

LOCAL RULES
FOR
THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE
(Effective February 1, 2019)



Rule 1016-1 Suggestion of Death. The attorney for the Debtor(s) shall file a notice of the Debtor(s) death in the bankruptcy case as soon as possible after verifying that the Debtor(s) is deceased in compliance with Local Form 126.

Rule 2014-1 Employment of Professional Persons.

- (a) Motion for Approval. Any entity seeking approval of employment of a professional person under 11 U.S.C. § 327, 1103(a) or 1114 or Fed. R. Bankr. P. 2014 (including retention of ordinary course professionals) shall file with the Court a motion, a supporting affidavit or verified statement of the professional person and a proposed order for approval. Promptly after learning of any additional material information relating to such employment (such as potential or actual conflicts of interest), the professional employed or to be employed shall file and serve a supplemental affidavit setting forth the additional information.
- (b) Notice and Hearing. All retention motions shall be heard on the first omnibus or other hearing date that would allow adequate at least twenty-one (21) days' notice of the retention motion and hearing ~~in accordance with Local Rules 9013-1 and 2002-1(b)~~. If the retention motion is granted, the retention shall be effective as of the date the motion was filed, unless the Court orders otherwise.
- (c) Professional Disclosure. Any professional person whose employment is sought pursuant to this Local Rule must disclose its employment, or intended employment, of another professional for whom reimbursement will be requested under Local Rule 2016-2(f); provided, however, if such disclosure would require the disclosure of privileged information or information which may reveal confidential litigation strategy, such disclosure may be excused by the Court. Even if disclosure is excused, however, the professional will still be required to comply with the requirements of Local Rule 2016-2(f) in order to be reimbursed for any payment made by it to the other professional.

- (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
 - (B) otherwise comply with these Local Rules other than subsection (f)(i) above.
- (v) 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.
- (vi) 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. 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 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 deadline for filing the agenda.~~ See also filed and served in accordance with Del. Bankr. L.R. 9006-1(d).
- (i) Hearings on Objections and Responses. Hearings on Objections, and any response thereto, may ordinarily be held on the regularly scheduled omnibus hearing dates in chapter 11 cases, consistent with these Local Rules. When

Rule 3016-2 **Plan Supplements.** The plan proponent must file any plan supplement on or before seven (7) days prior to the earlier of (a) the deadline for submission of ballots to vote to accept or reject a plan, or (b) the deadline to object to confirmation of the plan, unless otherwise ordered by the Court.

plan of liquidation. The proposed order shall further provide that objections not made to the types of relief requested under (B), (C) or (D) of this subparagraph (vi) at the time of the hearing on the motion shall not be considered at the time of the combined hearing on the disclosure statement and plan.

- (d) Solicitation and Voting Procedures. The proposed order shall contain, inter alia, the following provisions:
 - (i) Establishment of a record date pursuant to Fed. R. Bankr. P. 3017(d) and 3018(a); and
 - (ii) Establishment of a voting deadline not more than ten (10) days prior to the combined hearing.
- (e) Form of Ballots. If a proposed plan of liquidation seeks consensual releases/injunctions with respect to claims creditors may hold against non-debtor parties, then the ballot must inform the creditors of such releases/injunctions and disclose the manner in which to indicate assent or opposition to such consensual releases/injunctions.
- (f) Combined Confirmation Hearing. The order approving the voting procedures shall provide for a combined hearing on the final approval of the disclosure statement and confirmation of the plan not less than forty-five (45) days from the entry of the order approving the voting procedures and the objection deadline shall be at least thirty-eight (38) days from such date.
- (g) Plan Supplements. The plan proponent must file any plan supplement on or before seven (7) days prior to the earlier of (a) the deadline for submission of ballots to vote to accept or reject a plan, or (b) the deadline to object to confirmation of the plan, unless otherwise ordered by the Court.

Rule 3022-1 Closing of Chapter 11 Cases

- (a) Motion. Upon written motion, a party in interest may seek the entry of a final decree at any time after the confirmed plan has been fully administered provided that all required fees due under 28 U.S.C. § 1930 have been paid. Such motion shall include a proposed 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. A motion for the entry of a final decree shall be served upon the debtor, the trustee, if any, the United States Trustee, all official committees and all creditors who have filed a request for notice under Fed. R. Bankr. P. 2002 and Local Rule 9013-1, at least twenty-one (21) days prior to the hearing on the motion.
- (c) Final Report. The debtor (or trustee, if any) shall file a final report and account in the form prescribed by the United States Trustee on or before fourteen (14) days prior to the hearing on any motion to close the case.
- (d) Discharge. In a case in which the debtor is an individual, upon completion of plan payments, debtor and debtor's counsel shall file with the Court a motion for entry of a discharge and a Certification, substantially in the form of Local Form 104A, in order to comply with 11 U.S.C. § 1141 and obtain a discharge.

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 ~~twenty-eight~~thirty (~~28~~30) days after the date of service, there shall be a presumption that the case has been fully administered and the Court may close the case.

Rule 7004-2 Summons and Notice of Pretrial Conference in an Adversary Proceeding. A party or attorney filing a complaint or third-party complaint shall prepare a Summons and Notice of Pretrial Conference in an Adversary Proceeding (Local Form 108) (the "Summons"). The pretrial conference date shall be a date that is at least thirty-five (35) days and not more than ninety (90) days from the date of service of the ~~summons~~Summons and complaint and set in accordance with Local Rule 7004-2(a) and (b) below. The completed ~~summons~~Summons and certificate of service shall be filed in the adversary proceeding within seven (7) days after service of the Summons and complaint. The party or attorney filing the complaint or third-party complaint shall be responsible for serving the ~~summons~~Summons and complaint.

- (a) Chapter 11 and Chapter 15 Cases. In an adversary proceeding, the pretrial conference date required on Local Form 108 shall be obtained from (i) the order setting omnibus hearing dates located on the docket in the main bankruptcy case, when the adversary proceeding is assigned to the same judge presiding over the main bankruptcy case, or (ii) the assigned judge's scheduling clerk, when (A) there is no order setting omnibus hearing dates in the main bankruptcy case or (B) the adversary proceeding is assigned to a judge other than the judge presiding over the main bankruptcy case.
- (b) Chapter 7, Chapter 12 and Chapter 13 Cases. In an adversary proceeding, the pretrial conference date required on Local Form 108 shall be obtained from the respective Judge's chambers page located on the Court's website.

Rule 7007-2 Form and Contents of Briefs and Appendices.

This rule applies only to non-discovery related motions in adversary proceedings.

(a) Form.

- (i) Covers. The front cover of each brief and appendix shall contain the caption of the case, a title, the date of filing, the name and designation of the party for whom it is filed, and the name, number, address and telephone number of counsel by whom it is filed, including the bar identification number for Delaware attorneys.
- (ii) Format. All filings must be double-spaced, in Courier New font or Times New Roman and in at least 12 point typeface. All briefs and appendices shall be firmly bound at the left margin. Side margins of briefs shall not be less than 1 inch.
- (iii) Page Numbering of Appendices. Pages of an appendix shall be numbered separately at the bottom. The page numbers of appendices associated with opening, answering and reply briefs, respectively, shall be preceded by a capital letter "A," "B" or "C." Transcripts and other papers reproduced in a manner authorized by this Local Rule shall be included in the appendix, both with original and appendix pagination.
- (iv) Length. Without leave of Court, no opening or answering brief shall exceed ~~forty~~thirty (~~40~~30) pages and no reply shall exceed ~~twenty~~fifteen (~~20~~15) pages, in each instance, exclusive of any tables of contents and citations.
- (v) Form of Citations. Citations will be deemed to be in acceptable form if made in accordance with "A Uniform System of Citation" published and distributed from time to time by the Harvard Law Review Association. State reporter citations may be omitted but citations to the National Reporter System must be included. United States Supreme Court decisions shall be to the official citation.
- (vi) Citation by Docket Number. References to earlier-filed papers in the case or proceeding shall include

Rule 7007-3 Oral Argument, Hearing on Adversary Proceeding Motions. No hearing will be scheduled on motions filed only in adversary proceedings, unless the Court orders otherwise, except for discovery-related motions which shall be governed by Local Rule 9006-1(b). An application to the Court for oral argument on a motion pending only in an adversary proceeding shall be in writing and shall be filed with the Court and served on counsel for all parties in the proceeding no later than seven (7) days after service of the reply brief. An application for oral argument may be granted or denied at the discretion of the Court. Hearing and argument on a motion filed both in an adversary proceeding and the main case shall be governed by Local Rule 9013-1(c) and (d).

Rule 7026-1 Discovery.

- (a) Cooperation and Proportionality. Parties are expected to confer and in good faith attempt to reach agreement cooperatively on how to conduct discovery under Fed. R. Civ. P. 26-36 and these Local Rules. Parties also are expected to use reasonable, good faith and proportional efforts including to preserve, identify and produce relevant information. This may include identifying appropriate limits to discovery, including limits on custodians, identification of relevant subject matter, time periods for discovery and other parameters to limit and guide preservation and discovery issues.
- (b) Notice. All motion papers under Fed. R. Bankr. P. 7026 - 7037 and 9016 shall be filed and served so as to be received at least seven (7) days before the hearing date on such motion. When service is made for a discovery related motion under this Local Rule, any objection shall be filed and served so as to be received at least one (1) business day before the hearing date.
- (c) Motions to Include the Discovery at Issue. Any discovery motion filed pursuant to Fed. R. Civ. P. 26 through 37 and 45 shall include, in the motion itself or in a memorandum, a verbatim recitation of each interrogatory, request, answer, response, or objection which is the subject of the motion or shall have attached a copy of the actual discovery document which is the subject of the motion.
- (d) Certification of Counsel. Except for cases or proceedings involving *pro se* parties or motions brought by nonparties, every motion under this Local Rule shall be accompanied by an averment of Delaware Counsel for the moving party that a reasonable effort has been made to reach agreement with the opposing party on the matters set forth in the motion or the basis for the moving party not making such an effort. Unless otherwise ordered, failure to so aver may result in dismissal of the motion.

Rule 7030-1 Depositions.

- (a) Attendance at Deposition. A deposition may be attended only by (i) the deponent, (ii) counsel for any party and members and employees of their firms, (iii) a party who is a natural person, (iv) an officer or employee of a party who is not a natural person designated as its representative by its counsel, (v) counsel for the deponent, (vi) any consultant or expert designated by counsel for any party, (vii) the United States Trustee, (viii) counsel for any trustee, (ix) counsel for the debtor, (x) counsel for any official committee and (xi) counsel for any party providing postpetition financing to the debtor under 11 U.S.C. § 363 or 364. If a confidentiality order has been entered, any person who is not authorized under the order to have access to documents or information designated confidential shall be excluded from a deposition upon request by the party who is seeking to maintain confidentiality while a deponent is being examined about any confidential document or information.
- (b) Reasonable Notice of Deposition. Unless otherwise ordered by the Court, "reasonable notice" for the taking of depositions under Fed. R. Civ. P. 30(b) shall not be less than seven (7) days.
- (c) Motions to Quash. Any party seeking to quash a deposition must file a motion with the Court under Fed. R. Civ. P. 26(c) or 30(d). If such motion is filed at least one (1) business day before the scheduled deposition, neither the objecting party, witness, nor any attorney is required to appear at a deposition to which a motion is directed until the motion is resolved.
- (d) Depositions Upon Oral Examination. From the commencement until the conclusion of deposition questioning by an opposing party, including any recesses or continuances thereof of less than five (5) ~~calendar~~ days, counsel for the deponent shall not consult or confer with the deponent regarding the substance of the testimony already given or anticipated to be given, except for the purpose of conferring on whether to assert a privilege against testifying or on how to comply with a court order.

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 and 9016 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~~fourteen (~~18~~14) 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/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. prevailing Eastern Time the day prior to the deadline for

filing the agenda. If a motion for leave to file a late reply is filed, unless otherwise ordered by the Court, a motion to shorten notice shall not be required. The Court will consider the motion for leave at the hearing on the underlying motion papers and any objections to the motion for leave may be presented at the hearing. The foregoing rule applies to replies to Omnibus Objection to Claims. Del. Bankr. L.R. 3007-1.

- (e) Shortened Notice. No motion will be scheduled on less notice than required by these Local Rules or the Fed. R. Bankr. P. except by order of the Court, on written motion (served on all interested parties) specifying the exigencies justifying shortened notice. The motion requesting shortened notice shall include an averment of Delaware Counsel for the moving party that a reasonable effort has been made to notify at least counsel to the debtor, counsel to the United States Trustee, counsel to any official committee appointed in the case and any chapter 7, 11 or 13 trustee and whether such party objected to the relief sought, or not, or the basis for the moving party not making such an effort. Unless otherwise ordered, failure to so aver may result in denial of the motion to shorten. The Court will rule on such motion for shortened notice promptly without need for a hearing.

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 business case shall be referred to mandatory mediation, except an adversary proceeding 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.
- (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 (21) days' written notice to all counsel and *pro se* parties.
- (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. 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.

(iv) Attendance at Mediation Conference.

(A) Persons Required to Attend. Except as provided by subsection (j)(ix)(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, including Delaware counsel if engaged at the time of mediation regardless of