

LOCAL RULES
UNITED STATES BANKRUPTCY COURT
FOR THE
SOUTHERN DISTRICT OF OHIO

EFFECTIVE March 10, 1997

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

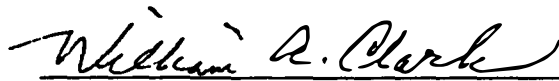
IN RE:

**ADOPTION OF AMENDED LOCAL BANKRUPTCY RULES OF THE
BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF OHIO**

In connection with a review of the Local Bankruptcy Rules during the past year, the Bankruptcy Judges of this district have received written comments from the bar. The comments were carefully considered by an advisory rules committee of the district. Such comments indicated areas in which improvement and clarification were desirable. The attached amended rules reflect the experience of the bar practicing under the rules, comments from members of the bar, extensive work of the advisory rules committee, and views of the Bankruptcy Judges of the district. Such rules have been approved and adopted by the District Court for the Southern District of Ohio.

The Amended Local Bankruptcy Rules of the Southern District of Ohio are adopted by the Bankruptcy Judges of this district on the 26th day of February, 1997, and shall become effective on the 10th day of March, 1997.

IT IS SO ORDERED.



**WILLIAM A. CLARK
CHIEF U. S. BANKRUPTCY JUDGE**



**DONALD E. CALHOUN, JR.
U. S. BANKRUPTCY JUDGE**

Thomas F. Waldron

THOMAS F. WALDRON

U. S. BANKRUPTCY JUDGE

Barbara J. Sellers

BARBARA J. SELLERS

U. S. BANKRUPTCY JUDGE

J. Vincent Aug, Jr.

J. VINCENT AUG, JR.

U. S. BANKRUPTCY JUDGE

Charles M. Caldwell

CHARLES M. CALDWELL

U. S. BANKRUPTCY JUDGE

Jeffery P. Hopkins

JEFFERY P. HOPKINS

U. S. BANKRUPTCY JUDGE

Burton Perlman

BURTON PERLMAN

U. S. BANKRUPTCY JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO

FILED
J. MICHAEL J. MURPHY
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IN RE:

ADOPTION OF LOCAL BANKRUPTCY RULES
FOR THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN HALLWAY

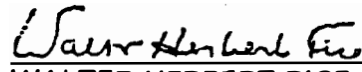
On November 15, 1996, the Judges of the United States District Court for the Southern District of Ohio received for consideration the certain proposed Local Bankruptcy Rules from the Bankruptcy Judges of this District.

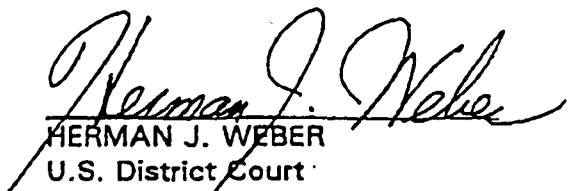
The Court being informed that members of the Bar were given an opportunity to contribute to and aid in the drafting of the Rules, that the Bankruptcy Judges have unanimously recommended the adoption of such Rules, and that said Rules were subject to a sixty (60) day period of public comment, with minor procedural, non-substantive changes made accordingly, it is hereby **ORDERED** that the Local Bankruptcy Rules are hereby adopted by this Court, as proposed, pursuant to Rule 83 of the Federal Rules of Civil Procedure.

It is further **ORDERED** that these Local Bankruptcy Rules shall govern practice in all bankruptcy cases and proceedings referred to by this Court to the Bankruptcy Judges of the District and, where applicable, shall also govern practice in all bankruptcy cases and proceedings pending before the United States District Judges of this District.

IT IS SO ORDERED.

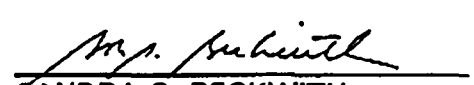
February 27, 1997


WALTER HERBERT RICE
Chief Judge, U.S. District Court



HERMAN J. WEBER
U.S. District Court

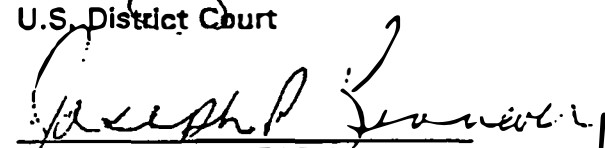

JAMES L. GRAHAM
U.S. District Court


GEORGE C. SMITH
U.S. District Court


SANDRA S. BECKWITH
U.S. District Court


SUSAN J. DLOTT
U.S. District Court


EDMUND A. SARGUS, JR.
U.S. District Court


JOSEPH P. KINNEARY
U.S. District Court


S. ARTHUR SPIEGEL
U.S. District Court


JOHN D. HOLSCHUH
U.S. District Court

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(A)

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Form 7016-1(B)

PRELIMINARY PRETRIAL STATEMENT

PART I.

1002-1 PETITION - GENERAL See also LBR 1004-1, 1015-2
1074-1, 5005-1

(a) **Filing.** The clerk shall accept any petition duly 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. The clerk shall time stamp all petitions presented for filing.

(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) **Disclosure of Prior Petitions.** If a petition indicates the debtor has filed a prior bankruptcy, the debtor shall also disclose by way of addendum the chapter under which relief was sought and whether discharge was granted, denied or revoked. 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 debtor shall disclose the percentage paid to unsecured creditors in the chapter 13 case.

(d) **Requirement of Local Rule 1015-2 Statement.** When the statement required by LBR 1015-2(b) must be filed, such filing must be made with the petition or within fifteen (15) days thereafter.

(e) **Copy Requirements.** An original and three (3) copies of the petition in chapter 7, 12 and 13 cases and an original and five (5) copies of the petition in chapter 11 cases shall be filed with the clerk.

1004-1 PETITION - PARTNERSHIP See also LBR 9011-2

(a) **Attorney Required.** No partnership or entity other than an individual shall file a petition nor shall it 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 partnership resolution or other appropriate authorization of the filing of a voluntary petition shall be filed by the debtor within fifteen (15) days after the filing of such petition.

(c) **Responsible Person.** The natural person or persons 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:

(1) an individual who is a general partner; or

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

(3) an individual who bears the relationship described in (1) and (2) above to a partnership that is a general partner of the debtor.

(d) **Designation of Responsible Person.** No later than fifteen (15) 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 pleading or other paper filed with the clerk.

(e) **Change in Designation of Responsible Person.** If any party in interest or any individual designated pursuant to this rule deems any individual so designated inappropriate, a motion shall be made to the court for relief from this rule and for the designation of some other individual. The motion shall be served pursuant to the requirements of LBR 9013-3 and upon the individual designated under (d) above and upon the individual whom the movant suggested to be designated.

1006-1 FEES - INSTALLMENT PAYMENTS See also LBR 5081-1

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 See also
LBR 1007-3,
1009-1, 5005-1**

(a) Chapter 7, 12 and 13 Cases.

(1) **Copy Requirements.** An original and three (3) copies of each schedule, statement or list required under Rule 1007 and any plan required by Rule 3015 shall be filed with the clerk.

(2) **Plan Payment Statement (Dayton).** In Dayton cases a debtor's proposed method of plan payment shall also be included in any initial filing under chapter 13.

(b) Chapter 11 Cases.

(1) **Copy Requirements.** An original and five (5) copies of each schedule, statement or list required under Rule 1007 shall be filed with the clerk.

(2) **Schedules of Contingent, Unliquidated or Disputed Claims.** In addition to the information required by Rule 1007 and Official Form 6, within fifteen (15) days after the filing of a petition or the entry of an order for relief, the debtor in possession shall file a schedule listing separately those creditors whose claims are contingent, unliquidated or disputed. Such schedule shall include the name and address of each such creditor, the amount claimed by each such creditor, the basis of the claim, and a brief statement of the reason the claim is considered contingent, unliquidated or disputed. The schedule shall be accompanied by a certification that

service has been made by the debtor, in addition to the service required by LBR 9013-3, upon all creditors listed in the schedule.

(c) **Schedules or Statements Filed After Petition Date.** If a petition is filed without schedules or statement of financial affairs, such schedules or statement, when filed, shall be accompanied by one of the following:

(1) **Certification.** A certification by the case attorney for the debtor, or by the debtor if not represented by an attorney, that the schedules or statement do not contain any creditors in addition to or different from those named in the list of creditors filed with the petition; or

(2) **Amendment to List of Creditors.** An amendment to the list of creditors which consists of the names and complete mailing addresses of all creditors in the schedules or statement which did not appear, or appeared with a different name or address, in the original list of creditors filed with the petition. This amendment shall contain the unsworn declaration of the debtor, shall be accompanied by the appropriate filing fee, and is subject to the service requirements of LBR 1009-1(a).

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

(a) **Time to File; Format for Paper Submissions.** 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 fifteen (15) days after the entry of an order for relief in an involuntary case, shall file a mailing list of creditors and other parties in interest on hard copy or computer disk in the following format:

(1) Print style shall be Courier 10 pitch, Prestige Elite or Letter Gothic.

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

(3) 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) Mailing lists should not include the debtor(s), attorney for the debtor(s) or the office of the United States trustee.

(6) If a computer disk is used, a standard computer disk, 5 1/4" or 3 1/2", is required with lists in ASCII format following the same requirements as the paper submissions listed in (a) above.

(b) **Verification.** The mailing list shall be verified pursuant to Rule 1008 on a separate page for both paper and computer disk submissions.

(c) **Amendments.** Any amendment to the debtor's schedules which 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 or computer disk.

(d) **Computer Disks Required for Large Cases.** Debtors who have five hundred (500) or more creditors and parties in interest shall submit mailing lists on computer disk following the requirements listed in (a) above.

1007-3 STATEMENT OF INTENTION (Reserved)

1009-1 AMENDMENTS TO LISTS AND SCHEDULES

(a) **Pending Cases.** When the debtor amends schedules to add or make any change concerning any creditor or party in interest, except for Dayton chapter 13 cases governed by LBR 2002-1(a)(3), the debtor's attorney shall serve a copy of the amendment as required by LBR 9013-3. If the debtor files schedules after the petition date which include creditors not on the original list of

creditors or if creditors are added by a separate amendment, the debtor also shall serve a copy of the notice of the original meeting of creditors and any amendments or additions thereto upon each such added creditor. Any amendment must comply with the copy requirements for an original filing and shall be accompanied by the proper filing fee. The debtor shall file a certification of service of any amendment or order for meeting of creditors required by this rule.

(b) After Reopening Case to Add Creditor. When the debtor wishes to amend schedules to add a creditor in a closed case, a motion to reopen the case must be filed and served with appropriate notice pursuant to LBR 5010-1 and 9013-3. If the court enters an order reopening the case, the amendment must be filed in accordance with (a) above, accompanied by the proper filing fee, within fifteen (15) 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's attorney shall serve a copy of the amendment on the trustee and the United States trustee and shall file a certificate of service. Objections to the amended claim of exemption shall be filed within thirty (30) days from the date of such service.

(d) Mailing List with Amendments. When filing an amended list of creditors, the debtor shall provide a mailing list of the added creditors in the format prescribed by LBR 1007-2.

(e) Separate Document. Each such amendment of schedules shall be by separate document and shall not be combined with a plan modification or other document.

(f) Additional Requirements in Chapter 13 Cases.

(1) Date of Debt. Any amendment to add a creditor shall disclose the date the debt arose.

(2) Certification of Waiver. If the filing fee payable pursuant to 28 U.S.C. §1930(b) for amendments adding creditors has been waived upon separate application, there shall be a certification by counsel in the

amendment that the order confirming the plan provided for a waiver of the fee.

1010-1 PETITION - INVOLUNTARY (Reserved)

1014-1 TRANSFER OF CASES (Reserved)

1014-2 VENUE - CHANGE OF (Reserved)

1015-1 JOINT ADMINISTRATION/CONSOLIDATION (Reserved)

1015-2 RELATED CASES See also 1002-1(d)

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

- (1) Identical individuals or entities, e.g., DBAs, FDBAs, other cases of the same person;
- (2) A corporation and any major shareholder thereof;
- (3) Affiliates;
- (4) A partnership and any of its general partners;
- (5) An individual and his or her general partner or partners;
- (6) An individual and his or her spouse; or
- (7) Entities having substantial identity of financial interests or assets.

(b) **Disclosure of Related/Companion Cases.**

- (1) **Form; Mandatory Requirement.** Where the debtor or a relative/companion, as defined in section (a) above, has

had a prior or pending case in any bankruptcy court, a petition commencing a case shall be accompanied by or supplemented within fifteen (15) days by a "Local Rule 1015-2 Statement" in the form attached.

(2) **Contents.** The Local Rule 1015-2 Statement shall be executed by the petitioner under penalty of perjury and shall disclose, to the petitioner's best knowledge, information and belief:

(A) Whether any related/companion cases are pending or have been pending at any time;

(B) The name of the debtor in each related/companion case and the date each such related/companion case was filed;

(C) The case number and chapter of each related/companion case;

(D) The district and division in which each related/companion case is or was pending;

(E) The judge to whom each related/companion case was assigned;

(F) The current status of each related/companion case;

(G) The manner in which the cases are related; and

(H) Any real property included in Schedule A that was filed with each related/companion case.

(3) **Sanctions.** The failure to fully and truthfully provide all information required by the Local Rule 1015-2 Statement may subject the petitioner and its attorney to the sanction of dismissal of the case with prejudice, conversion, or the appointment of a trustee in addition to the sanctions in LBR 9011-3.

(c) **Assignment of Related/Companion Cases by Clerk.** When the petition or a Local Rule 1015-2 Statement discloses a

related/companion case which is or was pending in this district, the newly-filed case shall be assigned by the clerk to the judge to whom the related/companion 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/companion case is pending 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/companion cases have been assigned may, by mutual consent, order the assignment of a prior related/companion case to the judge to whom a later-filed case has been assigned for good cause based upon the convenience of the parties or where justice otherwise 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.** Motions by parties in interest to request reassignment or consolidation of related/companion cases or adversary proceedings shall be made to the judge to whom the prior case is or was assigned. Such motions shall be served according to LBR 9013-3.

1017-1 CONVERSION - REQUEST FOR/NOTICE OF (Reserved)

**1017-2 DISMISSAL OR SUSPENSION -
CASE OR PROCEEDINGS (Reserved)**

1019-1 CONVERSION - PROCEDURE FOLLOWING (Reserved)

1020-1 CHAPTER 11 SMALL BUSINESS CASES - GENERAL
See also LBR 3017-2

In a chapter 11 reorganization case, a debtor that is a small business may elect to be considered a small business by filing a written statement of election not later than sixty (60) days after the date of the order for relief.

1070-1 JURISDICTION (Reserved)

1071-1 DIVISIONS - BANKRUPTCY COURT See also
LBR 1072-1, 1073-1

(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: COUNTIES:

Columbus 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: COUNTIES:

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

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

NOTE: Butler County and Warren County cases may be filed in
either **Cincinnati** or **Dayton**.

(b) **Change of Location.** A party in interest may request by
motion that a case or proceeding be transferred to another court
location within this district. In addition to service under LBR
9013-3, all creditors in a case or parties in a proceeding shall be
served.

(c) **Court Addresses.** The following are the mailing
addresses, telephone numbers, and telecopier (fax) numbers of each
Court, 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 - telephone
(513) 684-6727 - telecopier (fax)

United States Bankruptcy Court
170 North High Street
Columbus, Ohio 43215
(614) 469-6638 - telephone
(614) 469-2478 - telecopier (fax)

United States Bankruptcy Court
120 West Third Street
Dayton, Ohio 45402
(937) 225-2516 - telephone
(937) 225-2954 - telecopier (fax)

1072-1 PLACES OF HOLDING COURT

See also
LBR 1071-1, 1073-1

The **Cincinnati** court holds regularly scheduled proceedings in
the cities of **Cincinnati** and **Portsmouth**. The **Columbus** court holds

regularly scheduled proceedings in the cities of Columbus, Steubenville and Zanesville. The Dayton court holds regularly scheduled proceedings in the city of Dayton.

1073-1 ASSIGNMENT OF CASES

**See also LBR 1071-1,
1072-1, 7040-1**

(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

See also LBR 9011-2

(a) **Attorney Required.** No corporation or entity other than an individual shall file a petition nor shall it 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 corporate resolution or other appropriate authorization of the filing of a voluntary petition shall be filed by the debtor within fifteen (15) days after the filing of such petition.

(c) **Responsible Person.** 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.

(d) **Designation of Responsible Person.** No later than fifteen (15) 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 pleading or other paper filed with the clerk.

(e) **Change in Designation of Responsible Person.** If any party in interest or any individual designated pursuant to this rule deems any individual so designated inappropriate, a motion shall be made to the court for relief from this rule and for the designation of some other individual. The motion shall be served pursuant to LBR 9013-3 and upon the individual designated under (d) above and upon the individual whom the movant suggested to be designated.

PART II.

2002-1 NOTICE TO CREDITORS AND OTHER INTERESTED PARTIES

(a) Service by the Chapter 13 Trustee.

(1) **Notice of Meeting of Creditors.** The trustee shall give the debtor, debtor's attorney, creditors and other entities originally scheduled by the debtor not less than twenty (20) days' notice by first class mail of the meeting of creditors pursuant to §341 of the Code, and the trustee shall attach to the notice a copy of the plan, a blank proof of claim form, and in Dayton, a copy of the debtor's budget.

(2) **Other Notices.** The trustee shall give the debtor, debtor's attorney, creditors and other entities originally scheduled by the debtor, and added creditors where appropriate, notice of:

(A) the time fixed for filing objections to, and the date of the hearing on, objections to confirmation of the plan;

(B) the order for relief under chapter 13;

(C) plan completion and, in completed cases, the filing of the trustee's final report and account; and

(D) other matters relating to the administration of a case as ordered by the court.

(3) **Additional Dayton Notices.** The trustee also shall give notice as in (1) and (2) above and to added creditors where appropriate, of:

(A) a proposed sale, use, or lease of property, other than in the ordinary course of business, unless:

(i) the court authorizes another method of notice;

(ii) the court orders that no notice be made;

(iii) the plan provides for the sale; or

(iv) the proposed or actual sale, use, or lease is pursuant to LBR 6004-1(c) or (e);

(B) the time fixed for filing objections to a proposed modification of a plan;

(C) the time fixed for filing objections to, and the date of the hearing on, objections to valuation;

(D) the time fixed for filing objections to, or requesting a hearing on, applications for compensation or reimbursement of expenses when the amount is in excess of \$500;

(E) a final order dismissing a case;

(F) the entry of any order converting a chapter 7 case to a chapter 13 case; and

(G) for any added creditor:

(1) the date the petition was filed;

(2) the date first scheduled for the meeting of creditors pursuant to §341 of the Code;

(3) whether or not the plan has been confirmed; and

(4) the last day by which the creditor shall file a proof of claim.

(4) **Certificate of Service.** The trustee shall file a certificate of any service made pursuant to this rule or any other service the court orders the trustee to make.

(5) **Limitation of Service.** Except for the final report and account, the trustee shall not be required to serve under this rule any scheduled creditor or creditor added by amendment who fails to file a proof of claim. Notwithstanding the above, the trustee shall serve any creditor who files a proof of claim whether or not such creditor was scheduled.

(6) **Miscellaneous Notices.** In conjunction and consultation with the clerk, the trustee may, consistent with the periods prescribed by these rules, fix times for filing pleadings and other papers and give notices of hearings, including but not limited to, confirmation and valuation hearings.

(b) Returned Notices.

(1) Chapter 13 Cases.

(A) **Columbus and Dayton.** The trustee shall file any notices of the meeting of creditors pursuant to §341 of the Code returned undeliverable to the trustee. Such filing shall consist of the original undelivered notice and envelope or a copy of the envelope showing failure of service and a copy of the notice.

(B) **Cincinnati.** Notices returned undeliverable to the trustee shall be given to debtor's counsel at or before the §341 meeting. Counsel shall then be responsible for serving such §341 meeting notices.

(2) **Chapter 7, 11, and 12 Cases.** The clerk shall direct returned §341 meeting notices to the debtor's attorney or *pro se* debtor. The debtor's attorney or *pro se* debtor shall correct any address errors by amending the proper schedule or list, shall properly renotice the creditor and shall file a certification of such noticing. The debtor's attorney or *pro se* debtor shall also notify the clerk of any clerk's office error which the clerk shall then correct by renotice where appropriate. Notices will be issued with the debtor's attorney or *pro se* debtor as the return addressee and the clerk will not maintain a permanent record of or retain returned notices.

2002-2 NOTICE TO THE UNITED STATES OR FEDERAL AGENCY

(a) **Notice to the United States Attorney.** If Rule 2002 requires notice to the United States Attorney, the following are the addresses, telephone numbers, and telecopier (fax) numbers for the United States Attorney for the Southern District of Ohio, as of the effective date of these local rules:

- (1) U. S. Attorney - Columbus
Two Nationwide Plaza
4th Floor
280 North High Street
Columbus, OH 43215
(614) 469-5715 - telephone
(614) 469-5240 - telecopier (fax)
- (2) U. S. Attorney - Cincinnati
220 Potter Stewart U. S. Courthouse
100 East Fifth Street
Cincinnati, OH 45202
(513) 684-3711 - telephone
(513) 684-6385 - telecopier (fax)
- (3) U. S. Attorney - Dayton
602 Federal Building
200 West Second Street
Dayton, OH 45402
(937) 225-2910 - telephone
(937) 225-2564 - telecopier (fax)

(b) **Notice to the Internal Revenue Service.** If Rule 2002 requires notice to the Internal Revenue Service, the following are the addresses, telephone numbers, and telecopier (fax) numbers for the Internal Revenue Service District Director, as of the effective date of these local rules:

Internal Revenue Service
District Director
Special Procedures Section
P. O. Box 1579
Cincinnati, OH 45201
(513) 684-2442 - telephone
(513) 684-3610 - telecopier (fax)

(c) **Notice to the United States Trustee.** If Rule 2002 requires notice to the United States trustee, the following are the addresses for the United States trustee, as of the effective date of these local rules:

- (1) Office of the United States Trustee
36 East Seventh Street
Suite 2030
Cincinnati, OH 45202
(Cincinnati cases)
- (2) Office of the United States Trustee
170 North High Street
Suite 200
Columbus, OH 43215
(Dayton or Columbus cases)

2002-3 UNITED STATES AS CREDITOR OR PARTY (Reserved)

2003-1 MEETING OF CREDITORS AND EQUITY SECURITY HOLDERS

(a) **Continuance of Meeting.** Any request for a continuance of a §341 meeting shall comply with the requirements prescribed by the United States trustee and shall be addressed in the first instance to the case trustee or, in a chapter 11 case, to the United States trustee. If a continuance is granted, the debtor's case attorney shall be responsible for renoticing all creditors and parties in interest of the rescheduled meeting date and time, and shall file a certification of such service with a copy to the case trustee, or in a chapter 11 case, to the United States trustee.

(b) **Motion and Response.** Only upon denial of a request for continuance of a §341 meeting directed to the case trustee or, in a chapter 11 case, to the United States trustee, may the party whose request was denied move that the court grant such continuance of a §341 meeting. The memorandum accompanying any such motion must state the steps taken to secure a continuance. 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.

2004-1 DEPOSITIONS AND EXAMINATIONS (Reserved)

2007.1-1 TRUSTEES AND EXAMINERS (CHAPTER 11)

(a) (Reserved)

(b) Election of Trustee.

(1) Request for an Election. A request to convene a meeting of creditors for the purpose of electing a trustee in a chapter 11 reorganization case shall be filed and transmitted to the United States trustee in accordance with Rule 5005 within the time prescribed by §1104(b) of the Code. Pending court approval of the person elected, any person appointed by the United States trustee under §1104(d) and approved in accordance with Rule 2007.1 shall serve as trustee.

(2) Manner of Election and Notice. An election of a trustee under §1104(b) of the Code shall be conducted in the manner provided in Rules 2003(b)(3) and 2006. Notice of the meeting of creditors convened under §1104(b) shall be given as provided in Rule 2002. The United States trustee shall preside at the meeting. A proxy for the purpose of voting in the election may be solicited only by a committee of creditors appointed under §1102 of the Code or by any other party entitled to solicit a proxy pursuant to Rule 2006.

(3) Report of Election and Resolution of Disputes.

(A) Report of Undisputed Election. If the election is not disputed, the United States trustee shall promptly file a report of the election, including the name and address of the person elected and a statement that the election is undisputed. The United States trustee shall file with the report an application for approval of the appointment in accordance with Rule 2007.1. The report constitutes appointment of the elected person to serve as trustee, subject to court approval, as of the date of entry of the order approving the appointment.

(B) **Disputed Election.** If the election is disputed, the United States trustee shall promptly file a report stating that the election is disputed, informing the court of the nature of the dispute, and listing the name and address of any candidate elected under any alternative presented by the dispute. The report shall be accompanied by a verified statement by each candidate elected under each alternative presented by the dispute, setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, and any person employed in the office of the United States trustee. Not later than the date on which the report of the disputed election is filed, the United States trustee shall mail a copy of the report and each verified statement to any party in interest that has made a request to convene a meeting under §1104(b) or to receive a copy of the report, and to any committee appointed under §1102 of the Code. Unless a motion for the resolution of the dispute is filed not later than ten (10) days after the United States trustee files the report, any person appointed by the United States trustee under §1104(d) and approved in accordance with Rule 2007.1 shall serve as trustee. If a motion for the resolution of the dispute is timely filed, and the court determines the result of the election and approves the person elected, the report will constitute appointment of the elected person as of the date of entry of the order approving the appointment.

(4) **Service.** Any request under subparagraph (1) of this rule to convene a meeting of creditors, any application under subparagraph (3) of this rule for approval of the appointment of the elected person, and any report under subparagraph (3) of this rule concerning a dispute regarding the election shall be served as required by LBR 9013-3 and upon the person elected trustee.

2010-1 TRUSTEES - BONDS/SURETY

(a) **Recovery of Chapter 7 Blanket Bond Premiums.** Chapter 7 panel trustees covered by the blanket bond may apportion and pay their blanket bond premium, when the bill is received, according to the rules and regulations promulgated by the Office of the United States trustee.

(b) **Application of Joint Procedural Guidelines for Closing Chapter 7 Cases.** The amount of bond premium paid from each estate account shall be reflected on the appropriate form designated by the Joint Procedural Guidelines for Closing Chapter 7 Cases. Pursuant to those Guidelines, notice of the amount paid from the estate shall be sent pursuant to the Code and Rules. To the extent the court determines any such payments were improperly made, such payments may be subject to reimbursement by the trustee to the estate.

2014-1 EMPLOYMENT OF PROFESSIONALS

(a) **Application Required.** A trustee or debtor in possession pursuant to §327 of the Code, or appointed committee pursuant to §1103 of the Code, requesting the appointment of a professional person shall apply to the court for such appointment in accordance with this rule, and any such person appointed shall be subject to the jurisdiction of the court for approval of all fees.

(b) **Required Contents of Application.** Any application for appointment 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.** The affidavit or verified statement of the person to be employed which accompanies the application for appointment, in addition to the requirements

set forth in Rule 2014, shall set forth any known past or present relationship to the debtor, the trustee, or any creditor or equity security holder of the debtor; establish the lack of any adverse interest to the estate; and 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: 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; 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 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.

2015-1 TRUSTEES - GENERAL (Reserved)

2015-2 DEBTOR-IN-POSSESSION DUTIES (Reserved)

2015-3 TRUSTEES - REPORTS AND DISPOSITION OF RECORDS
(Reserved)

2015-4 TRUSTEES - CHAPTER 12 (Reserved)

2015-5 TRUSTEES - CHAPTER 13

(a) Fees and Expenses of Trustee in Unconfirmed Cases.

(1) **Administrative Fee.** The trustee is authorized to charge an administrative fee of fifty dollars (\$50.00) in any case which is dismissed or converted prior to confirmation.

(2) **Percentage Fee.** The trustee is authorized to charge the percentage fee authorized for trustee compensation and expenses on any unconfirmed case where the trustee is authorized to make disbursements prior to confirmation.

(b) **Prescribed Fees for All Cases.** In addition to the fees promulgated under authority of 28 U.S.C. §1930 and collected by the clerk at the time filings are made, chapter 13 debtors may be assessed chapter 13 trustee 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 is an estate. The noticing fees, if assessed, must be assessed in all cases prior to the time the final report and account is filed with the clerk. The total of those fees paid to the trustee will be shown on the trustee's final report and account.

(c) **Addresses for Chapter 13 Trustee Offices.** As of the effective date of these local rules, addresses, telephone numbers, and telecopier (fax) numbers for chapter 13 trustee offices for the district are as follows:

Columbus - 130 E. Wilson Bridge Rd.
Suite 200
Worthington, OH 43085
(614) 436-6700 - telephone
(614) 436-0190 - telecopier (fax)

Cincinnati - 36 East Fourth Street
Suite 700
Cincinnati, OH 45202
(513) 621-4488 - telephone
(513) 621-2643 - telecopier (fax)

Dayton - 9 West National Road
P. O. Box 69
Englewood, OH 45322
(937) 836-4040 - telephone
(937) 832-0387 - telecopier (fax)

2016-1 COMPENSATION OF PROFESSIONALS

In chapter 13 cases, compensation of debtor's counsel is governed by this rule.

(a) Fees Through Confirmation.

(1) **Application and Disclosure Required.** At the time the petition is filed, the attorney for the debtor shall file with the clerk, in the same number as the petition, a combined statement of compensation containing the disclosures required by §329 of the Code and Rule 2016(b), and an application for allowance and payment of fees. Such document shall be titled "Application for the Allowance of Fees and Statement Pursuant to §329 of the Code and Rule 2016(b)." If the attorney and each debtor contemplate fees in an amount subject to section (2)(B) below, the application should indicate that supplementation will be filed at the time of confirmation.

(2) Itemization and Hearings.

(A) **Hearing and Itemization Not Required.** Applications which do not exceed an amount considered reasonable for an average case from initial interview through confirmation of the plan, or as further provided in an Order Allowing Fees, will be allowed without actual hearing or specific itemization. For **Columbus** and **Cincinnati** cases that amount is \$850. For **Dayton** cases that amount is \$900.

(B) **Itemization Required.** Applications for fees where the total is in excess of the amounts set

forth above must include an itemization of all legal services performed, the amount of the total fee requested and the actual time spent by the case attorney and by any other attorney, paralegal or professional person for whom fees are sought. Such application must be supplemented as appropriate before confirmation.

(C) **Hearings.** Any fee application considered under (B) above may be set for hearing or may be allowed on review of the documentation.

(D) **Order of Allowance.** The amount of the initial fee allowed to the attorney for the debtor may be specified in the order confirming chapter 13 plan.

(E) **Retainers.** In Dayton, any compensation paid to the debtor's attorney in connection with the case will be turned over to the trustee at the §341 meeting. Such funds will be returned to debtor's counsel, after deduction of administrative expenses where no other source is available, if the case is dismissed or converted to another chapter without being confirmed.

(b) **Additional Attorney Fees.** Additional attorney fees for services performed by the debtor's attorney after confirmation must be requested by separate application.

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

(A) the legal services performed;

(B) the result obtained by the legal services;

(C) the actual time spent by the case attorney and by any other attorney, paralegal or professional person for whom fees are sought;

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

(E) the date of plan confirmation, the original proposed percentage payment to unsecured creditors, and date of the last confirmed modified plan; and

(F) the amount of fee requested.

(2) **Service.** The attorney shall serve the application for additional fees pursuant to LBR 9013-3 with a notice that the court may allow the fee without further notice unless an objection to the allowance of the fee is filed within twenty (20) days from the date of service as set forth on the certificate of service attached to the application ; provided, if the debtor signs the fee application, the application need not be served on the debtor. In **Columbus** and **Cincinnati** cases, if the request exceeds \$500, all parties shall be served. In **Dayton** cases, if the request exceeds \$500, the trustee will give the notice.

(3) **Separate Application.** Applications for additional attorney fees shall not be combined with any other pleading or other paper.

(4) **Proposed Order.** Proposed orders for additional fees shall be submitted as follows:

(A) **Dayton.** The trustee shall submit a proposed order to the court concerning the additional attorney fee. The trustee may file a report with the court recommending the application be allowed, disallowed or modified and/or may file other information concerning the case and attorney fees in the case. If the trustee is recommending the application be disallowed or modified, the trustee shall serve the report on the attorney.

(B) **Columbus.** The attorney shall submit the proposed order after expiration of the period for notice and objection.

(C) **Cincinnati.** The attorney shall submit the proposed order with the application.

(c) **Payment of Allowed Fees.** This 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's fees.

2019-1	REPRESENTATION OF MULTIPLE PARTIES	(Reserved)	
2020-1	UNITED STATES TRUSTEES	(Reserved)	See LBR 2002-2
2070-1	ESTATE ADMINISTRATION	(Reserved)	
2071-1	COMMITTEES		
<p>Within seven (7) days of the first meeting of an official committee, unless previously filed by the United States trustee, such committee shall file with the clerk and serve as required by LBR 9013-3, 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.</p>			
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 See also LBR 4007-1(c)

A motion for a hardship discharge pursuant to §1328(b) of the Code shall be served by the debtor's attorney pursuant to LBR 9013-3 and upon all parties in interest. Such motion shall also inform the parties that the period to file a complaint seeking to except a debt from discharge under §523(c) of the Code shall expire thirty (30) days after the entry of an order by the court under Rule 4007(d).

2090-1 ATTORNEYS - ADMISSION TO PRACTICE See also
LBR 2090-2, 2091-1,
9010-1, 9011-3

(a) **Admission.** Membership in good standing of the bar of the highest court of a state and admission to practice in any United States district court, including any bankruptcy court, shall constitute admission to practice in the bankruptcy court for this district, except that any attorney not admitted to practice before the United States District Court for the Southern District of Ohio shall, at the time of the attorney's initial filing or appearance before the court, file a notice of appearance evidencing the basis for the attorney's admission. 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.

(b) **Case Attorney.** 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 a "case attorney" who is admitted to practice pursuant to this rule.

2090-2 **ATTORNEYS - DISCIPLINE AND DISBARMENT** See also
LBR 2090-1,
2091-1, 9011-3

(a) **Relevant Codes and Rules.** The Code of Professional Responsibility adopted by the Ohio Supreme Court, as amended from time to time, applies in this court, except that the United States Bankruptcy Court has determined that service on a debtor required by these rules shall not be a violation of the Ohio Code of Professional Responsibility 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, will be enforced by the bankruptcy judges except as set forth in (c) below.

(b) **Court's Inherent Power.** Whenever appropriate, this court, through its inherent powers, will discipline attorneys who practice before it. 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.

(c) **Special Procedure for Suspension or Disbarment.** If after proper notice and due process a bankruptcy judge determines suspension or disbarment is the appropriate sanction, the following procedures will be implemented.

(1) The bankruptcy judge will prepare a Show Cause Order setting forth the reasons why suspension or disbarment was deemed appropriate and ordering the attorney to appear before the Chief Judge of the District Court at a stated time.

(2) The Show Cause Order shall be filed with and entered by both the bankruptcy and district court clerks.

(3) The hearing before the Chief Judge of the District Court will not be a *de novo* hearing, but will be based upon the Chief Judge's review of the bankruptcy court record and the Show Cause Order under the Model Rules of Disciplinary Enforcement.

(4) The Chief Judge of the District Court will decide the suspension or disbarment matter and will issue an appropriate decision and order.

(d) **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.

2091-1 ATTORNEYS - WITHDRAWALS

(a) **Substitution or Withdrawal of Case Attorney.** The substitution or withdrawal of a case attorney shall be permitted only upon the following:

(1) **With the Client's Signature.** Upon filing and service pursuant to LBR 9013-3 of a notice of a substitution of attorney signed by the withdrawing attorney, the client and a substitute attorney; provided, however, the client's signature is not required if the withdrawing attorney is a member of the same partnership or legal professional association as the attorney to be substituted and the notice affirmatively states that the substitution is made with the client's knowledge and consent, or

(2) **Without the Client's Signature.** Upon written motion for substitution or withdrawal served upon the client, a showing of good cause and upon such terms as the court shall impose.

(b) **Limitations on Substitution and Withdrawal.** Unless otherwise ordered, an attorney shall not be permitted to withdraw

from a case or proceeding at any time later than twenty (20) days in advance of 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 approved, an attorney must continue to act as case attorney.

PART III.

3001-1 CLAIMS AND EQUITY SECURITY INTERESTS - GENERAL

(a) **Number of Copies.** In Columbus and Cincinnati chapter 7 asset cases, 12 and 13 cases and Dayton chapter 7 asset cases and 12 cases, a proof of claim shall be filed in duplicate with the file stamped duplicate copy retained by the clerk for delivery to the trustee. The duplicate copy shall contain copies of all attachments to the original proof of claim. In Dayton chapter 13 cases, only the original proof of claim must be filed.

(b) Claims in Chapter 12 and 13 Cases.

(1) **Need to File Claim.** 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. Such proof of claim shall include appropriate documentation for any asserted secured status.

(2) **Added Creditors.** Any prepetition creditor or any entity that chooses to file a postpetition claim under §1305(a) of the Code that is added to the schedule of creditors by amendment and that did not have actual knowledge of the case in time to file a timely proof of claim shall have the later of ninety (90) days after the first date scheduled for the §341 meeting, or, for governmental units, one hundred eighty (180) days from the order for relief, or ninety (90) days after the date listed on the certificate of service of the amendment or whatever is provided by the Bankruptcy Rules, in which to file a proof of claim.

(3) **Effect of Relief from Stay.** An entity holding an allowed secured claim that obtains relief from the

automatic stay shall not continue to receive the payments provided for in a confirmed plan on account of such secured claim, and such 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, however, payments to the creditor from the trustee may continue upon the filing of an agreement to that effect between the debtor, debtor's attorney and the creditor or its attorney. Such agreement shall be served on the trustee.

(4) **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.

(5) **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.

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

3006-1 CLAIMS - WITHDRAWAL (Reserved)

3007-1 CLAIMS - OBJECTIONS

(a) **Filing and Service.** An objection to a proof of claim shall be filed and served on the claimant whose claim is challenged at the claimant's address as set forth on the proof of claim, its attorney of record if such attorney's name and address is clearly

identified on the proof of claim or by separate notice filed with the clerk, and any party required to be served by LBR 9013-3. If the objection is to a claim of the United States for federal taxes, the objection shall be served by the objecting party on the Special Procedures Section of the Internal Revenue Service, the local United States Attorney and the Attorney General of the United States. See LBR 2002-2.

(b) **Contents.** An objection shall identify the claimant by name and address, the date the claim was filed, and any claim number assigned by the clerk or a standing trustee. As to each claim, the objection shall further contain a concise statement of the grounds for which the objection is being asserted and a specific request for how the claim shall be treated. The objection shall also state that a response must be filed and served within thirty (30) days after the date set forth on the certificate of service. Parties are encouraged to combine multiple objections into one filing with attachments as appropriate.

(c) **Response.** The claimant whose claim is the subject of a filed objection shall file a response to the objection and serve a copy thereof pursuant to LBR 9013-3 not later than thirty (30) days after service of the objection. Any response shall state clearly in its caption the objection to which it is responding.

(d) **Failure to Respond.** If a claimant fails to file a timely response to an objection, the claimant shall be deemed to have waived any objection to the relief sought and the objecting party shall submit an appropriate order.

(e) **Dayton Chapter 13 Cases.** If a claimant files a response to an objection, the court shall direct the trustee to schedule and conduct a conference, pursuant to Rule 7016, with the debtor's attorney and the responding claimant's attorney for the purposes of expediting the disposition of and facilitating the settlement of the objection to the claim. If the objection is resolved at the conference, the trustee shall submit an appropriate proposed order to the court. If the objection is not resolved at the conference, the trustee shall submit a report to the court that the objection was not resolved; in such event the court will set appropriate further proceedings.

3008-1 CLAIMS - RECONSIDERATION (Reserved)

3009-1 DIVIDENDS - CHAPTER 7 (Reserved)

3010-1 DIVIDENDS - SMALL (Reserved)

3011-1 UNCLAIMED FUNDS See also LBR 7067-1

Unless otherwise ordered, the clerk shall deposit unclaimed funds into a registry account designated by the United States Treasurer.

3012-1 VALUATION OF COLLATERAL

In chapter 13 cases objections to the value of personal property are governed by this 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 schedules. Any amount by which a proof of claim exceeds that valuation shall be allowed and treated as an unsecured claim unless such unsecured claim is otherwise subject to objection.

(b) **Objection and Hearing.**

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

(2) **Time of Hearing.** In **Dayton**, such objection shall not be combined with any other objection to confirmation or other pleading or paper and is heard at a valuation hearing. In **Cincinnati** and **Columbus**, a written objection to value is treated as an objection to confirmation and is heard at the time of confirmation.

(c) **Time to Object.** An objection to confirmation based on the value of personal property scheduled by the debtor 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 upon the trustee, United States trustee, the debtor, and the debtor's attorney:

(1) In **Columbus** cases, within seven (7) days after the date upon which any original, rescheduled or continued meeting of creditors is held, or

(2) In **Dayton** or **Cincinnati** cases, five (5) days prior to the date first set for the meeting of creditors or the date of any rescheduled or continued meeting of creditors.

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

(1) **Time of Appraisal.** In **Dayton** and **Cincinnati**, if there is no agreement as to value at the conclusion of the §341 meeting of creditors attended by the debtor and the creditor or the creditor's attorney, the debtor and creditor shall determine a mutually agreeable time for appraisal of the property which time shall be within six (6) days, including Saturdays and Sundays but not holidays, after the meeting of creditors. The appraisal shall occur at the debtor's residence unless otherwise agreed in writing.

(2) **Condition to Appraisal.** In **Dayton** and **Cincinnati**, if the creditor or its attorney does not attend the meeting of creditors and there is no written agreement with the debtor's attorney prior to the meeting of creditors as to the time of appraisal, the creditor or

its attorney shall have no right to schedule an appraisal unless otherwise ordered by the court.

(3) **Motor Vehicles.** Unless otherwise determined by the court, the general standard for resolving a disputed value of a motor vehicle shall be the average of the trade-in (wholesale) value and the retail value, including options, contained in a nationally recognized value guide for the month the debtor's petition was filed. In **Cincinnati** and **Dayton** the guide used is the Central Edition of N.A.D.A. Official Used Car Guide or the most recent National Edition of the N.A.D.A. Appraisal Guides for Older Cars, for Older R.V.s, and Older Motorcycles. In **Columbus** the Black Book may also be used. Any party may present otherwise admissible evidence regarding the value of the collateral.

(e) **Procedure After Objection in Dayton and Cincinnati.**

(1) **Creditor's Filings.** If the creditor, debtor and trustee cannot reach agreement on value after the objection to value has been filed, not later than fourteen (14) days in **Dayton** and ten (10) days in **Cincinnati** after the meeting of creditors attended by the debtor, the creditor shall file and serve upon the debtor, the United States trustee, the debtor's attorney and the trustee, an addendum to the objection to value or objection to confirmation based on value which shall include the following:

(A) legible copies of all documents supporting any interest claimed by the creditor in the property;

(B) any written appraisals of the specific property or, if no written appraisal is available, the name, address and telephone number of the appraiser, along with a summary of the expected testimony including the specific amount of the appraisal; and

(C) a list of all exhibits to be introduced and the names and addresses of all witnesses to be called at the hearing.

(2) **Debtor's and Trustee's Filings.** Any response filed by the debtor's attorney or the trustee shall be filed and served not later than five (5) days before the valuation hearing in Dayton or confirmation hearing in Columbus or Cincinnati. The response shall contain:

(A) any written appraisals of the specific property or if no written appraisal is available, the name, address and telephone number of the appraiser along with a summary of the expected testimony including the specific amount of the appraisal; and

(B) a list of all exhibits to be introduced and the names and addresses of all witnesses to be called at the hearing.

(f) **Procedure for Plan Modifications in Dayton.** An objection to value of personal property scheduled by the debtor in a modified plan shall be by written motion filed with the clerk and served upon the debtor, the debtor's attorney, the trustee and the United States trustee within the time set forth in the notice for filing an objection to valuation.

(g) **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 may be signed by the parties and the trustee and filed.

**3014-1 ELECTION UNDER §1111(b)(2) BY SECURED CREDITOR
IN CHAPTER 9 MUNICIPALITY OR CHAPTER 11
REORGANIZATION CASE**

If the disclosure statement is conditionally approved pursuant to Rule 3017.1, and a final hearing on the disclosure statement is not held, the election of application of §1111(b)(2) may be made not later than the date fixed pursuant to Rule 3017.1(a)(2) or another date the court may fix.

(a) **Service of Plan.** If the chapter 13 plan is not filed with the petition or within five (5) days thereafter, the attorney for the debtor in Cincinnati or Columbus or the trustee in Dayton shall serve a copy of the plan on all parties in interest. Proof of such service must be supplied pursuant to LBR 9013-3.

(b) **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.

(3) **Additional Cincinnati Requirements.** In Cincinnati, the plan also must set forth:

(A) The identity of holders of secured claims; the proposed amount of each allowed secured claim; and the proposed monthly payment to be paid to each allowed secured claim;

(B) Creditors to be paid directly by the debtor and the month in which such direct payments are to commence;

(C) The name and address of the employer on whom the court will be requested to order payroll deduction;

(D) Any request for a direct payment plan, if applicable; and

(E) Any proposed cure of defaults under §1322(b)(5) of the Code, including the amount of default to be cured and the proposed monthly payment to the claim holder.

NOTE: A sample plan is available from the chapter 13 trustee.

(c) Treatment of Motor Vehicle and Personal Property Leases and Executory Contracts.

(1) Columbus and Cincinnati Cases.

(A) **Proposed Treatment.** The plan shall state clearly the treatment proposed for each unexpired lease or executory contract and shall provide for notice of such plan provision to any other party to such lease or contract.

(B) **Method of Payment.** Unless otherwise authorized by the court, all payments for unexpired leases of personal property or executory contracts shall be made through the trustee if the lease or contract expires by its own terms during the term of the plan or if payments under such lease or executory contract are two or more months in arrears at the time the petition is filed.

(2) Dayton Cases.

(A) **Direct Payment.** If a plan proposes that a motor vehicle or other personal property lease shall be paid by the debtor, the debt shall be scheduled and the plan shall clearly disclose the proposal for the debtor to pay that debt.

(B) **Motion.** The debtor also shall file and serve on the trustee, the creditor and any co-debtor under the lease, by the date first set for the §341 meeting of creditors, a motion entitled Motion to Pay Lease Debt Directly and shall attach to the motion copies of the lease and all other documents which will allow determination of the lease

provisions, including all deposits made, all amounts paid, and all remaining payments required under the lease.

(C) **Failure to Object.** If there is no objection filed within twenty (20) days after service of the motion, the debtor may submit a proposed order excluding the lease.

(D) **Objection and Hearing.** Unless otherwise ordered, responses to motions filed under (A) or (B) of this subsection shall be heard at the next subsequent chapter 13 miscellaneous docket as noticed by the trustee.

(d) Treatment of Real Estate Mortgages.

(1) **Method of Payment in Columbus.** A plan payment on a real estate mortgage pursuant to §1322(b)(5) of the Code shall be made by the trustee in **Columbus** if the obligation is two (2) or more months 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 paid by the trustee, the plan shall specify for what month the trustee's regular monthly payment to the mortgage creditor shall begin. Unless otherwise provided by the plan, if such trustee payment is to begin after the month in which the petition is filed, the debtor is personally responsible for direct payment to the mortgage creditor of all mortgage payments due after the petition was filed and up to, but not including, the month specified for the trustee to commence payments.

(3) **Duty of Mortgage Creditor.** A mortgage creditor shall inform the trustee of any change in the payment amount to be paid by the trustee.

(e) **Payment Method.** Unless otherwise agreed by the trustee or ordered by the court, funding shall be by payroll deduction.

(f) **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

(a) Preconfirmation Modifications.

(1) **Time and Service Requirements.** A plan modification proposed prior to confirmation must be filed at least seven (7) days prior to the confirmation hearing in **Columbus** and three (3) days prior in **Cincinnati**. For cases heard in **Portsmouth, Zanesville and Steubenville**, the notice setting the meeting of creditors or court order will specify the time requirements for modifications. All such modifications shall be served on the trustee and upon all adversely affected parties in interest pursuant to LBR 9013-3. The service shall give the trustee and affected parties twenty (20) days to object in writing to the modification.

(2) **Modifications Proposed While an Objection to Confirmation is Pending.** If a modified plan is filed after the filing of an objection to confirmation and before a plan is originally confirmed, the modified plan shall specifically list all prior objections and set forth what changes, if any, the modified plan proposes with regard to all prior objections to all prior proposed plans.

(b) **Postconfirmation Modifications.** A plan modification proposed after confirmation must be filed. In **Cincinnati** and **Columbus**, the movant shall serve the modification on the trustee and all affected parties in interest, including, where appropriate, the debtor and the case attorney. In **Dayton**, the trustee will make such service. Proof of service must be supplied pursuant to LBR 9013-3. All such proposed modifications will be treated as motions and shall conform to and be governed by LBR 9013-1 and 9013-2. Submission of proposed orders related to such motions is governed by LBR 9072-1. 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 payment of the proposed 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;

(5) If the motion to modify proposes to change the amount of each periodic payment to the plan, an amended monthly family budget; and

(6) If the motion to modify proposes to change the payment to holders of allowed unsecured claims from one hundred percent (100%), an appraisal of any real estate in which the debtor has an interest.

(7) In **Cincinnati**, a copy of the modified plan must be attached to the motion.

(c) **Modifications Proposed while a Motion to Dismiss is Pending.** If the debtor proposes a plan modification subsequent to and during the pendency of a motion to dismiss the case, in addition to the requirements set forth in (b) above, such modification must be filed and served at least seven (7) days prior to the scheduled hearing on the dismissal motion. Such modification shall not be considered a response to the dismissal motion.

(d) **Objections to Modifications.** Objections to modifications are governed by LBR 3015-3(b).

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

(f) **Modification for Suspension or Reduction of Payments to Extend Length.**

(1) **Procedure.** Any request for temporary suspension 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.

(2) **Notice and Hearing.**

(A) **Dayton and Columbus.** In **Dayton** and **Columbus** cases the motion must be served on all secured creditors, all unsecured creditors who have filed proofs of claim, and the trustee. For **Dayton** cases, notice is by the trustee under LBR 2002-1(a)(3). The motion shall be accompanied by a statement that any responsive memorandum shall be filed within twenty (20) days after the date of service and that a failure to file a response may cause the motion to be granted. Any response to the motion will be set for hearing.

(B) **Cincinnati.** An application to suspend and a proposed order shall be filed and served upon the chapter 13 trustee. A printout from the trustee's office must be attached to the application. The application must state the months of the year for which a suspension is requested and must verify from the printout that payments are up to date. In the absence of objection by the trustee, the application may be immediately granted by the court.

(3) **Certification by Movant; Order by Clerk.** In **Columbus** cases, if no response is filed to the motion, the procedure set forth in LBR 9021-1 shall be followed for entry of a form order by the clerk.

(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 for Cincinnati cases, not later than five (5) days prior to, or for Columbus and Dayton cases, not later than seven (7) days after, the first scheduled date or any rescheduled date for the meeting of creditors attended by the debtor. For cases heard in Steubenville, Zanesville, or Portsmouth, 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.** The objection to confirmation shall include:

(A) the specific number and letter section(s) of the Code upon which the objection is grounded;

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

(C) a complete legible copy of the objecting party's filed or proposed proof of claim, including all attachments;

(D) a brief memorandum in support of the objection; and

(E) a listing of all exhibits to be introduced and the names and addresses of all witnesses to be called at the confirmation hearing.

(3) **Hearing.** Counsel for all parties shall be prepared to present all witnesses, evidence and memoranda at the confirmation hearing.

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

(5) **Mootness.** In **Dayton** and **Columbus**, if a modified plan is filed after an objection to confirmation, the objection will be deemed moot and any objections to the modified plan shall be filed pursuant to the notice served with the modification or as ordered by the court in the notice of the proposed modified plan. In **Cincinnati**, such objection shall not be considered moot unless withdrawn.

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

(c) **Consent Docket.** Cases with plans which appear to the court to meet all statutory tests for confirmation and to which no objections to confirmation have been filed may be confirmed without actual presentation. Such cases may be read into the record at the confirmation hearing. It will be 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. The courtroom deputy assigned to each judge will indicate on the docket if a case has been assigned to a consent docket.

(d) **Confirmation Orders.** The trustee shall prepare the confirmation order. Any other party may submit a proposed order of confirmation at the time of the confirmation hearing. The clerk shall serve a copy of the entered confirmation order on the debtor,

the debtor's attorney, the trustee and the United States trustee.

(e) Special Confirmation and Postconfirmation Requirements.

(1) **Initial Payments.** Unless otherwise ordered by the court, a debtor shall commence making the payments proposed under the plan by payment to the trustee on or before the date first set for the §341 meeting of creditors. Such payment 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, payments must continue on a regular basis, at least monthly, from the date of the first payment until confirmation is granted or denied. All such payments will be held in trust pending confirmation. Failure to pay on time may be cause for dismissal or conversion.

(2) **Time to Perform Other Confirmation Requirements.** In **Columbus** cases, the debtor's attorney shall file all amendments, appraisals, stipulations, pleadings and other papers necessary to place the plan in a posture for confirmation at least seven (7) days prior to the confirmation hearing.

(3) **Appraisals of Real Property.** In **Dayton** and **Columbus**, unless otherwise ordered by the court, an acceptable appraisal must be filed and served on the trustee for each parcel of real property owned by the debtor when the dividend to unsecured creditors is less than 100%.

(4) **Effect of Oral Denial of Confirmation.** Unless otherwise ordered, if confirmation of a proposed plan is denied orally at the time of the confirmation hearing, the debtor shall have twenty (20) days in **Columbus** to modify the plan to cure any deficiency. If such modifications are not timely filed and served, the case will be dismissed. In **Dayton** cases, the time to act is set forth only in a written order and in **Cincinnati** such

time will be stated by the judge at the confirmation hearing.

(5) Business Records and Periodic Reports.

(A) Duty of Debtor Engaged in Business. Prior to the confirmation hearing a debtor engaged in business shall supply financial records and information as requested and within the time frame suggested 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.

(6) Insurance. Insurance shall be procured as required by any relevant security agreement or as required by state law.

3016-1 CHAPTER 11 - PLAN

The enlargement of the exclusivity period is governed by this 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.** The motion shall be accompanied by a proposed order granting the enlargement of time, which shall contain a provision that all creditors and parties in interest shall have twenty (20) days within which to file objections. Service shall be pursuant to LBR 9013-3.

3016-2 DISCLOSURE STATEMENT - GENERAL (Reserved)

3017-1 DISCLOSURE STATEMENT - APPROVAL See LBR 3017-2
(Reserved)

3017-2 DISCLOSURE STATEMENT - SMALL BUSINESS CASE
/ See also LBR 1020-1

(a) **Conditional Approval of Disclosure Statement.** If the debtor is a small business and has made a timely election to be considered a small business in a chapter 11 case pursuant to LBR 1020-1, the court may, on application of the plan proponent, conditionally approve a disclosure statement filed in accordance with Rule 3016(b). On or before conditional approval of the disclosure statement, the court shall:

(1) fix a time within which the holders of claims and interests may accept or reject the plan;

(2) fix a time for filing objections to the disclosure statement;

(3) fix a date for the hearing on final approval of the disclosure statement to be held if a timely objection is filed; and

(4) fix a date for the hearing on confirmation.

(b) **Application of Rule 3017.** Rule 3017(a), (b), (c), and (e) do not apply to a conditionally approved disclosure statement. Rule 3017(d) applies to a conditionally approved disclosure statement, except that conditional approval is considered approval of the disclosure statement for the purpose of applying Rule 3017(d).

(c) **Final Approval.**

(1) **Notice.** Notice of the time fixed for filing objections and the hearing to consider final approval of the disclosure statement shall be given in accordance with Rule 2002 and may be combined with notice of the hearing on confirmation of the plan.

(2) **Objections.** Objections to the disclosure statement shall be filed and served in accordance with LBR 9013-3 at any time before final approval of the disclosure statement or by an earlier date as the court may fix.

(3) **Hearing.** If a timely objection to the disclosure statement is filed, the court shall hold a hearing to consider final approval before or combined with the hearing on confirmation of the plan.

3018-1 **BALLOTS - VOTING ON PLANS** (Reserved) See LBR
3018-2

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 filed with the clerk and a copy returned to the attorney for the plan proponent.

(b) **Certification of Acceptances and Rejections of Chapter 11 Plans.** Prior to or at the hearing on confirmation, the plan proponent shall certify 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 original certification shall be filed with the clerk and served pursuant to LBR 9013-3. 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** (Reserved)

3020-1 **CHAPTER 11 - CONFIRMATION** See LBR 3020-2
(Reserved)

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 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. The motion shall be served pursuant to LBR 9013-3.

(c) **Procedure for Closing.** Upon the filing of a motion for a final decree, the clerk shall send to counsel for the plan proponent a notice of any fees and charges outstanding to the clerk and a statistical form to be completed to the extent the information is available. Such form shall be submitted with the proposed final decree after the notice period.

(d) **Service of Response.** A response to a motion for a final decree shall be filed and served pursuant to LBR 9013-3 and shall also be served upon the proponent of the confirmed plan and any other party that the court may designate.

(e) **Hearing.** If a response is timely filed, the court shall conduct an appropriate hearing and shall serve all parties in interest with an order resolving the objection.

3070-1 **CHAPTER 13 - PAYMENTS**
 (Reserved)

See LBR 3015-1

PART IV.

4001-1 **AUTOMATIC STAY - RELIEF FROM**

(a) **Procedure.** The movant shall file and serve a motion seeking relief from the automatic stay pursuant to LBR 9013-3. The clerk shall issue notice of any required hearing as provided in LBR 9013-3.

(b) **Parties for Service.** Parties who must be served shall include the parties set forth in LBR 9013-3(a)(1), any applicable co-debtor where relief is sought from the co-debtor stay under §1201 or §1301 of the Code, and all holders of liens or encumbrances known to the movant or scheduled by the debtor on the property concerning which relief is sought.

(c) **Notice.** The motion shall be accompanied by a statement that any responsive memorandum shall be filed within twenty (20) days from the date of service of the motion unless otherwise provided by the court, and that a failure to file a response and accompanying memorandum on a timely basis may cause the stay to be lifted.

(d) **Certification by Movant; Order by Clerk.** If no response is filed to the motion, the movant shall, twenty-five (25) days after making the motion, follow the procedure set forth in LBR 9021-1 for entry of a form order by the clerk.

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

(f) **Procedure in Reorganization Cases.** Upon the filing of a motion for relief from stay in chapters 11, 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 responsive pleading to the motion, providing that the stay shall be continued pending the hearing, and providing that the hearing will not be held should a responsive pleading not be filed.

(g) **Preliminary Hearing.** Any party may request a preliminary hearing on the motion, which request may be included in the motion or response, supported by a memorandum providing the grounds for the request. The request shall be made in writing, filed and served by the requesting party on all parties entitled to notice pursuant to LBR 9013-3. Any such request shall be filed by the later of ten (10) days after entry of the order setting the final hearing or service of the motion.

(h) **Separate Motion.** A motion for relief from stay pursuant to §362 of the Code shall be filed separately from and not combined

in the same pleading with any other request for relief except that a request in the alternative for adequate protection may be included.

(i) **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(b)(3).

4001-2 CASH COLLATERAL

See also LBR 9073-1

(a) **Motion.** Any motion or agreed order filed under Rule 4001(b) shall contain:

- (1) a description of the cash collateral to be used, sold or leased;
- (2) a description of the interest claimed by any other entity in the cash collateral;
- (3) the reasons for which the debtor seeks authorization to use, sell or lease the cash collateral;
- (4) a description of any method or proposal by which the interests of any other entity in the cash collateral may be protected; and
- (5) 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 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.

(b) **Preliminary Hearing.** If 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 or telecopier (FAX) if time does not permit written notification.

4001-3 OBTAINING CREDIT

(a) **Chapter 13 Cases.** The debtor may not incur non-emergency consumer debt in excess of five hundred dollars (\$500.00), 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 (b) 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.

(b) **Contents of Application or Motion.** Any motion filed under Rule 4001(c), including any application or motion pursuant to (a) 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 for which the debtor has the need for the credit;

(5) the terms of any financing involved, including the interest rate;

(6) a description of any method or proposal by which the interest held by any other entity in the collateral affected by the credit may be protected; and

(7) copies of all documents by which the interest of all entities in the collateral affected by the credit was created or perfected, or, if any of those documents are unavailable, the reason for the unavailability. 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.

(c) **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 or telecopier (fax) if time does not permit written notification.

4002-1 DEBTOR - DUTIES

(a) **Procedure.** The debtor shall comply promptly with all trustee requests for information whether oral or written. Not later than twenty (20) days after service of any written request on the debtor and the debtor's counsel, debtor shall serve on the trustee the information and/or documents requested; or serve on the trustee and file a written motion for a protective order, a memorandum in support and a request for a hearing.

(b) **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 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 affairs or other statements or lists required to be filed by Rule 1007, or unless the debtor is otherwise required to do so.

(c) **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 served according to LBR 9013-3.

4003-1 EXEMPTIONS

(a) **Service of Objection.** Any objection by the trustee or other party in interest to property claimed as exempt shall be served pursuant to LBR 9013-3.

(b) **Notice.** The objection shall be accompanied by a statement that any responsive memorandum to the objection shall be filed within twenty (20) days of the date of service and that a failure to respond may cause the objection to be granted.

(c) **Certification by Objecting Party; Order by Clerk.** If no response is filed to the objection, the procedure set forth in LBR 9021-1 shall be followed for entry of a form order by the clerk.

4003-2 LIEN AVOIDANCE (Reserved)

4004-1 DISCHARGE HEARINGS (Reserved)

4004-2 OBJECTIONS TO DISCHARGE

(a) **Agreement to Extend Time.** A debtor who is represented by counsel may agree with a trustee, creditor, or other party in

interest to extend the deadline for filing a complaint objecting to discharge.

(b) **Order by Clerk.** If such agreement is attached to a motion to approve agreement to extend time for filing a complaint objecting to discharge and filed with the clerk prior to the expiration of either the period prescribed by Rule 4004(a) or any prior extension thereof, the clerk may enter a form order for the court approving the agreement and extending the deadline pursuant to LBR 9021-1.

4007-1 DISCHARGEABILITY COMPLAINTS See also LBR 2083-1

(a) **Agreement to Extend Time.** A debtor who is represented by counsel and a creditor may enter into an agreement to extend the deadline for filing a complaint to determine the dischargeability of a debt.

(b) **Order by Clerk.** If such agreement is attached to a motion to approve agreement to extend time for filing a complaint to determine the dischargeability of a debt and filed with the clerk prior to the expiration of either the period prescribed by Rule 4007(c) or any prior extension thereof, the clerk may enter a form order for the court approving the agreement and extending the deadline pursuant to LBR 9021-1.

(c) **Deadline in Hardship Discharge Cases.** If a debtor requests a hardship discharge in a chapter 13 case pursuant to §1328(b) of the Code, the deadline for filing a complaint seeking to except a debt from discharge under §523(c) of the Code will expire thirty (30) days after the entry of an order by the court under Rule 4007(d).

4008-1 REAFFIRMATION (Reserved)

4070-1 INSURANCE

See also LBR 3015-3(e)

Insurance shall be procured as required by any relevant security agreement or as required by state law.

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, telephone numbers, and telecopier (fax), 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 - telephone
(513) 684-6727 - telecopier (fax)

United States Bankruptcy Court
170 North High Street
Columbus, Ohio 43215
(614) 469-6638 - telephone
(614) 469-2478 - telecopier (fax)

United States Bankruptcy Court
120 West Third Street
Dayton, Ohio 45402
(937) 225-2516 - telephone
(937) 225-2954 - telecopier (fax)

The office of the clerk is open from the hours of 9:00 a.m. to 4:00 p.m. on business days. A night box is provided for filing with the office of the clerk on any business day from 4:00 p.m. to 5:15 p.m. or when the building closes. Filings in the night box will be date stamped only with the date deposited.

5003-1 CLERK - GENERAL/AUTHORITY (Reserved)

5003-2 COURT PAPERS - REMOVAL OF (Reserved)

5003-3 CLAIMS- REGISTER (Reserved)

5005-1 FILING PAPERS - REQUIREMENTS See also LBR 1002-1,
1007-1, 9004-1

(a) **Filing with the Clerk.** Pleadings and other papers required to be filed shall be filed with the clerk. The clerk shall accept and time stamp any pleading or other paper duly presented for filing, except that the clerk may refuse to accept for filing any pleading or other paper not accompanied by the proper filing fee, unless otherwise provided by law.

(b) **Telecopied (Facsimiled) and Photocopied Pleadings or Other Papers.** Pleadings or other papers received on a court telecopier (fax) machine will not be accepted as duly presented for filing. Pleadings and other papers on "plain paper" containing electronically transmitted or photocopied signatures, including facsimile signatures, if filed with the clerk, will be accepted as original documents. The filing date of such documents shall be the

date submitted to the clerk. All copies required by the clerk must be provided by the filer and filing fees shall be tendered at the time of filing. Any such signature on a filing shall be considered for all purposes to be that of the person it purports to be and shall be considered in compliance with Rules 1008 and 9011.

5005-2 FILING PAPERS - NUMBER OF COPIES See LBR
(Reserved) 1002-1, 1007-1

5005-3 FILING PAPERS - SIZE OF PAPER (Reserved)

5005-4 ELECTRONIC FILING

This local rule will permit documents to be filed, signed, or verified by electronic means consistent with the technical standards of the Judicial Conference once such standards are published and approved by the judges of this court.

5009-1 FINAL REPORT/DECREE (Reserved)

5010-1 REOPENING CASES See also LBR 1009-1

(a) **Motion.** A motion to reopen a case shall specifically set forth the basis for the proposed reopening and shall contain information which would demonstrate that the proposed reopening is to correct an administrative error, administer assets, accord relief to the debtor, or for other cause. The movant shall pay a filing fee at the time of filing a motion to reopen, unless the movant or counsel certifies that the purpose of the reopening is to correct an administrative error or relates to the debtor's discharge.

(b) **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 party proposed to be affected.

(c) **Proposed Order.** In any chapter 7, 12 or 13 case, the proposed order shall contain blank spaces in which the court may enter its determination whether a trustee shall be appointed or reappointed.

(d) **Return of Papers.** The clerk shall return, undocketed, any pleading filed in a closed case, other than a motion to reopen, unless:

- (1) it is to correct a clerical error or errors caused by oversight or omission, or
- (2) it is to enforce a judgment or other court order, or
- (3) a reopening fee has been tendered.

5011-1 **WITHDRAWAL OF REFERENCE** (Reserved)

5011-2 **ABSTENTION** (Reserved)

5070-1 **CALENDARS AND SCHEDULING** (Reserved) See
LBR 9073-1

5071-1 **CONTINUANCE** (Reserved)

5072-1 **COURTROOM DECORUM** (Reserved) See
Form 7016-1(A)

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 the relationship, if any, to the debtor;

(E) 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 (20) 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 (20) 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 and serve pursuant to LBR 9013-3 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;

(iii) a statement of the expenses of sale; and

(iv) a certificate of service, showing service pursuant to LBR 9013-3.

(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. 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. If no objections are filed 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 filed 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. 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.

(d) **Chapter 12 and 13 Cases - Sales of Real Property.** Unless otherwise ordered by the court or authorized by (e) below, 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, if the confirmed plan did not provide for the sale, that the plan has been modified to provide for the sale, and whether the time for objection to the modification has expired; and

(J) any relationship of the buyer to the debtor.

(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 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 of the closing 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 therefor;
- (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 - Certain Sales of Real Property Simplified.** If a sale of real property occurs pursuant to a plan provision, all lienholders are to be paid in full, the debtors are not retaining any proceeds over allowable exemptions, and the plan is being paid off, the sale may occur under the procedure in (c) above.

(f) **Chapter 12 and 13 Cases - Report of Sale.** The trustee's reports of administration and final report of receipts and disbursements shall serve as the report of sale and distribution of the proceeds therefrom, in lieu of a report such as that required by (b) (2) above in chapter 7 and 11 cases.

6005-1	APPRAISERS AND AUCTIONEERS (Reserved)	See LBR 2014-1, 2016-1
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6006-1	EXECUTORY CONTRACTS (Reserved)	See LBR 3015-1(c)
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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 ten (10) days of its receipt.

(2) **Motion.** A party unable to secure an abandonment from a trustee who then proceeds pursuant to §554(b) of the Code shall, pursuant to Rule 6007(b), subject to LBR 9013-3, file a motion for abandonment.

(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 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 (2) above shall contain a certificate of service, indicating that the appropriate parties have been served, and such certificate shall be filed. Upon request and payment of any required fee, the clerk shall provide to the party proposing the abandonment a copy of the matrix or equivalent list of creditors and other parties in interest in the case. A complete matrix listing is available on PACER for all cases.

(c) **Contents of Notice.** A motion pursuant to (a)(2) above or a notice pursuant to (b)(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 counsel and the party proposing abandonment, no later than twenty (20) 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, that the notice contains the requisite information, and that the notice and subsequent abandonment are both properly filed and served by such creditor on all parties upon whom service is required. Except for abandonments executed by the trustee at the meeting of creditors, the trustee shall be served with a time-stamped copy of any abandonment filed by such creditor.

6008-1 REDEMPTION

(a) **Procedure.** A motion to redeem tangible personal property pursuant to §722 of the Code shall be served pursuant to LBR 9013-3.

(b) **Notice.** The motion shall be accompanied by a statement that any response to the motion shall be filed within twenty (20) days after the date of service and that a failure to respond may cause the motion to be granted.

(c) **Certification by Objecting Party; Order by Clerk.** If no response is filed to the motion, the procedure set forth in LBR 9021-1 shall be followed for entry of a form order by the clerk.

6070-1 TAX RETURNS AND TAX REFUNDS

(a) **Dayton Chapter 13 Cases.** Unless otherwise ordered or provided by the debtor's confirmed plan, a debtor's federal tax refund received by the trustee shall not be turned over to the debtor until the allowed claim of the Internal Revenue Service is paid by the trustee. Nothing in this rule prohibits the debtor from consenting to the trustee applying the tax refund to payment of an Internal Revenue Service claim, or from consenting to the tax refund in whole or in part being applied as payments provided for by the plan. If the case is either converted to another chapter or dismissed prior to the payment of the Internal Revenue Service claim, the trustee may return the tax refund to the Internal Revenue Service.

(b) **Cincinnati Chapter 13 Cases.** The Internal Revenue Service is authorized to setoff against any overpayment of prepetition taxes and accruals thereon any prepetition taxes and accruals thereon which would be priority taxes, without filing a motion for relief from the automatic stay under §362(d) of the Code, provided notice of the proposed setoff is given by the Internal Revenue Service to the debtor, the debtor's attorney and the trustee. In individual debtor cases, setoff is authorized for any overpayment of postpetition taxes and accruals thereon, provided notice is given. The aforementioned parties shall have twenty (20) days from the date the notice of proposed setoff is served in which to file an objection. The objection shall be filed and served on the trustee and the Internal Revenue Service. The Internal Revenue Service shall have thirty (30) days to respond to the objection and a hearing will be held on the objection promptly thereafter. If no objection to setoff is filed, the Internal Revenue Service shall, upon making the setoff, notify the debtor and the trustee.

PART VII.

7001-1 ADVERSARY PROCEEDINGS - GENERAL (Reserved)

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.

7004-1 SERVICE OF PROCESS

(a) **Service on the United States.** If Rule 7004 requires service on the United States or an officer or agency thereof, the following are the addresses, telephone numbers, and telecopier (fax) numbers of the United States Attorney General and the United States Attorney for the Southern District of Ohio, as of the effective date of these local rules:

- (1) U. S. Attorney General
Main Justice Building Room 5111
10th & Constitution Ave. N.W.
Washington, D.C. 20530
(202) 514-2001 - telephone
(202) 514-4507 - telecopier (fax)
- (2) U. S. Attorney - Columbus
Two Nationwide Plaza
4th Floor
280 North High Street
Columbus, OH 43215
(614) 469-5715 - telephone
(614) 469-5240 - telecopier (fax)

7005-2 FILING OF DISCOVERY MATERIALS

See also
LBR 7026-1

Discovery documents such as interrogatories, requests for production of documents, requests for admissions, responses to such discovery and other discovery materials shall not be filed, unless otherwise authorized by law, except in those cases where informal attempts at discovery have proved ineffective and it becomes necessary to file a motion to compel discovery under Rule 7037 or for a protective order under Rule 7026.

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

See LBR 9013-1,
9013-2, 9013-3

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

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

7016-1 PRE-TRIAL 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 counsel and parties appearing *pro se* an Order Governing Pretrial and Trial Procedures (Form 7016-1(A) attached). Each party shall complete, file and serve on all other parties its Preliminary Pretrial Statement (Form 7016-1(B) attached) within thirty (30) days of the date that order is entered.

(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.** Forms 7016-1(A) and 7016-1(B) and the instructions and procedures outlined therein are to be utilized in all adversary proceedings in this district, except where 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)

(a) **Cooperation and Consultation.** Discovery proceedings shall be promptly commenced. All counsel 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 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) **Motions Related to Discovery Procedures.** 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 counsel setting forth what extrajudicial means have been attempted to resolve the discovery dispute, including a statement that the movant has met in person with opposing counsel, or has offered in writing to meet in person with opposing counsel 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 rule shall be filed within ten (10) days of the filing of the motion for protective order or motion to compel discovery. Any reply memorandum shall be filed within five (5) 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.

(d) **Initial Disclosures.** Except as may be agreed by the parties or ordered by the court, parties are not obligated to provide the initial disclosures prescribed by Civil Rule 26(a)(1).

(f) **Joint Discovery Plan.** Parties are encouraged, but not obligated unless otherwise ordered, to meet and confer and prepare a joint discovery plan as prescribed by Civil Rule 26(f).

7040-1 ASSIGNMENT OF See also LBR 1073-1
ADVERSARY PROCEEDINGS

7052-1 FINDINGS AND CONCLUSIONS (Reserved) See
LBR 9033-1

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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. Section 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 upon 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

In addition to notice requirements of Rule 8004, the clerk shall serve notice of the filing of a notice of appeal in accordance with LBR 9013-3.

8005-1 STAY PENDING APPEAL See also LBR 8004-1

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.

8006-1 DESIGNATION OF RECORD - APPEAL (Reserved)

8007-1 COMPLETION OF RECORD - APPEAL

Any party requesting a transcript on appeal shall file a written request with the clerk of the bankruptcy court, deliver the request to the court reporter and make satisfactory arrangements

for payment of the costs immediately upon filing the designation of record on appeal. If no court reporter was present at a relevant hearing, any party may specify that the audio tape recording is the record of the hearing. If an audio tape is requested, a separate tape limited only to the relevant hearing shall be prepared by the clerk at the expense of the requesting party, and forwarded with the record as required by Rule 8007.

8007-2 TRANSMISSION OF RECORD - APPEAL (Reserved)

8007-3 DOCKETING OF APPEAL (Reserved)

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

8008-1 FILING PAPERS - APPEAL (Reserved)

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

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

8008-4 PROOF OF SERVICE OF FILED PAPERS (Reserved)
 - APPEAL

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 (Reserved)
OF DISTRICT COURT OR BAP
- 8016-2 NOTICE OF ORDER OR JUDGMENT - APPEAL (Reserved)
- 8016-3 RETURN OF RECORD ON APPEAL (Reserved)
- 8017-1 STAY PENDING APPEAL TO COURT (Reserved)
OF APPEALS
- 8018-1 LOCAL RULES OF CIRCUIT JUDICIAL
COUNCIL OR DISTRICT COURT

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, together with the electronic bulletin board 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, FED.R.BANKR.P. (Reserved)

8020-1 DAMAGES AND COSTS FOR (Reserved)
FRIVOLOUS APPEAL

8070-1 DISMISSAL OF APPEAL BY COURT (Reserved)
FOR NON-PROSECUTION

PART IX.

9001-1 DEFINITIONS

The following words used in these local rules have the meanings indicated:

- (a) "Civil Rule" means a Federal Rule of Civil Procedure.
- (b) "Clerk" means the clerk of the bankruptcy court or an authorized deputy clerk.
- (c) "Code" means title 11 of the United States Code.
- (d) "File" means file with the clerk of the bankruptcy court.
- (e) "Local Rules" or "LBR" mean these rules of the United States Bankruptcy Court for the Southern District of Ohio.
- (f) "Rule" means a Federal Rule of Bankruptcy Procedure.

9003-1 EX PARTE CONTACT (Reserved)

9004-1 PAPERS - REQUIREMENTS OF FORMS See also
LBR 5005-1, 9004-2,
9070-1, 9072-1

(a) **Legibility.** A copy of any original document permitted or required to be 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 does not copy in a readable manner, the original or a copy of the original, together with a clearly typed attached substitute, shall be filed and shall contain counsel's certification that the typed substitute contains, to the extent possible, the exact information set forth on the original document.

(b) **Paper and Form.** Pleadings and other papers shall be typewritten or printed legibly on 8 1/2" by 11" bond paper and shall be double spaced with appropriate side margins and a top margin of not less than one inch. All pleadings and other papers must copy in a readable manner. Pleadings and other papers shall be offered for filing without backing.

9004-2 CAPTION - PAPERS, GENERAL See also LBR 9004-1

The caption shall include the name of the judge to whom the case is assigned. The caption also shall contain a statement of the nature of the pleading or other paper and the relief requested or to be granted. The caption shall be phrased so that the relationship to prior pleadings or other papers, if any, is explicit. A filed pleading, other paper or proposed order shall clearly identify any other filed pleading or paper to which it relates, if any, by referencing at least one of the following: the docket number, the date of certification of service, the file stamp date or the entry date of the related document.

9006-1 TIME PERIODS (Reserved)

9009-1 FORMS See also LBR 1002-1

(a) **Official Bankruptcy Forms.** All pleadings, other papers and exhibits in a case or proceeding shall conform to the Official Bankruptcy Forms.

(b) **Chapter 13 Cases.** In Cincinnati and Dayton, sample forms are available from the chapter 13 trustee.

9010-1 ATTORNEYS - NOTICE OF APPEARANCE See also
LBR 2090-1, 2091-1

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 a "case attorney" who is admitted to practice pursuant to LBR 2090-1. For notice purposes, "case attorney" includes co-counsel and any separate counsel in jointly administered cases, but does not include counsel appointed for a special limited purpose.

9010-2 POWER OF ATTORNEY (Reserved)

9011-1 ATTORNEYS - DUTIES See LBR 9010-1
(Reserved)

9011-2 PRO SE PARTIES

(a) **Individuals.** Unless otherwise ordered by the court, a person appearing pro se shall include with his or her initial filing the person'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 person appearing *pro se*, such person shall file and serve on all parties in interest a new designation within ten (10) days from the date of such change.

(b) **Non-Individual Entities.** A corporation, partnership or entity other than an individual may not appear *pro se*. Failure to obtain court authorization for employment of counsel or substitute counsel for a corporation, partnership, or other non-individual entity debtor within a reasonable period of time may be cause for dismissal or conversion of a case.

9011-3 SANCTIONS

See also LBR 2090-2

Failure to comply with any of these local rules may result in the imposition of sanctions against any party or party's counsel appearing before the court, any person appearing without counsel, 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 non-compliance 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 court reporting fees and attorney's fees;
- (f) denial of confirmation of a chapter 11, 12 or 13 plan;

- (g) reduction of attorney's fees; and
- (h) a requirement for the completion of continuing education.

9011-4 SIGNATURES (Reserved) See LBR 5005-1 (b)

9013-1 MOTION PRACTICE

See also LBR 5005-1,
9013-2, 9013-3

(a) **Memorandum in Support, Certificate of Service and Notice.** A motion or application tendered for filing shall be accompanied by a memorandum in support and, except an *ex parte* motion or application, or a motion or application which will be noticed by the clerk, shall be accompanied by a certificate of service in accordance with LBR 9013-3. A motion or application required by these local rules to have an accompanying notice shall state in the notice that a response must be filed within twenty (20) days from the date of service as set forth on the certificate of service, if the relief sought is opposed and that the court is authorized to grant the relief requested without further notice should a timely response not be filed.

(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 and subject to Civil Rule 6(e), shall be filed within twenty (20) 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.** Subject to Civil Rule 6(e), 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. 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 Civil Rule.

(e) **Entry of Form Order by the Clerk.** Any procedure specifically so authorized by these Local Rules may result in relief being granted by a form entry by the clerk, upon certification of no response by the noticing party.

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

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. Where 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 an unreported opinion or an opinion available only through an electronic retrieval process is cited, a copy of the opinion shall be attached to the brief or memorandum and such attachment shall be an exception to the twenty (20) page limitation in (a) above. Failure to submit such attachments may be grounds for striking the pleading.

9013-3 **CERTIFICATE OF SERVICE - MOTIONS, APPLICATIONS,
PLANS AND OTHER PAPERS** See also LBR 2071-1
7004-1, 9010-1

(a) **Minimum Service Requirements.**

(1) **Required Service.** In addition to the service requirements provided in the Rules and in these Local Rules, unless the court orders otherwise, and as provided in (a) (3) below, every pleading, application, motion, or other paper or document filed, other than a proof of claim, shall be served upon the debtor, the debtor's case attorney, the trustee, the United States trustee, and each committee appointed pursuant to the Code and upon any party directly affected by the relief sought. 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).

(2) **Method of Service.** Service shall be by a method authorized or required by Rule 7004 or Civil Rule 5(b).

(3) **Certificate of Service.** Other than petitions, schedules, form documents required by the Executive Office of United States Trustee's Handbook for Chapter 7 Trustees, chapter 7 trustees' no asset or final reports, and proofs of claim governed by LBR 3001-1(a), a certificate of service shall be appended to and served with any pleading (excepting any pleading required to be served together with a summons), application, motion or other paper or document, other than a proof of claim,

tendered for filing which is required to be served under (a) (1) above. The original certificate of service shall be signed and each copy shall:

(A) identify, with specificity, the pleading or other paper served;

(B) state the date and method of service; and

(C) identify, by name and address, each entity served; and

(D) contain or refer to an accompanying notice in the form set forth in LBR 9013-1(a).

(b) **Specific Further Requirements in Chapter 13 Cases.**

**See also
LBR 2002-1**

(1) **Service of Plans or Plan Modifications on the Trustee.** Any service on the trustee of plans or modifications to plans shall be time-stamped prior to service.

(2) **Service of Plan Filed More Than Five Days After Filing of Petition.** If a plan is not filed with the petition or within five (5) days thereafter, the debtor's attorney shall serve a copy of the plan upon all parties in interest and shall file a certificate of service, except that, in Dayton, such service shall be by the trustee.

(3) **Service of Amendments to Schedules in Dayton Cases.** The trustee shall serve amendments to schedules that add creditors.

9015-1 JURY TRIAL

(a) **Applicability of Certain Federal Rules of Civil Procedure.** Civil Rules 38, 39, 47-51, and 81(c) insofar as they apply to jury trials, apply in cases and proceedings, except that

a demand made pursuant to Civil Rule 38(b) shall be filed in accordance with Rule 5005.

(b) **Consent to Have Trial Conducted by Bankruptcy Judge.** If the right to a jury trial applies and a timely demand has been filed pursuant to Civil Rule 38(b), the parties may consent to have a jury trial conducted by a bankruptcy judge under 28 U.S.C. §157(e) by jointly or separately filing a statement of consent.

9016-1 SUBPOENAS (Reserved)

9016-2 WITNESSES (Reserved)

9019-1 SETTLEMENTS AND AGREED ORDERS

Unless otherwise stated in the notice of hearing, settlements shall be telephonically reported as promptly as possible to the court's deputy clerk by the movant, applicant, plaintiff or claimant, as the case may be.

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

9020-1 CONTEMPT (Reserved)

9021-1 JUDGMENTS AND ORDERS - ENTRY OF

Pursuant to Rule 9021 and Civil Rule 58, the court has approved for entry by the clerk certain form orders in default circumstances. The procedures for such orders are as follows:

(a) **Where Response Period Has Expired.** If no response is filed to a motion or objection of a kind to which LBR 3015-2(f)(3), 4001-1(d), 4003-1(c), or 6008-1(c) refer, the party seeking relief shall, twenty-five (25) days after making the motion or objection, file a certification of proper service and lack of response.

(1) **Certification Requirements.** The certification shall include:

(A) the title of the motion or objection upon which the order is being requested;

(B) the date the motion or objection was filed;

(C) a statement that the motion or objection contained the notice required by LBR 9013-1(a) and was properly served;

(D) a statement that there was no response filed to the motion or objection; and

(E) the signature of the attorney or *pro se* party filing the certification.

(2) **Entry of Form Order by the Clerk.** Upon the filing of a certification of proper service and lack of response, the clerk may sign and enter the form order approved by the court.

(b) **No Response Period.** Upon the filing of an agreement pursuant to LBR 4004-2(b) or 4007-1(b), the clerk may sign and enter the form order approved by the court.

(c) **No Alteration of Form Order.** There shall be no substitution, modification, or supplementation of the form order without the express consent of the court.

(d) **Review by the Court.** The clerk shall refer all questionable motions, objections, applications, agreements, and certifications to the court for review.

9021-2 ORDERS - EFFECTIVE DATE (Reserved)

9022-1 JUDGMENTS AND ORDERS - NOTICE OF See LBR 9072-1
(Reserved)

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 **March 10, 1997**. 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 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 Civil Rules or Bankruptcy Rules 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 Bankruptcy Rules or Civil Rules 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 rules and shall contain the effective date of the amendment. The clerk shall post such amendments in the clerk's office in Cincinnati, Columbus and Dayton, and shall also publish the same in PACER and in a newspaper of general circulation in those same areas, and shall distribute them to any designated computerized legal research service.

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

(g) **Table of Contents and Index.** A table of contents and index can be found immediately prior to LBR 1002-1 and after LBR 9075-1 respectively.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO

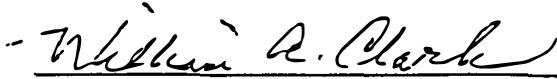
In Re:

ADOPTION OF AMENDED LOCAL BANKRUPTCY RULES OF THE
BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF OHIO

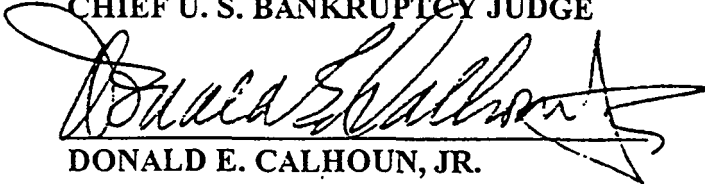
In connection with a review of the Local Bankruptcy Rules during the past year, the Bankruptcy Judges of this district have received written comments from the bar. The comments were carefully considered by an advisory rules committee of the district. Such comments indicated areas in which improvement and clarification were desirable. The attached amended rules reflect the experience of the bar practicing under the rules, comments from members of the bar, extensive work of the advisory rules committee, and views of the Bankruptcy Judges of the district. Such rules have been approved and adopted by the District Court for the Southern District of Ohio.

The Amended Local Bankruptcy Rules of the Southern District of Ohio are adopted by the Bankruptcy Judges of this district on the 26th day of February, 1997, and shall become effective on the 10th day of March, 1997.

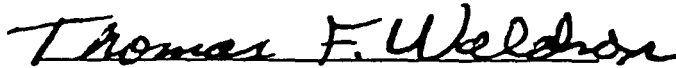
IT IS SO ORDERED.



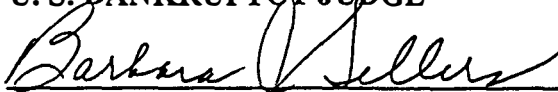
WILLIAM A. CLARK
CHIEF U. S. BANKRUPTCY JUDGE



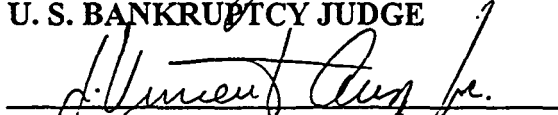
DONALD E. CALHOUN, JR.
U. S. BANKRUPTCY JUDGE



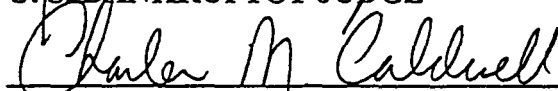
THOMAS F. WALDRON
U. S. BANKRUPTCY JUDGE



BARBARA J. SELLERS
U. S. BANKRUPTCY JUDGE



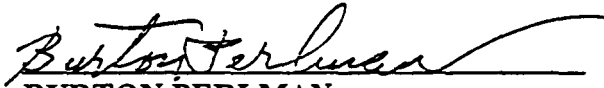
J. VINCENT AUG, JR.
U. S. BANKRUPTCY JUDGE



CHARLES M. CALDWELL
U. S. BANKRUPTCY JUDGE



JEFFERY P. HOPKINS
U. S. BANKRUPTCY JUDGE



BURTON PERLMAN
U. S. BANKRUPTCY JUDGE

9029-3 LOCAL RULES - DISTRICT COURT (Reserved)

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

(a) **Procedure for Transcript.** 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 counsel of record or any *pro se* party when the transcript has been submitted to the clerk of the district court.

(b) **Objection.** An objection shall contain:

(1) the specific findings or conclusions to which the objection is made;

(2) a brief statement of the grounds upon which any objection is founded; and

(3) a brief memorandum of law if the objection relates to a conclusion of law.

(c) **Service of Objection and Response.** Any objection or response shall be served upon all parties and their counsel of record. A certificate of such service shall be filed.

9035-1 BANKRUPTCY ADMINISTRATORS (Reserved)

9036-1 NOTICE BY ELECTRONIC TRANSMISSION (Reserved)

9070-1 EXHIBITS

(a) **General.** All exhibits shall be neatly bound and, whenever possible, reduced or folded to an 8 1/2" by 11" size. If

an exhibit is not attached to a pleading, it shall be designated by a caption and case number.

(b) Disposition of Exhibits, Models, Diagrams, Depositions and Other Materials.

(1) **Withdrawal by Counsel.** 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 pleadings in the action and, unless otherwise ordered by the court, shall be withdrawn by counsel 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 withdrawn by counsel shall be disposed of by the clerk as waste at the expiration of the withdrawal period.

9071-1 STIPULATIONS (Reserved) See LBR 3012-1(g)

9072-1 ORDERS - PROPOSED See also LBR 9004-2

(a) **Captions.** All proposed orders shall include in the caption 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 and shall include either the docket number or the date of filing, service or entry of the related documents.

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

(c) **Signature Line.** The signature line shall be identified as follows:

UNITED STATES BANKRUPTCY JUDGE

The signature line shall not appear on a continuation page which is otherwise blank or contains only the name and case number, or only the words "So Ordered", or an equivalent.

(d) **Proposed Service.** Orders prepared by a prevailing party or submitted for the court's consideration shall contain, below the bankruptcy judge's signature line, a listing of the names and addresses of all entities to receive a copy of the entered order. Such list shall include all parties served with the underlying pleading, the United States trustee, and any other entity the prevailing party believes should be served. Orders in cases in which a master service list is periodically filed with the court may, in lieu of the listing of names and addresses outlined above, 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.

(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, and except where the procedure authorized by LBR 9021-1 is being followed, 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. Where specifically authorized by LBR 9021-1, the movant shall file, within the time specified in LBR 9021-1(a), a certification of no response in the form required by LBR 9021-1(a)(1).

(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 opposing counsel's signature is encouraged by the court, but the signature of opposing counsel 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) **Requests for Expedited Hearing.** 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 an expedited hearing thereon. The motion for expedited hearing shall be by separate motion and not combined with the pleading or other paper in which the underlying relief is sought. The motion for expedited hearing shall set forth:

- (1) a description of the relief requested;
- (2) the reasons for which an expedited hearing is requested;
- (3) the identity of all parties who may be affected by the relief requested in the underlying pleading or other paper;
- (4) the method of notification of all interested parties; and
- (5) a summary of the evidence which will be presented and the authority which will be cited in support thereof.

The motion for expedited hearing shall be accompanied by a proposed form of notice and a proposed order which, if signed, will set an expedited hearing date on the underlying pleading or other paper.

(b) **Service - Expedited Hearing Request.** The requesting party shall serve a copy of the underlying pleading or other paper and written notice of the expedited hearing date on the parties set forth in LBR 9013-3(a)(1). If ordered by the court, in the event the nature of the underlying relief sought or opposed does not provide time for written notice, telephonic, telecopier (fax), and electronic notice (e-mail) may be given. A certificate of service certifying that notice has been provided, and specifying the method

by which notice was provided, shall be filed by the requesting party prior to the expedited hearing.

9074-1 TELEPHONE CONFERENCES (Reserved)

9075-1 EMERGENCY ORDERS See LBR 9073-1
(Reserved)

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Form 7016-1(A)

ORDER GOVERNING PRETRIAL AND TRIAL PROCEDURES IN
ADVERSARY PROCEEDINGS (OR PREHEARING AND HEARING
PROCEDURES IN CERTAIN CONTESTED MATTERS) AND
ORDERING PRELIMINARY PRETRIAL STATEMENT INCLUDING
INSTRUCTIONS FOR PREPARING AND FILING WITNESS AND
EXHIBIT LISTS

(A)

WITNESS LIST

(B)

EXHIBIT LIST

Form 7016-1(B)

PRELIMINARY PRETRIAL STATEMENT

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

In re: _____ Case No. \

\ SSAN: \

\ Chapter 13

Debtor\ Judge \

ORDER SUSTAINING MOTION
TO SUSPEND OR REDUCE
PAYMENTS TO CHAPTER 13 PLAN

On _____, each debtor in this case moved the Court to temporarily suspend or reduce the payments required by the chapter 13 plan previously confirmed by the Court. Each debtor has filed a certification that complies with Local Bankruptcy Rule 9021-1(a)(1), including a statement that service and notice have been made pursuant to Local Bankruptcy Rules 3015-2(f)(2) and 9013-3(a), and that no timely response has been filed.

Therefore, under the authority granted by Local Bankruptcy Rules 3015-2(f)(3), 9013-1(e) and 9021-1(a), the motion is hereby GRANTED.

IT IS SO ORDERED.

Dated: _____

Michael D. Webb, Clerk, by

_____, Deputy Clerk

FOR THE COURT

Copies to:

Debtor(s)
Debtor's(s') Attorney
Chapter 13 Trustee
U. S. Trustee

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
_____ DIVISION

In re: _____ Case No. \

\ SSAN: \

\ \

Debtor\ Chapter 7

Judge \

ORDER GRANTING MOTION FOR RELIEF
FROM THE AUTOMATIC STAY
(Creditor)

On _____ creditor _____ filed a motion seeking relief from the automatic stay imposed by 11 U.S.C. §362(a).

The movant has filed a certification that complies with Local Bankruptcy Rule 9021-1(a)(1), including a statement that service and notice have been made pursuant to Local Bankruptcy Rules 4001-1(b) and (c) and 9013-3(a) and that no timely response has been filed. Therefore, under the authority granted by Local Bankruptcy Rules 4001-1(d), 9013-1(e) and 9021-1(a), relief from the stay imposed by Section 362(a) of the Bankruptcy Code is granted.

IT IS SO ORDERED.

Dated: _____

Michael D. Webb, Clerk, by

_____, Deputy Clerk

FOR THE COURT

Copies to:

Movant
Debtor(s)
Debtor's(s') Attorney
Trustee
U. S. Trustee
(any other party required by LBR 9013-3(a))

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
_____ DIVISION

In re: _____ Case No. \

\ SSAN: \

\ Chapter \

Debtor\ Judge \

ORDER SUSTAINING OBJECTION TO
CLAIM OF EXEMPTION

On _____ the Trustee (or other party-in-interest) objected to an exemption claimed by a debtor in this case. The Trustee (or other party-in-interest) has filed a certification which complies with Local Bankruptcy Rule 9021-1(a)(1), including a statement that service and notice have been made pursuant to Local Bankruptcy Rules 4003-1(a) and (b) and 9013-3(a) and that no timely response has been filed.

Therefore, under the authority granted by Local Bankruptcy Rules 4003-1(c), 9013-1(e) and 9021-1(a), the objection is sustained and the exemption is disallowed to the extent set forth in the objection.

IT IS SO ORDERED.

Dated: _____

Michael D. Webb, Clerk, by

_____, Deputy Clerk

FOR THE COURT

Copies to:

Trustee
Debtor(s)
Debtor's(s') Attorney
U. S. Trustee
(Official Committee where applicable)
(any other party required by LBR 9013-3(a))

Form 4004-2(b)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
_____ DIVISION

In re: _____ Case No. \

\ SSAN: \

\ Chapter \

Debtor\ Judge \

ORDER APPROVING AGREEMENT TO EXTEND TIME FOR
FILING COMPLAINT UNDER 11 U.S.C. §727(a)

A motion has been filed seeking approval of an agreement to extend the time for creditor _____ (or the trustee) to file a complaint objecting to the issuance of a discharge.

The parties represent in the motion that the agreement is attached thereto and that the motion was filed prior to the expiration of the period prescribed by Bankruptcy Rule 4004(a) or any prior extension thereof. Further, each debtor is represented by counsel.

Therefore, under the authority granted by Local Bankruptcy Rules 4004-2(b), 9013-1(e) and 9021-1(b), the agreement is hereby approved.

IT IS SO ORDERED.

Dated: _____

Michael D. Webb, Clerk, by

_____, Deputy Clerk

FOR THE COURT

Copies to:

All parties to the agreement
Trustee
U. S. Trustee

Form 4007-1(b)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
_____ DIVISION

In re: _____ Case No. \

\ SSAN: \

\ Chapter \

Debtor\ Judge \

ORDER APPROVING AGREEMENT TO EXTEND TIME
FOR FILING COMPLAINT UNDER 11 U.S.C. §523(c)

A motion has been filed seeking approval of an agreement to extend the time for creditor _____ to file a complaint seeking to except a specific debt from discharge.

The parties represent in the motion that the agreement is attached thereto and that the motion was filed prior to the expiration of the period prescribed by Bankruptcy Rule 4007(c) or any prior extension thereof. Further, each debtor is represented by counsel.

Therefore, under the authority granted by Local Bankruptcy Rules 4007-1(b), 9013-1(e) and 9021-1(b), the agreement is hereby approved.

IT IS SO ORDERED.

Dated: _____

Michael D. Webb, Clerk, by

_____, Deputy Clerk

FOR THE COURT

Copies to:

All parties to the agreement

Trustee

U. S. Trustee

(any applicable committee or other party required by LBR 9013-3(a))

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
_____ DIVISION

In re: _____ Case No. \

\ SSAN: \

\ Chapter 7

Debtor\ Judge \

ORDER GRANTING MOTION TO REDEEM
TANGIBLE PERSONAL PROPERTY

A motion seeking to redeem certain tangible personal property secured by a lien in favor of _____ has been filed in this case.

Each debtor has filed a certification that complies with Local Bankruptcy Rule 9021-1'(a)(1), including a statement that service and notice have been made pursuant to Local Bankruptcy Rules 6008-1(a) and (b) and 9013-3(a) and that no timely response has been filed.

Therefore, under the authority granted by Local Bankruptcy Rules 6008-1(c), 9013-1(e) and 9021-1(a), the motion to redeem is granted.

IT IS SO ORDERED.

Dated: _____

Michael D. Webb, Clerk, by

_____, Deputy Clerk

FOR THE COURT

Copies to:

Debtor(s)
Debtor's(s') Attorney
Creditor
Trustee
U. S. Trustee
(any other party required by LBR 9013-3(a))

Form 7016-1(A)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
_____ DIVISION

In re: Case No. \ _____

\
\

Debtor(s)

Chapter \
Judge _____

\
\

Plaintiff(s)
(or Movant)

Adv. Pro. No. \ _____

vs.

\
\

Defendant(s)
(or Respondent)

ORDER GOVERNING PRETRIAL AND TRIAL PROCEDURES
IN ADVERSARY PROCEEDINGS (OR PREHEARING AND
HEARING PROCEDURES IN CERTAIN CONTESTED MATTERS)
AND ORDERING PRELIMINARY PRETRIAL STATEMENT

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 attached forms, includes the case attorney and any other 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 attached forms or exact reproductions of the attached forms.

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.

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 file the attached Preliminary Pretrial Statement no later than thirty (30) days after entry of this Order. 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 Civil Rule 7016(c), 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 where 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

Form 7016-1(A)

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 attached instructions govern the preparation and filing of witness and exhibit lists in this case or proceeding.

Form 7016-1(A)

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:

\Attorney for Plaintiff

\Attorney for Defendant

Office of the U. S. Trustee

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
_____ DIVISION

INSTRUCTIONS FOR PREPARING AND FILING
WITNESS AND EXHIBIT LISTS

Witness Lists (See Form A attached)

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 upon 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.

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

Form 7016-1(A)

Exhibit Lists (See Form B attached)

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.

Form 7016-1(B)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
_____ DIVISION

In re: Case No. _____

\
\

Debtor(s)

Chapter \
Judge _____

\
\

Plaintiff(s)
(or Movant)

Adv. Pro. No. _____

vs.

\
\

Defendant(s)
(or Respondent)

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/is not disputed and is invoked under _____.
- C. Venue of this Court is/is not proper.
- D. This action is a core/non-core proceeding.
- E. If a non-core proceeding is alleged, consent is/is not given for the bankruptcy judge to enter final orders and judgments.
- F. If this is a core proceeding, such allegation is based upon 28 U.S.C. §157(b)(2)(_____).
- 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 _____
(name of party)
is entitled to judgment because _____.

Form 7016-1(B)

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.

VI. Discovery:

Discovery has/has not been completed by the parties.

Form 7016-1(B)

The following discovery is contemplated in this case:

_____.

Discovery for _____ will be completed
(name of party)

on or before _____.

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

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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. Estimated Trial Time - Counsel estimates that the trial time necessary for case in chief will be _____ day(s)\ _____ hour(s).

D. 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

Trial Attorney (if pretrial
statement is a joint statement)

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 _____, 19____.

Case Attorney for _____

JOINT FILING CERTIFICATION

The above preliminary pretrial statement is submitted jointly by the following parties:

Case Attorney for _____

Case Attorney for _____

