic Case Filing available at the court’s website at [www.ohsb.uscourts.gov](http://www.ohsb.uscourts.gov).]

**(b) Administrative Procedures Control.** In the event of a conflict between these Local Rules and the ECF Procedures, the current version of the ECF Procedures shall control.

## **5009–1 FINAL REPORT/DECREE**

**(Reserved)**

## **5010–1 REOPENING CASES**

**(a) Motion Required.** A motion to reopen a case shall specifically set forth the basis for the proposed reopening and shall contain information demonstrating that the proposed reopening is to correct an administrative error, administer assets, accord relief to the debtor, or for other cause.

**(b) Fees to Reopen.** The movant shall pay a filing fee at the time of filing a motion to reopen, unless the movant or the movant’s attorney certifies that the purpose of the reopening is to correct an administrative error or relates to the debtor’s discharge. The court may waive the filing fee under appropriate circumstances or may defer payment of the fee pending the trustee’s recovery of additional assets.

**(c) Service.** In addition to the general service requirements of LBR 9013–3, a motion to reopen shall be served on any former trustee and any affected party.

**(d) Separate Motion.** A motion to reopen a case shall be filed separately from and not combined in the same filing with any other request for relief.

## **5011–1 WITHDRAWAL OF REFERENCE**

(a) **Form of Request; Place for Filing.** A motion requesting withdrawal of reference, in whole or part, of a case or proceeding referred to the bankruptcy court shall be filed with the bankruptcy court and shall be accompanied by the proper filing fee.

(b) **Responses to Motion for Withdrawal of Reference.** All responses to a motion for withdrawal of reference shall be filed with the bankruptcy court within fourteen (14) days from the date of service as set forth on the certificate of service attached to the motion.

(c) **Reply.** A reply memorandum may be filed within seven (7) days after the date of service shown on the certificate of service of the response.

(d) **Transmittal of Documents to District Court.** Within seven (7) days after the expiration of the time for filing documents as provided in subsections (b) and (c) above, the clerk of the bankruptcy court shall transmit the motion and any responses to the clerk of the district court. All further documents pertaining to the motion for withdrawal shall be filed with the district court. Except as otherwise ordered by the bankruptcy court or district court pursuant to a stay entered in accordance with Rule 5011(c), parties shall continue to file with the bankruptcy court all documents relating to other matters in the bankruptcy case or proceeding.

## **5011–2 ABSTENTION**

**(Reserved)**

## **5070–1 CALENDARS AND SCHEDULING**

**(Reserved)**

## **5071–1 CONTINUANCE**

**(Reserved)**

## **5072–1 COURTROOM DECORUM**

**(Reserved)**

## **5072–2 COURT SECURITY**

**(Reserved)**

## **5073–1 PHOTOGRAPHY, RECORDING DEVICES AND BROADCASTING**

**(a) Cameras and Recording Devices Prohibited.** No person may, without permission of the court, operate a camera or other recording device on any floor of a bankruptcy courthouse where judicial proceedings are being conducted. Cameras and other recording devices in the possession of a person entering a building in which judicial proceedings are being conducted by the court must, upon request, be turned over to security personnel for safekeeping and may be retrieved when leaving the building. All persons must comply with all directives of all court security officers.

**(b) Certain Electronic Devices Permitted for Attorneys.** Attorneys are permitted to keep in their possession laptop computers, wireless telephones, electronic calendars, and other electronic devices commonly used to conduct business activities. Security personnel may inspect any electronic device brought into a courthouse, and may take possession of a device if, upon inspection, the possession or use of such electronic device is deemed a security concern. Electronic devices brought into a courthouse pursuant to this subsection may be used anywhere in the courthouse so long as such use does not disrupt courtroom or other official proceedings. By way of illustration, the ringing of a wireless telephone in a courtroom while proceedings are being conducted is considered disruptive. No device may be used to circumvent (a) above prohibiting the use of cameras or recording devices where judicial proceedings are being conducted. Attorneys must comply with all directives of all court security officers.

**(c) Further Restrictions.** The security committee for each courthouse may promulgate such further requirements and restrictions as are deemed necessary, consistent with this Local Rule. Nothing herein shall limit the discretion of a bankruptcy judge to permit special arrangements or to order specific requirements or restrictions on the possession or use of electronic devices in connection with a particular case before that bankruptcy judge.

## **5075–1 CLERK — DELEGATED FUNCTIONS OF**

**(Reserved)**

## **5076–1 COURT REPORTING**

**(Reserved)**



**5077-1      TRANSCRIPT**

Information regarding transcript redaction procedures is available on the court's website at [www.ohsb.uscourts.gov](http://www.ohsb.uscourts.gov).

## 5078-1 COPIES — HOW TO ORDER

**(Reserved)**

## 5080-1 FEES — GENERAL

**(Reserved)**

## 5081-1 FEES — FORM OF PAYMENT

**(a) Required Fees.** All filing fees, administrative fees and other scheduled fees and charges, including United States trustee quarterly fees, fees for conversion of cases and for reopening of cases, shall be paid as required by 28 U.S.C. § 1930. A listing of current fees is available by calling (513) 684–2572 in **Cincinnati**, (937) 225–2516 in **Dayton** or (614) 469–6638 in **Columbus**. A listing of current fees is also available at the court’s website at [www.ohsb.uscourts.gov](http://www.ohsb.uscourts.gov). The clerk may refuse to accept for filing a document not accompanied by the proper filing fee, unless otherwise provided by law.

**(b) Manner of Payment.** Payment of filing fees, administrative fees and other scheduled fees and charges may be by cash or law firm check, trustee's check, certified check, cashier's check, money order or court approved credit card from a party other than a debtor. Checks shall be made payable to "Clerk, U. S. Bankruptcy Court". All payments shall be in the exact amount of such fees and charges.

**(c) Quarterly Fees.** Payment of quarterly fees due the United States trustee pursuant to 28 U.S.C. § 1930(a)(6) shall be made payable to “United States Trustee” and shall be sent to the address designated by the United States trustee.

**(d) Returned Checks.** Any entity who has presented a check that has been dishonored or has had payment stopped thereon may be denied, in the discretion of the clerk, the privilege of presenting checks in the future.

**5090-1 JUDGES — VISITING AND RECALLED (Reserved)**

**5091-1 SIGNATURES — JUDGES (Reserved)**

**5092-1 SEAL OF COURT (Reserved)**

**5095-1 INVESTMENT OF ESTATE FUNDS (Reserved)**

## **PART VI**

### **6004–1 SALE OF ESTATE PROPERTY**

**(a) General.** Unless otherwise ordered by the court, the notice of a proposed use, sale or lease of property other than in the ordinary course of business shall be filed and served by the trustee, debtor in possession, or chapter 12 or chapter 13 debtor.

#### **(b) Chapter 7 and 11 Cases — Sales of Real and Personal Property.**

**(1) Notice.** Notice of the proposed use, sale or lease of property other than in the ordinary course of business shall contain:

**(A)** a description which reasonably informs parties in interest of the property to be used, sold or leased. If the property is real property, its address shall be set forth with the legal description, if available;

**(B)** the terms and conditions of the proposed use, sale or lease, including the price and any contingencies;

**(C)** the date, time and place of any public sale;

**(D)** in a private sale the name of the buyer and disclosure of any relationship between the buyer and the debtor or a statement that there is no relationship;

**(E)** the value of the property and the basis upon which the movant determined that the suggested price for the use, sale or lease of such property is in the best interest of the estate; and

**(F)** a statement that a written objection to the proposed use, sale or lease, together with a request for hearing, must be filed and served pursuant to LBR 9013–3 not later than twenty-one (21) days from the date of service of the notice, unless the notice period is shortened by order of the court, and that in the absence of objection the property may be used, sold or leased without further notice.

#### **(2) Report of Sale.**

**(A) Contents of Report; Time to File.** Unless otherwise ordered by the court, within twenty-one (21) days after the sale of any property not in the ordinary course of business, and prior to disbursement of any proceeds of sale, the trustee or debtor in possession shall file a report of sale. This report shall include, in addition to what is required by Rule 6004(f)(1):

- (i) the date, time and place of sale;
- (ii) a calculation of the compensation allowable under the order of appointment; and
- (iii) a statement of the expenses of sale.

**(B) Disbursement of Sale Proceeds.** Unless otherwise ordered by the court, all proceeds of a sale shall be paid directly to any appointed trustee or the debtor in possession. No disbursement of proceeds shall be made without a specific order of the court authorizing the disbursement, except for payment to secured creditors, payment to debtors for exempt proceeds, and payment for expenses of sale up to \$2500. In addition, disbursements of auctioneers' fees and brokers' commissions may be paid without additional order of the court, if payment is consistent with the terms of the order approving the sale or authorizing the appointment of the auctioneer or broker.

**(c) Chapter 12 and 13 Cases — Sales of Personal Property.**

**(1) Application to the Trustee.** Unless otherwise ordered, use, sale or lease of property other than real property shall be by written application of the debtor to the trustee. Subject to Rule 6004(d), the application shall contain notice as in (b) above and shall be served according to Rule 2002(a)(2) and LBR 9013–3. The debtor shall not file the application with the clerk.

**(2) Objection to the Application; Denial of the Application.** An objection, if any, shall be served on the trustee, the debtor, and the debtor's attorney and shall not be filed with the court. If no objections are served and the trustee approves the application, the trustee shall file the approval and the application and the debtor may use, sell or lease the property in accordance with the terms and conditions approved by the trustee. If an objection is served, the trustee shall not approve the application. Further, if an objection is served or the use, sale or lease is not approved by the trustee, the debtor may file a motion to use, sell or lease the property and such motion shall contain the information required in (b)(1) above. The motion shall request a hearing and shall include as an attachment copies of any objections and/or the trustee's denial of the application.

**(3) Nominal Sale Exception.** If the aggregate value of the property to be sold is less than \$1,000 and the property is unencumbered, it is not necessary for the debtor to make an application to the trustee.

**(d) Chapter 12 and 13 Cases — Sales of Real Property.** Unless otherwise ordered by the court, sale of real property shall be in accordance with the following:

**(1) Motion Requirements.** The debtor shall file a motion after a contract of sale is procured. The motion shall provide the following minimum information:

(A) whether the debtor's plan has been confirmed;

(B) the address of the property;

(C) whether the property is the debtor's residence;

(D) the sale price;

(E) the valuation of the property as set forth in the schedules and in any appraisal valuation submitted pursuant to LBR 3015–3(e)(3);

(F) the name of each mortgagee or lienholder;

(G) the estimated amount of sale proceeds to be retained by the debtor;

(H) the approximate amount of sale proceeds to be paid to the plan;

(I) whether the plan provided for the sale; and

(J) the name of the buyer and disclosure of any relationship between the buyer and the debtor or a statement that there is no relationship.

**(2) Closing Procedure.** The closing agent shall coordinate with the trustee in making the arrangements for the closing and shall obtain the trustee's approval before proceeding with the closing. The closing agent shall deliver a copy of the closing statement to the trustee, debtor, and debtor's attorney at least one (1) working day before the closing. The trustee is authorized to permit the closing agent to make direct disbursements on behalf of the trustee at closing on any claims so provided for by the plan or court order in which event it will not be necessary for the trustee to attend the closing. Any of these disbursements shall be considered as if made by the trustee for the purposes of the trustee collecting the percentage fee fixed pursuant to 28 U.S.C. § 586(e)(1)(B).

**(3) Proceeds and Closing Statement.** If the trustee does not attend the closing, the closing agent shall cause to be delivered to the trustee within three (3) working days after closing, the net proceeds, if any, and a copy of the signed closing statement. Such statement shall show:

(A) the amount paid to each lienholder;

(B) the amount of any real estate taxes paid;

(C) the name of and amount paid to any realtor;

(D) any deductions from the sale proceeds with an explanation therefore;

(E) any closing costs; and

(F) the calculation of the total deductions from the sale proceeds and the amount of sale proceeds being paid to the plan.

(e) **Chapter 12 and 13 Cases — Report of Sale.** The trustee's final report and account shall serve as the report of sale and distribution of the proceeds therefrom, in lieu of a report required by (b)(2) above in chapter 7 and 11 cases.

## **6005–1 APPRAISERS AND AUCTIONEERS**

**(Reserved)**

## **6006–1 EXECUTORY CONTRACTS**

**(Reserved)**

## **6007–1 ABANDONMENT**

### **(a) Obtaining Abandonment.**

(1) **Request for Abandonment.** When a party requests an abandonment and follows the notice procedure prescribed in (b) below, and no objection has been filed, that party shall prepare and submit to the trustee an abandonment document, which the trustee shall execute and return within fourteen (14) days of its receipt.

(2) **Motion.** A party unable to secure an abandonment from a trustee may file a motion for abandonment pursuant to Rule 6007(b).

(3) **General.** The trustee may execute abandonments until the case is closed.

### **(b) Notice Procedure in Chapter 7 Cases.**

(1) **In § 341 Meeting Notice.** The § 341 meeting notice shall inform creditors and other parties in interest that the trustee may abandon property of the estate listed on the debtor's schedules upon the request of any party in interest or upon the trustee's determination that there is no equity in the property for the benefit of unsecured creditors and that the property is burdensome. The § 341 meeting notice shall also

provide that further notice to creditors and other parties in interest is not required for the abandonment of any property unless a party in interest, before the conclusion of the § 341 meeting, files a request for further notice of abandonment with service of such notice on the trustee, or unless further notice is ordered by the court or required by the trustee.

**(2) Further Notice of Proposed Abandonment.** If further notice of proposed abandonment is required, the party proposing the abandonment shall give such further notice to the party filing the request for such notice, or to any party ordered by the court or required by the trustee to receive such further notice.

**(3) Certificate of Service.** Any notice under (b)(2) above shall contain a certificate of service, indicating that the appropriate parties have been served, and such certificate shall be filed.

**(c) Contents of Notice.** A request pursuant to (a)(1) above or a motion pursuant to (a)(2) above shall contain:

(1) A description of the property, and if it is real property, its designated address, if the property has an address;

(2) A statement of the present fair market value of the property or an explanation why the statement is unnecessary or unavailable;

(3) A statement of the payoff amounts of any encumbrances on the property as of the date of the filing of the notice or motion, or an explanation why the statement is unnecessary or unavailable; and

(4) A statement that a written objection to the proposed abandonment, together with a request for hearing, must be filed and served on the trustee, the debtor, debtor's attorney and the party proposing abandonment, no later than twenty-one (21) days from the date of service of the notice or the property may be abandoned without further notice.

(5) The original notice pursuant to (b)(2) above filed with the court and the copy served on the trustee shall contain copies of all documents by which any encumbrances against the property were created or perfected, or an explanation why the copies are unnecessary or unavailable. The copy of such notice forwarded to creditors shall contain a statement that said copies or explanation are on file with the court and available for review by interested parties.

**(d) Responsible Party.** The creditor requesting and obtaining an abandonment from the trustee shall be responsible for insuring that the procedure outlined herein is followed.

**(e) Abandonment Not Combined With Other Relief.** A notice of abandonment or motion to compel abandonment may not be combined with any other request for relief.

## **6008–1      REDEMPTION**

If a motion for redemption relates to a motor vehicle, the motion shall state the value of the motor vehicle based upon a valuation from any recognized used vehicle guide or an appraisal, a copy of which shall be attached to the motion. If the suggested redemption amount is less than the amount stated in the guide or the appraisal, the motion shall include an explanation of the difference.

## **6070–1    TAX RETURNS AND TAX REFUNDS**

**(Reserved)**



## **PART VII**

### **7001–1      ADVERSARY PROCEEDINGS — GENERAL**

A trustee or a debtor-in-possession, as a plaintiff in an adversary proceeding to avoid preferential or fraudulent transfers, shall file a separate adversary for each defendant unless the defendants are part of the same transaction.

### **7003–1      COVER SHEET**

An “Adversary Proceeding Cover Sheet” in the form prescribed by the Administrative Office of the United States Courts, available through the clerk, must be completed and filed with each complaint that is not filed electronically.

### **7004–1      SERVICE OF PROCESS**

**(a) Authorization for Electronic Service.** The United States Bankruptcy Court for the Southern District of Ohio is authorized to establish procedures for electronic service in connection with electronic case filing.

**(b) Service on Participants in the ECF System.** By registering for a login and password from the court, participants in the ECF System waive the right to receive notice by first class mail, including notice pursuant to Rule 2002(a), and agree to receive notice electronically. By registering for a login and password from the court, participants in the ECF System also waive the right to service by personal service or first class mail and agree to electronic service, except with regard to service of process of a summons and complaint in an adversary proceeding under Rule 7004 and the initiating motion in a contested matter under Rule 9014.

**(c) Service on Non-participants in the ECF System.** A filing party shall serve a pleading or other paper upon all non-participants in the ECF System entitled to notice or service in accordance with the applicable Rules.

### **7004–2      SUMMONS**

**(Reserved)**

**7005–1      CERTIFICATE OF SERVICE (APs)      (Reserved)**

**7005–2      FILING OF DISCOVERY MATERIALS**

Unless otherwise ordered by the court, disclosures under Rule 26(a)(1) or (2) Fed.R.Civ.P. and discovery requests and responses regarding depositions, interrogatories, requests for documents or to permit entry upon land, and requests for admission shall not be filed until they are used in the proceeding.

**7007–1    MOTION PRACTICE (APs)      (Reserved)**

**7007.1–1 FINANCIAL DISCL. BY CORP. PARTY      (Reserved)**

**7008–1    CORE/NON–CORE DESIGNATION      (Reserved)**  
**(Complaint)**

**7012–1    CORE/NON–CORE DESIGNATION      (Reserved)**  
**(Responsive Pleading)**

**7016–1      PRETRIAL PROCEDURES**

**(a) Order on Procedures and Preliminary Pretrial Statement.** After all parties have filed their initial pleadings in an adversary proceeding, if the court decides to require a pretrial statement, the court will send to all attorneys and parties appearing *pro se* an Order Governing

Pretrial and Trial Procedures (LBR Form 7016–1 — Order attached). Each party shall complete, file and serve on all other parties its Preliminary Pretrial Statement (LBR Form 7016–1 — PPS attached) within thirty (30) days of the date that order is entered or other deadline established by the court.

**(b) Procedure Following Receipt of Preliminary Pretrial Statement.** Upon passage of the thirty (30) days or upon receipt of all parties' Preliminary Pretrial Statements, the court, depending upon the nature and complexity of the case, will:

(1) issue an order setting a preliminary pretrial conference, at which the court will consider procedural matters raised in the pleadings and pretrial statements. Following such conference, the court will issue subsequent orders or a Final Pretrial Order, as the court shall determine; or

(2) issue a Final Pretrial Order without pretrial conference.

**(c) Content of Subsequent Orders or Final Pretrial Order.** Subsequent Pretrial Orders or the Final Pretrial Order will set out the jurisdiction, venue and core/non-core status of the proceeding and will establish time deadlines for completion of discovery, the filing of witness and exhibit lists and exhibits, the filing of pretrial motions and trial briefs, the status of any pending motions, and the date and time for trial.

**(d) No Limitations on Other Procedures.** Nothing herein shall prohibit the court from conducting further pretrial conferences or procedures or limit other procedures the court may adopt in any proceeding.

**(e) Use of Pretrial Forms.** LBR Form 7016–1 — Order and LBR Form 7016–1 — PPS and the instructions and procedures outlined therein are to be utilized in all adversary proceedings in this district, except when the court, for cause, either *sua sponte* or on motion of any party, orders such forms not to be used in a specific adversary proceeding.

**7023–1 CLASS ACTION**

**(Reserved)**

**7024–1 INTERVENTION**

**(Reserved)**

**7024–2 UNCONSTITUTIONALITY, CLAIM OF**

**(Reserved)**

## **7026–1      DISCOVERY — GENERAL**

**(a) Cooperation and Consultation.** Discovery proceedings shall be promptly commenced. All attorneys and any party appearing *pro se* are required to cooperate and consult with each other in a courteous manner in all matters related to discovery and shall freely exchange discoverable information and documents upon informal written request, whether or not a pretrial conference has been scheduled or held in a proceeding. No objections, motions, applications or requests related to discovery disputes shall be filed pursuant to the provisions of Rules 7026 through 7037 unless extrajudicial means for the resolution of the discovery dispute have been exhausted. Without other compelling factors, discovery should not be delayed as a result of a dispute involving the payment or allocation of the costs of discovery.

**(b) Discovery Disputes.** To the extent that extrajudicial means have not resolved a discovery dispute, a party seeking discovery or a protective order may proceed with the filing of a motion to compel discovery or a motion for a protective order. Such a motion shall be accompanied by a supporting memorandum and an affidavit of the attorney setting forth what extrajudicial means have been attempted to resolve the discovery dispute, including a statement that the movant has met in person or by telephone with the opposing attorney, or has offered in writing to meet in person or by telephone with the opposing attorney on one or more specific dates and the offer has been refused, or that the movant has not received a written response to the offer. Only those specific portions of the discovery requests, or materials reasonably necessary to a resolution of the motion, shall be included with the motion. Opposition to any motion filed pursuant to this Local Rule shall be filed within seven (7) days of the filing of the motion for protective order or motion to compel discovery. Any reply memorandum shall be filed within seven (7) days of the filing of any memorandum in opposition. The court may enter an appropriate award of expenses or impose appropriate sanctions in connection with the determination of such motions on the motion of a party or on its own motion.

**(c) Interrogatories and Requests for Admission.** Separate interrogatories and requests for admission, in each instance, shall be followed by a space of at least one inch in which an answer or response can be inserted. Answers to interrogatories and requests for admission, in each instance, shall be preceded by the text of the interrogatory or the request.

**(d) Rule 26(f) Fed.R.Civ.P. Discovery Plan.** The parties' completion of Section VI of LBR Form 7016–1 — PPS shall constitute compliance with Rule 26(f) Fed.R.Civ.P. regarding the preparation of a discovery plan.

## **7030–1      DEPOSITIONS AND EXAMINATIONS (APs)**

**(Reserved)**

## 7040-1 ASSIGNMENT OF ADVERSARY PROCEEDINGS

Adversary proceedings arising in or related to a case shall be assigned to the bankruptcy judge to whom the case is assigned.

7052-1 FINDINGS AND CONCLUSIONS (Reserved)

**7054-1 COSTS — TAXATION/PAYMENT (Reserved)**

**7055-1 DEFAULT — FAILURE TO PROSECUTE (Reserved)**

**7056-1 SUMMARY JUDGMENT** (Reserved)

**7065-1 INJUNCTIONS** **(Reserved)**

**7067-1      REGISTRY FUND**

**(a) Fee to be Deducted.** In accordance with the schedule of fees for United States Bankruptcy Courts, under 28 U.S.C. § 1930, the clerk shall deduct from interest earned on registry funds invested in interest-bearing accounts or instruments, a fee not exceeding that set by the Director of the Administrative Office of the United States Courts. The fee shall be withdrawn whenever interest earned becomes available for deduction and deposited in the United States Treasury, without further order of the court.

**(b) Service of Order for Deposit or Withdrawal.** In addition to service required by LBR 9013–3, orders directing the deposit of funds into or disbursement of funds from the court registry shall be served on the clerk or upon the deputy clerk in charge of the office of the clerk at the location where the action is pending.

**7069–1 JUDGMENT — PAYMENT OF**

**(Reserved)**

## **PART VIII**

**8001–1 NOTICE OF APPEAL (Reserved)**

**8001–2 DISMISSAL OF APPEAL (VOLUNTARY) (Reserved)**

**8001–3 ELECTION FOR DISTRICT COURT  
DETERMINATION OF APPEAL (Reserved)**

**8002–1 TIME FOR FILING APPEAL (Reserved)**

**8003–1 MOTION FOR LEAVE TO APPEAL (Reserved)**

**8004–1 SERVICE OF NOTICE OF APPEAL (Reserved)**

**8005–1 STAY PENDING APPEAL<sup>1</sup>**

A motion directed to the bankruptcy court for stay of judgment or order shall be served by the movant upon those persons who received notice from the clerk of the filing of the notice of appeal.

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<sup>1</sup> LBR 8005-1 correlates to Rule 8007 (effective December 1, 2014).

**8006-1      DESIGNATION OF RECORD — APPEAL      (Reserved)**

**8007-1    COMPLETION OF RECORD — APPEAL      (Reserved)**

**8007-2    TRANSMISSION OF RECORD — APPEAL      (Reserved)**

**8007-3    DOCKETING OF APPEAL      (Reserved)**

**8007-4    RECORD FOR PRELIMINARY      (Reserved)**  
**HEARING — APPEAL**

**8008-1    FILING PAPERS — APPEAL      (Reserved)**

**8008-2    SERVICE OF ALL PAPERS      (Reserved)**  
**REQUIRED — APPEAL**

**8008-3    MANNER OF SERVING PAPERS —      (Reserved)**  
**APPEAL**



**8008–4 PROOF OF SERVICE OF FILED PAPERS — APPEAL (Reserved)**

**8009–1 TIME FOR FILING BRIEFS — APPEAL (Reserved)**

**8009–2 TIME FOR FILING APPENDIX TO BRIEF — APPEAL (Reserved)**

**8010–1 FORMS OF BRIEFS — APPEAL (Reserved)**

**8010–2 REPRODUCTION OF STATUTES, ETC. — APPEAL (Reserved)**

**8010–3 LENGTH OF BRIEFS — APPEAL (Reserved)**

**8011–1 MOTION, RESPONSE, REPLY — APPEAL (Reserved)**

**8011–2 DETERMINATION OF PROCEDURAL MOTION — APPEAL (Reserved)**

**8011–3 DETERMINATION OF MOTION — APPEAL (Reserved)**

**8011–4 EMERGENCY MOTION — APPEAL (Reserved)**

**8011–5 POWER OF SINGLE JUDGE TO ENTERTAIN MOTIONS (Reserved)**

**8012–1 ORAL ARGUMENT — APPEAL (Reserved)**

**8013–1 DISPOSITION OF APPEAL (Reserved)**

**8014–1 COSTS — APPEAL (Reserved)**

**8015–1 MOTION FOR REHEARING — APPEAL (Reserved)**

**8016–1 ENTRY OF JUDGMENT BY CLERK OF DISTRICT COURT OR BAP (Reserved)**

**8016–2 NOTICE OF ORDER OR JUDGMENT — (Reserved)**  
**APPEAL**

**8016–3 RETURN OF RECORD ON APPEAL (Reserved)**

**8017–1 STAY PENDING APPEAL TO COURT OF (Reserved)**  
**APPEALS**

**8018–1 LOCAL RULES OF CIRCUIT JUDICIAL COUNCIL OR**  
**DISTRICT COURT<sup>2</sup>**

The Rules of the Bankruptcy Appellate Panel of the Sixth Circuit are available at the offices of the bankruptcy courts in the Southern District of Ohio and the clerk of the Bankruptcy Appellate Panel in Cincinnati, Ohio and at the website maintained by the Sixth Circuit Court of Appeals. Further information may be obtained by contacting the clerk of the Bankruptcy Appellate Panel at (513) 564–7080.

**8019–1 SUSPENSION OF PART VIII, (Reserved)**  
**FED. R. BANKR. P.**

**8020–1 DAMAGES AND COSTS FOR FRIVOLOUS (Reserved)**  
**APPEAL**

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<sup>2</sup> LBR 8018-1 correlates to Rule 8026 (effective December 1, 2014).

**8070-1 DISMISSAL OF APPEAL BY COURT FOR  
NON-PROSECUTION**

**(Reserved)**

## **PART IX**

### **9001–1      DEFINITIONS**

The following words used in these Local Rules have the meanings indicated:

(a) “Clerk” means the clerk of the bankruptcy court or an authorized deputy clerk.

(b) “Code” means title 11 of the United States Code.

(c) “Debtor” includes pro se debtor. If a Local Rule requires an action by the debtor, other than a signature of the debtor, and the debtor is represented by an attorney, it is presumed that the action will be taken through the debtor’s attorney.

(d) “ECF System” means the electronic case filing system of the United States Bankruptcy Court for the Southern District of Ohio.

(e) “ECF Procedures” means the Southern District of Ohio Administrative Procedures for Electronic Case Filing.

(f) “File” means file with the clerk of the bankruptcy court.

(g) “Local Rules” or “LBR” mean these Local Rules of the United States Bankruptcy Court for the Southern District of Ohio.

(h) “Paper” includes documents filed in electronic form.

(i) “Rule” means a Federal Rule of Bankruptcy Procedure.

(j) “Service” means service in compliance with LBR 9013-3 unless otherwise specified.

### **9003–1    *EX PARTE* CONTACT**

**(Reserved)**

### **9004–1      PAPERS — REQUIREMENTS OF FORMS**

(a) **Legibility.** Any document filed must be legible or it may be stricken by the court on its own motion or by order granting a motion of any party in interest. If a document cannot be

filed in a readable manner, it shall be accompanied by a readable, typed attached substitute containing a certification that the typed substitute contains, to the extent possible, the exact information set forth on the original document.

**(b) Paper and Form.** Filings and other papers shall be typewritten or printed legibly on 8 ½” by 11” bond paper or electronic equivalent and shall be double spaced with appropriate side margins and a top margin of not less than one inch. Typed print on filings submitted for filing shall be at least 10-12 font size. All filings and other papers must copy in a readable manner.

## **9004–2      CAPTION — PAPERS, GENERAL**

The caption shall include the name of the debtor, the case number, the chapter under which the case is filed, the adversary proceeding number, if any, and the name of the judge to whom the case is assigned. The caption also shall contain a specific statement of the nature of the pleading or other paper and the specific relief requested or to be granted. The caption shall be phrased so that the relationship to prior filings or other papers, if any, is explicit. A filing or other paper, including a proposed order, shall clearly identify any other filing or paper to which it relates, if any, by reference to the docket number.

## **9006–1      TIME PERIODS**

If a motion to extend the time to take any action is filed before the expiration of the period presumed by the Code, the Rules, the Local Rules, the Federal Rules of Civil Procedure or court order, the time shall be automatically extended until the court acts on the motion, without the necessity of a bridge order.

## **9009–1    FORMS**

**(Reserved)**

## **9010–1      ATTORNEYS — NOTICE OF APPEARANCE**

**(a) Attorney Representation Required.** Unless otherwise ordered by the court, in all cases and adversary proceedings filed in, referred to, transferred to or removed to this court,

all parties not appearing *pro se* shall be represented by an attorney who is admitted to practice pursuant to LBR 2090–1.

**(b) ECF Registration Required.** Any attorney must be a registered ECF filer.

**(c) Separate Notice of Appearance Required.** A notice of appearance is effective only as to the registered ECF filer who has filed the notice of appearance.

## **9010–2 POWER OF ATTORNEY**

**(Reserved)**

## **9011–1 ATTORNEYS — DUTIES**

**(Reserved)**

## **9011–2 PRO SE PARTIES**

**(a) Individual Debtor.** Unless otherwise ordered by the court, an individual appearing *pro se* shall include with his or her initial filing the individual’s current mailing address, and domicile address, if different from the mailing address, including zip code, and telephone number. In the event of any change in the mailing address or telephone number of the individual appearing *pro se*, such individual shall file and serve on all creditors and parties in interest a notice of change of mailing address or telephone number within fourteen (14) days from the date of such change.

**(b) Non-Individual Entities.** A corporation, partnership or entity other than an individual shall not appear *pro se*, except as provided by Rule 9010(a).

## **9011–3 SANCTIONS**

Failure to comply with any of these Local Rules may result in the imposition of sanctions against any party or party’s attorney appearing before the court, any person appearing without an attorney, any person acting in a fiduciary capacity or any other professional person appointed by the court, and the debtor. Upon notice and hearing, sanctions may be imposed when it is determined that noncompliance with these Local Rules or other applicable rules or statutes has, without just cause, obstructed the effective conduct of the business of the court or

of the bankruptcy system. Such sanctions may include, without limitation, one or more of the following:

- (a) all or part of a pleading or other paper being stricken or a defense being disallowed;
- (b) stay of further proceedings;
- (c) all or part of an order being vacated;
- (d) dismissal of a case or adversary proceeding;
- (e) the imposition of costs and expenses, including attorney fees;
- (f) denial of confirmation of a chapter 11, 12, or 13 plan;
- (g) reduction or denial of attorney fees;
- (h) a requirement for the completion of continuing legal education and/or CM/ECF training; and
- (i) sanctions under LBR 2090-2.

## **9011–4 SIGNATURES**

The transmission by an ECF filer or user to the ECF System of any document constitutes the signature of that filer or user for purposes of Rule 9011.

## **9013–1 MOTION PRACTICE**

### **(a) Memorandum in Support, Certificate of Service and Notice.**

(1) A motion or application shall be accompanied by the following:

(A) a memorandum in support;

(B) a certificate of service in accordance with LBR 9013–3, except where the motion or application seeks *ex parte* relief or is to be noticed by the clerk; and



(C) a twenty-one (21) day notice, except where one of the following applies:

(i) Rule 2002 or other Federal Rule of Bankruptcy Procedure provides otherwise;

(ii) General Order #12 (available on the court's website), as amended from time to time, lists the particular motion or application as exempt from the twenty-one (21) day notice requirement; or

(iii) upon order of the court for cause shown.

(2) The twenty-one (21) day notice required by (a)(1)(C) above shall substantially comply with the sample notice set forth below or with Official Form 420A.

### **Sample 21 Day Notice**

#### **NOTICE OF MOTION/OBJECTION**

(Name) has filed papers with the court to obtain (relief sought in motion/objection).

**Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the relief sought in the motion/objection, then on or before **twenty-one (21) days from the date set forth in the certificate of service for the motion/objection**, you must file with the court a response explaining your position by mailing your response by ordinary U.S. Mail to (address of bankruptcy court clerk's office) OR your attorney must file a response using the court's ECF System.

The court must **receive** your response on or before the above date.

You must also send a copy of your response either by 1) the court's ECF System or by 2) ordinary U.S. Mail to (movant/objector's name and address) and (names and addresses of others to be served).

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion/objection and may enter an order granting that relief without further hearing or notice.

**(b) Response.** Unless otherwise ordered by the court, a response memorandum must be filed if the relief sought by a motion or application is opposed. The response shall specifically designate the motion or application to which it responds by reference to the docket number and shall be filed within twenty-one (21) days from the date of service as set forth on the certificate of service attached to the motion or application. The response shall state with particularity the reasons that the motion or application is opposed.

**(c) Reply.** A reply memorandum may be filed within seven (7) days after the date of service shown on the certificate of service of the response memorandum. The reply shall specifically designate the response to which it replies by reference to the docket number. No additional memoranda will be considered except upon leave of court for good cause shown.

**(d) Effect of No Response.** Failure to file a response on a timely basis may be cause for the court or the clerk to grant the motion or application as filed without further notice to the extent such action would not conflict with any Rule or Federal Rule of Civil Procedure.

**(e) No Oral Arguments on Motions.** Motions and applications shall be decided on the memoranda without oral argument, unless otherwise provided in these Local Rules or unless a hearing is scheduled by the court.

**(f) Self-Calendaring.** Individual judges may provide for self-calendaring of motions by the attorney for the movant. The procedures for self-calendaring shall be posted on the judge's page on the court's website.

## **9013–2      BRIEFS AND MEMORANDA OF LAW**

**(a) Length Limitations.** Briefs and memoranda shall not exceed twenty (20) pages, except upon leave of court for good cause shown. When such leave is granted, a table of contents containing a summary of all points raised shall be included with the brief or memorandum. Exhibits, including discovery documents, shall be limited to those to which reference is made in the brief or memorandum.

**(b) Unreported Opinions.** If unreported or unofficially published opinions are cited, copies of the opinions shall be made available upon request by the court or the opposing attorney.

## 9013–3      **CERTIFICATE OF SERVICE — MOTIONS, APPLICATIONS, PLANS AND OTHER PAPERS**

**(a) Purpose of Minimum Service Requirements.** The purpose of this Local Rule is to ensure adequate notice to all parties directly affected by the relief sought.

**(b) Parties to be Served.** Unless the court orders otherwise or unless specifically limited or expanded by a Rule or Local Rule, every filing, application, motion, or other paper or document filed, other than a proof of claim, shall be served on the debtor, the debtor's attorney, the trustee, the United States trustee, each committee appointed pursuant to the Code, upon any party directly affected by the relief sought, and upon any party who specifically requested notice. Service shall be evidenced pursuant to (e) below.

**(c) Certain Limitations on Service.** If a party other than the debtor is represented by an attorney, service need only be made on that party's attorney. If an appointed committee does not have an attorney whose employment has been authorized by the court, service shall be made upon the committee member designated to receive service as set forth in any filing by the committee pursuant to LBR 2071–1 so designating such member. If no such filing has been made, service shall be made upon such committee's chairperson. If the committee has not elected a chairperson or designated a member to receive service, then service shall be made upon the entire committee. In a chapter 11 case, if no committee has been appointed, service shall be made upon the 20 largest unsecured creditors, as set forth in the original or amended list filed pursuant to Rule 1007(d).

**(d) Method of Service.** Service shall be by a method authorized or required by Rule 7004 or Rule 5(b) Fed.R.Civ.P.

**(e) Certificate of Service.** Except as set forth in (f) below, a certificate of service shall be filed and served with any filing, application, motion or other paper or document tendered for filing. The certificate of service shall:

- (1) be signed, subject to ECF Procedure 8;
- (2) identify, with specificity, the filing or other paper served;
- (3) state the date and method of service; and

(4) identify, by name and address, each entity served; provided, if service is made through the court's ECF System, it is sufficient to state that "all ECF participants registered in this case were served electronically on the date of filing through the court's ECF System at the email address registered with the court."

**(f) Exceptions to Required Certificate of Service.** The following filings are exempt from the certificate of service requirement of (e) above:

- (1) the petition;

(2) initial schedules and statement of financial affairs filed with the petition or within fourteen (14) days of the petition filing date or within such other time period ordered by the court;

(3) a form document required by the Executive Office of the United States Trustee's Handbook for Chapter 7 Trustee;

(4) a report of no distribution or final report filed by a trustee;

(5) any pleading required to be served together with a summons; and

(6) a proof of claim.

### Sample Certificate of Service

#### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing (specific name of filing) was served (i) **electronically** on the date of filing through the court's ECF System on all ECF participants registered in this case at the email address registered with the court and (ii) by **ordinary U.S. Mail** on (month), (day), (year) addressed to:

(Name)

(Mailing address)

(Name)

(Mailing address)

\_\_\_\_\_  
Name

**(g) Differing Addresses.** If the address used for service of any filing, application, motion or other paper or document differs either from the address shown in the debtor's petition or schedules, the notice address on the addressee's proof of claim, or an address on the addressee's prior filing, if any, said difference must be explained.

## 9014-1 CONTESTED MATTERS

Unless otherwise ordered by the court, Rule 26(a) Fed.R.Civ.P. is inapplicable in contested matters.

**9015-1 JURY TRIAL**

Any joint or separate statement of consent to have a jury trial conducted by a bankruptcy judge under 28 U.S.C. § 157(e) and Rule 9015 shall be filed no later than the time the first preliminary pretrial statement is filed or as otherwise ordered by the court.

**9016-1 SUBPOENAS**

**(Reserved)**

**9016-2 WITNESSES**

**(Reserved)**

## 9019-1 SETTLEMENTS AND AGREED ORDERS

**(a) To the Court.** Unless otherwise stated in the notice of hearing, settlements shall be reported as promptly as possible to the courtroom deputy via telephone or email, depending on judicial preference, by the movant, applicant, plaintiff or claimant, as the case may be.

**(b) To the Chapter 13 Trustee.** Settlements shall be reported as promptly as possible to the trustee via email.

**9019-2 ALTERNATIVE DISPUTE RESOLUTION (ADR)**

This court has an Alternative Dispute Resolution Program for adversary proceedings filed in bankruptcy cases.

**(a) Mandatory Process.** The judge assigned to an adversary proceeding may appoint a settlement judge or may order other mediation processes for the purpose of reaching a settlement agreeable to all parties.

**(b) Voluntary Process.** At the request of any party, the assigned judge may refer an adversary proceeding to a settlement judge selected from one of the bankruptcy judges serving in the district who was not originally assigned to the adversary proceeding, the case, or other mediation processes.

**(c) Procedure After Appointment of Settlement Judge.** In the order appointing the settlement judge, the court may establish a date for the filing of a position statement by each party. The position statement shall be conveyed directly to the settlement judge and not entered in the case file or disclosed to the trial judge. A conference shall be set before the settlement judge for the appearance of attorneys and the parties' representatives who have settlement authority. At the conference, the issues shall be discussed frankly and in-depth. The settlement judge may express an opinion to the parties about the probable outcome of a trial and may mediate the issues involved in the proceeding in an effort to facilitate a settlement. All statements and documents used during the conference shall be kept in confidence. The conference may be continued at the discretion of the settlement judge. The settlement judge shall report the results of the conference to the assigned judge when the settlement negotiations are concluded.

**(d) Procedure for Other Mediation Process.** In the event the adversary proceeding is referred to other mediation processes, an appropriate order will define the procedure.

**9020–1 CONTEMPT**

**(Reserved)**

**9021–1 JUDGMENTS AND ORDERS — ENTRY OF**

**(Reserved)**

**9021–2 ORDERS — EFFECTIVE DATE**

**(Reserved)**

## **9022–1 JUDGMENTS AND ORDERS — NOTICE OF**

The waiver of service and notice by first class mail by participants in the ECF System includes notice of the entry of an order or judgment under Rule 9022.

## **9027–1 REMOVAL/REMAND**

**(Reserved)**

## **9029–1 LOCAL RULES — GENERAL**

**(a) Short Title.** These Local Rules may be cited individually as “Local Rule” or “LBR”, and are intended to facilitate local bankruptcy practice under the Federal Rules of Bankruptcy Procedure, individually abbreviated herein as “Rule”.

**(b) Effective Date.** The effective date of these Local Rules is indicated on the cover page. These Local Rules shall govern all adversary proceedings and contested or administrative matters in all cases filed after the effective date and in subsequent adversary proceedings, contested and administrative matters in cases pending on the effective date, unless otherwise specifically ordered by the court.

**(c) Applicability of Local Rules.** These Local Rules, together with the ECF Procedures, applicable Federal Rules of Civil Procedure and the Federal Rules of Bankruptcy Procedure, govern procedure in this court and supersede all prior Local Rules and general orders. In the event of a conflict, the provisions of the applicable Federal Rules of Civil Procedures or Federal Rules of Bankruptcy Procedure shall govern. Upon notice entered in a particular case, proceeding or matter, a judge may temporarily suspend the applicability of any of these Local Rules.

**(d) Construction of Local Rules.** Reference to statutes, regulations or rules shall be interpreted to include revisions and amendments made subsequent to the adoption of these Local Rules. References to Federal Rules of Bankruptcy Procedure or Federal Rules of Civil Procedure are to those rules of procedure in bankruptcy cases adopted by the United States Supreme Court and any amendments or additional rules at such time as they are effective.

**(e) Amendments.** This court may adopt amendments to these Local Rules upon entry of a General Order signed by all bankruptcy judges in the district. Any such amendment shall be published as an addendum to these Local Rules and shall contain the effective date of the amendment. The clerk shall post such amendments on the court’s website and in the clerk’s offices in **Cincinnati, Columbus and Dayton**.

**(f) Explanation of Certain Terms.** The designation “(Reserved)” next to a Local Rules number and title indicates that this district does not have a Local Rules corresponding to the uniform Local Rules number shown. The use of “See LBR” next to a Local Rules title which also is designated as “(Reserved)” takes the reader to any existing Local Rules covering that same topic. The use of “See also LBR” next to a Local Rules title indicates other Local Rules on the same or related topics.

**(g) Website.** These Local Rules are available at the court’s website: [www.ohsb.uscourts.gov](http://www.ohsb.uscourts.gov).

**9029–2 LOCAL RULES — GENERAL ORDERS (Reserved)**

**9029–3 LOCAL RULES — DISTRICT COURT (Reserved)  
— GENERAL ORDERS**

**9033–1 REVIEW OF PROPOSED FINDINGS AND CONCLUSIONS OF  
LAW (NON–CORE PROCEEDINGS)**

A copy of the request for a transcript under Rule 9033(b) shall be filed on the date the transcript is ordered. The court reporter shall certify to the clerk and to all attorneys of record or any *pro se* party when the transcript has been submitted to the clerk of the district court.

**9035–1 BANKRUPTCY ADMINISTRATORS (Reserved)**

**9036–1 NOTICE BY ELECTRONIC TRANSMISSION**

The clerk is authorized to send notices by electronic transmission upon written request, by an entity entitled to receive notice. Such a request shall have no effect on any service required to be made by anyone other than the clerk.



## **9037–1      PERSONAL IDENTIFIERS**

The responsibility for redacting any personal identifiers rests solely with the filer. The court will not review filings for compliance with Rule 9037.

## **9070–1      EXHIBITS**

### **(a) Disposition of Exhibits, Models, Diagrams, Depositions and Other Materials.**

**(1) Retrieval by Attorney.** All models, diagrams, depositions, photographs, x-rays, and other exhibits and materials filed in an action or offered in evidence shall not be considered part of the filings in the action and, unless otherwise ordered by the court, shall be retrieved by the attorney who filed or offered the materials without further order within six (6) months after final termination of the action.

**(2) Disposal by the Clerk.** All models, diagrams, depositions, photographs, x-rays and other exhibits and materials not retrieved by the attorney who filed or offered the materials shall be disposed of by the clerk as waste at the expiration of the retrieval period.

**(b) Chapter 13 Trustee Records.** Unless otherwise ordered by the court, a party in interest who intends to present as evidence any portion of the standing trustee’s financial records pertaining to the case may submit such records as an exhibit. The records may be obtained from the standing trustee or from any media maintained by the standing trustee. The exhibit shall indicate the date of the records, which date shall be reasonably current. Unless contested, the records will be admissible as evidence pursuant to the business records exception to the hearsay rule contained in Rule 803(b) of the Federal Rules of Evidence without the necessity of testimony by the custodian of the records. If the opposing party intends to contest the authenticity or accuracy of the records, such party shall file with the court and serve on the opposing attorney at least seven (7) days prior to the hearing a document that: (i) lists the witnesses who will be called and/or the exhibits that will be offered in support of the challenge to the authenticity or accuracy of the standing trustee’s financial records; and (ii) states with particularity the reasons that the authenticity or accuracy of the records is opposed.

## **9071–1      STIPULATIONS**

**(Reserved)**

## 9072-1                    **ORDERS — PROPOSED<sup>3</sup>**

**(a) Captions.** All proposed orders shall include in the caption the name of the debtor, the case number, the chapter under which the case is filed, the adversary proceeding number, if any, and the name of the judge to whom the case is assigned. The caption shall also contain a statement of the nature of the order and the relief proposed to be granted. The proposed order shall clearly identify the filed documents to which it relates by reference to the docket number.

**(b) Separate Submission.** A proposed order must be submitted as a separate document and not combined with any other document.

**(c) Electronic Signature Line.** A proposed order shall contain a 4” top margin on the first page to accommodate the judge’s electronic signature. The phrase “SO ORDERED” shall appear at the end of the text of all orders, including agreed orders.

**(d) Proposed Service.** Orders prepared by a prevailing party or submitted for the court’s consideration, including agreed orders, shall contain a service list of all parties to receive a copy of the order. Generally, the order’s service list must include all parties served with the underlying pleading or motion.

**(1) Limited Service on Proposed Orders.** Where all creditors and parties in interest were served with the underlying pleading or motion, the order’s service list may be limited to those parties particularly affected by the order.

**(2) Short-Hand Designations.** The order’s service list shall be stated using one of the following short-hand designations, as appropriate:

**(A) “Default List.”** The Default List service list is defined to include the debtor, the debtor’s attorney, the trustee, the United States trustee, and the movant’s attorney or pro se movant. A designation of “Copies to: Default List” at the end of a proposed order is sufficient to indicate intended service on these parties. Any order presented without a proposed service list will be presumed to propose service on the Default List only. Respondent or other parties in interest will not be served with an order unless specifically designated in accordance with (d)(2)(B) below.

**(B) Default List Plus Additional Parties.** Proposed service on the Default List defined in (d)(2)(A) above plus additional entities can be accomplished by a designation of “Copies to: Default List” plus a specific listing of the names of the additional parties. If the additional party is not on the electronic mailing list for the case, the additional party’s mailing address shall be included.

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<sup>3</sup> Corrections to internal cross references in LBR 9072-1(d) were made on January 24, 2017.

**(C) “All Filing Parties.”** The All Filing Parties service list is defined to include the Default List in (d)(2)(A) above and all entities who have filed a document in the main case other than a proof of claim. A designation of “Copies to: All Filing Parties” at the end of a proposed order is sufficient to indicate service on these parties. The All Filing Parties Service List should be designated only where such parties are particularly affected by the order.

**(D) “All Creditors and Parties in Interest.”** The All Creditors and Parties in Interest service list is defined to include the All Filing Parties in (d)(2)(C) above and all entities on the mailing list. A designation of “Copies to: All Creditors and Parties in Interest” at the end of a proposed order is sufficient to indicate service on those parties. The All Creditors and Parties in Interest List should be designated only when notice on all parties is required by Rule 2002.

**(E) Chapter 11 Cases.**

**(i) “Default List Plus Creditors’ Committee” or “Default List Plus Top 20.”** When appropriate, a proposed service list of “Default List Plus Creditors’ Committee” or “Default List Plus Top 20” may be used in Chapter 11 cases. “Top 20” means the twenty (20) largest unsecured creditors as identified in a list that is required to be filed pursuant to Rule 1007(d). The “Top 20” designation may not be used until the debtor has filed the list required by Rule 1007(d).

**(ii) “Master Service List.”** Orders in cases in which a master service list is periodically filed with the court may contain a statement that the order is to be served on all entities on a master service list which shall be identified by number and date of filing.

**(3) Adversary Proceedings.** Orders in adversary proceedings need only list each party’s attorney or each pro se party.

**(e) Submission of Proposed Order When No Response is Filed to Motion or Application.** If a response is not filed to any motion or application within the time allowed by the court or any applicable rule or statute, the movant shall, within seven (7) days of the expiration of the applicable time period, submit a proposed order to the court granting the relief requested or such other proposed order as may be appropriate.

**(f) Submission of Proposed Order Following Hearing or Trial.** Unless otherwise ordered by the court, within seven (7) days after hearing or trial, the prevailing party shall submit to the court a proposed order conforming to the court’s decision. The use of telephone or other authorization for an opposing attorney’s signature is encouraged by the court, but the signature of an opposing attorney is not required for entry of the court’s order.

**(g) Submission of Proposed Order Following Resolution Without a Hearing or Trial.** Unless otherwise ordered by the court, the party seeking relief in a proceeding or matter which

was resolved by agreement prior to a hearing or trial shall, within seven (7) days of the date the court is informed of the parties' resolution, submit to the court a proposed order conforming to the parties' resolution.

## **9073–1                    HEARINGS (Including Expedited Hearings)**

**(a) Request for Expedited Hearing or Disposition.** In the event that a party seeking or opposing relief in a proceeding or matter believes that an expedited hearing or expedited disposition is required, such party may request same. The motion for expedited hearing or disposition shall be by separate motion and not combined with the filing or other paper in which the underlying relief is sought. The motion for expedited hearing or disposition shall set forth:

- (1) a description of the relief requested;
- (2) the reasons for which an expedited hearing or disposition is requested;
- (3) the identity of all parties who may be affected by the relief requested in the underlying filing or paper;
- (4) the method of notification of all interested parties; and
- (5) the proposed shortened notice or response period being sought and any proposed date or dates and time for any expedited hearing being sought.

The motion for expedited hearing or disposition shall be accompanied by a proposed form of notice and a proposed order which, if signed, will set an expedited hearing date and/or shortened response time on the underlying filing.

### **(b) Service – Request for Expedited Hearing or Disposition and Order Thereon.**

(1) The requesting party shall serve a copy of the underlying filing or other paper together with a copy of the motion containing a request for expedited relief on the parties set forth in LBR 9013–3. In the event the nature of the substantive relief sought or opposed, or the timing of the shortened notice or expedited hearing or determination sought does not provide time for notice by United States mail or overnight delivery service, then the requesting party shall provide telephonic notice, and shall serve the filing by facsimile (fax) or electronic mail (email), to the extent possible.

(2) If the court grants the request for expedited hearing or disposition, then the requesting party shall serve written notice thereof in the same manner as the service of the motion containing the request for expedited relief, unless otherwise ordered by the court.

(3) Promptly, and prior to any expedited hearing, the requesting party shall file a certificate of service certifying that the requesting party has provided notice and specifying the method by which such notice was provided.

## **9074–1      TELEPHONE AND VIDEO CONFERENCES**

(a) **At Pretrial and Status Conferences.** Telephone conference calls and, where available, videoconferencing for pretrial and status conferences is encouraged. Upon motion or *sua sponte*, and upon such terms as the court may direct, the court may order pretrial and status conferences to be held by telephone conference or videoconferencing.

(b) **At Trials and Hearings.** Upon motion or *sua sponte*, and upon such terms as the court may direct, the court may order the taking of testimony by videoconference at a trial or hearing.

## **9075–1    EMERGENCY ORDERS**

**(Reserved)**

## **9076–1    ELECTRONIC SERVICE**

**(Reserved)**

## **LBR Forms**

<b>LBR Form 1015–2</b>	STATEMENT OF RELATED CASES INFORMATION REQUIRED BY LOCAL RULE 1015–2 (“LOCAL RULE 1015–2 STATEMENT”) AND DESIGNATION AS CONSUMER OR BUSINESS CASE INFORMATION REQUIRED BY LOCAL RULE 1002–1(e)
<b>LBR Form 2014–1(g) – 1</b>	APPLICATION OF TRUSTEE TO EMPLOY SPECIAL COUNSEL
<b>LBR Form 2014–1(g) – 2</b>	AFFIDAVIT OF SPECIAL COUNSEL
<b>LBR Form 2014–1(g) – 3</b>	APPLICATION TO EMPLOY COUNSEL — CHAPTER 11
<b>LBR Form 2014–1(g) – 4</b>	AFFIDAVIT OF CHAPTER 11 DEBTOR’S COUNSEL
<b>LBR Form 2016–1(a)(1)(A)</b>	INTERIM APPLICATION FOR ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF EXPENSES
<b>LBR Form 2016–1(a)(1)(C)</b>	NOTICE OF INTERIM OR FINAL APPLICATION FOR ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF EXPENSES
<b>LBR Form 2016–1(a)(1)(D)</b>	MOTION FOR ENTRY OF AN ADMINISTRATIVE ORDER PURSUANT TO 11 U.S.C. §§ 105 AND 331 ESTABLISHING PROCEDURES FOR MONTHLY COMPENSATION AND REIMBURSEMENT OF EXPENSES OF PROFESSIONALS
<b>LBR Form 2016–1(b)</b>	DISCLOSURE OF COMPENSATION OF ATTORNEY FOR DEBTOR AND APPLICATION FOR ALLOWANCE OF FEES IN CHAPTER 13 CASE

<b>LBR Form 4001–1(a)</b>	RELIEF FROM STAY/ADEQUATE PROTECTION EXHIBIT AND WORKSHEET — REAL ESTATE (For use as required by LBR 4001–1(a)(1))
<b>LBR Form 4001–2</b>	CASH COLLATERAL/POSTPETITION FINANCING PROVISIONS
<b>LBR Form 5003–1(a)</b>	REQUEST FOR INCLUSION IN THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF OHIO’S OFFICIAL REGISTER OF MAILING ADDRESSES FOR FEDERAL AND STATE GOVERNMENTAL UNITS
<b>LBR Form 7016–1 — Order</b>	ORDER GOVERNING PRETRIAL AND TRIAL PROCEDURES IN ADVERSARY PROCEEDINGS (OR PREHEARING AND HEARING PROCEDURES IN CERTAIN CONTESTED MATTERS) AND ORDERING PRELIMINARY PRETRIAL STATEMENT
<b>LBR Form 7016–1 — PPS</b>	PRELIMINARY PRETRIAL STATEMENT
<b>LBR Form 7016–1 — Instructions</b>	INSTRUCTIONS FOR PREPARING AND FILING WITNESS AND EXHIBIT LISTS
<b>LBR Form 7016–1 — Attachment A</b>	WITNESS LIST
<b>LBR Form 7016–1 — Attachment B</b>	EXHIBIT LIST

**STATEMENT OF RELATED CASES  
 INFORMATION REQUIRED BY LOCAL RULE 1015-2  
 UNITED STATES BANKRUPTCY COURT, SOUTHERN DISTRICT OF OHIO**

Check the appropriate box(es) with respect to each of the following items and state the required information in the space below.

If any previous bankruptcy case of any kind was filed in any court within the last eight (8) years by or against this debtor or any entity related to the debtor as described below, or if the debtor or any entity related to the debtor as described below has a pending bankruptcy case in any bankruptcy court regardless of when such case was filed, then set forth 1) the name of the debtor, 2) the case number, 3) the date filed, 4) the chapter filed under, 5) the district and division where the case is or was pending, 6) whether the case is open or closed, 7) if the case remains open, whether the case is dismissed, 8) whether a discharge was granted, denied, or revoked, 9) any real estate in the case, 10) the judge assigned to the case, and 11) if the prior case was a case under chapter 13 which was confirmed, paid out and discharged, and the current case is a chapter 7 case, the percentage paid to unsecured creditors in the chapter 13 case.

☐ **None**

- ☐ This debtor (identical individual, including DBAs, FDBAs)
- ☐ This debtor (identical business entity)
- ☐ Spouse of this debtor
- ☐ Former spouse of this debtor
- ☐ Affiliates(s) of this debtor (see § 101(2) of the Code)
- ☐ Entity with which this debtor has substantial identity of financial interests or assets
- ☐ Corporation/LLC if this debtor is or was a major shareholder/member of the corporation/LLC
- ☐ Major shareholder of this debtor (if this debtor is a corporation)
- ☐ Partnership, if this debtor is or was a general partner in the partnership
- ☐ General partner of this debtor (if this debtor is a partnership)
- ☐ General partner of this debtor (if this debtor is or was another general partner therewith)

Debtor Name	Case Number	Date Filed	Chapter	Judge Name

District/ Division	Open/Closed	Dismissed (Y/N)	Discharge (Granted/ Denied/Revoked)	Real Estate (Y/N)	Percentage Paid (if applicable)

**I declare, under penalty of perjury, that the foregoing is true and correct.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Joint Debtor

ADD ADDITIONAL PAGES AS NECESSARY



**STATEMENT OF RELATED CASES  
 INFORMATION REQUIRED BY LOCAL RULE 1015-2  
 UNITED STATES BANKRUPTCY COURT, SOUTHERN DISTRICT OF OHIO**

**ADDITIONAL PAGE**

- ☐ This debtor (identical individual, including DBAs, FDBAs)
- ☐ This debtor (identical business entity)
- ☐ Spouse of this debtor
- ☐ Former spouse of this debtor
- ☐ Affiliates(s) of this debtor (see § 101(2) of the Code)
- ☐ Entity with which this debtor has substantial identity of financial interests or assets
- ☐ Corporation/LLC if this debtor is or was a major shareholder/member of the corporation/LLC
- ☐ Major shareholder of this debtor (if this debtor is a corporation)
- ☐ Partnership, if this debtor is or was a general partner in the partnership
- ☐ General partner of this debtor (if this debtor is a partnership)
- ☐ General partner of this debtor (if this debtor is or was another general partner therewith)

Debtor Name	Case Number	Date Filed	Chapter	Judge Name

District/ Division	Open/Closed	Dismissed (Y/N)	Discharge (Granted/ Denied/Revoked)	Real Estate (Y/N)	Percentage Paid (if applicable)

- ☐ This debtor (identical individual, including DBAs, FDBAs)
- ☐ This debtor (identical business entity)
- ☐ Spouse of this debtor
- ☐ Former spouse of this debtor
- ☐ Affiliates(s) of this debtor (see § 101(2) of the Code)
- ☐ Entity with which this debtor has substantial identity of financial interests or assets
- ☐ Corporation/LLC if this debtor is or was a major shareholder/member of the corporation/LLC
- ☐ Major shareholder of this debtor (if this debtor is a corporation)
- ☐ Partnership, if this debtor is or was a general partner in the partnership
- ☐ General partner of this debtor (if this debtor is a partnership)
- ☐ General partner of this debtor (if this debtor is or was another general partner therewith)

Debtor Name	Case Number	Date Filed	Chapter	Judge Name

District/ Division	Open/Closed	Dismissed (Y/N)	Discharge (Granted/ Denied/Revoked)	Real Estate (Y/N)	Percentage Paid (if applicable)

**LBR Form 2014-1(g) – 1**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
\_\_\_\_\_ DIVISION

In re:

*Debtor(s)*

Case No:

Chapter

Judge

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APPLICATION OF TRUSTEE  
TO EMPLOY SPECIAL COUNSEL

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Now comes (Name of Trustee) ("Applicant"), the Trustee herein, and hereby requests, pursuant to 11 U.S.C. § 327(e), Fed. R. Bankr. P 2014, and LBR 2014-1, that the Court authorize the employment of (Name of Attorney [and name of Law Firm]) as special counsel for the estate. In support of his/her Application, Applicant respectfully represents the following:

\_\_\_\_\_ Applicant has been appointed [interim/standing] trustee with respect to the estate herein, has qualified and is acting as such trustee.

\_\_\_\_\_ Applicant wishes to employ (Name of Attorney [and the Name of Law Firm]) to represent him/her in this case.

\_\_\_\_\_ (Name of Attorney) is an attorney duly admitted to practice in [specify jurisdiction of admission] and is in good standing.

\_\_\_\_\_ Applicant has selected (Name of Attorney) for the reason that he/she has had significant experience in (personal injury litigation, probate law, medical malpractice law, employment discrimination law, etc.), and is well-qualified to represent the estate.

\_\_\_\_\_ The professional services to be rendered by (Name of Attorney) shall include, but are not limited to, the following: (a) to institute or continue any appropriate proceedings to recover assets of the estate; (b) to litigate or otherwise resolve issues regarding property of the estate; and (c) to perform such other legal services as may be required that are in the best interest of the estate or its creditors. **Specifically, Applicant seeks to employ special counsel to [insert specific reason for retention of special counsel.]**

\_\_\_\_\_ (Name of Attorney) does not represent or hold any interest adverse to the estate with respect to the matter on which he/she is to be employed.

\_\_\_\_\_ (Name of Attorney) proposes to perform legal services for the trustee in connection with his/her employment [at his/her customary hourly rate of \$\_\_\_\_\_ plus reasonable expenses] OR [on a contingency fee basis, with counsel to receive \_\_\_% of any amounts recovered either through judgment or by settlement, plus reasonable expenses] OR [on a fixed or percentage fee basis.]

\_\_\_\_\_ (Name of Attorney) has been paid \$\_\_\_\_\_ in fees and/or expenses from the Debtor from a period of one year prior to the filing of the Debtor's petition through the date of this Application. The fees were paid on (Date(s)). The source of the fees was \_\_\_\_\_.

- \_\_\_\_\_ (Name of Attorney) has received **no funds** from the Debtor or the Debtor's estate from a period of one year prior to the filing of the Debtor's petition through the date of this Application.
- \_\_\_\_\_ (Name of Attorney) has received or sought a retainer in the amount of \$\_\_\_\_\_ from the Debtor within one year prior to the filing of the petition through the date of this Application. The retainer was paid on (Date(s)). The source of the retainer was \_\_\_\_\_.
- \_\_\_\_\_ (Name of Attorney) has received or sought **no retainer** from the Debtor within one year prior to the filing of the petition through the date of this Application.
- \_\_\_\_\_ To the best of (Name of Attorney)'s knowledge, he/she has no connections with the Debtor(s), creditors, any other party in interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the Office of the United States Trustee [except (Name of Attorney) has previously represented debtor in connection with the matter that is the subject of this application; OR (Name of Attorney) has previously represented the Debtor in connection with the underlying bankruptcy case; OR (Name of Attorney) has previously represented the Trustee in connection with matters unrelated to the subject of this application; OR any other connection.]
- \_\_\_\_\_ The proposed employment of (Name of Attorney) is not prohibited by or improper under Fed. R. Bank. P. 5002.

**WHEREFORE**, Applicant moves for an Order of this Court authorizing the retention and employment, as of the date of this Application, of (Name of Attorney [and Law Firm]) as special counsel for the estate, to be compensated as set forth above.

Respectfully submitted,

\_\_\_\_\_  
/s/ Name of Trustee  
<Name of Law Firm>  
<Street Address>  
<City, State and Zip Code>  
<Telephone Number>  
<Fax Number>  
<Email Address>  
<State Bar No.>

**NOTICE OF FILING OF**  
**APPLICATION TO EMPLOY SPECIAL COUNSEL**  
**AND OPPORTUNITY TO OBJECT**

\_\_\_\_\_, Interim/Standing Trustee in this case has filed papers with the Court to employ \_\_\_\_\_ as Special Counsel for the estate. **Your rights may be affected. You should read these papers carefully and discuss them your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.** If you do not want the Court to enter an order authorizing the employment of special counsel, or if you want the Court to consider your views on the Application, then on or before twenty-one (21) days from the date listed on the Certificate of Service below, you or your attorney must file with the Court a written response outlining your position and/or a written request for a hearing. If you mail your response/request to the Court, you must mail it early enough so the Court will receive it on or before the date stated above. You must also mail a copy to:

Name of Trustee  
Address of Trustee

Name of Proposed Special Counsel  
Address of Proposed Special Counsel

Name of Debtor(s)  
Address of Debtor(s)

Office of the United States Trustee  
Address of United States Trustee

If the Court sets a hearing on your response/request, you must also attend the hearing.

**If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Application and may enter an order granting that relief.**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Application to Employ Special Counsel for Trustee Combined with Notice and Opportunity to Object has been served on the United States Trustee and \_\_\_\_\_ by electronic filing in compliance with the ECF rules in place in this District, and upon the following by ordinary U.S. Mail, postage prepaid on this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
/s/ Name of Trustee

Names and addresses  
of parties served

**LBR Form 2014-1(g) – 2**

## **AFFIDAVIT OF PROPOSED SPECIAL COUNSEL**

State of \_\_\_\_\_ }  
County of \_\_\_\_\_ } ss:

I, \_\_\_\_\_, being duly sworn, hereby declare under oath the following:  
(Name of Attorney)

I am the Attorney named in the Application of the Trustee to Employ Special Counsel.

My mailing address, telephone number, email address and state bar number are:

I am an Attorney licensed and in good standing to practice in the State of Ohio and am duly admitted to practice in the United States District Court, Southern District of Ohio.

The representations set forth in the Application of Trustee to Employ Special Counsel are true and correct.

I have no past or present relationship to the Debtor(s), the Trustee, any creditor or equity security holder of the Debtor(s), except \_\_\_\_\_. Further, I have no connection with the Debtor(s), creditors, or any other party in interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee, except \_\_\_\_\_.

I do not represent or hold an interest adverse to the debtor or to the estate with respect to the matter on which I am to be employed.

My proposed employment is not prohibited by or improper under Fed. R. Bankr. P. 5002.

I have not received any compensation herein within one year prior to the filing of the Debtor(s)' petition through the date of the Application, except \_\_\_\_\_.

I declare under penalty of perjury that the foregoing is true and correct.

\_\_\_\_\_  
/s/ Name of Attorney

Sworn to and subscribed before me by the said \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Name of Attorney)

Notary Public  
My commission expires: \_\_\_\_\_

**CHAPTER 11 FORM  
UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
\_\_\_\_\_ DIVISION**

In re:

*Debtor(s)*

Case No:

Chapter

Judge

---

**APPLICATION FOR EMPLOYMENT AND  
RETENTION OF \_\_\_\_\_  
AS BANKRUPTCY COUNSEL TO THE DEBTOR**

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Now comes (Name of Debtor) ("Applicant"), and hereby requests, pursuant to 11 U.S.C. § 327(a), Fed. R. Bankr. P 2014, and LBR 2014-1, that the Court authorize the employment of (Name of Attorney [and name of Law Firm]) as bankruptcy counsel to the Debtor. In support of his/her Application, Applicant respectfully represents the following:

- \_\_\_\_\_ Applicant is the Debtor in the captioned case.
- \_\_\_\_\_ Applicant wishes to employ (Name of Attorney/Law Firm) to represent him/her/it in this case.
- \_\_\_\_\_ (Name of Attorney(s)) are members or associates of (Name of the Attorney/Law Firm). Each is an attorney duly admitted to practice in this Court and is in good standing.
- \_\_\_\_\_ Applicant has selected (Name of Attorney/Law Firm) for the reason that he/she/it has had significant experience in bankruptcy and reorganization matters and is well-qualified to represent the estate.
- \_\_\_\_\_ The professional services to be rendered by (Name of Attorney/Law Firm) shall include, but are not limited to, the following: (a) to advise the Debtor with respect to his/her/its rights, powers and duties in this case; (b) to advise and assist the Debtor in the preparation of its petition, schedules, and statement of financial affairs; (c) to assist and advise the Debtor in connection with the administration of this case; (d) to analyze the claims of the creditors in this case, and negotiate with such creditors; (e) to investigate the acts, conduct, assets, rights, liabilities and financial condition of the Debtor and the Debtor's business; (f) to advise and negotiate with respect to the sale of any or all assets of the Debtor; (g) to investigate, file and prosecute litigation of behalf of the Debtor; (h) to propose a plan of reorganization; (I) to appear and represent the Debtor at hearings, conferences, and other proceedings; (j) to prepare and/or review motions, applications, orders, and other filings filed with the Court; (k) to institute or continue any appropriate proceedings to recover assets of the estate; (l) [other services as required by the particular case, e.g., labor relations, worker's compensation, ERISA, environmental matters, etc.]; and (m) to perform any and all such other legal services as may be required that are in the best interest of the estate or its creditors.
- \_\_\_\_\_ (Name of Attorney/Law Firm) does not hold or represent any interest adverse to the estate as required by 11 U.S.C. § 327(a), except as set forth in the Affidavit of Counsel attached hereto as Exhibit \_\_\_\_\_.
- \_\_\_\_\_ (Name of Attorney/Law Firm) is a disinterested person as required by 11 U.S.C. § 327 and as defined in 11 U.S.C. § 101(14).

- \_\_\_\_\_ (Name of Attorney/Law Firm) proposes to perform legal services in connection with his/her/its employment on an hourly basis, at his/her/its usual and customary hourly rate, plus reimbursement of reasonable and necessary expenses. Attorney's/Law Firm's current hourly rate [is: \_\_\_\_\_\$][ranges from \$\_\_\_\_\_ to \$\_\_\_\_\_ for partners, \$\_\_\_\_\_ to \$\_\_\_\_\_ for associates, and \$\_\_\_\_\_ to \$\_\_\_\_\_ for paraprofessionals.] These hourly rates are subject to periodic adjustments. Notice of any such adjustments shall be filed with the Court within 30 days of the effective date of the adjustment.
- \_\_\_\_\_ (Name of Attorney/Law Firm) has been paid \$\_\_\_\_\_ in fees and/or expenses from the Debtor from a period of one year prior to the filing of the Debtor's petition through the date of this Application. The fees were paid on [Date(s)]. The source of the fees was \_\_\_\_\_. **OR** The Attached Exhibit \_\_\_\_\_ contains a listing of the statement dates, statement amounts, payment dates and amounts of fees paid within one year of the petition date.
- \_\_\_\_\_ (Name of Attorney/Law Firm) will submit interim and final applications for compensation and reimbursement of expenses in accordance with the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules, and such other and further orders as the Court may enter.
- \_\_\_\_\_ (Name of Attorney/Law Firm) has received **no funds** from the Debtor or the Debtor's estate from a period of one year prior to the filing of the Debtor's petition through the date of this Application.
- \_\_\_\_\_ (Name of Attorney/Law Firm) received a retainer in the amount of \$\_\_\_\_\_ from the Debtor within one year prior to the filing of the petition through the date of this Application. The retainer was paid on (Date(s)). The source of the retainer was \_\_\_\_\_. The retainer has been placed in the Firm's Trust Account pending further order of the Court permitting the application of funds from the retainer to payment of fees and reimbursement of expenses. **OR** \$\_\_\_\_\_ of the retainer amount has been applied by [Law Firm] to pre-petition services rendered in contemplation of the bankruptcy filing. A listing of the services rendered and the amounts applied to these services from the retainer is contained in attached Exhibit \_\_\_\_\_. The remainder of the retainer remains in the Law Firm's Trust Account pending further order of the Court.
- \_\_\_\_\_ (Name of Attorney) has received or sought **no retainer** from the Debtor within one year prior to the filing of the petition through the date of this Application.
- \_\_\_\_\_ To the best of (Applicant's) knowledge, (Name of Attorney/Law Firm) has no connections with the Debtor(s), creditors, any other party in interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the Office of the United States Trustee [except as set forth on the Attached Exhibit \_\_\_\_\_].
- \_\_\_\_\_ The proposed employment of (Name of Attorney/Law Firm) is not prohibited by or improper under Fed. R. Bank. P. 5002.

**WHEREFORE**, Applicant moves for an Order of this Court authorizing the retention and employment, as of the date of this Application, of (Name of Attorney/Law Firm) as attorney(s) for the estate, to be compensated as set forth above.

Respectfully submitted,

\_\_\_\_\_  
/s/ Name of Debtor

\_\_\_\_\_  
Name of Signing Officer  
Title

**NOTICE OF FILING OF**  
**APPLICATION FOR RETENTION AND EMPLOYMENT**  
**OF AS**  
**BANKRUPTCY COUNSEL TO THE DEBTOR**  
**AND OPPORTUNITY TO OBJECT**

\_\_\_\_\_, Debtor in this case, has filed papers with the Court to employ \_\_\_\_\_ as Attorney(s) for the estate. **Your rights may be affected. You should read these papers carefully and discuss them your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.** If you do not want the Court to enter an order authorizing the employment of (Name of Attorney/Law Firm) or if you want the Court to consider your views on the Application, then on or before twenty-one (21) days from the date listed on the Certificate of Service below, you or your attorney must file with the Court a written response outlining your position and/or a written request for a hearing. If you mail your response/request to the Court, you must mail it early enough so the Court will receive it on or before the date stated above. You must also mail a copy to:

Name of Debtor  
Address of Debtor

Name of Proposed Attorney/Law Firm  
Address of Proposed Attorney/Law Firm

Office of the United States Trustee  
Address of United States Trustee

If the Court sets a hearing on your response/request, you must also attend the hearing.

**If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Application and may enter an order granting that relief.**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Application for Employment and Retention of \_\_\_\_\_ as Bankruptcy Counsel to the Debtor Combined with Notice and Opportunity to Object has been served on the United States Trustee and \_\_\_\_\_ by electronic filing in compliance with the ECF rules in place in this District, and upon the following by ordinary U.S. Mail, postage prepaid on this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
/s/ Proposed Counsel for the Debtor  
<Name of Law Firm>  
<Street Address>  
<City, State and Zip Code>  
<Telephone Number>  
<Fax Number>  
<Email Address>  
<State Bar No.>

Names and addresses  
of parties served



**LBR Form 2014-1(g) – 4**

**AFFIDAVIT OF COUNSEL**

State of \_\_\_\_\_ }  
County of \_\_\_\_\_ } ss:

I, \_\_\_\_\_, being duly sworn, hereby declare under penalty of perjury the following:  
(Name of Attorney)

I am the Attorney named in the Application for Employment and Retention of \_\_\_\_\_ as Bankruptcy Counsel to the Debtor. **OR** I am a Partner/Associate of the Law Firm of \_\_\_\_\_, and I am duly authorized to make this Affidavit on behalf of [Law Firm]. Except as otherwise noted, I have personal knowledge of the matters set forth herein.

My mailing address, telephone number, email address and state bar number are:

I am an Attorney licensed and in good standing to practice in the State of Ohio and am duly admitted to practice in the United States District Court, Southern District of Ohio.

The representations set forth in the Application for Retention and Employment of \_\_\_\_\_ as Bankruptcy Counsel for the Debtor are true and correct.

Neither I [nor Law Firm] have any past or present relationship to the Debtor(s), the Trustee, any creditor or equity security holder of the Debtor(s), except \_\_\_\_\_. Further, neither I [nor Law Firm] have any connection with the Debtor(s), creditors, or any other party in interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee, except \_\_\_\_\_.

Neither I [nor Law Firm] hold or represent an interest adverse to the estate.

I [and Law Firm] is/are disinterested persons as required by 11 U.S.C. § 327 and as defined in 11 U.S.C. § 101(14), except \_\_\_\_\_.

My proposed employment is [and the employment of \_\_\_\_\_] not prohibited by or improper under Fed. R. Bankr. P. 5002.

I have not received any compensation herein within one year prior to the filing of the Debtor(s)' petition through the date of the Application, except \_\_\_\_\_.

I declare under penalty of perjury that the foregoing is true and correct.

\_\_\_\_\_  
/s/ Name of Attorney

Sworn to and subscribed before me by the said \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.  
(Name of Attorney)

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

**LBR Form 2016–1(a)(1)(A)**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
\_\_\_\_\_ DIVISION

In re:

*Debtor(s)*

Case No:

Chapter

Judge

---

INTERIM APPLICATION OF \_\_\_\_\_ FOR  
ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF EXPENSES  
FOR THE PERIOD \_\_\_\_\_ THROUGH \_\_\_\_\_

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\_\_\_\_\_, *[Name of Applicant]*, in accordance with Rule 2016 applies under §§ 330 and 331 of the Code for an award of compensation and reimbursement of actual, necessary expenses and represents:

**PART A: PRELIMINARY STATEMENT**

1. Applicant is *[professional capacity]* for *[entity represented or engaged by]*.
2. All services rendered and expenses incurred for which compensation or reimbursement is requested were performed or incurred for or on behalf of *[entity represented or engaged by]*.
3. The services described in this Application are actual, necessary services and the compensation requested for those services is reasonable.
4. The expenses described in this Application are actual, necessary expenses.  
*[Additional numbered paragraphs may be used by the Applicant to set forth other statements or information.]*

**PART B: GENERAL INFORMATION**

**1. Period xx/xx/xx to xx/xx/xx**

Final Application \_\_\_\_\_

Interim Application \_\_\_\_\_

Requested Fees \$ \_\_\_\_\_

Expenses \$ \_\_\_\_\_

Total \$ \_\_\_\_\_

**2. General Information**

a. Date case filed: xx/xx/xx

b. Date application to approve employment filed: xx/xx/xx

c. Date employment approved: xx/xx/xx

d. First date services rendered in the case: xx/xx/xx

e. Compensation request is under § 330: \_\_\_\_\_ Yes \_\_\_\_\_ No

If other statutory basis, specify: § \_\_\_\_\_

f. Any fees awarded will be paid from the estate: \_\_\_\_\_ Yes \_\_\_\_\_ No

If no, state the source of payment of any fee that is awarded.

\_\_\_\_\_

g. This application is for a period less than 120 days after the filing of the case or less than 120 days after the end of the period of the last application.

\_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, state date and terms of court order allowing filing at shortened intervals.

Order date: xx/xx/xx

Terms, if any, \_\_\_\_\_  
\_\_\_\_\_

### 3. **Prior Applications**

#### **First Application Period**

xx/xx/xx to xx/xx/xx

Date of Order xx/xx/xx

	<u>Requested</u>	<u>Allowed</u>	<u>Paid</u>	<u>Due</u>
Fees	\$ _____	\$ _____	\$ _____	\$ _____
Expenses	\$ _____	\$ _____	\$ _____	\$ _____

#### **Second Application Period**

xx/xx/xx to xx/xx/xx

Date of Order xx/xx/xx

	<u>Requested</u>	<u>Allowed</u>	<u>Paid</u>	<u>Due</u>
Fees	\$ _____	\$ _____	\$ _____	\$ _____
Expenses	\$ _____	\$ _____	\$ _____	\$ _____

**Grand Totals:** \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

**4. Professionals/Paraprofessionals' Billing for Current Period**

<u>Name</u>	<u>Hours</u>	<u>Billing Rate</u>	<u>Total</u>
-------------	--------------	---------------------	--------------

**Grand Total:** \$\_\_\_\_\_

**5. Billing Rates**

a. Are any of the billing rates different than the billing rates set forth in your last application?

\_\_\_\_\_ Yes \_\_\_\_\_ No

b. If yes, indicate whose billings rates are different and explain why?

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**PART C: BILLING SUMMARY**

**1. Description of Services.** Provide adequate detail appropriate for the amount of time billed and the nature and variety of the services rendered.

**2. Detail of Hours Expended.** Set forth in list form or attach a list that shows the name of the professional or paraprofessional, date, activity, and time expended. The list may be organized in either of two ways.

(a) By each professional or paraprofessional in chronological order for the application period; or

(b) By day in chronological order showing all professionals or paraprofessionals that billed time on a particular day during the application period.

**PART D: EXPENSE SUMMARY**

Set forth in list form or attach a list that shows the type of expenses for which reimbursement is sought.

(a) Are the amounts of the expenses calculated using the applicant's in-house actual cost or the actual amount billed by a third party provider?      ☐ Yes ☐ No

(b) If no, identify those expenses that were not calculated using the applicant's in-house actual cost or the actual amount billed by a third party provider and explain how the amount of the expense is calculated.

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**WHEREFORE,** Applicant requests an award of \$ \_\_\_\_\_ in compensation and of \$ \_\_\_\_\_ in reimbursement of actual, necessary expenses.

Dated: \_\_\_\_\_

---

<Name>  
<Title>  
<Street Address>  
<City, State and Zip Code>  
<Telephone Number>  
<Fax Number>  
<Email Address>  
<State Bar No.>

**LBR Form 2016-1(a)(1)(C)**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
\_\_\_\_\_ DIVISION

In re:

*Debtor(s)*

Case No:

Chapter

Judge

---

NOTICE OF *[INTERIM]* APPLICATION OF \_\_\_\_\_  
FOR ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF EXPENSES  
FOR THE PERIOD \_\_\_\_\_ THROUGH \_\_\_\_\_

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1. Name of Applicant (*specify*):
2. Type of Services Rendered:
  - a. ☐ Attorney for (*specify*):
  - b. ☐ Accountant for (*specify*):
  - c. ☐ Other Professional (*specify*):
3. Date of Filing of Petition under Chapter \_\_\_\_\_ of the Bankruptcy Code:
4. Date of Entry of Order Approving Applicant's Employment:
5. Date of Filing of last Fee and/or Expense Application:
6. **TOTAL FEES REQUESTED THIS APPLICATION:** \$ \_\_\_\_\_
7. **TOTAL EXPENSE REIMBURSEMENT REQUESTED THIS APPLICATION:** \$ \_\_\_\_\_

A copy of the *[Interim]* Application of \_\_\_\_\_ For Allowance of Compensation and Reimbursement of Expenses for the Period \_\_\_\_\_ Through \_\_\_\_\_ may be obtained by contacting:

*[Name of Contact]*

*[Address of Contact]*

*[Telephone Number of Contact]*

**A Response must be filed and served within twenty-one (21) days after the date set forth on the Certificate of Service. Unless an objection to the Application is timely filed, the Court may grant the relief requested without further notice in accordance with Local Bankruptcy Rule 9013–1.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
<Name>

<Title>

<Street Address>

<City, State and Zip Code>

<Telephone Number>

<Fax Number>

<Email Address>

<State Bar No.>



**LBR Form 2016–1(a)(1)(D)**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
\_\_\_\_\_ DIVISION

In re:

*Debtor(s)*

Case No:

Chapter

Judge

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**MOTION FOR ENTRY OF AN ADMINISTRATIVE ORDER  
PURSUANT TO 11 U.S.C. §§ 105(a) AND 331 ESTABLISHING PROCEDURES  
FOR MONTHLY COMPENSATION AND REIMBURSEMENT OF EXPENSES OF PROFESSIONALS**

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[NAME OF DEBTOR], debtor and debtor-in-possession (the “Debtor”), by and through counsel, hereby move this Court for entry of an administrative order, pursuant to §§ 105(a) and 331 of the United States Bankruptcy Code (the “Code”), establishing procedures for monthly compensation and reimbursement of expenses of professional retained by order of this Court (the “Motion”). In support of the Motion, the Debtor respectfully represents as follows:

**BACKGROUND**

xx. **[INCLUDE RELEVANT CASE BACKGROUND]**

**JURISDICTION**

xx. This Court has subject matter jurisdiction over the Motion pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). The Court can exercise its subject matter jurisdiction pursuant to 28 U.S.C. § 157(b)(1). Venue of this proceeding and the Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein are sections 105(a) and 331 of the Bankruptcy Code.

**RETENTION OF PROFESSIONALS**

xx. **[INCLUDE DESCRIPTION OF PROFESSIONALS RETAINED OR TO BE RETAINED IN THE CASE.]**

## **PROCEDURES REQUESTED**

xx. The Debtor proposes that the monthly payment of compensation and reimbursement of expenses of professionals in this case (the “Professionals”) be structured as follows:

(a) On or before the twentieth (20th) day of each month following the month for which compensation is sought, each Professional seeking compensation under these procedures will serve a monthly statement on (i) the officer designated by the Debtor to be responsible for such matters; (ii) counsel to the Debtor; (iii) counsel to all official committees; (iv) counsel for the Office of the United States Trustee; (v) counsel to all postpetition lenders or their agent(s); and (v) \_\_\_\_\_ (anyone else the Court may designate);

(b) The monthly statement need not be filed with the Court. Professionals still will be required to serve and file interim and final applications for approval of fees and expense in accordance with the relevant provisions of the Code, the Federal Rules of Bankruptcy Procedure and the Local Rules for the United States Bankruptcy Court, Southern District of Ohio;

(c) Each monthly fee statement will contain a list of the individuals and their respective titles (e.g., attorney, accountant, or paralegal) who provided services during the statement period, their respective billing rates, the aggregate hours spent by each individual, a reasonably detailed breakdown of the disbursements incurred, and contemporaneously maintained time entries for each individual in increments of tenths (1/10) of an hour;

(d) Each party receiving a statement will have twenty-one (21) days after service of the statement to object to the compensation or reimbursement sought in a particular statement (the “Objection Deadline”). Any objections to the statement must be served on the affected Professional and the other persons designated to receive statements in paragraph (a) of this Motion on or before the Objection Deadline. Any objections must be in writing and state the nature of the objection and the amount of fees or expenses at issue;

(e) At the expiration of the Objection Deadline, the Debtor shall promptly pay \_\_\_\_\_ percent (\_\_\_\_%) of the fees and \_\_\_\_\_ percent (\_\_\_\_%) of the expenses identified in each monthly statement to which no objection has been served in accordance with paragraph (d);

(f) If the Debtor receives an objection to a particular fee statement, the Debtor shall withhold payment of that portion of the fee statement to which the objection is directed and promptly pay the remainder of the fees and disbursements in the percentages set forth in paragraph (e);

(g) Similarly, if the parties to an objection are able to resolve their dispute and if the party whose statement was objected to serves on all of the parties listed in paragraph (a) as statement indicating that the objection is withdrawn and describing in detail the terms of the resolution, then the Debtor shall promptly pay, in accordance with paragraph (e), that portion of the fee statement which is no longer subject to objection;

(h) All objections that are not resolved by the parties, shall be preserved and presented to the Court at the next interim or final fee application hearing to be heard by the Court;

(i) The service of an objection in accordance with paragraph (d) shall not prejudice the objecting party's right to object to any fee application made to the Court in accordance with the Code on any ground whether raised in the objection or not. Furthermore, the decision by any party not to object to a fee statement shall not be a waiver of any kind or prejudice that party's right to object to any fee application subsequently made to the Court in accordance with the Code;

(j) Approximately every one hundred twenty (120) days, each of the professionals shall serve and file with the Court an application for interim or final Court approval and allowance, pursuant to sections 330 and 331 of the Code, of the compensation and reimbursement of expenses requested;

(k) Any professional who fails to file an application seeking approval of compensation and expense previously paid under these procedures when due shall (1) be ineligible to receive further monthly payments of fees or expense as provided herein absent a further order of the Court and (2) may be required to disgorge any fees paid since retention or the last fee application, whichever is later;

(l) The pendency of an application or a Court order that payment of compensation or reimbursement of expense was improper as to a particular statement shall not disqualify a Professional from the future payment of compensation or reimbursement of expense as set forth above, unless otherwise ordered by the Court;

(m) Neither the payment of, nor the failure to pay, in whole or in part, monthly compensation and reimbursement as provided herein shall have any effect on this Court's interim or final allowance of compensation and reimbursement of expenses of any professionals; and

(n) Counsel for each official committee may, in accordance with the foregoing procedure for monthly compensation and reimbursement of professionals, collect and submit statements of expenses from members of the committee he or she represents.

xx. In their first request for compensation and reimbursement of expenses, each professional may seek compensation for work performed and reimbursement for expenses incurred during the period beginning on the date of the Professional's retention and ending on \_\_\_\_\_.

xx. The Debtor will include all payments to professionals on its monthly operating reports, detailed so as to state the amount paid to each of the Professionals.

xx. The Debtor further requests that unless a party objects to requests for payments made pursuant to these procedures on the grounds that the Debtor has not timely filed monthly operating reports, remained current with its administrative expenses and 28 U.S.C. § 1930 fees, or manifest exigency exists, these procedures shall continue and remain in effect during the pendency of this case.

xx. All time periods set forth in this Motion shall be calculated in accordance with Federal Rule of Bankruptcy Procedure 9006(a).

**NOTICE AND PRIOR REQUEST**

xx. Notice of this Motion has been given to the Office of the United States Trustee, counsel to each official committee (if no committee is appointed, the 20 largest unsecured creditors), counsel to all postpetition lenders (or counsel to their agent(s)), and all parties who filed a notice of appearance. The Debtor submits that no other notice need be given.

xx. No previous motion for the relief sought herein has been made to this or any other court.

**xx. A Response must be filed and served within twenty-one (21) days after the date set forth on the Certificate of Service. Unless an objection to this Motion is timely filed, the Court may grant the relief requested without further notice in accordance with Local Bankruptcy Rule 9013–1.**

WHEREFORE, the Debtor respectfully requests that this Court enter an order pursuant to sections 105(a) and 331 of the Bankruptcy Code (i) establishing procedures for the interim compensation and reimbursement of expenses of professionals for specific services rendered to the Debtor in connection with this chapter 11 case and (ii) granting such other and further relief as may be just and proper.

---

<Name>  
<Title>  
<Street Address>  
<City, State and Zip Code>  
<Telephone Number>  
<Fax Number>  
<Email Address>  
<State Bar No.>

**LBR Form 2016-1(b)**

**UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
\_\_\_\_\_ DIVISION AT \_\_\_\_\_**

In re:

*Debtor(s)*

Case No:

Chapter 13

Judge

**DISCLOSURE OF COMPENSATION OF ATTORNEY FOR DEBTOR  
AND APPLICATION FOR ALLOWANCE OF FEES IN CHAPTER 13 CASE**

**I. Disclosure**

1. Pursuant to 11 U.S.C. § 329(a) and Fed. R. Bankr. P. 2016(b), I certify that I am the attorney for the above-named debtor(s) and that compensation paid to me within one year before the filing of the petition in bankruptcy, or agreed to be paid to me, for services rendered or to be rendered on behalf of the debtor(s) in contemplation of or in connection with the bankruptcy case is as follows:

For legal services I have agreed to accept ..... \$\_\_\_\_\_

Prior to the filing of this statement I have received ..... \$\_\_\_\_\_

Balance due ..... \$\_\_\_\_\_

2. The source of the compensation paid to me was:

☐ Debtor

☐ Other (specify)

3. The source of compensation to be paid to me is:

☐ Debtor

☐ Other (specify)

4. ☐ I have not agreed to share the above-disclosed compensation with any other persons unless they are members and/or associates of my law firm.

☐ I have agreed to share the above-disclosed compensation with another person or persons who are not members or associates of my law firm. A copy of the agreement, together with a list of the names of the people sharing in the compensation, is attached.

## II. Application

5. I hereby apply for an allowance of fees in the amount set forth above. I understand and agree that the Court may approve, without itemization, an allowance of fees not to exceed \$3,500, for rendering the legal services set forth below. If I seek payment of fees in excess of \$3,500, I will file a separate application that sets forth the total amount of the fee requested, and that includes an itemization of all legal services performed, the amount and itemization of any expenses for which reimbursement is sought, the identification and hourly billing rate of any attorney, paralegal, or other professional person for whom fees are sought, and the actual time spend by the attorney, paralegal, or other professional person for whom fees are sought.
- a. Initial client interview, preparation and signing of any retainer or representation agreement, analysis of the debtor's financial situation, and rendering advice to the debtor in determining whether, and under what chapter, to file a petition in bankruptcy;
  - b. Advising the debtor concerning his or her obligations and duties pursuant to the Code, the Rules, the Local Rules, applicable court orders, and provisions of his or her chapter 13 plan;
  - c. Preparation and filing of any document required by § 521 of the Code, including Official Form 122C-1 and Official Form 122C-2 (if applicable), the petition, schedules, statement of financial affairs and any amendments thereto that may be required;
  - d. Preparation and filing of the chapter 13 plan, and any preconfirmation amendments thereto that may be required;
  - e. Preparation and filing of payroll orders and amended payroll orders, except amended payroll orders prepared in connection with the modification of a plan or the temporary suspension of payments;
  - f. Representation of the debtor at the § 341 meeting of creditors and confirmation hearing, and at any adjournments thereof;
  - g. Filing of address changes for the debtor;
  - h. Review of claims;
  - i. Review of notice of intention to pay claims;
  - j. Preparation and filing of objections to non-real estate and non-tax claims, exclusive of any hearings;
  - k. Preparation and filing of first motion to suspend or temporarily reduce plan payments;
  - l. Representation of the debtor in addressing any routine tax return or tax refund inquiries by the trustee, exclusive of any motion, objection, or hearing;
  - m. Filing of a notice of final cure payment, when filed by the debtor, exclusive of any hearings;
  - n. Preparation and filing of debtor's certification regarding issuance of discharge order;
  - o. Routine phone calls and questions;
  - p. File maintenance and routine case management; and
  - q. Any other duty as required by local decision or policy.
6. By agreement with the debtor(s), the above-disclosed fee does not include the following services:

\_\_\_\_\_  
Date

\_\_\_\_\_  
<Name>  
<Title>  
<Street Address>  
<City, State and Zip Code>  
<Telephone Number>  
<Fax Number>  
<Email Address>  
<State Bar No.>

**LBR Form 4001-1(a)**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
\_\_\_\_\_ DIVISION

In re:

*Debtor(s)*

Case No:

Chapter

Judge

---

**RELIEF FROM STAY / ADEQUATE PROTECTION  
EXHIBIT AND WORKSHEET — REAL ESTATE  
(For use as required by LBR 4001-1(a)(1))**

---

Real property address which is the subject of this motion: \_\_\_\_\_

**DEBT / VALUE REPRESENTATIONS:**

Total indebtedness of the debtor(s) at the time of filing the motion  
for relief from stay (not to be relied upon as a payoff quotation) \$ \_\_\_\_\_

Movant's estimated market value of the real property \$ \_\_\_\_\_

Source of the estimated valuation \_\_\_\_\_

**STATEMENT OF ARREARAGE:**

(1) As of petition filing date: \$ \_\_\_\_\_

Amounts paid after the date of filing to be applied to the prepetition default: \$ \_\_\_\_\_

(2) Postpetition: \$ \_\_\_\_\_

(3) Monthly payment amount: \$ \_\_\_\_\_

(4) Date of Last Payment: \_\_\_\_\_

(5) Amount of Last Payment: \$ \_\_\_\_\_

# of payments due postpetition \_\_\_\_\_ (through payment due mm/dd/yy)

# of payments received postpetition \_\_\_\_\_

# of payments in default postpetition \_\_\_\_\_

Total amount of postpetition payments currently in default \$ \_\_\_\_\_

+ Postpetition late charges \$ \_\_\_\_\_

+ Other charges \$ \_\_\_\_\_

Foreclosure title work \$ \_\_\_\_\_

Filing fee \$ \_\_\_\_\_

Skip trace \$ \_\_\_\_\_

Document acquisition costs \$ \_\_\_\_\_

Service Process server \$ \_\_\_\_\_

Escrow Shortage

Hazard Insurance \$ \_\_\_\_\_ Dates: \_\_\_\_\_

Taxes \$ \_\_\_\_\_ Dates: \_\_\_\_\_

Appraisal \$ \_\_\_\_\_

BPO charges \$ \_\_\_\_\_

Property Inspection \$ \_\_\_\_\_

Other (specify) \$ \_\_\_\_\_

= Total Postpetition Arrearage \$ \_\_\_\_\_

#### OTHER LOAN INFORMATION:

Date of the Loan \_\_\_\_\_

Current Interest Rate \_\_\_\_\_

Money paid to and held by the mortgagee but not applied to the loan \_\_\_\_\_; if held in the form of checks, balance of such checks \$ \_\_\_\_\_, and identity of holder of the checks \_\_\_\_\_.

#### REQUIRED ATTACHMENTS TO MOTION:

(a) In a Chapter 13 case, a postpetition payment history.

(b) In all cases, copies of documents which indicate movant's interest in the subject property. For purposes of example only, a complete and legible copy of the promissory note or other debt instrument together with a complete and legible copy of the real estate mortgage should be attached. The mortgage should bear date stamps reflecting the recording date together with recording references reflecting the recordation of the mortgage with the appropriate county official. If the subject property is registered land, movant shall attach a copy of the registered land certificate or other documentation reflecting that the mortgage was memorialized as a lien on the registered land certificate.

This Exhibit and Worksheet was prepared by:

\_\_\_\_\_  
<Name>  
<Title>  
<Street Address>  
<City, State and Zip Code>  
<Telephone Number>  
<Fax Number>  
<Email Address>  
<State Bar No.>



## **LBR Form 4001-2**

### **Cash Collateral / Postpetition Financing Provisions**

The Debtor, through a separately filed motion, agreed order or stipulation has requested the approval of the use of cash collateral, or postpetition financing, or both. Attached to the motion as Exhibit \_\_\_\_ is a true and correct copy of the agreement for use of cash collateral or postpetition financing (the “Agreement”), which contains the following provisions:

<b>Page No.</b>	<b>Line No. (If Applicable)</b>	<b>Description of Provision</b>
<input type="checkbox"/> _____	_____	<b>(A)</b> Provisions providing for adequate protection or priority for a claim that arose before the commencement of the case, including:
<input type="checkbox"/> _____	_____	<b>(i)</b> Cross-collateralization clauses (i.e., clauses that secure the repayment of prepetition debt with postpetition assets in which the secured creditor would not otherwise have a security interest by virtue of its prepetition security agreement or applicable law); or
<input type="checkbox"/> _____	_____	<b>(ii)</b> Roll-up clauses (i.e., clauses that provide for the use of property of the estate or the proceeds of a postpetition loan to make cash payments on prepetition debt).
<input type="checkbox"/> _____	_____	<b>(B)</b> Provisions or findings of fact that release, waive, or limit any claim or other cause of action belonging to the estate or the trustee, including but not limited to:
<input type="checkbox"/> _____	_____	<b>(i)</b> the release, waiver, or limitation of claims or other causes of action against any secured creditor without first giving parties in interest at least 75 days from the entry of the order and the creditors’ committee, if appointed, at least 60 days from the date of its appointment to investigate such matters;
<input type="checkbox"/> _____	_____	<b>(ii)</b> the release, waiver, or limitation of claims or other causes of action against any secured creditor for alleged prepetition torts or breaches of contract;
<input type="checkbox"/> _____	_____	<b>(iii)</b> the waiver of avoidance actions under the Code; or
<input type="checkbox"/> _____	_____	<b>(iv)</b> any modification of the statute of limitations or other deadline to commence an action.
<input type="checkbox"/> _____	_____	<b>(C)</b> Provisions or findings of fact that determine the validity, enforceability, priority, or amount of a claim that arose before the commencement of the case, or of any lien securing the claim.
<input type="checkbox"/> _____	_____	<b>(D)</b> Provisions that grant a lien on property of the estate that is not otherwise subject to a lien, grant a junior lien on property of the estate that is subject to a lien, or create a lien senior or equal to any existing lien without the consent of that lienholder.
<input type="checkbox"/> _____	_____	<b>(E)</b> Provisions that release, waive, or limit any right under § 506(c) of the Code.

- ☐ \_\_\_\_\_ (F) Provisions that grant a lien on any claim or causes of action arising under §§ 544, 545, 547, 548, 549, 553(b), 723(a), or 724(a) of the Code.
- ☐ \_\_\_\_\_ (G) Provisions that provide disparate treatment with regard to professional fee carveouts for the professionals retained by a creditors' committee from that provided for the professionals retained by the debtor.
- ☐ \_\_\_\_\_ (H) Provisions that prime administrative expenses of the kind specified in §§ 503(b) or 507(a) of the Code.
- ☐ \_\_\_\_\_ (I) Provisions that waive or modify any entity's authority or right to file a plan or seek an extension of time in which the debtor has the exclusive right to file a plan or otherwise operate to divest the debtor of any discretion in the administration of the estate or limit access to the court to seek any relief under other applicable provisions of law.
- ☐ \_\_\_\_\_ (J) Provisions that establish deadlines for filing a plan of reorganization, for approval of a disclosure statement, for a hearing on confirmation, or entry of a confirmation order.
- ☐ \_\_\_\_\_ (K) Provisions providing for the indemnification of any entity.
- ☐ \_\_\_\_\_ (L) Provisions waiving or modifying provisions of the Code or applicable rules relating to the automatic stay.
- ☐ \_\_\_\_\_ (M) Provisions that waive or modify the applicability of nonbankruptcy law relating to the perfection of a lien on property of the estate, or on the foreclosure or other enforcement of the lien.
- ☐ \_\_\_\_\_ (N) Provisions that waive or modify the debtor's right to move for a court order pursuant to § 363(c)(2)(B) of the Code authorizing the use of cash collateral or § 364 of the Code to obtain credit.
- ☐ \_\_\_\_\_ (O) Provisions that grant a lien in an amount in excess of the dollar amount of cash collateral authorized under the applicable cash collateral order.
- ☐ \_\_\_\_\_ (P) Findings of fact on matters extraneous to the approval process.
- ☐ \_\_\_\_\_ (Q) Provisions that bar the debtor from future bankruptcy filings.

## **LBR Form 5003–1(a)**

### **REQUEST FOR INCLUSION IN THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF OHIO'S OFFICIAL REGISTER OF MAILING ADDRESSES FOR FEDERAL AND STATE GOVERNMENTAL UNITS**

Pursuant to Federal Rule of Bankruptcy Procedure 5003(e) and Local Rule 5003–1, a federal or state governmental unit may file with the Court a statement designating its mailing address to be included in an official register of such addresses maintained by the Court. Please complete the following form and fax a signed copy to 937–225–2954, or you may mail it to Bankruptcy, Clerk of Court; United States Bankruptcy Court; 120 West Third Street; Dayton, OH 45402–1819.

<i>Official Name of Governmental Entity:</i>	
<i>Address:</i>	
<i>If you are submitting more than one address to be used in the Southern District of Ohio, please complete a separate copy of this form for each address submitted and include in this space a brief statement (25–30 words) of when it is appropriate to use the above address:</i>	
<i>Telephone Number (Required):</i>	
<i>Fax Number:</i>	
<i>Email Address:</i>	
<i>Website:</i>	
<i>Date Submitted:</i> _____	
_____ <i>Signature</i>	_____ <i>Title</i>

**LBR Form 7016 –1 — Order**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
\_\_\_\_\_ DIVISION

In re:

Case No:

Adv. Pro. No:

*Debtor(s)*

Chapter

Judge

*Plaintiff(s)*  
*(Movant(s))*

vs.

*Defendant(s)*  
*(Respondent(s))*

---

**ORDER GOVERNING PRETRIAL AND TRIAL PROCEDURES IN ADVERSARY PROCEEDINGS  
(OR PREHEARING AND HEARING PROCEDURES IN CERTAIN CONTESTED MATTERS)  
AND ORDERING PRELIMINARY PRETRIAL STATEMENT**

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This order is intended to familiarize you with the procedures and forms required in adversary proceedings and certain contested matters assigned to United States Bankruptcy Judges in the Southern District of Ohio. The term attorney, as it is used in this order and the Preliminary Pretrial Statement, includes any attorney designated or authorized to appear in this action as well as any individual or entity appearing *pro se*. All filings required by this order shall be on the forms or exact reproductions of the forms available from the Clerk of the Bankruptcy Court in this district or on the Court's website at [www.ohsb.uscourts.gov](http://www.ohsb.uscourts.gov).

**I. LOCAL RULES**

The attention of every attorney is directed to the Local Rules for the United States Bankruptcy Court for the Southern District of Ohio (LBR), copies of which are available from the Clerk of the Bankruptcy Court in this district or on the Court's website at [www.ohsb.uscourts.gov](http://www.ohsb.uscourts.gov).

## **II. PRELIMINARY PRETRIAL STATEMENT**

In order to provide the Court with relevant information concerning the issues in a particular proceeding and to expedite the disposition of adversary and contested matters in which an evidentiary hearing may be required, the Court, pursuant to the provisions of Rule 7016 of the Federal Rules of Bankruptcy Procedure and Rule 16 of the Federal Rules of Civil Procedure, hereby orders each party to hold the mandatory Rule 26(f) Fed. R. C. P. conference not later than \_\_\_\_\_ and file the Preliminary Pretrial Statement (LBR Form 7016-1-PPS) not later than \_\_\_\_\_. Each party shall serve its Preliminary Pretrial Statement on every other party to this action. If there are multiple defendants, the plaintiff shall file a Preliminary Pretrial Statement as to each defendant unless such separate statements would be identical.

The Preliminary Pretrial Statement is designed to highlight any procedural issues that require resolution, outline an initial discovery schedule and initiate procedures to aid in the resolution of this action either by decision of the Court or by agreement of the parties. Witness Lists and Exhibit Lists are not required at the time a Preliminary Pretrial Statement is filed.

## **III. PRETRIAL CONFERENCE(S)**

Following a review of the initial pleadings and the Preliminary Pretrial Statements, the Court may issue an order setting a pretrial conference.

At the time of any pretrial conference, in addition to being prepared to discuss the information contained in the filed Preliminary Pretrial Statements and the applicable subjects for consideration set forth in Bankruptcy Rule 7016(c) and Rule 26(a) and (f) Fed.R.Civ.P., each attorney shall report on the settlement efforts required by the Preliminary Pretrial Statement and shall have the authority, or be able to receive such authority during the pretrial conference, to offer and/or accept a settlement. In cases when a party is a governmental unit or official, authority to settle must be available within a reasonably short time after the pretrial conference.

Further, each attorney shall be prepared to specifically discuss proposed dates for: (1) the filing of all amendments to the pleadings or motions; (2) completion of discovery; (3) the filing of stipulations; (4) the exchange and filing of witness lists and information; (5) the exchange and filing of exhibits and exhibit lists, including joint exhibits; (6) trial, including the amount of time anticipated; (7) the exchange and filing of any trial briefs; and (8) any written status report or further pretrial conference. Failure of an attorney to appear at any subsequently scheduled pretrial conference or otherwise comply with provisions of this order may result in dismissal of the proceeding or matter, a default judgment or such other remedy as may be appropriate. Any attorney may request a pretrial conference if one is not ordered by the Court.

#### **IV. COURTROOM CONDUCT**

The following procedures are to be followed in all proceedings in open court:

(A) At the commencement of the proceeding, each attorney shall stand and state his or her name and introduce by name the parties and witnesses present for that attorney's cause. Each attorney shall also state that the names of all witnesses and copies of all proposed exhibits have been exchanged with all other attorneys; or, shall state the names of all witnesses and provide copies to all other attorneys of all proposed exhibits that have not been exchanged.

(B) All persons, whether counsel, parties or witnesses, shall be formally addressed by their surnames wherever possible.

(C) All documentary exhibits shall be prepared for presentation at any proceeding as follows: the original exhibit to be introduced in the proceeding and a copy for the witness, any other attorney, the examining attorney, the Court and the Court's law clerk.

#### **V. WITNESS LISTS AND EXHIBIT LISTS**

The instructions attached to the Preliminary Pretrial Statement govern the preparation and filing of witness and exhibit lists in this case or proceeding.

#### **VI. JURY TRIAL PROCEDURES**

Local Bankruptcy Rule 9015-1 and Bankruptcy Rule 9015 govern the procedural aspects connected with jury trial procedures in this Court.

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
United States Bankruptcy Judge

Copies to:

Plaintiff's attorney or pro se plaintiff

Defendant's attorney or pro se defendant

###

**LBR Form 7016-1 — PPS**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
\_\_\_\_\_ DIVISION

In re:

*Debtor(s)*

Case No:

Adv. Pro. No:

*Plaintiff(s)*  
*(Movant(s))*

Chapter

Judge

vs.

*Defendant(s)*  
*(Respondent(s))*

---

**PRELIMINARY PRETRIAL STATEMENT**

---

This is the pretrial statement of: \_\_\_\_\_  
(name of party)

**I. Appearances:**

The trial attorney for: \_\_\_\_\_  
(name of party)

shall be \_\_\_\_\_, Esq., who is admitted to practice before this Court.

**II. Nature of Action, Jurisdiction and Venue:**

A. This is an action for \_\_\_\_\_ and is brought  
pursuant to \_\_\_\_\_  
(cite statute(s) and (rule(s)))

B. Jurisdiction of this Court:

- ☐ is not disputed and is invoked under \_\_\_\_\_.
- ☐ is disputed.

C. Venue of this Court:

- ☐ is proper.
- ☐ is not proper.

D. This action is a:

- ☐ core proceeding.
- ☐ non-core proceeding.

E. Core Proceeding:

1. If it is alleged that this is a core proceeding, such allegation is based upon 28 U.S.C. § 157(b)(2) (\_\_\_\_\_).

2. If it is determined that the bankruptcy judge, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution:

- ☐ consent is given for the bankruptcy judge to enter final orders and judgments in the alleged core proceeding.
- ☐ consent is not given for the bankruptcy judge to enter final orders and judgments in the alleged core proceeding.

F. Non-Core Proceeding:

If it is alleged that this is a non-core proceeding:

- ☐ consent is given for the bankruptcy judge to enter final orders and judgments in the alleged non-core proceeding.
- ☐ consent is not given for the bankruptcy judge to enter final orders and judgments in the alleged non-core proceeding.

G. Are any of the following motions filed or to be filed:

	Yes	No
1. Abstention	_____	_____
2. Remand	_____	_____
3. Withdrawal of the Reference	_____	_____

H. If a jury demand has been timely filed, consent is/is not given for trial by jury by the bankruptcy judge.

### III. Statement of the Case:

The evidence will show that \_\_\_\_\_ is entitled to judgment  
(name of party)  
because \_\_\_\_\_.

### IV. Amendments/Motions: (check one)

- \_\_\_\_\_ (a) The attorney states that all amendments to pleadings and all pretrial motions, including all motions listed above, and all motions pursuant to Bankruptcy Rule 7012 and Bankruptcy Rule 7056, or motions which convert to a motion under Bankruptcy Rule 7056, have been filed, or



\_\_\_\_\_ (b) If all amendments and pretrial motions have not been filed, the attorney states that the following amendments and motions are contemplated; (list or attach as an exhibit the specific amendments and motions and the proposed date(s) by which such will be filed.)

**V. Issues of Fact and Law:**

A. The contested issues of fact are:

- 1.
- 2.
- 3.

B. The contested issues of law are:

- 1.
- 2.
- 3.

**VI. Discovery:**

**A. Initial Disclosures.**

The initial disclosures required by Rule 26(a)(1) Fed. R. Civ. P. have been or will be made on \_\_\_\_\_.  
(date)

**B. Rule 26(f) Fed.R.Civ.P. Conference.**

The mandatory conference required by Rule 26(f) Fed.R.Civ.P. occurred on \_\_\_\_\_.  
(date)

**C. Discovery Plan.**

In compliance with Rule 26(f) Fed.R.Civ.P., the following constitutes the parties' discovery plan (use separate paragraphs or subparagraphs if parties disagree):

- (a) Discovery will be needed on the following subjects: (brief description of subjects on which discovery will be needed).
- (b) All discovery commenced in time to be completed by (date). [Discovery on (issue for early discovery) to be completed by (date).]
- (c) Maximum of \_\_\_\_\_ interrogatories by each party to any other party. [Responses due \_\_\_\_\_ days after service.]
- (d) Maximum of \_\_\_\_\_ requests for admission by each party to any other party. [Responses due \_\_\_\_\_ days after service.]
- (e) Maximum of \_\_\_\_\_ depositions by plaintiff(s) and \_\_\_\_\_ by defendant(s).
- (f) Each deposition [other than of \_\_\_\_\_] limited to maximum of \_\_\_\_\_ hours unless extended by agreement of parties.
- (g) Reports from retained experts under Rule 26(a)(2) due:

from plaintiff(s) by (date)  
from defendant(s) by (date)

(h) Supplementations under Rule 26(e) due (time(s) or interval(s)).

**(D) Other Agreed Upon Items.** [Use separate paragraphs or subparagraphs as necessary if parties disagree.]

- (a) Plaintiff(s) should be allowed until (date) to join additional parties and until (date) to amend the pleadings.
- (b) Defendant(s) should be allowed until (date) to join additional parties until (date) to amend the pleadings.
- (c) All potentially dispositive motions should be filed by (date).
- (d) The parties (are) (are not) amenable to mediation under LBR 9019–2 at the appropriate time.
- (e) The proceeding should be ready for trial by (date) and at this time is expected to take approximately \_\_\_\_\_ hour(s)/trial day(s).

**VII. Stipulations:**

- A. The parties have entered into written stipulations, a copy of which is attached hereto.

## **VIII. Miscellaneous Matters:**

### **A. Settlement:**

1. No litigant is required to settle this proceeding; however, all litigants are required to engage in good faith settlement efforts which shall consist of at least one offer and one counteroffer by a party authorized to settle this proceeding. Without disclosing the contents of any settlement efforts, all parties shall set forth below: (a) the date(s) such settlement efforts were conducted, (b) the method(s) of communication employed and (c) the result(s) obtained:

\_\_\_\_\_.

2. Any settlement which occurs prior to the trial date shall be communicated promptly to the judge's courtroom deputy. Failure to make such communication may result in the imposition of costs.

### **B. Pretrial Conference:**

The Court will order a pretrial conference if review of the Preliminary Pretrial Statement makes such appear necessary. If the Court does not order such a pretrial conference, does the attorney specifically request a pretrial conference? If so, why? \_\_\_\_\_.

### **C. Other Matters:**

Counsel advises the Court of the following miscellaneous matters which will aid the Court in preparation of the case for trial.

\_\_\_\_\_

\_\_\_\_\_

Respectfully submitted,

\_\_\_\_\_  
Trial Attorney

<Street Address>  
<City, State and Zip Code>  
<Telephone Number>  
<Fax Number>  
<Email Address>  
<State Bar No.>

\_\_\_\_\_  
Trial Attorney  
(if pretrial statement is a joint statement)

<Street Address>  
<City, State and Zip Code>  
<Telephone Number>  
<Fax Number>  
<Email Address>  
<State Bar No.>

**CERTIFICATE OF SERVICE**

I hereby certify that a completed copy of the foregoing preliminary pretrial statement was served by

\_\_\_\_\_  
(method of service or delivery)

upon \_\_\_\_\_  
(name and address of attorney or party served)

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Attorney for \_\_\_\_\_

**JOINT FILING CERTIFICATION**

The above preliminary pretrial statement is submitted jointly by the following parties:

\_\_\_\_\_  
Attorney for \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Attorney for \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

## **LBR Form 7016-1 — Instructions**

### **UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF OHIO \_\_\_\_\_ DIVISION**

#### **INSTRUCTIONS FOR PREPARING AND FILING WITNESS AND EXHIBIT LISTS**

##### **Witness Lists (See Attachment A)**

Unless otherwise ordered by the Court upon a written motion on behalf of the witness, in addition to the full name and complete address of the witness, a brief one or two sentence synopsis of the testimony of the witness shall be provided on the witness list — e.g., “Will testify concerning the loan balance at the time of transfer”; “Expert witness – will testify to the fair market value of debtor’s real property.”

Leave to call a witness not listed on a party’s filed witness list may, in exceptional circumstances, be granted by the Court. An attorney seeking such leave must file and serve on all other attorneys, within twenty-four (24) hours after the need to call such witness becomes known, a Motion to Add Witness which shall include the name, address and an offer of proof of the testimony of the proposed witness. This requirement does not apply to a rebuttal witness whose testimony could not be reasonably anticipated.

The witnesses need not be called by the party who listed them and need not be called in the order listed.

Inability to obtain the attendance of a witness at trial shall not be cause for continuing a trial, unless counsel has written proof that opposing counsel agreed to have the witness available for testimony or a subpoena for the attendance of the witness had been issued at least seven (7) days prior to the trial date.

##### **Exhibit Lists (See Attachment B)**

Exhibit lists shall be typed double spaced and shall attach copies of each proposed exhibit, separately labeled. Joint exhibits shall use Roman numerals; plaintiff or movant’s exhibits shall use Arabic numbers; defendant or respondent’s exhibits shall use alphabetic letters. If there are multiple plaintiffs or defendants, exhibit labels shall also identify the party by name, such as plaintiff trustee’s exhibit 1. In contested matters the exhibit numbers shall be preceded by an identifying name of the offering party such as trustee’s exhibit 1, Bank U.S.A.’s exhibit B or Debtor’s exhibit 3.

The original of all exhibits to be introduced at trial shall be presented by counsel in open court during the trial.

Each exhibit shall be labeled to correspond to the designation on the exhibit list by a plain white adhesive label affixed to the lower right hand corner of the exhibit.

If an exhibit is a document smaller than 8–1/2” x 11”, it must be stapled to the center of an 8–1/2” x 11” sheet of paper. A group of photographs, checks or similar items, and the accompanying sheet to which it is attached must bear a separate affixed label designated by small alphabetized letters, such as Joint Ex. I–a, plaintiff’s exhibit 2–b, defendant’s exhibit C–b. If an exhibit document is larger than 8–1/2” x 11”, it should be copied and reduced to 8–1/2” x 11”, provided it remains readable. Copies of exhibits are subject to the provisions of LBR 9004–1. Disposition of exhibits is governed by LBR 9070–1.

**LBR Form 7016-1 — Attachment A**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
\_\_\_\_\_ DIVISION**

**CASE NO.** \_\_\_\_\_ **CHAPTER** \_\_\_\_\_

**CONTESTED MATTER ( )**  
**ADV. PRO. NO.** \_\_\_\_\_

**WITNESS(ES) TO BE CALLED BY** \_\_\_\_\_

NAME & ADDRESS	SYNOPSIS OF TESTIMONY

**USE ADDITIONAL SHEET(S) FOR ADDITIONAL WITNESSES**

**LBR Form 7016-1 — Attachment B**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
\_\_\_\_\_ DIVISION**

**CASE NO.** \_\_\_\_\_

**CHAPTER** \_\_\_\_\_

**CONTESTED MATTER ( )**

**ADV. PRO. NO.** \_\_\_\_\_

**JOINT EXHIBITS TO BE OFFERED BY** \_\_\_\_\_

<b>DESIGNATION</b>	<b>DESCRIPTION</b>	<b>IDENTIFIED</b>	<b>ADMITTED</b>

**USE ADDITIONAL SHEET(S) FOR ADDITIONAL EXHIBITS**