LOCAL RULES

FOR

THE UNITED STATES BANKRUPTCY COURT

DISTRICT OF DELAWARE

(Effective February 1, ~~2017~~2018)

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Order issued by the Court or any chambers procedures of any Judge of the Court. They shall govern all cases or proceedings filed after their effective date. They shall also apply to all proceedings pending on the effective date, except to the extent that the Court finds they would not be feasible or would work injustice.

(f) Relationship to District Court Rules. Except as otherwise provided in the local rules for the District Court (the "District Court Rules") with respect to bankruptcy appeals, the District Court Rules shall apply to all filings ~~in~~to be determined by the District Court, whether initially filed in the District Court or the Bankruptcy Court, including, but not limited to, any briefing in connection with any motion to withdraw the reference from the Bankruptcy Court of a matter or proceeding. For the avoidance of doubt, however, the District Court's standing order dated October 2, 2014, requiring that all electronic filings be submitted by 6:00 p.m. Eastern Time will not apply to filings that are made in the Bankruptcy Court.

Rule 1007-1 Lists, Schedules and Statements.

(a) Required Lists, Schedules and Statements. Required lists, schedules and statements of financial affairs shall be filed in accordance with the Fed. R. Bankr. P., the Code and these Local Rules and shall be in compliance with the appropriate Official Form and Local Forms, if any. The Clerk's Office Procedures should be consulted for a list of such requirements. If a filing party wishes to redact or omit information required by any Official Bankruptcy Form, such party must file a motion seeking approval to do so on or before the date the subject form is filed.

(b) Time for Filing Schedules and Statement of Financial Affairs in a Voluntary Chapter 11 Case. In a voluntary chapter 11 case, if the bankruptcy petition is accompanied by a list of all the debtor's creditors and their addresses, in accordance with Local Rule 1007-2, and if the total number of creditors in the debtor's case (or, in the case of jointly administered cases, the debtors' cases) exceeds 200, the time within which the debtor shall file its Schedules and Statement of Financial Affairs required under the Fed. R. Bankr. P. shall be extended to ~~thirty~~twenty-eight (~~30~~28) days from the petition date. Any further extension shall be granted, for cause, only upon filing of a motion by the debtor on notice in accordance with these Local Rules.

(c) Filing of Schedules in Jointly Administered Chapter 11 Cases. Notwithstanding any order jointly administering related cases, Schedules and Statements of Financial Affairs and any amendments thereto shall be filed for each debtor and docketed in that debtor's case, as well as in the main case. The statistical information requested by CM/ECF upon docketing shall be filled out for each separate debtor.

Certificate of Service attached, indicating the name and complete address of each party served;

(iii) Maintain copies of all proofs of claims and proofs of interest filed in the case;

(iv) Maintain the official claims register and record all Transfers of Claims and make changes to the creditor matrix after the objection period has expired. The claims clerk shall also record any order entered by the Court ~~which~~that may affect the claim by making a notation on the claims register and monitor the Court's docket for any claims related pleading filed and make necessary notations on the claims register. No claim or claim information should be deleted for any reason;

(v) Maintain a separate claims register and separate creditor mailing matrix for each debtor in jointly administered cases;

(vi) File a quarterly updated claims register with the Court in alphabetical and numerical order. If there has been no claims activity, the claims clerk may file a Certification of No Claim Activity;

(vii) Maintain an up-to-date mailing list of all creditors and all entities who have filed proofs of claim or interest and/or request for notices for each case and provide such list to the Court or any interested party upon request (within forty-eight (48) hours);

(viii) Allow public access to claims and the claims register at no charge. The complete proof of claim and any attachment thereto shall be viewable and accessible by the public, subject to Local Rule 9037-1;

(ix) Within fourteen (14) days of entry of an Order dismissing a case or within ~~thirty~~twenty-eight (~~30~~28) days of entry of a Final Decree, (a) forward to the Clerk an electronic version of all imaged claims~~;~~, (b) upload the creditor mailing list into CM/ECF and (c) docket a Final Claims Register. If a case has jointly-administered entities, one combined register shall be docketed in the lead case containing claims of all cases. The claims agent shall further box and transport all original claims

completed SF-135 Form indicating the accession and location numbers of the archived claims.

(g) Cases with Less Than 200 Creditors.

(i) In cases with less than 200 creditors and no claims agent retained under 28 U.S.C. § 156(c), the Clerk shall serve as the notice agent and the Debtor shall provide the Clerk with a complete, accurate and up-to-date creditor matrix in accordance with the time set forth in Fed. R. Bankr. P. 1007.

(ii) The Debtor, within fourteen (14) days of entry of an Order converting a case or within ~~thirty~~twenty-eight (~~30~~28) days of entry of a Final Decree, shall provide an updated creditor matrix.

(h) Chapter 15 Cases. Unless otherwise ordered by the Court, the foreign representative shall be responsible for (i) the notice requirements under Fed. R. Bankr. P. 2002(q) and (ii) any applicable duties enumerated in Local Rule 2002-1(f).

(d) Service Requirements. In lieu of any other rules of service that generally apply, all motions for or notices of examination or production of documents shall be served upon the following parties, through their counsel, if represented: (i) the debtor; (ii) the trustee; (iii) the United States Trustee; (iv) all official committees; and (v) the proposed examinee or party producing documents. All such motions shall be accompanied by a notice of motion setting forth (A) an objection, response or answer deadline not less than seven (7) days from service of the motion or notice and (B) if a motion is filed, the date, time and place of the hearing that is no less than ~~ten~~fourteen (~~10~~14) days from service of the motion. Such objection, response or answer deadline shall be no less than seventy-two (72) hours prior to such hearing.

(e) For the avoidance of doubt, consensual discovery can be conducted by agreement and not under the provisions of Fed. R. Bankr. P. 2004 or this Local Rule, as applicable.

(A) Proofs of claim shall be in a binder and separated by tabs;

(B) Proofs of claim shall be in the order as listed in the exhibit(s), with additional tabs indicating to which exhibit the claims relate; and

(C) At least fourteen (14) days before the hearing on the Objection, a Notice of Submission of Proofs of Claim is to be filed and delivered to the respective Judge's chambers with copies of the claims (with all attachments) along with the Objection to those claims. The Notice of Submission of Proofs of Claim stating that the claims have been delivered to chambers and that copies can be requested from objector's counsel shall be served upon all parties requesting notice under Fed. R. Bankr. P. 2002.

(v) Notice of Objection to Claim Holder. Each claim holder whose rights are affected by an Objection shall receive a "Notice of Objection to Claim" that shall conform to Local Form 113 or a copy of the Objection.

(f) Requirements Relating to Substantive Objections.

(i) As authorized by Fed. R. Bankr. P. 3007(c), the Court hereby orders that an Objection which is based on substantive grounds may contain more than one but no more than 150 claims~~, unless the Court orders otherwise.~~

and that no ~~(ii) No~~ more than two substantive Objections may be filed with the Court each calendar month~~, unless the Court orders otherwise~~.

(ii) Leave from the requirements of subsection (f)(i) of this Local Rule may be sought, for cause, by separate motion filed and heard prior to the filing of an Objection not in compliance with subsection (f)(i) of this Local Rule.

(iii) An Objection based on incorrect classification of a claim, shall:

~~(iii) An Objection based on substantive grounds, other than incorrect classification of a claim, shall include all substantive objections to such claim. All Objections based on incorrect classification of a claim shall~~A) provide in the title (or otherwise conspicuously state) that substantive rights may be affected by this Objection and by any further Objection that may be filed; and ~~shall otherwise comply with these Local Rules other than (i) and (ii) above.~~

(B) otherwise comply with these Local Rules other than subsection (f)(i) above.

(iv) Fed. R. Bankr. P. 7015 shall apply to any substantive Objection and upon the filing of a response to such substantive Objection, the objector may only amend such Objection upon leave of court or written consent of the claimant; provided, however, that if an Objection to a particular claim is determined to be substantive under Local Rule 3007-1(d)(vi) or the claimant filed a response to an Objection made under Local Rule 3007-1(d)(vi) and the response included supporting documentation or information, then the Objection may be amended without written consent or leave of Court.

(v) The Court will not consider any substantive Objection to personal injury or wrongful death claims that would be in violation of 28 U.S.C. § 157(b)(2)(B).

(g) *Pro ~~Se~~se*. Any claimant may participate *pro se* (and telephonically) at a hearing on an Objection to his or her claim by following the telephonic appearance procedures located on the Court's website.

(h) Responses and Replies to Objection.

(i) Response Deadline. Any response to an ~~omnibus objection~~Objection shall be due no later than seven (7) days before the hearing date. See also Del. Bankr. L.R. 9006-1.

(ii) Reply. Reply papers may be filed and, if filed, shall be served so as to be received by 4:00 p.m. prevailing Eastern Time the day prior to the

Rule 3017-3 Disclosure Statement & Confirmation Briefs and Memoranda. In all chapter 11 cases, without leave of the Court, no objection to approval of a disclosure statement or confirmation of a plan shall exceed forty (40) pages (exclusive of any tables, exhibits, addenda or other supporting materials) and no brief in support of approval of a disclosure statement or confirmation of a plan (which brief shall include any written replies to any objections) shall exceed sixty (60) pages (exclusive of any tables, exhibits, addenda or other supporting materials).

PART IV. THE DEBTOR: DUTIES AND BENEFITS

Rule 4001-1 Procedure on Request for Relief from the Automatic Stay of 11 U.S.C. § 362(a).

(a) Service. Upon the filing of a motion seeking relief from the automatic stay under 11 U.S.C. § 362, the movant shall file and serve a notice of hearing substantially in compliance with Local Form 106A. In chapter 11 cases, an individual seeking relief from the automatic stay to pursue a personal injury or wrongful death action shall serve counsel for the debtor or trustee, counsel for all official committees, counsel for the Debtor-in-Possession financing lenders and any other party directly affected by the motion. In all other cases, the motion shall be served on counsel for the debtor, counsel for all official committees, any trustee, all parties requesting notices and all known parties having an interest in the subject property or relief requested.

(b) Scheduling. In all chapter 11 and chapter 15 cases, the movant shall obtain a hearing date from chambers in advance of filing and serving the motion and notice of motion; provided, however, that in any cases where omnibus hearing dates have been scheduled by the Court, the movant may notice its motion for the earliest omnibus hearing date that provides sufficient notice in accordance with Local Rule 9006-1(c). If the hearing date noticed by the movant is not within ~~thirty~~twenty-eight (~~30~~28) days of the filing of the motion, the movant is deemed to have consented to the stay remaining in effect until such time as the motion can be heard. If the movant consents to a continuance of the hearing on the motion, then the movant is deemed to consent to the stay remaining in effect until the adjourned hearing date on the motion. In all chapter 7 and chapter 13 cases, the movant shall obtain a hearing date from the Court's website in advance of filing and serving its motion and notice of motion.

(c) Supporting Documentation. With respect to a motion for relief from stay where the movant is seeking to foreclose on its collateral:

(i) The movant shall file the following documents with the motion:

Rule 4003-1 Exemptions.

(a) Amendment to Claim of Exemptions. An amendment to a claim of exemptions under Fed. R. Bankr. P. 1009 and 4003 shall be filed and served by the debtor on the trustee, the United States Trustee and all creditors.

(b) Automatic Extension of Time to File Objections to Claim of Exemptions in Event of Amendment to Schedules to Add a Creditor. If the schedules are amended to add a creditor, and the amendment is filed and served either (i) less than ~~thirty~~twenty-eight (~~30~~28) days prior to the expiration of the time set forth in Fed. R. Bankr. P. 4003(b) for the filing of objections to the list of property claimed as exempt or (ii) at any time after such filing deadline, the added creditor shall have ~~thirty~~twenty-eight (~~30~~28) days from service of the amendment to file objections to the list of property claimed as exempt.

Rule 4004-1 Automatic Extension of Time to File Complaint Objecting to Discharge in Event of Amendment. If the schedules are amended to add a creditor, and the amendment is filed and served either (a) less than sixty (60) days prior to the expiration of the time set forth in Fed. R. Bankr. P. 4004(a) for the filing of a complaint objecting to discharge or (b) at any time after such filing deadline, the added creditor shall have sixty (60) days from service of the amendment to file a complaint objecting to discharge. In addition, if the section 341 meeting of creditors is continued or rescheduled, the time to file a complaint objecting to discharge shall be the later of the original deadline or ~~thirty~~twenty-eight (~~30~~28) days after the ~~S~~section 341 meeting is concluded. Such circumstances shall be deemed to be "cause" for an extension and no motion to extend shall be necessary.

Rule 4007-1 Automatic Extension of Time to File Complaint to Determine Dischargeability of a Debt in Event of Amendment. If the schedules are amended to add a creditor and the amendment is filed and served either (a) less than sixty (60) days prior to the expiration of the time set forth in Fed. R. Bankr. P. 4007 for the filing of a complaint to obtain a determination of the dischargeability of any debt or (b) at any time after such filing deadline, the added creditor shall have sixty (60) days from service of the amendment to file a complaint objecting to the dischargeability of its claim. In addition, if the section 341 meeting of creditors is continued or rescheduled, the time to file a complaint objecting to the dischargeability of a debt shall be the later of the original deadline or ~~thirty~~twenty-eight (~~30~~28) days after the ~~S~~section 341 meeting is concluded. Such circumstances shall be deemed to be "cause" for an extension and no motion to extend shall be necessary.

Rule 5009-2 Closing of Chapter 15 Cases.

(a) Motion. Upon written motion, a foreign representative in a proceeding recognized under ~~§~~section 1517 of the Code, may seek the entry of a final decree when the purpose of the representative's appearance in the Court is completed. Such motion shall describe the nature and results of the representative's activities in the Court and shall include a final decree order that (i) orders the closing of the case and (ii) identifies in the caption and in the body of the order the case name and the case number of each case to be closed under the order.

(b) Service and Objection. A motion for entry of a final decree shall be served upon (i) the debtor, (ii) the United States Trustee, (iii) all creditors who have filed a request for notice under Fed. R. Bankr. P. 2002 and Local Rule 9013-1 (iv) all persons or bodies authorized to administer foreign proceedings of the debtor, (v) all parties to litigation pending in the United States in which the debtor was a party at the time of the filing of the petition~~,~~ and (vi) such other entities as the Court may direct. The foreign representative shall file a certificate of service with the Court that notice has been given. If no objection has been filed by the United States Trustee or a party in interest within ~~30~~twenty-eight (28) days after the ~~certificate is filed~~date of service, there shall be a presumption that the case has been fully administered and the Court may close the case.

Rule 5011-1 Motions for Withdrawal of Reference from Bankruptcy Court. A motion to withdraw the reference of a matter or proceeding shall be filed with the Clerk. The Clerk shall transmit such motion to the Clerk of the District Court for disposition by the District Court. ~~The movant shall concurrently file with the Clerk a motion for a determination by the Bankruptcy Court with respect to whether the proceeding is one over which the Bankruptcy Court has the authority to enter final orders and judgments.~~

PART VII. ADVERSARY PROCEEDINGS

Rule 7001-1 Scope of Rules – Adversary Proceedings

(a) Deviation From Rules Governing Adversary Proceedings.

(i) Any party seeking relief that deviates in any manner from, or proposes additional obligations or procedures set forth in, the Federal Rules of Civil Procedure, the Fed. R. of Bankr. P., the District Court Rules, or the Local Rules governing Adversary Proceedings (the "Rules Governing Adversary Proceedings"), except a motion limited to a request for additional time to affect service of process under the applicable Rules, shall file a motion identifying with specificity the following:

(A) Each instance in which the relief sought by and through such motion deviates from, or seeks procedures or obligations in addition to, any of the Rules Governing Adversary Proceedings; and

(B) The good faith reason(s) the movant seeks to deviate from, or seeks procedures or obligations in addition to, such Rules Governing Adversary Proceedings.

(ii) Any motion for relief brought pursuant to this Local Rule by the party initiating an adversary proceeding shall be served on all parties to the adversary proceeding in accordance with the service requirements of these Local Rules and the Federal Rules of Bankruptcy Procedure, and shall not include an objection deadline earlier than the date by which the party is required to answer, move or otherwise respond to the complaint.

(iii) Any motion brought pursuant to this Local Rule shall be scheduled to be heard by the Court no earlier than the initial scheduling conference for the affected adversary proceeding. (See also Del. Bankr. L.R. 7016-1)

(iv) Any relief sought in a motion brought pursuant to this Local Rule which is granted by the Court shall apply only to the specific adversary proceeding(s) in which the motion is filed.

Rule 7008-1 Statement in Pleadings Regarding Consent to Entry of Order or Judgment in ~~Core~~Adversary Proceeding. ~~In an adversary proceeding before the Court, in addition to statements required by Rule 7008(a) of the Federal Rules of Bankruptcy Procedure, the complaint, counterclaim, cross-claim, and third-party complaint shall contain a statement that the pleader~~Reference is made to the requirement of Fed. R. Bankr. P. 7008 that a pleader state whether the party does or does not consent to the entry of final orders or judgments by the Court ~~if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution~~. If no such statement is included, unless otherwise ordered by the Court, the pleader shall have waived the right to contest the authority of the Court to enter final orders or judgments.

Rule 7012-1 Statement in Answer, Motion or Response Thereto Regarding Consent to Entry of Order or Judgment in ~~Core~~Adversary Proceeding. ~~In addition to statements required by Rule 7012(b) of the Federal Rules of Bankruptcy Procedure, any answer, motion or response shall contain a statement that the filing~~Reference is made to the requirement of Fed. R. Bankr. P. 7012(b) that a filing party state whether the party does or does not consent to the entry of final orders or judgments by the Court ~~if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution~~. If no such statement is included ~~in the answer, motion or response thereto~~, unless otherwise ordered by the Court, the filing party shall have waived the right to contest the authority of the Court to enter final orders or judgments.

Rule 7012-2 Extension of Time to Plead or File Motion. The deadline to plead or move in response to a complaint or other pleading in an adversary proceeding may be extended for a period of up to ~~thirty~~twenty-eight (~~30~~28) days by stipulation of the parties docketed with the Court or, for a longer period of time, by order of the Court. Any motion for extension of time to plead or move in response to a complaint or other pleading in an adversary proceeding or a stipulation seeking entry of an order approving such an extension must be filed with the Court prior to the expiration of the deadline to be extended. Any deadline extended pursuant to this section shall not affect any other deadlines set forth in any Scheduling Order entered by the Court.

Rule 7016-1 Fed. R. Civ. P. 16 Scheduling Conference. In any adversary proceeding, the pretrial conference scheduled in the summons and notice issued under Local Rule 7004-2 shall be deemed to be the scheduling conference under Fed. R. Civ. P. 16(b).

~~(a) Attorney Conference Prior to Scheduling Conference.~~

(~~1~~a) Attorney Conference Prior to Scheduling Conference. All attorneys for all the parties shall confer at least seven (7) days prior to the Fed. R. Civ. P. 16(b) scheduling conference to discuss: ~~(A) the nature of the case,~~

(i) The nature of the case;

(~~B) any~~ii) Any special difficulties that counsel foresee in prosecution or defense of the case~~, (C) the possibility of settlement,~~;

(iii) The possibility of settlement;

(~~D) any~~iv) Any requests for modification of the time for the mandatory disclosure required by Fed. R. Civ. P. 16(b) and 26(f); and

(~~E) the~~v) The items in Local Rule 7016-1(b).

(b) Scheduling Conference. At the Fed. R. Civ. P. 16(b) scheduling conference, the Court may consider, in addition to the items specified in Fed. R. Civ. P. 16(b) and 16(c), the following matters:

(i) The schedule applicable to the case, including a trial date, if appropriate;

(ii) The number of interrogatories and requests for admissions to be allowed by any party and the number and location of depositions;

(iii) How discovery disputes are to be resolved;

(iv) The briefing practices to be employed in the case, including what matters are or are not to be briefed and the length of briefs;

(v) The possibility of settlement;~~ and~~

(vi) Whether the matter could be resolved by voluntary mediation or binding arbitration~~.~~; and

(vii) Timing and procedures for any party's motion for relief contemplated by Fed. R. Bankr. P. 7016(b).

(c) Attendance at Scheduling Conference. Unless otherwise permitted by the Court under Local Rule 7016-3, the conference described in Local Rule 7016-1(b) will be an in-person conference. All counsel who expect to have a significant role in the prosecution or defense of the case are required to attend the conference.

(d) Written Discovery Plan and Scheduling Order. Unless otherwise ordered by the Court, the parties are not required to file a written discovery plan as provided under Fed. R. Civ. P. 26(f). Plaintiff shall file a proposed scheduling order by no later than three (3) days prior to the conference described in L.R. 7016-1(b). Any other party may file a proposed scheduling order by no later than one (1) day before such conference.

(e) Omnibus Procedures or Scheduling Orders. A motion for entry of an omnibus procedures or scheduling order in multiple adversary proceedings will not be considered by the Court prior to the date of the conference described in L.R. 7016-1(b), absent a showing of good cause.

(f) Notification of Intent to File Fed. R. Bankr. P. 7016(b) Motion. Any party that has not either (i) consented to (including through such party's statement made pursuant to Fed. R. Bankr. P. 7008, 7012(b), 9027(a)(1) or 9027(e)(3) or (ii) waived its right to contest (including pursuant to Local Rules 7008-1, 7012-1 or 9027-1)) the authority of the Court to enter final orders or judgments shall to the extent reasonably practicable notify the Court at the conference described in L.R. 7016-1(b) of such party's intent to file a motion as contemplated by Fed. R. Bankr. P. 7016-1(b) and the relief the party intends to seek.

Rule 7016-2 **Pretrial Conference**. A pretrial conference shall be held if scheduled in a scheduling order issued under Local Rule 7016-1(b) (the "Scheduling Order") or if requested by a party under this Local Rule.

(a) Request for Pretrial Conference. Any party may request that a pretrial conference be held following the completion of discovery, as provided in the Scheduling Order, by contacting the Court. At least fourteen (14) days' notice of the time and place of such pretrial conference shall be given to all other parties in interest by the attorney for the party requesting the pretrial conference.

(b) Failure to Appear at Pretrial Conference or to Cooperate. Unless otherwise permitted by the Court under Local Rule 7016-3, all counsel who will conduct the trial are required to appear before the Court for the pretrial conference. Should an attorney for a party fail to appear or to cooperate in the preparation of the pretrial order specified in Local Rule 7016-2(d), the Court, in its discretion, may impose sanctions, such as costs and fines. The Court may further hold a pretrial hearing, ex parte or otherwise, and, after notice, enter an appropriate judgment or order.

(c) Attorney Conference Prior to Pretrial Conference. The parties shall meet and confer in good faith so that the plaintiff may file the pretrial order in conformity with this Rule.

(d) Pretrial Order. At least seven (7) days prior to the final pretrial conference, the attorney for the plaintiff shall file with the Court an original and one (1) copy of a proposed pretrial order, signed by an attorney for each party, that covers the following items, as appropriate:

(i) A statement of the nature of the action, the pleadings in which the issues are raised (e.g., third amended complaint and answer) and whether counterclaims, crossclaims, etc., are involved;

(ii) The constitutional or statutory basis of federal jurisdiction, together with a brief statement of the facts supporting such jurisdiction;

(iii) Whether the ~~bankruptcy court has adjudicatory authority to render final orders and judgments in the proceeding, either on the basis of the nature of~~

~~the claims or through consent of the parties;~~proposed order addresses the subject matters required to be addressed by Fed. R. Bankr. P. 7016(b);

(iv) A statement of the facts that are admitted and that require no proof;

(v) A statement of the issues of fact that any party contends remain to be litigated;

(vi) A statement of the issues of law that any party contends remain to be litigated, and a citation of authorities relied upon by each party;

(vii) A list of premarked exhibits, including designations of interrogatories and answers thereto, requests for admissions and responses, and depositions that each party intends to offer at trial, with a specification of those that may be admitted into evidence without objection, those to which there are objections and the Federal Rule of Evidence relied upon by the proponent of the exhibit. Copies of the exhibits, premarked and separated by tabs, shall be furnished to opposing counsel and submitted to the respective Judge's chambers in binders at least seven (7) days before the pretrial conference or trial (if no pretrial is requested). Copies of the exhibits should not be electronically filed with the Court;

(viii) The names of all witnesses a party intends to call to testify, either in person or by deposition, at the trial and the specialties of experts to be called as witnesses;

(ix) A brief statement of what the plaintiff intends to prove in support of the plaintiff's claims, including the details of the damages claimed or of other relief sought;

(x) A brief statement of what the defendant intends to prove as defenses;

(xi) Statements by counterclaimants or crossclaimants comparable to that required of the plaintiff;

(ii) Electronic searches of documents identified as of limited accessibility shall not be conducted until the initial electronic document search has been completed. Requests for information expected to be found in limited accessibility documents must be narrowly focused with some basis in fact supporting the request.

(iii) On-site inspections of electronic media under Fed. R. Civ. P. 34(b) shall not be permitted absent exceptional circumstances, where good cause and specific need have been demonstrated.

(e) Search Methodology. If the parties intend to employ an electronic search to locate relevant electronic documents, the parties shall disclose any restrictions as to scope and method which might affect their ability to conduct a complete electronic search of the electronic documents. The parties shall confer and in good faith attempt to reach agreement as to the method of searching, and the words, terms, and phrases to be searched with the assistance of the respective e-discovery liaisons, who are charged with familiarity with the parties' respective systems. The parties also shall confer and in good faith attempt to reach agreement as to the timing and conditions of any additional searches which may become necessary in the normal course of discovery. To minimize the expense, the parties may consider limiting the scope of the electronic search (e.g., time frames, fields, document types).

(f) Format. If the parties cannot agree to the format for document production, electronic documents shall be produced to the requesting party as image files (e.g., PDF or TIFF). When the image file is produced, the producing party must preserve the integrity of the electronic document's contents, i.e., the original formatting of the document, its metadata and, where applicable, its revision history. After initial production in image file format is complete, a party must demonstrate particularized need for production of electronic documents in their native format.

(g) Retention. Within the first ~~thirty~~twenty-eight (~~30~~28) days of discovery, the parties should work towards an agreement (akin to the standard protective order) that outlines the steps each party shall take to segregate and preserve the integrity of all relevant electronic documents. In order to avoid later accusations of spoliation, a Fed. R. Civ. P.

30 (b)(6) deposition of each party's retention coordinator may be appropriate. The retention coordinators shall:

(i) Take steps to ensure that email of identified custodians shall not be permanently deleted in the ordinary course of business and that electronic documents maintained by the individual custodians shall not be altered; and

(ii) Provide notice as to the criteria used for spam and/or virus filtering of email and attachments; emails and attachments filtered out by such systems shall be deemed non-responsive so long as the criteria underlying the filtering are reasonable.

Within seven (7) days of identifying the relevant document custodians, the retention coordinators shall implement the above procedures and each party's counsel shall file a statement of compliance as such with the Court.

(h) Privilege. Electronic documents that contain privileged information or attorney work product shall be immediately returned if the documents appear on their face to have been inadvertently produced or if there is notice of the inadvertent production within ~~thirty~~twenty-eight (~~30~~28) days of such inadvertent production.

(i) Costs. Generally, the costs of discovery shall be borne by each party. However, the Court will apportion the costs of electronic discovery upon a showing of good cause.

PART IX. GENERAL PROVISIONS

Rule 9004-1 Caption.

(a) Documents submitted for filing shall contain in the caption the name of the debtor, the case number, the initials of the Judge to whom the case has been assigned, the docket number assigned to the case and, if applicable, the adversary proceeding number. All documents filed with the Clerk that relate to a document previously filed and docketed shall contain in its title the title of the related document and its docket number, if available.

(b) The hearing date and time and the objection date and time of a motion shall be set forth in bold print (i) in the caption of the notice and motion and all related pleadings, below the case or adversary number and (ii) in the text of the notice.

(c) The case caption only may be modified by order entered by the Court on separate motion filed and served in accordance with Local Rule 9006-1.

Rule 9006-1 Time for Service and Filing of Motions and Objections.

(a) Generally. Fed. R. Bankr. P. 9006 applies to all cases and proceedings in which the pleadings are filed with the Clerk.

(b) Discovery-Related Motions. All motion papers under Fed. R. Bankr. P. 7026-7037 shall be filed and served in accordance with Local Rule 7026-1.

(c) All Other Motions.

(i) Service of Motion Papers. Unless the Fed. R. Bankr. P. or these Local Rules state otherwise, all motion papers shall be filed and served in accordance with Local Rule 2002-1(b) at least eighteen (18) days (twenty-one (21) days if service is by first class mail; nineteen (19) days if service is by overnight delivery) prior to the hearing date.

(ii) Objection Deadlines. Where a motion is filed and served in accordance with Local Rule 9006-1(c)(i), the deadline for objection(s) shall be no later than seven (7) days before the hearing date. To the extent a motion is filed and served in accordance with Local Rule 2002-1(b) at least twenty-one (21) days prior to the hearing date, however, the movant may establish any objection deadline that is no earlier than fourteen (14) days after the date of service and no later than seven (7) days before the hearing date. Any objection deadline may be extended by agreement of the movant; provided, however, that no objection deadline may extend beyond the deadline for filing the agenda. In all instances, any objection must be filed and served so as to be received on or before the applicable objection deadline. The foregoing rule applies to responses ~~to Omnibus Objection to Claims. Del. Bankr. L.R. 3007-1.~~/replies to (A) any Objection as defined in Local Rule 3007-1(a) (i.e., an objection to claims asserted by more than one claimant) and (B) any objection to a single claim or multiple claims filed by the same claimant.

(d) Reply Papers. Reply papers by the movant, or any party that has joined the movant, may be filed and, if filed, shall be served so as to be received by 4:00 p.m.

Rule 9010-1 Bar Admission.

(a) The Bar of this Court. The Bar of this Court shall consist of those persons heretofore admitted to practice in the District Court and those who may hereafter be admitted in accordance with these Rules.

(b) Admission Pro Hac Vice. Attorneys admitted, practicing, and in good standing in another jurisdiction, who are not admitted to practice by the Supreme Court of the State of Delaware and the District Court, may be admitted pro hac vice in the discretion of the Court, such admission to be at the pleasure of the Court. Unless otherwise ordered by the Court, or authorized by the Constitution of the United States or acts of Congress, an applicant is not eligible for permission to practice pro hac vice if the applicant:

(i) Resides in Delaware; or

(ii) Is regularly employed in Delaware; or

(iii) Is regularly engaged in business, professional, or other similar activities in Delaware.

Any Judge of the Court may revoke, upon hearing after notice and for good cause, a pro hac vice admission in a case or proceeding before a judge. The form for admission pro hac vice, which may be amended by the Court, is Local Form 105 and is located on the Court's website.

(c) Association with Delaware Counsel Required. Unless otherwise ordered, an attorney not admitted to practice by the District Court and the Supreme Court of the State of Delaware may not be admitted pro hac vice unless associated with an attorney who is a member of the Bar of the District Court and who maintains an office in the District of Delaware for the regular transaction of business ("Delaware counsel"). Consistent with CM/ECF Procedures, Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. Unless otherwise ordered, Delaware counsel shall attend proceedings before the Court.

(d) Time to Obtain Delaware Counsel. A party not appearing *pro se* shall obtain representation by a member of the Bar of the District Court or have its counsel associate with a member of the Bar of the District Court in accordance with (paragraph (c) above) within ~~thirty~~twenty-eight (~~30~~28) days after:

(iv) Notice of Entry of Orders. Within forty-eight (48) hours of the entry of an order entered under this Local Rule ("First Day Order"), the debtor or foreign representative shall serve copies of all motions and applications filed with the Court as to which a First Day Order has been entered, as well as all First Day Orders, on those parties referred to in Local Rule 9013-1(m)(iii), and such other entities as the Court may direct.

(v) Reconsideration of Orders. Any party in interest may file a motion to reconsider any First Day Order, other than any order entered under 11 U.S.C. §§ 363 and 364 with respect to the use of cash collateral and/or approval of postpetition financing, within ~~thirty~~twenty-eight (~~30~~28) days of the entry of such order, unless otherwise ordered by the Court. Any such motion for reconsideration shall be given expedited consideration by the Court. The burden of proof with respect to the appropriateness of the order subject to the motion for reconsideration shall remain with the debtor or foreign representative notwithstanding the entry of such order.

Rule 9018-1 Exhibits; Documents under Seal; Confidentiality.

(a) Retention of Exhibits. Unless otherwise ordered by the Court, exhibits admitted into evidence must be retained by the attorney or *pro se* party who offered them into evidence until the later of the closing of the main bankruptcy case or the entry of a final, non-appealable order regarding any pending adversary proceeding, contested matter or pending appeal to which such exhibit relates.

(b) Access to Exhibits. Upon request, parties must make exhibits admitted into evidence (or copies thereof) available to any other party to copy at its expense, subject to any confidentiality, seal or other order or directive of the Court.

(c) Removal of Exhibits from Court. Exhibits that are in the custody of the Clerk shall be removed by the party responsible for the exhibits (i) if no appeal has been taken, at the expiration of the time for taking an appeal, or (ii) if an appeal has been taken, within ~~thirty~~twenty-eight (~~30~~28) days after the record on appeal has been returned to the Clerk. Parties failing to comply with this Local Rule shall be notified by the Clerk to remove their exhibits and, upon failure to do so within ~~thirty~~twenty-eight (~~30~~28) days of such notification, the Clerk may dispose of the exhibits.

(d) Documents under Seal. Any party who seeks to file documents under seal must file a motion to that effect. The proposed sealed documents shall be filed separately from the motion, as restricted documents, in accordance with CM/ECF procedures. Unless the Court orders otherwise, within three (3) days of the filing of the motion to seal, the filing party shall file a publicly viewable redacted form of the document. In the event the Court grants the motion to file under seal, counsel for the movant shall, in those instances where a portion but not all of a document are ordered to be sealed, file a final form of the publicly viewable version of the filing(s) with the sealed portion(s) redacted in accordance with CM/ECF procedures. In the event the Court denies the motion to file under seal, the Clerk shall take such action as the Court may direct. If a motion to file under seal is filed in connection with an objection, reply or sur-reply and the applicable hearing date is less than twenty-one days after the objection, reply or sur-reply is filed, unless otherwise ordered by the Court, a motion to shorten notice

shall not be required and the Court will consider the motion to file under seal at the applicable hearing date and any objections to the motion to file under seal may be presented at the hearing. Except with respect to redactions subject to Local Rule 9037-1, no document containing any redaction(s) made by the party filing the document may be filed with the Clerk's Office unless the filing party simultaneously files an unredacted copy of the same under seal and follows all requirements of this subsection with respect to the same.

(e) Order Authorizing Future Filing of Documents under Seal. If an order has been signed granting the filing of future documents under seal, the related docket number of the applicable order must also be included on the cover sheet. Any document filed under seal under a previously entered order of the Court shall be filed as a restricted document and electronically docketed in accordance with CM/ECF procedures.

(f) Confidentiality. If any information or documents are designated confidential by the producing party at the time of production and the parties have not stipulated to a confidentiality agreement, until such an agreement has been agreed to by the parties or ordered by the Court, disclosure shall be limited to members and employees of the law firm representing the receiving party and such other persons as to which the parties agree. Such persons are under an obligation to keep such information and documents confidential and to use them only for purposes of the contested matter or the proceeding with respect to which they have been produced. Additionally, parties may stipulate to the application of this rule in connection with informal discovery conducted outside a contested matter or adversary proceeding (*e.g.*, a statutory committee's investigation of the validity, perfection or amount of a secured creditor's prepetition lien), in which case the documents and information produced shall be used only for the purpose defined by the parties' stipulation.

(g) Use of Sealed Documents. If a party intends to use a document which has been previously placed under seal at a hearing or in connection with briefing, a copy of the sealed document (in an envelope and prominently marked "CHAMBERS COPY") shall be provided to the Court in the binder delivered to Chambers. After the hearing is concluded or the motion is decided, the Court will, at its

Rule 9019-2 Mediator and Arbitrator Qualifications and Compensation.

(a) Register of Mediators and Arbitrators/ADR Program Administrator. The Clerk shall establish and maintain a register of persons (the "Register of Mediators") qualified under this Local Rule and designated by the Court to serve as mediators or arbitrators in the Mediation or Voluntary Arbitration Program. The Chief Bankruptcy Judge shall appoint a Judge of this Court, the Clerk or a person qualified under this Local Rule who is a member in good standing of the Bar of the State of Delaware to serve as the Alternative Dispute Resolution ("ADR") Program Administrator. Aided by a staff member of the Court, the ADR Program Administrator shall receive applications for designation to the Register of Mediators, maintain the Register of Mediators, track and compile reports on the ADR Program and otherwise administer the program.

(b) Application and Certification.

(i) Application ~~and Qualifications~~. Each applicant shall submit to the ADR Program Administrator a statement of professional qualifications, experience, training and other information demonstrating, in the applicant's opinion, why the applicant should be designated to the Register of Mediators. The applicant shall submit the statement substantially in compliance with Local Form 110A. The statement also shall set forth whether the applicant has been removed from any professional organization, or has resigned from any professional organization while an investigation into allegations of professional misconduct was pending and the circumstances of such removal or resignation. This statement shall constitute an application for designation to the ADR Program. Each applicant shall certify that the applicant has completed appropriate mediation or arbitration training or has sufficient experience in the mediation or arbitration process~~. Each~~ and that he/she satisfies the qualifications set forth in 9019-2(b)(ii). If requested by the Court, each applicant hereunder shall agree to accept at least one pro bono appointment per year. If after serving in a pro bono capacity insufficient matters exist to allow for compensation, credit for pro bono service shall be carried into subsequent years in order to qualify

the mediator or arbitrator to receive compensation for providing service as a mediator or arbitrator. In order to be eligible for appointment by the ADR Program Administrator, each applicant shall meet the qualifications sent forth in 9019-2(b)(ii).

(ii) Qualifications.

(A) Attorney Applicants. An attorney applicant shall certify to the Court in the Application that the applicant:

(1) Is, and has been, a member in good standing of the bar of any state or of the District of Columbia for at least five (5) years;

(2) Has served as a principal attorney of record in at least three bankruptcy cases (without regard to the party represented) from case commencement to conclusion or, if the case is still pending, to the date of the Application, or has served as the principal attorney of record for any party in interest in at least three (3) adversary proceedings or contested matters from commencement to conclusion or, if the case is still pending, to the date of the Application; and

(3) Is willing to undertake to evaluate or mediate at least one matter each year, subject only to unavailability due to conflicts, or personal or professional commitments, on a pro bono basis.

(B) Non-Attorney Applicants. A non-attorney applicant shall certify to the Court in the Application that the applicant has been a member in good standing of the applicant's particular profession for at least five (5) years, and shall submit a statement of professional qualifications, experience, training and other information demonstrating, in the applicant's opinion, why the applicant should be appointed to the Register of Mediators. Non-attorney applicants shall make the same certification required of attorney

applicants contained in Local Rule 9019-2(b)(ii)(A).

(~~ii~~iii) Court Certification. The Court in its sole and absolute determination on any ~~feasible~~reasonable basis shall grant or deny any application submitted under this Local Rule. If the Court grants the application, the applicant's name shall be added to the Register of Mediators, subject to removal under these Local Rules.

(~~iii~~iv) Reaffirmation of Qualifications. Each applicant accepted for designation to the Register of Mediators shall reaffirm annually the continued existence and accuracy of the qualifications, statements and representations made in the application. The annual reaffirmation shall be submitted to the ADR Program Administrator by March 31st of each year, and shall include a certification of such mediator's acceptance of, or availability to perform, one pro bono appointment for the current calendar year, and whether the mediator has been selected or appointed as a mediator in a dispute within the preceding three (3) calendar years.

(c) Oath. Before serving as a mediator or arbitrator, each person designated as a mediator or arbitrator shall take the following oath or affirmation:

> "I, _____, do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent upon me in the Mediation or Voluntary Arbitration Program of the United States Bankruptcy Court for the District of Delaware without respect to persons and will do so equally and with respect."

(d) Removal from Register of Mediators. A person shall be removed from the Register ~~either~~of Mediators (i) at the person's request ~~or~~, (ii) by Court order entered on the sole and absolute determination of the Court, or (iii) by the ADR Program Administrator if the person (1) has failed to timely submit the annual reaffirmation as required in 9019-2(b)(iv), or (2) has not been selected or appointed as a mediator in a dispute for three (3) consecutive calendar years. If removed ~~by Court order~~from the Register of Mediators, the person shall be eligible to file an

application for reinstatement after the passage of one year from the date of removal.

(e) Appointment.

(i) Selection. Upon assignment of a matter to mediation or arbitration in accordance with these Local Rules and unless special circumstances exist as determined by the Court, the parties shall select a mediator or arbitrator. If the parties fail to make such selection within the time ~~frame~~ as set by the Court, then the Court shall appoint a mediator or arbitrator. A mediator or arbitrator shall be selected from the Register of Mediators, unless the parties stipulate and agree to a mediator or arbitrator not on the Register of Mediators.

(ii) Inability to Serve. If the mediator or arbitrator is unable to or elects not to serve, he or she shall file and serve on all parties, and on the ADR Program Administrator, within ~~seven~~fourteen (~~7~~14) days after receipt of notice of appointment, a notice of inability to accept the appointment. In such event, the parties shall select an alternate mediator or arbitrator.

(iii) Disqualification.

(A) Disqualifying Events. Any person selected as a mediator or arbitrator may be disqualified for bias or prejudice in the same manner that a Judge may be disqualified under 28 U.S.C. § 44. Any person selected as a mediator or arbitrator shall be disqualified in any matter where 28 U.S.C. § 455 would require disqualification if that person were a Judge.

(B) Disclosure. Promptly after receiving notice of appointment, the mediator or arbitrator shall make an inquiry sufficient to determine whether there is a basis for disqualification under this Local Rule. The inquiry shall include, but shall not be limited to, a search for conflicts of interest in the manner prescribed by the applicable rules of professional conduct for attorneys and by the applicable rules pertaining to the profession of the mediator or arbitrator. ~~Within seven (7) days after~~

~~receiving notice of appointment, the mediator or arbitrator shall file with the Court and serve on the parties either (1) a statement that there is no basis for disqualification and that the mediator or arbitrator has no actual or potential conflict of interest or (2) a notice of withdrawal.~~

(C) Objection Based on Conflict of Interest. A party to the mediation or arbitration who believes that the assigned mediator or arbitrator has a conflict of interest promptly shall bring the issue to the attention of the mediator or arbitrator, as applicable, and to the other parties. If the mediator or arbitrator does not withdraw, and the movant is dissatisfied with this decision, the issue shall be brought to the attention of the ADR Program Administrator by the mediator, arbitrator or any of the parties. If the movant is dissatisfied with the decision of the ADR Program Administrator, the issue shall be brought to the Court's attention by the ADR Program Administrator or any party. The Court shall take such action as it deems necessary or appropriate to resolve the alleged conflict of interest.

(iv) Liability. Aside from proof of actual fraud or unethical conduct, there shall be no liability on the part of, and no cause of action shall arise against, any person who is appointed as a mediator or arbitrator under these Local Rules on account of any act or omission in the course and scope of such person's duties as a mediator or arbitrator.

(f) Compensation. A person will be eligible to be a paid mediator ~~,or,~~ arbitrator if that person has been admitted to the Register of Mediators maintained by the Court or otherwise has been appointed by the Court. Once eligible to serve as a mediator or arbitrator for compensation, which shall be at reasonable rates ~~and subject to judicial review~~, the mediator or arbitrator may require compensation ~~or~~and reimbursement of expenses as agreed by the parties; and such compensation and reimbursement of expenses shall be paid without Court Order. If any party to the mediation or arbitration objects to the compensation or expenses required by the mediator or arbitrator, such dispute may be

presented to the Court by the party or the mediator or arbitrator for disposition. If the mediator or arbitrator consents to serve without compensation and at the conclusion of the first full day of the mediation conference or arbitration proceeding it is determined by the mediator or arbitrator and the parties that additional time will be both necessary and productive in order to complete the mediation or arbitration, then:

(i) If the mediator or arbitrator consents to continue to serve without compensation, the parties may agree to continue the mediation conference or arbitration.

(ii) If the mediator or arbitrator does not consent to continue to serve without compensation, the fees and expenses shall be on such terms as are satisfactory to the mediator or arbitrator and the parties, subject to Court approval. Where the parties have agreed to pay such fees and expenses, the parties shall share equally all such fees and expenses unless the parties agree to some other allocation. The Court may determine a different allocation, if the parties cannot agree to an allocation.

(iii) ~~Subject to Court approval, if~~If the estate is to be charged with such expense, the mediator or arbitrator may be reimbursed for actual transportation expenses necessarily incurred in the performance of duties.

(g) Administrative Fee. The mediator or arbitrator shall be entitled to an administrative fee of $250, payable upon his or her acceptance of the appointment, in every dispute referred to mediation, except a proceeding or matter in a consumer case. The administrative fee shall be a credit against any fee actually paid to the mediator or arbitrator in such proceeding or matter.

(~~g~~h) Party Unable to Afford. If the Court determines that a party to a matter assigned to mediation or arbitration cannot afford to pay the fees and costs of the mediator or arbitrator, the Court may appoint a mediator or arbitrator to serve pro bono as to that party.

Rule 9019-4 Arbitration.

(a) Referral to Arbitration under Fed. R. Bankr. P. 9019(c). The Court may allow the referral of a matter to final and binding arbitration under Fed. R. Bankr. P. 9019(c).

(b) Referral to Arbitration under 28 U.S.C. § 654. The Court may allow the referral of an adversary proceeding to arbitration under 28 U.S.C. § 654.

(c) Arbitrator Qualifications and Appointment. In addition to fulfilling the qualifications of a mediator found in Local Rule 9019-2(b), a person qualifying as an arbitrator hereunder must be certified as an arbitrator through a qualifying program ~~that includes a bankruptcy component~~. An arbitrator shall be appointed (and may be disqualified) in the same manner as in Local Rule 9019-2(e). The arbitrator shall be liable only to the extent provided in Local Rule 9019-2(e)(iv).

(d) Powers of Arbitrator.

(i) An arbitrator to whom an action is referred shall have the power, upon consent of the parties, to

(A) Conduct arbitration hearings;

(B) Administer oaths and affirmations; and

(C) Make awards.

(ii) The Fed. R. Civ. P. and the Fed. R. Bankr. P. apply to subpoenas for the attendance of witnesses and the production of documents at a voluntary arbitration hearing.

(e) Arbitration Award and Judgment.

(i) Filing and Effect of Arbitration Award. An arbitration award made by an arbitrator, along with proof of service of such award on the other party by the prevailing party, shall be filed with the Clerk promptly after the arbitration hearing is concluded. The Clerk shall place under seal the contents of any arbitration award made hereunder and the contents shall not be known to any Judge who might be assigned to the matter until the Court has entered a

final judgment in the action or the action has otherwise terminated.

(ii) Entering Judgment of Arbitration Award. Arbitration awards shall be entered as the judgment of the Court after the time has expired for requesting a determination de novo, with no such request having been filed. The judgment so entered shall be subject to the same provisions of law and shall have the same force and effect as a judgment of the Court, except that the judgment shall not be subject to review in any other court by appeal or otherwise.

(f) Determination De Novo of Arbitration Awards.

(i) Time for Filing Demand. Within ~~thirty~~twenty-eight (~~30~~28) days after the filing of an arbitration award under Local Rule 9019-4(e) with the Clerk, any party may file a written demand for a determination de novo with the Court.

(ii) Action Restored to Court Docket. Upon a demand for determination de novo, the action shall be restored to the docket of the Court and treated for all purposes as if it had not been referred to arbitration.

(iii) Exclusion of Evidence of Arbitration. The Court shall not admit at the determination de novo any evidence that there has been an arbitration proceeding, the nature or amount of any award or any other matter concerning the conduct of the arbitration proceeding, unless

(A) The evidence would otherwise be admissible in the Court under the Federal Rules of Evidence; or

(B) The parties have otherwise stipulated.

(g) This Local Rule shall not apply to arbitration under 9 U.S.C. § 3, if applicable.

Rule 9019-5 Mediation.

(a) Types of Matters Subject to Mediation. The Court may assign to mediation any dispute arising in an adversary proceeding, contested matter or otherwise in a bankruptcy case. Except as may be otherwise ordered by the Court, all adversary proceedings filed in a ~~chapter 11 case and, in all other cases, all adversaries that include a claim for relief to avoid a preferential transfer (11 U.S.C. § 547 and, if applicable, § 550)~~business case shall be referred to mandatory mediation~~. Unless otherwise ordered by the Court, in any adversary proceeding that includes a claim for relief to avoid a preferential transfer (11 U.S.C. § 547 and, if applicable, § 550), the bankruptcy estate (or if there is no bankruptcy estate the plaintiff in the adversary proceeding) shall pay the fees and costs of the mediator. Parties to~~, except an adversary proceeding ~~or contested matter~~in which (i) the United States Trustee is the plaintiff; (ii) one or both parties are *pro se*; or (iii) the plaintiff is seeking a preliminary injunction or temporary restraining order. Parties may also stipulate to mediation, subject to Court approval.

(b) Effects of Mediation on Pending Matters. The assignment of a matter to mediation does not relieve the parties to that matter from complying with any other Court orders or applicable provisions of the Code, the Fed. R. Bankr. P. or these Local Rules. Unless otherwise ordered by the Court, the assignment to mediation does not delay or stay discovery, pretrial hearing dates or trial schedules.

(c) The Mediation Process.

(i) Cost of Mediation. Unless otherwise ordered by the Court, or agreed by the parties, (1) in an adversary proceeding that includes a claim to avoid and recover any alleged avoidable transfer pursuant to 11 U.S.C. §§ 544, 547, 548 and/or 550, the bankruptcy estate (or if there is no bankruptcy estate, the plaintiff in the adversary proceeding) shall pay the fees and costs of the mediator and (2) in all other matters, the fees and costs of the mediator shall be shared equally by the parties.

(~~i~~ii) Time and Place of Mediation Conference. After consulting with all counsel and *pro se* parties, the mediator shall schedule a time and place for the mediation conference that is acceptable to the

parties and the mediator. Failing agreement of the parties on the date and location for the mediation conference, the mediator shall establish the time and place of the mediation conference on no less than ~~twenty-one~~twenty-one (21) days' written notice to all counsel and *pro se* parties.

(~~i~~iii) Submission Materials. Unless otherwise instructed by the mediator, not less than seven (7) calendar days before the mediation conference, each party shall submit directly to the mediator and serve on all counsel and *pro se* parties such materials (the "Submission") in form and content as the mediator directs. ~~The mediator shall so direct not less than fourteen (14) days before the~~Any instruction by the mediator regarding submissions shall be made at least twenty-one (21) calendar days in advance of a scheduled mediation conference. Prior to the mediation conference, the mediator may talk with the participants to determine what materials would be helpful. The Submission shall not be filed with the Court and the Court shall not have access to the Submission.

(~~ii~~iv) Attendance at Mediation Conference.

(A) Persons Required to Attend. Except as provided by subsection (j)(~~xiii~~ix)(~~B~~A) herein, or unless excused by the Mediator upon a showing of hardship, which, for purposes of this subsection shall mean serious or disabling illness to a party or party representative; death of an immediate family member of a party or party representative; act of God; state or national emergency; or other circumstances of similar unforeseeable nature, the following persons must attend the mediation conference personally:

(1) Each party that is a natural person;

(2) If the party is not a natural person, including a governmental entity, a representative who is not the party's attorney of record and who has full authority to negotiate and settle the matter on behalf of the party;

(3) If the party is a governmental entity that requires settlement approval by an elected official or legislative body, a representative who has authority to recommend a settlement to the elected official or legislative body;

(4) The attorney who has primary responsibility for each party's case~~; and~~, including Delaware counsel if engaged at the time of mediation regardless of whether Delaware counsel has primary responsibility for a party, unless Delaware counsel requests to be and is excused from attendance by the mediator in advance of the mediation conference; and

(5) Other interested parties, such as insurers or indemnitors or one or more of their representatives, whose presence is necessary for a full resolution of the matter assigned to mediation.

(B) Failure to Attend. Willful failure to attend any mediation conference, and any other material violation of this Local Rule, shall be reported to the Court by the mediator and may result in the imposition of sanctions by the Court. Any such report of the mediator shall comply with the confidentiality requirement of Local Rule 9019-5(d).

(~~i~~v) Mediation Conference Procedures. The mediator may establish procedures for the mediation conference.

(~~v~~vi) Settlement Prior to Mediation Conference. In the event the parties reach a settlement in principle after the matter has been assigned to mediation but prior to the mediation conference, the plaintiff shall advise the mediator in writing within one (1) business day of the settlement in principle.

(d) Confidentiality of Mediation Proceedings.

(i) Protection of Information Disclosed at Mediation. The mediator and the participants in mediation are prohibited from divulging, outside of the mediation, any oral or written information disclosed by the

parties or by witnesses in the course of the mediation. No person may rely on or introduce as evidence in any arbitral, judicial or other proceeding, evidence pertaining to any aspect of the mediation effort, including but not limited to: (A) views expressed or suggestions made by a party with respect to a possible settlement of the dispute; (B) the fact that another party had or had not indicated willingness to accept a proposal for settlement made by the mediator; (C) proposals made or views expressed by the mediator; (D) statements or admissions made by a party in the course of the mediation; and (E) documents prepared for the purpose of, in the course of, or pursuant to the mediation. In addition, without limiting the foregoing, Rule 408 of the Federal Rules of Evidence, any applicable federal or state statute, rule, common law or judicial precedent relating to the privileged nature of settlement discussions, mediations or other alternative dispute resolution procedures shall apply. Information otherwise discoverable or admissible in evidence does not become exempt from discovery, or inadmissible in evidence, merely by being used by a party in the mediation. However, except as set forth in the previous sentence, no person shall seek discovery from any participant in the mediation with respect to any information disclosed during mediation.

(ii) Discovery from Mediator. The mediator shall not be compelled to disclose to the Court or to any person outside the mediation conference any of the records, reports, summaries, notes, communications or other documents received or made by the mediator while serving in such capacity. The mediator shall not testify or be compelled to testify in regard to the mediation in connection with any arbitral, judicial or other proceeding. The mediator shall not be a necessary party in any proceedings relating to the mediation. Nothing contained in this paragraph shall prevent the mediator from reporting the status, but not the substance, of the mediation effort to the Court in writing, from filing a final report as required herein, or from otherwise complying with the obligations set forth in this Local Rule.

(iii) Protection of Proprietary Information. The parties, the mediator and all mediation participants shall protect proprietary information.

(iv) Preservation of Privileges. The disclosure by a party of privileged information to the mediator does not waive or otherwise adversely affect the privileged nature of the information.

(e) Recommendations by Mediator. The mediator is not required to prepare written comments or recommendations to the parties. Mediators may present a written settlement recommendation memorandum to attorneys or *pro se* litigants, but not to the Court.

(f) Post-Mediation Procedures.

(i) Filings by the Parties. If a settlement is reached at a mediation, the plaintiff shall file a Notice of Settlement or, where required, a motion and proposed order seeking Court approval of the settlement within ~~thirty~~twenty-eight (~~30~~28) days after such settlement is reached. Within sixty (60) days after the filing or the Notice of Settlement or the entry of an order approving the settlement, the parties shall file a Stipulation of Dismissal dismissing the action on such terms as the parties may agree. If the plaintiff fails to timely file the Stipulation of Dismissal, the Clerk's office will close the case.

(ii) Mediator's Certificate of Completion. No later than fourteen (14) days after the conclusion of the mediation conference or receipt of notice from the parties that the matter has settled prior to the mediation conference, unless the Court orders otherwise, the mediator shall file with the Court a certificate in the form provided by the Court ("Certificate of Completion") showing compliance or noncompliance with the mediation conference requirements of this Local Rule and whether or not a settlement has been reached. Regardless of the outcome of the mediation conference, the mediator shall not provide the Court with any details of the substance of the conference.

(g) Withdrawal from Mediation. Any matter assigned to mediation under this Local Rule may be withdrawn from mediation by the Court at any time.

(h) Termination of Mediation. Upon the filing of a mediator's Certificate of Completion under Local Rule 9019-5(f)(ii) or the entry of an order withdrawing a matter from mediation under Local Rule 9019-5(g), the mediation will be deemed terminated and the mediator excused and relieved from further responsibilities in the matter without further order of the Court. If the mediation conference does not result in a resolution of all of the disputes in the assigned matter, the matter shall proceed to trial or hearing under the Court's scheduling orders.

~~(i) [Reserved]~~

(i) Modification of ADR Procedure. Any party seeking to deviate from, or propose procedures or obligations in addition to, the Local Rules governing ADR shall comply with Local Rule 7001-1(a)(i).

(j) Alternative Procedures for Certain ~~Preference~~Avoidance Proceedings.

(i) Applicability. This subsection (j) shall apply to any adversary proceeding that includes a claim to avoid and/or recover ~~an~~any alleged ~~preferential transfer(s)~~avoidable transfer pursuant to 11 U.S.C. §§ 547, 548 and/or 550 from one or more defendants where the amount in controversy from any one defendant is equal to or less than $75,000. ~~Hereinafter in this subsection (j), a defendant from whom a plaintiff seeks to avoid and/or recover an alleged preferential transfer in an amount equal to or less than $75,000 shall be referred to as "Defendant."~~

(ii) Service of this Rule with Summons. The plaintiff ~~in any adversary proceeding that includes a claim to avoid and/or recover an alleged preferential transfer(s) from one or more defendants where the amount in controversy from any one defendant is equal to or less than $75,000~~ shall serve with the Summons a copy of this Del. Bankr. L.R. 9019-5(j) and the Certificate (as defined hereunder).

(iii) Defendant's Election. On or within ~~thirty~~twenty-eight (~~30~~28) days after the date that the Defendant's response is due under the Summons, the Defendant may opt-in to the procedures provided under this subsection (j) by filing with the Court on the docket of the adversary proceeding and serving on the Plaintiff, a certificate in the form of Local Form 118 ("Certificate"). The time period provided hereunder to file the Certificate is not extended by the parties' agreement to extend the Defendant's response deadline under the Summons.

(iv) Mediation of All Claims. Unless otherwise ~~specifically~~ agreed by the parties, the Defendant's election to proceed to mediation under subsection (j)(iii) operates as a referral ~~with regard to that~~of all claims against the Defendant ~~of each claim in which such Defendant is identified as a defendant~~ in the underlying adversary proceeding.

(v) Appointment of Mediator. On or within ~~ten~~fourteen (~~10~~14) days after the date that the Certificate is filed, Plaintiff shall file either: (i) a stipulation (and proposed order) regarding the appointment of a mediator from the Register of Mediators approved by the Court; or (ii) a request for the Court to appoint a mediator from the Register of Mediators approved by the Court. If a stipulation or request to appoint is not filed as required hereunder, then the Clerk of Court may appoint in such proceeding a mediator from the Register of Mediators approved by the Court.

(vi) Election ~~by Agreement of the Parties~~in Cases Where Amount Exceeds $75,000. In any adversary proceeding that includes a claim to avoid and/or recover an alleged ~~preferential~~avoidable transfer(s) from one or more defendants where the amount in controversy from any one defendant is greater than $75,000, the plaintiff and defendant may agree to opt-in to the procedures provided under this subsection (j) by filing a certificate in the form of Local Form 119 ("Jt. Certificate") on the docket of the adversary proceeding within the time provided under subsection (j)(iii) hereof that includes the parties' agreement to the appointment of a mediator from the Register of Mediators; provided, however, that in a proceeding that includes more than one defendant,

only the defendant who agrees to opt-in ~~to the procedures provided under this subsection~~ is subject to the provisions ~~thereof and the referral to mediation thereunder~~hereof. The use of the term "Defendant" in ~~subsections (j)(xi)(B), (j)(xii)(A) and (j)(xii)(B) hereinafter~~this subsection (j) shall include any defendant who agrees with plaintiff to mediation ~~under this subsection (j)(vi)~~hereunder.

(vii) Participation. ~~Each of the~~ The parties ~~to mediation conducted under this subsection (j)~~ shall participate in mediation in an effort to consensually resolve their disputes prior to further litigation.

~~(viii) Confidentiality of Mediation Proceedings. The provisions of Del. Bankr. L.R. 9019-5(d) shall apply to any mediation conducted pursuant to this subsection (j).~~

~~(ix) Mediator Costs. The plaintiff shall bear the costs of the mediator in any mediation conducted pursuant to this subsection (j).~~

~~(x) Effects of Mediation on Pending Matters. Except as expressly set forth in subsection (j)(xi) hereof, the provisions of Del. Bankr. L.R. 9019-5(b) shall apply to any mediation conducted pursuant to this subsection (j).~~

(~~xi~~viii) Scheduling Order.

(A) Effect of Scheduling Order. Any scheduling order entered by the Court at the initial status conference or otherwise shall apply to the parties and claims which are subject to mediation under this subsection; provided, however, that: (1) the referral to mediation under this subsection (j) shall operate as a stay as against the parties to the mediation of any requirement under Fed. R. Bankr. Proc. 7026 to serve initial disclosures~~; (2) the referral to mediation under this subsection (j) shall operate as~~, and a stay as against the parties to the mediation of such parties' right and/or obligation (if any) to propound, object or respond to written discovery requests or other discovery demands to or from the parties to the

mediation; and (~~3~~2) as further provided in subsection (j)(~~xi~~ix)(B~~) hereof and subject to subsection (j)(xi)(C~~) hereof, after the conclusion of mediation the ~~timeframes~~time frames set forth in the scheduling order entered by the Court shall be adjusted so that such ~~timeframes~~time frames are calculated from the date of completion of mediation (as evidenced by the date of entry on the adversary docket of the Certificate of Completion)~~ rather than any other point of time employed by the Court in calculating such relevant timeframe~~. The stay provided for under this subsection shall automatically terminate upon the filing of the Certificate of Completion.

(B) Agreement to and Filing of Scheduling Order after Conclusion of Mediation. If the mediation does not result in the resolution of the litigation between the parties to the mediation, then within ~~two~~fourteen (~~2~~14) ~~business~~ days after the entry of the Certificate of Completion on the adversary docket~~: (1) the~~. The parties to the mediation shall confer regarding the adjustment of the ~~timeframes~~date and time frames set forth in the scheduling order entered by the Court so that such ~~timeframes~~dates and time frames are calculated from the date of completion of mediation, and agree to a related form of scheduling order or stipulation and proposed order~~;~~, and ~~(2)~~ the plaintiff ~~or the Defendant~~ shall file such proposed scheduling order or stipulation and proposed order on the docket of the adversary proceeding under certification of counsel~~ and serve a copy of such filing on the mediator~~. If the parties do not agree to the form of scheduling order or stipulation as required hereunder and the timely filing thereof, then the ~~mediator shall file a notice that identifies the deadlines set forth in the scheduling order entered by the Court as adjusted to be calculated from the date the mediation concluded. With the consent of the parties, the mediator may incorporate the notice of such deadlines into the Certificate of Completion and, if so incorporated, the~~

~~parties are relieved of their obligation to otherwise prepare and file a separate form of~~parties shall promptly contact the Court to schedule a hearing to consider the entry of an amended scheduling order. ~~Absent further Order of the Court, the deadlines identified by the mediator and filed with the Court shall apply to and govern further proceedings in the underlying adversary proceeding as between the parties to the mediation.~~

~~(C)~~ ~~Plaintiff's Election. Notwithstanding any other provision of this subsection (xi), the Plaintiff may elect to have the deadlines in proceedings in which mediation under this subsection are completed within a given fourteen (14) day period each calculated from the date of completion of mediation (or expected date of completion of mediation) of the last mediation within such 14 day period.~~

(~~D~~C) Absence of Scheduling Order. The terms of this subsection (~~xi~~viii) apply only if the Court enters a form of scheduling order in the underlying adversary proceeding prior to the conclusion of mediation.

~~(xii)~~ ~~Mediation Submission Materials.~~

~~(A)~~ ~~Timing. Within twenty-one (21) days after the date that the Certificate is filed, the Defendant shall serve its position statement on the plaintiff and the mediator. The plaintiff shall serve its position statement on the Defendant and the mediator within twenty-one (21) days after the date that the Defendant's position statement is served. Absent leave of the mediator, no further statements shall be served by either party. The parties' respective position statements shall not be filed in the underlying adversary proceeding.~~

~~(B)~~ ~~Contents. The parties' position statements shall address the merits of plaintiff's claim to avoid and/or recover the alleged preferential transfer(s) and Defendant's defenses thereto, and may address any other procedural or substantive issues the parties~~

~~believe to be relevant to the mediation. Each position statement should identify and/or discuss evidence then known to such party that supports that party's assertions, and mere argument alone is not sufficient for a party to meet its burden under this subsection (j)(xii)(B). For purposes of example only, if the Defendant argues that the transfers at issue are protected from avoidance or recovery under 11 U.S.C. § 547(c)(4), then the Defendant should identify in its position statement the nature and calculation of the alleged new value at issue and evidence, if any, to support its assertion that such value qualifies as new value. In return, plaintiff should identify and discuss the factual and/or legal basis (if any) on which it relies to oppose Defendant's stated defense(s). Notwithstanding the provisions of subsections (xii)(A) or (B), the mediator may require a separate settlement-related statement that is not served on any party to the mediation. As noted further below, the provisions of Del. Bankr. L.R. 9019-5(c)(iii)(B) apply to any mediation conducted pursuant to this subsection.~~

~~(C) Length. Absent consent of the mediator, the length of any position statement shall not exceed ten (10) pages, exclusive of exhibits and/or supporting evidence.~~

(~~xiii~~ix) The Mediation Conference.

~~(A) Timing. Mediation shall be initiated so as to be concluded within forty-five (45) days after service of plaintiff's mediation statement.~~

(~~B~~A) Persons Required to Attend. A representative of each party who has full authority to negotiate and settle the matter on behalf of the party must attend the mediation in person. Such representative may be the party's attorney of record in the adversary proceeding. Other representatives of the party or the party (if the party is not the representative appearing in person at the mediation) may appear by telephone, videoconference or other similar means. If the party is not appearing at the

mediation in person, the party shall appear at the mediation by telephone, videoconference or other similar means as directed by the mediator.

(~~C~~B) Mediation Conference Procedures. The mediator may establish other procedures for the mediation conference.

~~(xiv) Other Mediation. Unless otherwise ordered by the Court or agreed by the parties, the parties' participation in, and the conclusion of, mediation pursuant to this subsection (j) excuses such parties from any requirement to mediate otherwise included in the scheduling order entered by the Court in the underlying adversary proceeding prior to the conclusion of mediation. To the extent that the Court requires, or the parties agree to, additional mediation, the plaintiff shall not bear the presumption of cost for the mediator with regard to any such additional mediation.~~

(~~xv~~x) Other Terms. ~~The~~Unless otherwise provided hereunder, the provisions of Del. Bankr. L.R. 9019-5 (including subsections (b), (c) (~~iii~~iv)(B), ~~9019-5(e), 9019-5(f), 9019-5(g)~~ and ~~9019~~(d) ~~-5~~ (h)) shall apply to any mediation conducted under this subsection (j).

Rule 9027-1 ~~Statement~~Statements in Notice of Removal or Related Filings Regarding Consent to Entry of Order or Judgment in Core Proceeding. ~~If~~

~~(a notice of removal is filed pursuant to Rule)~~ Reference is made to the requirement of Fed. R. Bankr. P. 9027(a)(1) ~~of the Federal Rules of Bankruptcy Procedure, it shall~~that a notice of removal must contain a statement that upon removal of the claim or cause of action the party ~~removing~~filing the ~~proceeding~~notice does or does not consent to ~~the~~ entry of final orders or judgments by the Court ~~if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution~~. If no such statement is included, ~~the filing party~~unless otherwise ordered by the Court, the party filing the notice of removal shall have waived the right to contest the authority of the Court to enter final orders or judgments.

~~Rule 9029-1~~ ~~**Statement in Response to Notice of Removal Regarding Consent to Entry of Order or Judgment in Core Proceeding**~~. ~~Any statement filed pursuant to Rule 9027(e)(3) of the Federal Rules of Bankruptcy Procedure by a party to a~~(b) Reference is made to the requirement of Fed. R. Bankr. P. 9027(e) that any party who has filed a pleading in connection with the removed claim or cause of action ~~shall contain~~, other than the party filing the notice of removal, must file a statement that the party does or does not consent to ~~the~~ entry of final orders or judgments by the Court ~~if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution~~. If no such statement is included, unless otherwise ordered by the Court, the filing party shall have waived the right to contest the authority of the Court to enter final orders or judgments.

Rule 9036-1 Electronic Transmission of Court Notices; Use of Technology in the Courtroom.

(a) Court Notices. To eliminate redundant paper notices, all registered electronic filing participants will receive notices required to be sent by the Clerk via electronic transmission only. No notices from the Clerk's Office will be sent in paper format, with the exception of the Notice of Meeting of Creditors, which will be sent in both paper and electronic format. The electronic transmission of notices by the Clerk will be deemed complete upon transmission. The Court has established "opt-out" procedures to ensure that any registered electronic filing participant may receive paper notices in addition to electronic notices by requesting such notices in writing to the Clerk's Office.

(b) Use of Technology in the Courtroom. ~~Parties~~Unless otherwise authorized by the Court, parties intending to use ~~any~~ technology in the Courtroom must give the Court ~~three (3) business days' notice. Notice~~notice by the time the Agenda is due under Del. Bankr. L.R. 9029-3. At that time, notice should also be sent via email to debml_Courtroom_Technology@deb.uscourts.gov. ~~Appropriate chambers should also be notified.~~