AMERICAN BANKRUPTCY INSTITUTE

2019 Southwest Bankruptcy Conference

Best of the Best and Worst of the Worst: Local Rules We Love and Hate

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CONCURRENT SESSION

2019

Part I

Attorney Admissions and Out of Jurisdiction Practice

Admission of Attorneys
Jurisdictional Differences

Most Restrictive
District of Delaware

Local Bankruptcy 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.

> District Court Rule 83.5. Bar Admission. …
>
> (b) Admission. Any attorney admitted to practice by the Supreme Court of the State of Delaware may be admitted to the Bar of this Court on motion of a member of the Bar of this Court made in open court and upon taking the following oath and signing the roll …

(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. …

(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.

Notes:

- Cannot be permanently admitted to bar unless resident in Delaware
- Must associate with local counsel for *pro hac vice* admission
- Local counsel must make all filings
- Local counsel must attend all hearings

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Less Restrictive

Central District of California

LBR 2090-1. ATTORNEYS – ADMISSION TO PRACTICE

(a) **Appearance by Attorneys Admitted to Practice Before the District Court**.

(1) Attorney. An attorney admitted to practice before the district court may practice before the bankruptcy court. An attorney who is not admitted to the bar of, or permitted to practice before, the district court may not appear before the court on behalf of a person or entity, except as provided by this rule.

> ***Local District Rule 83-2.1.2.1 In General.*** Admission to and continuing membership in the Bar of this Court are limited to persons of good moral character who are active members in good standing of the State Bar of California.

…

(b) **Pro Hac Vice Appearance**.

(1) Permission for Pro Hac Vice Appearance by Non-Resident Attorney. Any person who is not otherwise eligible for admission to practice before the court, but who is a member in good standing of, and eligible to practice before, the bar of any United States court, or of the highest court of any state, territory, or insular possession of the United States, who is of good moral character, and who has been retained to appear before the court, may, upon written application and at the discretion of the court, be permitted to appear and participate pro hac vice by nonresident attorney in a particular case or in a particular proceeding in a case.

(2) Disqualification from Pro Hac Vice Appearance. Unless authorized by the Constitution of the United States or Act of Congress, a non-resident attorney is not eligible for permission to appear pro hac vice if the applicant:

(A) Resides in California; or

(B) Is regularly employed in California; or

(C) Is regularly engaged in business, professional, or other similar activities in California.

(3) Designation of Local Counsel. A non-resident attorney applying to appear pro hac vice must designate an attorney who is a member of the bar of the court and who maintains an office within this district as local counsel with whom the court and opposing counsel may readily communicate regarding the conduct of the case and upon whom documents may be served, unless otherwise ordered by the court.

(4) Designation of Co-counsel. A judge to whom a case is assigned may, in the exercise of discretion, require the designation of an attorney who is a member of the bar of the court and who maintains an office within this district as co-counsel with authority to act as attorney of record for all purposes.

Notes:

- Cannot be permanently admitted to bar unless a member of California state bar (and must be resident in California)
- Must associate with local counsel for *pro hac vice* admission
- ECF full filing access usually not available for nonresident lawyers, so local counsel must make all filings
- Local counsel not explicitly required to appear at hearings (but, in practice, judges tend to require it)

Even Less Restrictive

District of Arizona

Local Bankruptcy Rule 2090-1 **Admission to Practice; Appearance Before the Court; Self-Represented Parties**

(a) **Appearance by Attorney Admitted to Practice Before the District Court**.

(1) **Attorney**. Only attorneys who are admitted to the Arizona State Bar and the District Court may appear before this Court, except as provided by this Rule. Unless ordered otherwise by the Court, counsel for the debtor is presumed to represent the debtor in all matters in the case except adversary proceedings. …

Local District Rule 83.1 ATTORNEYS

(a) **Admission to the Bar of this Court.** Admission to and continuing membership of the bar of this Court is limited to attorneys who are active members in good standing of the State Bar of Arizona.

(b) **Pro Hac Vice Appearance**.

(1) **Disqualification from Pro Hac Vice Appearance**. Unless ordered otherwise, a nonresident attorney is ineligible for permission to appear pro hac vice if the applicant:

(A) Resides in Arizona;
(B) Is regularly employed in Arizona; or
(C) Is regularly engaged in the practice of law in Arizona.

(2) **Permission for Pro Hac Vice Appearance by Nonresident Attorney**. An attorney who is not a member of the bar of the District Court but who is a member in good standing of the bar of another United States District Court may, upon application and Court order, be permitted to appear and participate in a particular case.

(3) **Designation of Local Counsel**. Unless ordered otherwise, a nonresident attorney applying to appear pro hac vice must designate an attorney who is admitted to practice before this Court and maintains an office within this district as local counsel with whom the Court and parties may readily communicate regarding the case and upon whom documents may be served. The Court may require local counsel to appear at hearings.

Notes:

- Cannot be permanently admitted to bar unless a member of Arizona state bar (not necessarily an Arizona resident)
- Must associate with local counsel for *pro hac vice* admission
- Once *pro hac vice* admission is granted and ECF access obtained, nonresident attorney may make all filings

- Local counsel not required to appear at hearings unless specifically required by court (in practice, requiring local counsel to appear is rare)

Mostly Open

Northern District of Illinois

Local Bankruptcy Rule 2090-1 APPEARANCE OF ATTORNEYS

A. Admission to District Court Required

Except as provided in Rules 2090-2 and 2090-3, an attorney appearing before this court must be admitted to practice before the district court.

Local District Rule 83.10. GENERAL BAR

(a) **Qualifications**. An applicant for admission to the bar of this Court must be a member in good standing of the bar of the highest court of any state of the United States or of the District of Columbia. The applicant must be honest and of good moral character, and shall exhibit general fitness to practice law.

…

(f) **Admission Fee.** Each petitioner shall pay an admission fee upon the filing of the petition, subject to refund should the petitioner not be admitted. The amount of the fee shall be established by the court in conjunction with the fee prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. §1914.

B. Circumstances Under Which Trial Bar Membership Required

(1) If witnesses will testify at a proceeding, an attorney who is to participate as lead counsel or alone must be a member of the trial bar of the district court if:

(a) the proceeding is an adversary proceeding governed by Fed. R. Bankr. P. 7001 *et seq.,* or

(b) the court on its own motion or on motion of a party in interest orders that a member of the trial bar will participate.

(2) Where trial bar membership is required by this Rule, an attorney who is a member of the general bar, but not a member of the trial bar, may appear during testimonial proceedings only if accompanied and supervised by a member of the trial bar.

(3) On motion for cause shown, the court may excuse the trial bar requirement in particular cases, proceedings, or matters.

Local District Rule 83.11. TRIAL BAR …

(b) Qualifications. An applicant for admission to the trial bar of this Court must be a member in good standing of the general bar of this Court, must be a certified e-filer, must provide evidence of having the required trial experience, and must be sponsored by one current member of the trial bar who has known the applicant for at least one year and can attest to his/her competence. An attorney seeking admission to the trial bar who is not a member of the bar of this Court may apply for admission to both bars simultaneously.

Local Bankruptcy Rule 2090-3 APPEARANCE BY ATTORNEYS NOT MEMBERS OF THE BAR OF THE DISTRICT COURT (*Pro Hac Vice*)

An attorney who is not a member of the bar of the district court but who is a member in good standing of the bar of the highest court of any state or of any United States district court may appear before this court after:

(1) completing the form application for leave to appear *pro hac vice* as prescribed by the district court,

(2) paying the required fee to the clerk of the district court, and

(3) filing the application and receipt for payment with the clerk of the bankruptcy court.

The clerk of the bankruptcy court will enter the order on behalf of the assigned judge.

Notes:

- Can become member of permanent bar of court, obviating *pro hac vice* admission
  - Fee for *pro hac vice* admission higher than for admission to district court bar
  - Can become member of trial bar with relatively modest additional showing and sponsorship by local lawyer
- *Pro Hac Vice* admission indirectly (through district court rule) requires association with local counsel
- Local counsel not required for filing or appearance at hearings

Open

District of Colorado

Local Bankruptcy Rule 9010-1. Attorneys …

(b) **Admission**.

(1) Attorneys Admitted to the United States District Court for the District of Colorado. An attorney admitted and in good standing to practice in the United States District Court for the District of Colorado is qualified to practice in this Court.

(2) Attorneys Not Admitted to United States District Court for the District of Colorado.

(A) Admission to the United States District Court for the District of Colorado *pro hac vice* is no longer available. An attorney must comply with the Local Rules of Practice of the United States District Court for the District of Colorado, Section V – Attorney Rules (including admission) in order to appear before this Court.

District Local Attorney Rule 3 REQUIREMENTS FOR BAR OF THE COURT

(a) Application. An applicant for admission to the bar of this court shall be a person licensed by the highest court of a state, federal territory, or the District of Columbia, on active status in a state, federal territory, or the District of Columbia, and a member of the bar in good standing in all courts and jurisdictions where the applicant has been admitted. Each applicant shall complete an approved form provided by the clerk and shall pay all fees established by the court.

(B) Local Counsel. When an attorney is located outside of Colorado and does not have an office in Colorado, the Court, in its sole discretion, may impose additional requirements for practice before the Court, including that such out-of-state counsel retain local counsel qualified to practice before this Court.

Notes:

- Can (and must) become member of permanent bar of court
- Accordingly, *pro hac vice* admission not available
- No trial bar designation or other special category of admission required
- Association with local counsel not required even if admitted lawyer is located out-of-state unless Court specifically requires (in practice, this is unusual)

Central District of California

incentive program must be heard on regular notice pursuant to LBR 9013-1(d), absent exigent circumstances.

(2) Standard. The motion must state whether the employee is an insider. If so, the motion must state whether the insider has a bona fide job offer from another business at the same or greater rate of compensation and establish the elements of 11 U.S.C. § 503(c).

LBR 2081-2. CHAPTER 11 DEBTORS WHO ARE INDIVIDUALS

A chapter 11 debtor who is an individual may request that the court authorize use of LBR forms approved by the court for use solely by debtors who are individuals, and the debtor can consult the court's website to determine which judges mandate or otherwise authorize use of such forms.

LBR 2090-1. ATTORNEYS – ADMISSION TO PRACTICE

(a) Appearance by Attorneys Admitted to Practice Before the District Court.

(1) Attorney. An attorney admitted to practice before the district court may practice before the bankruptcy court. An attorney who is not admitted to the bar of, or permitted to practice before, the district court may not appear before the court on behalf of a person or entity, except as provided by this rule. Attorneys appearing before the court must have read the FRBP, F.R.Civ.P., F.R.Evid., and these rules in their entirety.

(2) Scope of Appearance in Chapter 9, 11, 12, and 13 Cases.
In chapter 9, 11, 12, and 13 cases, the attorney for the debtor is presumed to appear for the case and all proceedings in the case, unless otherwise ordered by the court or as provided for in LBR 3015-1(v).

(3) Scope of Appearance in Individual Chapter 7 Cases. Nothing in these rules shall be construed as prohibiting a limited scope of appearance in a chapter 7 case so long as the applicable Rules of Professional Conduct and ethics rules are followed and the attorney for the debtor, in addition to preparing the petition and schedules, provides the following services:

(A) advises the debtor about the possibility of any additional proceedings related to or arising from the underlying bankruptcy case, including any adversary proceeding, motion or other contested matter initiated by a creditor, trustee or party in interest; and

(B) appears with the debtor at the initial § 341(a) meeting of creditors or arranges for an attorney knowledgeable about all pertinent information in the case to appear with the debtor at such meeting.

(4) Disclosure of Compensation. Where the attorney and the debtor agree to legal services for less than all aspects of the bankruptcy case, the scope of the services

agreed to must be listed in, as applicable, LBR form F 2090-1.CH7.ATTY.COMP.DISCLSR and F 2016-1.4.ATTY.COMP.DISCLSR.

(5) Communications with the Debtor in Limited Scope Chapter 7 Cases. Subject to the prohibition on any act to collect a claim and other stayed acts under 11 U.S.C. § 362(a), any communication, including any proposed reaffirmation agreement, must be sent to both the debtor and the debtor's attorney, even if it appears that the communication is beyond the scope of the attorney's limited appearance in the case.

(b) Pro Hac Vice Appearance.

(1) Permission for Pro Hac Vice Appearance by Non-Resident Attorney. Any person who is not otherwise eligible for admission to practice before the court, but who is a member in good standing of, and eligible to practice before, the bar of any United States court, or of the highest court of any state, territory, or insular possession of the United States, who is of good moral character, and who has been retained to appear before the court, may, upon written application and at the discretion of the court, be permitted to appear and participate pro hac vice by non-resident attorney in a particular case or in a particular proceeding in a case.

(2) Disqualification from Pro Hac Vice Appearance. Unless authorized by the Constitution of the United States or Act of Congress, a non-resident attorney is not eligible for permission to appear pro hac vice if the applicant:

(A) Resides in California; or

(B) Is regularly employed in California; or

(C) Is regularly engaged in business, professional, or other similar activities in California.

(3) Designation of Local Counsel. A non-resident attorney applying to appear pro hac vice must designate an attorney who is a member of the bar of the court and who maintains an office within this district as local counsel with whom the court and opposing counsel may readily communicate regarding the conduct of the case and upon whom documents may be served, unless otherwise ordered by the court.

(4) Designation of Co-counsel. A judge to whom a case is assigned may, in the exercise of discretion, require the designation of an attorney who is a member of the bar of the court and who maintains an office within this district as co-counsel with authority to act as attorney of record for all purposes.

(5) Obtaining Permission for Pro Hac Vice Appearance. A non-resident attorney seeking permission to appear pro hac vice must present to the clerk:

(A) Proof of payment of the fee required by the district court; and

(B) A written application on or conforming to court-approved form F 2090-1.2.APP.NONRES.ATTY, Application for Non-Resident Attorney to Appear in a Specific Case, disclosing the following:

(i) The applicant's name, and office or residence address;

(ii) The courts to which the applicant has been admitted to practice and the respective dates of admission;

(iii) A statement by the applicant of the good standing to practice before the courts to which the applicant has been admitted;

(iv) Whether the applicant has been disciplined by any court or administrative body, and if disciplinary proceedings are pending, the details of such proceedings, and whether the applicant resigned while disciplinary proceedings were pending;

(v) Whether in the 3 years preceding the application, the applicant has filed for permission to practice pro hac vice before any court within the state of California, together with the court, title and number of each such proceeding, and the disposition of each such application;

(vi) A certificate that the applicant has read the FRBP, the F.R.Civ.P., the F.R.Evid., and these rules in their entirety; and

(vii) The designation required by LBR 2090-1(b)(3) or LBR 2090-1(b)(4) including the office address, telephone number, and written consent of the designee.

(6) No Notice and Hearing. An application by a non-resident attorney for permission to appear pro hac vice does not require notice or a hearing, pursuant to LBR 9013-1(q).

(c) Attorneys for the United States. Any person who is not eligible for admission under LBR 2090-1(b), or Local Civil Rules, who is employed within California and who is a member in good standing of and eligible to practice before the bar of any United States court, or of the highest court of any state, territory or insular possession of the United States, and who is of good moral character, may be granted leave of court to practice in the court in any matter for which such person is employed or retained by the United States or its agencies.

(d) Professional Corporations, Unincorporated Law Firms, and In-house Attorneys.

(1) Appearance. A professional law corporation or unincorporated law firm (collectively, "law firm") may not make an appearance on behalf of a party nor may pleadings or other documents be signed in the name of the law firm except by an attorney admitted to the bar of or permitted to practice before the court. This rule does not apply to appearances by the attorney on behalf of the attorney or on behalf of the attorney's law firm.

(2) Form of Appearance.

(A) A law firm must appear in the following form of designation or its equivalent:

John Smith (state bar number)
Smith and Jones
Address
Telephone Number
Fax Number (if any)
Email Address (if any)
Attorneys for _____

(B) An in-house attorney must appear in the following form of designation or its equivalent:

John Smith (state bar number)
Name of corporation or business entity
Address
Telephone Number
Fax Number (if any)
Email Address (if any)
Attorneys for _____

(C) Except as provided in LBR 1002-1(b) and LBR 2002-1(a), the disclosure of an email address by an attorney in the form of designation is optional.

(e) Law Student Certification for Practice in Bankruptcy Court. A law student may be certified for practice in the bankruptcy court if the student meets the requirements of Local Civil Rule 83-4 for appearances in civil cases, except that the student need only complete one-third (rather than one-half) of the legal studies required for graduation. The law student also must have:

(1) Taken or be taking concurrently a course in bankruptcy law; and

(2) Knowledge of and familiarity with the F.R.Civ.P., FRBP, F.R.Evid., the Rules of Professional Conduct of the State Bar of California, and these rules.

LBR 2090-2. ATTORNEYS – DISCIPLINE AND DISBARMENT

(a) Standards of Conduct. An attorney who appears for any purpose in this court is subject to the standards of professional conduct set forth in Local Civil Rule 83-3.

(b) Disciplinary Authority of Court. An attorney appearing in this court submits to the discipline of the court. If a judge has cause to believe that an attorney has engaged in unprofessional conduct, the judge may do one or more of the following:

(1) Initiate proceedings for civil or criminal contempt;

(2) Impose other appropriate sanctions;

(3) Refer the matter to the appropriate disciplinary authority of the state or jurisdiction in which the attorney is licensed to practice; or

(4) Refer the matter pursuant to the procedures set forth in Local Civil Rule 83-3 or General Order 96-05, Attorney Discipline Procedures in Bankruptcy Court.

LBR 2091-1. ATTORNEYS – WITHDRAWAL, SUBSTITUTION, AND CHANGE OF ADDRESS

(a) Motion for Withdrawal or Substitution. Except as provided in LBR 2091-1(b), a motion filed under LBR 9013-1(p) is required for:

(1) Withdrawal without Substitution. An attorney who has appeared on behalf of an entity or individual in any matter concerning the administration of the case, in one or more proceedings to withdraw as counsel; or

(2) Substitution of Self-Represented Individual. An individual who is currently represented by an attorney in any matter concerning the administration of the case, in one or more proceedings, who now desires to represent himself/herself without an attorney. The attorney and individual may include, as an exhibit to the motion, the court-approved form for substitution of attorney.

(b) Consensual Substitution of Counsel.

(1) A consensual substitution of attorneys may be filed and served to substitute counsel without filing a motion when:

(A) Replacing an Attorney with a Different Attorney. An entity or individual on whose behalf an attorney has appeared in any matter concerning the administration of the case, in one or more proceedings, or both, desires to substitute a different attorney in place of the former attorney; or

(B) Unrepresented/Self-Represented Party Adding an Attorney. A previously unrepresented entity or self-represented individual desires to substitute an attorney employed to represent the entity or individual.

(2) A substitution of attorney must be filed in substantially the same form as court-approved form F 2091-1.1.SUBSTITUTION.ATTY, Substitution of Attorney, and served on those persons entitled to notice under LBR 2091-1(c).

(3) An attorney's employment as a "professional person" under 11 U.S.C. §§ 327 or 1103 is not approved merely by the filing of a Substitution of Attorney and service of notice thereof. Approval of employment must be obtained in compliance with the requirements of the Bankruptcy Code, FRBP, and these rules.

(c) Notice.

(1) Case. An attorney seeking withdrawal or substitution who has appeared on behalf of an entity in any matter concerning the administration of the case must give notice of the proposed substitution or motion for leave to withdraw to the debtor, the United States trustee, any case trustee, any committee appointed in the case, and counsel for any of the foregoing.

(2) Proceedings. An attorney seeking withdrawal or substitution who has appeared on behalf of an entity only in one or more proceedings must give notice of the proposed substitution or motion for leave to withdraw to the debtor, each party who has been named or who has appeared in such proceeding(s), and the United States trustee.

(3) Cases and Proceedings. An attorney seeking withdrawal or substitution who has appeared on behalf of an entity both in the case and one or more proceedings must give notice of the proposed substitution or motion for leave to withdraw to all entities entitled to notice under subsections (c)(1) and (2) of this rule.

(d) Corporation, Partnership, Unincorporated Association, or Trust. An attorney moving for leave to withdraw from representation of a corporation, a partnership including a limited liability partnership, a limited liability company, or any other unincorporated association, or a trust, concurrently or prior to filing any such motion, must give notice to the client of the consequences of its inability to appear without counsel, including the possibility that a default judgment may be entered against it in pending proceedings; or, if the client is a chapter 11 debtor, that the case may be converted to chapter 7, a trustee may be appointed, or the case may be dismissed.

(e) Delay by Withdrawal or Substitution.

(1) A withdrawal or substitution of counsel will not result in a continuance of any matter, absent an order granting a motion for continuance after notice and a hearing pursuant to LBR 9013-1(m).

(2) Unless good cause is shown and the ends of justice require, no substitution or withdrawal will be allowed that will cause unreasonable delay in prosecution of the case or proceeding to completion.

(f) Change of Address.

(1) An attorney who changes office address must file and serve a notice of change of address to update the attorney's address in the court's electronic database.

(2) In the absence of a specific request to the contrary, a change of address will update the attorney's address in the court's electronic database and the mailing list in all open cases in which the attorney represents a debtor or other party in interest.

Delaware

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 twenty-eight (28) days after:

(i) The filing of the first paper filed on its behalf; or

(ii) The filing of a case transferred or removed to this Court.

Failure to timely obtain such representation shall subject the defaulting party to appropriate sanctions.

(e) Motion for Pro Hac Vice and Association with Delaware Counsel not Required.

(i) Government Attorneys. An attorney not admitted in the District Court but admitted in another United States District Court may appear representing the United States of America (or any officer or agency thereof) or any state or local government (or officer or agency thereof) so long as a certification is filed, signed by that attorney, stating (a) the courts in which the attorney is admitted, (b) that the attorney is in good standing in all jurisdictions in which he or she has been admitted and (c) that the attorney will be bound by these Local Rules and that the attorney submits to the jurisdiction of this Court for disciplinary purposes.

(ii) Delaware Attorney with Out of State Office. Attorneys who are admitted to the Bar of the District Court and in good standing, but who do not maintain an office in the District of Delaware, may appear on behalf of parties upon approval by the Court.

(iii) Claim Litigation. Parties (*pro se* or through out of state counsel) may file or prosecute a proof of claim or a response to their claim. The Court may, however, direct the claimant to consult with Delaware counsel if the claim litigation will involve extensive discovery or trial time.

(f) Standards for Professional Conduct. Subject to such modifications as may be required or permitted by federal statute, court rule or decision, all attorneys admitted or authorized to practice before this Court, including attorneys admitted on motion or otherwise, shall also be governed by the Model Rules of Professional Conduct of the

American Bar Association, as may be amended from time to time.

Part II

Mediation Programs

Central District of California

JAN 5 2010

UNITED STATES BANKRUPTCY COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

In re ADOPTION OF MEDIATION PROGRAM FOR BANKRUPTCY CASES AND ADVERSARY PROCEEDINGS	**THIRD AMENDED GENERAL ORDER NO. 95-01**

1.0 PURPOSE AND SCOPE

The United States Bankruptcy Court for the Central District of California (the "Court") recognizes that formal litigation of disputes in bankruptcy cases and adversary proceedings frequently imposes significant economic burdens on parties and often delays resolution of those disputes. The procedures established herein are intended primarily to provide litigants with the means to resolve their disputes more quickly, at less cost, and often without the stress and pressure of litigation.

The Court also notes that the volume of cases, contested matters and adversary proceedings filed in this district has placed substantial burdens upon counsel, litigants and the Court, all of which contribute to the delay in the resolution of disputed matters. A Court-authorized mediation program, in which litigants and counsel meet with a mediator, offers an opportunity for parties to settle legal disputes promptly, less expensively, and to their mutual satisfaction. The judges of the Court hereby adopt the Mediation Program for Bankruptcy Cases and Adversary Proceedings (the "Mediation Program") for these purposes.

It is the Court's intention that the Mediation Program shall operate in such a way as to allow the participants to take advantage of and utilize a wide variety of alternative dispute resolution methods. These methods may include, but are not limited to, mediation, negotiation, early neutral evaluation and settlement facilitation. The specific method or methods employed will be those that are appropriate and applicable as determined by the mediators and the parties, and will vary from matter to matter.

Nothing contained herein is intended to preclude other forms of dispute resolution with the consent of the parties.

2.0 CASES ELIGIBLE FOR ASSIGNMENT TO THE MEDIATION PROGRAM

Unless otherwise ordered by the judge handling the particular matter (the "Judge"), all controversies arising in an adversary proceeding, contested matter, or other dispute in a bankruptcy case are eligible for referral to the Mediation Program.

3.0 PANEL OF MEDIATORS

3.1 Selection.

a. The Court shall establish and maintain a panel ("Panel") of qualified professionals who have volunteered and been chosen to serve as a mediator ("Mediator") for the possible resolution of matters referred to the Mediation Program. The Panel shall be comprised of both attorneys and non-attorneys.

b. Applicants shall submit an Application (in the form attached) (the "Application") to the judge appointed as the administrator of the Mediation Program (the "Mediation Program Administrator"), setting forth their qualifications as described in Paragraph 3.3 below.

c. The judges of the Court will select the Panel from the applications submitted to the Mediation Program Administrator. The judges will consider each applicant's training and experience in mediation or other alternative dispute resolution, if any, as well as the applicant's professional experience and location. Appointments may be limited to keep the Panel at an appropriate size and to ensure that the Panel is comprised of individuals who have broadbased experience, superior skills, and qualifications from a variety of legal specialties and other professions.

3.2 Term. Mediators shall serve as members of the Panel for a term of 3 years unless the Mediator is advised otherwise by the Court or submits a written request to withdraw from the Panel to the Mediation Program Administrator. Reappointment will occur at the judges' discretion, and an application for reappointment is not required.

3.3 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 5 years;

2. Is a member in good standing of the federal courts for the Central District of California;

3. Has served as a principal attorney of record in at least 3 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 a party in interest in at least 3 adversary proceedings or contested matters from commencement to conclusion or, if the case is still pending, to the date of the Application; and

4. Is willing to undertake to evaluate or mediate at least one matter each quarter of each year, subject only to unavailability due to conflicts, personal or professional commitments, or other matters which would make such service inappropriate.

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 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 Panel. Non-attorney applicants shall make the same certification required of attorney applicants contained in Paragraph 3.3.a.4.

3.4 Geographic Areas of Service. Applicants shall indicate on the Application all counties

within the Central District in which they are willing to serve. Applicants must be willing to travel to all such counties to conduct Mediation Conferences.

4.0 ADMINISTRATION OF THE MEDIATION PROGRAM

The Chief Judge will appoint a judge of the Court to serve as the Mediation Program Administrator. The Mediation Program Administrator will be aided by assigned staff members of the Court, who will maintain and collect applications, maintain the roster of the Panel, track and compile results of the Mediation Program, and handle such other administrative duties as are necessary.

5.0 ASSIGNMENT OF MATTERS TO THE MEDIATION PROGRAM

5.1 Assignment by Request of Parties. A contested matter in a case, adversary proceeding, or other dispute (hereinafter collectively referred to as "Matter" or "Matters") may be assigned to the Mediation Program if requested in writing by the parties in the form attached as Official Forms 701 and 702.

5.2 Assignment by Judge. Matters may also be assigned by order of the Judge at a status conference or other hearing. While participation by the parties in the Mediation Program is generally intended to be voluntary, the Judge, acting *sua sponte* or on the request of a party, may designate specific Matters for inclusion in the Mediation Program. The Judge may do so over the objections of the parties. If a Matter is assigned to the Mediation Program by the Judge at a status conference or other hearing, the parties will be presented with an order assigning the Matter to the Mediation Program, and with a current roster of the Panel. The parties shall normally be given the opportunity to confer and to select a mutually acceptable Mediator and an Alternate Mediator from the Panel. If the parties cannot agree, or if the Judge deems selection by the Judge to be appropriate and necessary, the Judge shall select a Mediator and an Alternate Mediator from the Panel.

5.3 Assignment of Non-Panel Mediators. The Judge may, in his or her sole discretion, appoint individuals who are not members of the Panel as the Mediator and Alternate Mediator at the request of the parties and for good cause shown.

5.4 Use of Official Court Order Assigning Matter to Mediation Program. The order

appointing the Mediator and Alternate Mediator and assigning a Matter to the Mediation Program shall be in the form attached as Official Form 702 ("Mediation Order"). The original Mediation Order shall be docketed and retained in the case or adversary proceeding file and copies shall be mailed, by the party so designated by the Judge, to the Mediator, the Alternate Mediator, the Mediation Program Administrator, and to all other parties to the dispute.

5.5 Existing Case Deadlines Not Affected by Assignment to Mediation. Assignment to the Mediation Program shall not alter or affect any time limits, deadlines, scheduling matters or orders in the case, any adversary proceeding, contested matter or other proceeding, unless specifically ordered by the Judge.

5.6 Disclosure of Conflicts of Interest. No Mediator may serve in any Matter in violation of the standards regarding judicial disqualification set forth in 28 U.S.C. § 455.

a. Disclosure by Attorney Mediators. An attorney Mediator shall promptly determine all conflicts or potential conflicts in the manner prescribed by the California Rules of Professional Conduct and disclose same to all parties in writing. If the attorney Mediator's firm has represented one or more of the parties, the Mediator shall promptly disclose that circumstance to all parties in writing.

b. Disclosure by Non-Attorney Mediators. A non-attorney Mediator shall promptly determine all conflicts or potential conflicts in the same manner as a non-attorney would under the applicable rules pertaining to the non-attorney Mediator's profession and disclose same to all parties in writing. If the Mediator's firm has represented one or more of the parties, the Mediator shall promptly disclose that circumstance to all parties in writing.

c. Report of Conflict Issue by Parties. A party who believes that the assigned Mediator and/or the Alternate Mediator has a conflict of interest shall promptly bring the issue to the attention of the Mediator and/or the Alternate Mediator, as applicable, and shall disclose same to all parties in writing.

d. Resolution of Conflict Issue by Judge. If the Mediator and/or the Alternate

Mediator does not withdraw from the assignment, the issue shall be brought to the attention of the Judge in writing by the Mediator, the Alternate Mediator, or any of the parties in the form attached as Official Form 704. The notice shall be filed with the Court, and copies of the notice shall be mailed to the Judge, all of the parties to the dispute, their counsel, if any, the Mediator, the Alternate Mediator, and the Mediation Program Administrator. The Judge will then take whatever action(s) he or she deems necessary and appropriate under the circumstances to resolve the conflict of interest issue.

6.0 CONFIDENTIALITY

6.1 In General. No written or oral communication made, or any document presented, by any party, attorney, Mediator, Alternate Mediator or other participant in connection with or during any Mediation Conference, including the written Mediation Conference statements referred to in Paragraph 7.8 below, may be disclosed to anyone not involved in the Mediation, nor may any such communication be used in any pending or future proceeding in this Court or any other court. All such communications and documents shall be subject to all of the protections afforded by FRBP 7068. Such communication(s) may be disclosed, however, if all participants in the Mediation, including the Mediator, agree in writing to such disclosure. In addition, nothing contained herein shall be construed to prohibit parties from entering into written agreements resolving some or all of the Matter(s), or entering into or filing procedural or factual stipulations based on suggestions or agreements made in connection with a Mediation Program conference ("Mediation Conference").

6.2 Non-Confidentiality of Otherwise Discoverable Evidence. Notwithstanding the foregoing, nothing herein shall require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of a Mediation Conference.

6.3 Written Confidentiality Agreement Required. The parties and the Mediator shall enter into a written confidentiality agreement in the form attached as Official Form 708.

6.4 Effect of Recorded Settlement Agreement on Confidentiality. An oral agreement reached in the course of a Mediation Conference is not made inadmissible or protected from disclosure if all of the following conditions are satisfied:

a. The oral agreement is recorded by a court reporter, tape recorder, or other reliable means of sound recording;

b. The terms of the oral agreement are recited on the record in the presence of the parties and the Mediator, and the parties express on the record that they agree to the terms recited;

c. The parties to the oral agreement expressly state on the record that the agreement is enforceable or binding or words to that effect; and

d. The recording is reduced to writing and the writing is signed by the parties and their counsel, if any, within 3 days after it is recorded.

6.5 Effect of Written Settlement Agreement on Confidentiality. A written settlement agreement prepared in the course of a Mediation Conference is not made inadmissible or protected from disclosure if the agreement is signed by the settling parties and their counsel, if any, and either of the following conditions are satisfied:

a. The agreement provides that it is admissible or subject to disclosure, or words to that effect; or

b. The agreement provides that it is enforceable or binding or words to that effect.

6.6 Court Evaluation of Mediation Program Not Precluded by Confidentiality Provisions. Nothing contained herein shall be construed to prevent Mediators, parties, and their counsel, if any, from responding in absolute confidentiality to inquiries or surveys by persons authorized by the Court to evaluate the Mediation Program.

6.7 Confidentiality of Suggestions and Recommendations of Mediator. The Mediator shall have no obligation to make any written suggestions or recommendations but may, as a matter of discretion, provide counsel for the parties (or the parties, where proceeding in *pro per*), with a written settlement recommendation memorandum. No copy of any such memorandum shall be filed with the Court or made available, in whole or in part, directly or indirectly, to the Judge.

7.0 MEDIATION PROCEDURES

7.1 Selection of Mediator. Counsel for the parties (or the parties, where proceeding in *pro*

per), are encouraged to contact the proposed Mediator and Alternate Mediator as soon as practicable (preferably before submitting the Mediation Order to the judge for approval, if possible) to determine the availability of the Mediator and Alternate Mediator to serve in the Matter.

7.2 Availability of Mediator. If the Mediator is **not** available to serve in the Matter, the Mediator shall notify the parties, the Alternate Mediator, and the Mediation Program Administrator of that unavailability by mail in the form attached as Official Form 703 as soon as possible, but no later than 7 days from the date of receipt of notification of appointment. **Upon notification of the Mediator's unavailability to serve, the Alternate Mediator shall automatically serve as the Mediator without the necessity for further court order.**

7.3 Availability of Alternate Mediator. If the Alternate Mediator is **not** available to serve in the Matter, the Alternate Mediator shall notify the parties and the Mediation Program Administrator of that unavailability by mail in the form attached as Official Form 703 as soon as possible, but no later than 7 days from the receipt of notification by the Mediator, pursuant to Paragraph 7.1 above, of the Mediator's unavailability to serve.

7.4 Selection of Successor Mediator.

a. By Parties. Within 7 days of receipt of the Alternate Mediator's notification of unavailability, the parties shall choose a mutually acceptable Successor Mediator and Successor Alternate Mediator by mail in the form attached as Official Form 702. (This is the same Official Form which is used to appoint the original Mediator and Alternate Mediator, as described in Paragraph 5.4 above. However, the word "Successor" **must** be inserted in the caption of the Mediation Order in front of the words "Mediator" and "Alternate Mediator"). The parties shall file such form with the Court and provide a courtesy copy to the Judge and the Mediation Program Administrator.

b. By Judge. If the parties are unable to agree on a choice of Successor Mediator and Successor Alternate Mediator, they shall notify the Judge and the Mediation Program Administrator of their inability to do so by mail in the form attached as Official Form 704. In that event, the Judge shall appoint the Successor Mediator and Successor Alternate Mediator.

c. Use of Official Court Order Assigning Successor Mediator. When the Successor Mediator and Successor Alternate Mediator have been chosen by the parties and/or appointed by the Judge, the Judge shall execute an order appointing the Successor Mediator and Successor Alternate Mediator in the form attached as Official Form 702. (This is the same Official Form which is used to appoint the original Mediator and Alternate Mediator, as described in Paragraph 5.4 above. However, the word "Successor" **must** be inserted in the caption of the Mediation Order in front of the words "Mediator" and "Alternate Mediator").

7.5 Initial Telephonic Conference. Promptly, but no later than 14 days of receipt of notification of appointment, the Mediator shall conduct a telephonic conference with counsel for the parties (or the parties, where appearing in *pro per*) to discuss (a) fixing a convenient date and place for the Mediation Conference, (b) the procedures that will be followed during the Mediation Conference, (c) who shall attend the Mediation Conference on behalf of each party, (d) what material or exhibits should be provided to the Mediator before the Mediation Conference, and (e) any issues or maters that it would be especially helpful to have the parties address in their written Mediation Conference Statements.

7.6 Mediation Conference Scheduling. Also within 14 days of receipt of notification of appointment, the Mediator shall give notice to the parties of the date, time and place for the Mediation Conference. The Mediation Conference shall commence no later than 30 days following the receipt of notification by the Mediator, and shall be held in a suitable neutral setting such as the office of the Mediator, or at a location convenient and agreeable to the parties and the Mediator.

a. Continuance of Mediation Conference. The date for the Mediation Conference may be continued for a period not to exceed 30 days upon written stipulation between the Mediator and the parties. The stipulation need not be filed with the Court but the parties must mail a copy of it to the Judge and the Mediation Program Administrator.

b. Additional Continuance. At the written request of the parties and for good cause shown, the Judge may, in his or her sole discretion, approve an additional continuance of the

Mediation Conference beyond the period specified in Paragraph 7.6.a.

7.7 Mandatory Service of Mediation Order Prior to Mediation Conference. Prior to the Mediation Conference, the parties' counsel shall serve a copy of the Mediation Order on the Mediator, Alternate Mediator, Mediation Program Administrator, and all parties to the dispute.

7.8 Mediation Conference Statements. Each party shall submit a written Mediation Conference statement ("Mediation Statement") directly to the Mediator and to the parties to the Mediation Conference no less than 7 days prior to the date of the initial Mediation Conference, unless modified by the Mediator.

a. Format. Mediation Statements shall not exceed 10 pages, excluding exhibits and attachments. Mediation Statements shall comply with all of the requirements of Court Manual Section 2-5, unless such compliance is excused by the Mediator.

b. Confidentiality. Mediation Statements shall be subject to all of the protections afforded by the confidentiality provisions contained herein and by FRBP 7068.

c. Statements Not Filed with Court. The Mediation Statements shall **not** be filed with the Court, and the Judge shall not have access to them. In addition, the phrase **"CONFIDENTIAL -- NOT TO BE FILED WITH THE COURT"** shall be typed on the first page of the Mediation Statements.

d. Mandatory Contents. Mediation Statements must:

1. Identify the person(s), in addition to counsel, who will attend the Mediation Conference as representative(s) of the party, who have authority to make decisions;

2. Describe briefly the substance of the dispute;

3. Address any legal or factual issue(s) that might appreciably reduce the scope of the dispute or contribute significantly to settlement;

4. Identify the discovery that could contribute most to preparing the parties for meaningful discussions;

5. Set forth the history of past settlement discussions, including disclosure

of any prior and any presently outstanding offers and demands;

6. Make an estimate of the cost and time to be expended for further discovery, pretrial motions, expert witnesses and trial;

7. Indicate presently scheduled dates for further status conferences, pretrial conferences, trial, or otherwise; and

8. Attach copies of the document(s) from which the dispute has arisen (*e.g.*, contracts), or the document(s) whose availability would materially advance the purposes of the Mediation Conference.

e. Recommended Additional Contents. Parties may identify in the Mediation Statements the person(s) connected to a party opponent (including a representative of a party opponent's insurance carrier) whose presence at the Mediation Conference would substantially improve the prospects for making the session productive. The fact that a person has been so identified shall not, by itself, result in an order compelling that person to attend the Mediation Conference.

f. Additional Mediation Statements for Mediator Only. Each party may submit directly to the Mediator, for his or her eyes only, a separate confidential Mediation Statement describing any additional interests, considerations, or matters that the party would like the Mediator to understand before the Mediation Conference begins. Such Mediation Statements shall not exceed 10 pages, excluding exhibits and attachments, and shall comply with all of the requirements of Court Manual Section 2-5, unless such compliance is excused by the Mediator.

7.9 Mandatory Attendance at Mediation Conference.

a. By Counsel. Counsel for each party who is primarily responsible for the Matter (or the party, where proceeding in *pro per*) shall personally attend the Mediation Conference and any adjourned session(s) of that conference, unless excused by the Mediator for cause. Counsel for each party shall come prepared to discuss all liability issues, all damage issues, and the position of the party relative to settlement, in detail and in good faith.

b. By Parties. All individual parties, and representatives with authority to negotiate

and to settle the Matter on behalf of parties other than individuals, shall personally attend the Mediation Conference and any adjourned session(s) of that conference, unless excused by the Mediator for cause. Each party shall come prepared to discuss all liability issues, all damage issues, and the position of the party relative to settlement, in detail and in good faith.

c. By Governmental Agencies. A unit or an agency of government satisfies this attendance requirement if represented by a person who has, to the greatest extent feasible, authority to settle, and who is knowledgeable about the facts of the case, the governmental unit's position, and the procedures and policies under which the governmental unit decides whether to accept proposed settlements.

d. Telephonic Appearance. Any party or lawyer who is excused by the Mediator from appearing in person at the Mediation Conference may be required by the Mediator to participate by telephone. This decision is within the Mediator's sole discretion.

7.10 Consequences of Failure to Attend Mediation Conference and Other Violations of Mediation Program Procedures. Willful failure to attend the Mediation Conference and/or other violations of the Mediation Program procedures shall be reported to the Judge by the Mediator by written notice in the form attached as Official Form 705, and may result in the imposition of sanctions by the Judge. The Mediator's notice shall be filed with the Court and copies of the notice shall be mailed to the Judge, all of the parties to the dispute, their counsel, if any, and the Mediation Program Administrator. The Judge will then take whatever action(s) he or she deems necessary and appropriate under the circumstances to resolve the issue of such willful failure to attend the Mediation Conference and/or other violations of the Mediation Program procedures.

7.11 Conduct at the Mediation Conference. The Mediation Conference shall proceed informally. Rules of evidence shall not apply. There shall be no formal examination or cross-examination of witnesses. The Mediator may conduct continued Mediation Conferences after the initial session where necessary. As appropriate, the Mediator may:

a. Permit each party (through counsel or otherwise) to make an oral presentation of

its position;

b. Help the parties identify areas of agreement and, where feasible, enter into stipulations;

c. Assess the relative strengths and weaknesses of the parties' contentions and evidence, and explain as carefully as possible the reasoning of the Mediator that supports these assessments;

d. Assist the parties, through separate consultation or otherwise, in settling the dispute;

e. Estimate, where feasible, the likelihood of liability and the dollar range of damages;

f. Help the parties devise a plan for sharing the important information and/or conducting the key discovery that will assist them as expeditiously as possible to participate in meaningful settlement discussions or to posture the case for disposition by other means; and

g. Determine whether some form of follow up to the Mediation Conference would contribute to the case development process or to settlement.

7.12 Suggestions and Recommendations of Mediator. If the Mediator makes any oral or written suggestions as to the advisability of a change in any party's position with respect to settlement, the attorney for that party shall promptly transmit that suggestion to the client. The Mediator shall have no obligation to make an written comments or recommendations, but may, as a matter of discretion, provide the parties with a written settlement recommendation memorandum. No copy of any such memorandum shall be filed with the Court or made available in whole or in part directly or indirectly, to the Judge.

8.0 PROCEDURE UPON COMPLETION OF MEDIATION CONFERENCE

8.1 Upon the conclusion of the Mediation Conference, the following procedures shall be followed:

a. If Matter Settled. If the parties have reached an agreement regarding the

disposition of the Matter, the parties, with the advice of the Mediator, shall determine who shall prepare the writing to dispose of the Matter. If necessary, the parties may, with the Mediator's consent, continue the Mediation Conference to a date convenient for all parties and the Mediator. Where required, they shall promptly submit a fully executed settlement stipulation to the Judge for approval, and shall mail a copy to the Mediation Program Administrator. The Judge will accommodate parties who desire to place any resolution of a Matter on the record during or following the Mediation Conference.

b. Mediator's Certificate of Completion of Conference. Within 14 days of the Mediation Conference, the Mediator shall file with the Court and serve on the parties and the Mediation Program Administrator a certificate in the form attached as Official Form 706, which shows whether there has been compliance with the Mediation Conference requirements and whether or not a settlement has been reached. Regardless of the outcome of the Mediation Conference, the Mediator will **not** provide the Judge with any details of the substance of the Mediation Conference.

c. Confidential Evaluation. In order to assist the Mediation Program Administrator in compiling useful data to evaluate the Mediation Program and aid the Court in assessing the efforts of the members of the Panel, the Mediator shall provide a Mediation Conference Report to the Mediation Program Administrator in the form attached as Official Form 709. The Mediation Conference Report shall **not** be filed with the Court and the Judge shall not have access to it. In addition, the phrase **"CONFIDENTIAL -- NOT TO BE FILED WITH THE COURT"** shall be typed on the first page of the Mediation Conference Report.

9.0 *PRO BONO* AND COMPENSATED SERVICE OF MEDIATORS

9.1 Mandatory *Pro Bono* Service. The Mediator shall serve on a *pro bono* basis and shall not require compensation or reimbursement of expenses for the first full day of at least one Mediation Conference per quarter per year. If, at the conclusion of the first full day of the Mediation Conference, it is determined by the parties that additional time will be both necessary and productive in order to complete the Mediation Conference, then:

a. If the Mediator consents to continue to serve on a *pro bono* basis, the parties may

agree to continue the Mediation Conference; or

b. If the Mediator does not consent to continue to serve on a *pro bono* basis, the Mediator's compensation shall be on such terms as are satisfactory to the Mediator and the parties, and shall be subject to the prior approval of the Judge if the estate is to be charged with such expense.

9.2 Compensated Service Upon Completion of Mandatory *Pro Bono* Service. After a Mediator has concluded at least one *pro bono* mediation for the particular quarter, nothing herein shall prohibit the Mediator and the parties from agreeing that the Mediator may be compensated for services rendered by the Mediator. The amount of such compensation and the terms governing the amount and payment shall be as agreed upon among the parties. If applicable, any party or parties to the mediation may apply to the Judge for authorization to compensate the Mediator from property of the estate. Nothing in this provision, however, shall require any party to compensate a Mediator other than as may be mutually agreed upon among the parties and the Mediator.

10.0 IMPLEMENTATION

10.1 The Mediation Program became effective on July 1, 1995.

10.2 Judge Barry Russell is appointed the Mediation Program Administrator.

DATED: 1/5/10

VINCENT P. ZURZOLO
CHIEF BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

In re Debtor(s).	Bk. No. [Chapter]
Plaintiff(s)/Movant(s), v. Defendant(s)/Respondent(s).	Adv. No. MEDIATOR'S **CONFIDENTIAL** REPORT OF MEDIATION CONFERENCE **CONFIDENTIAL -- NOT TO BE FILED WITH THE COURT**

I hereby certify that the following information is true and correct to the best of my information and belief:

1. How did you learn of your mediation assignment? (PLEASE CHECK ALL THAT APPLY)

(a) Received Court order _____; (b) Phone call _____;

(c) Fax from Mediation Program staff _____;

(d) Other _____.

2. In what capacity did you serve?

(a) Mediator _____; (b) Alternate Mediator _____;

(c) Successor Mediator _____; (d) Successor Alternate Mediator _____.

3. How did the mediation assignment conclude?

(a) Settled _____; (b) Did NOT settle _____.

4. How many hours did you spend scheduling and preparing for the mediation conference? _____

5. How many hours did you spend attending the conference? _____

6. Which dispute resolution procedure(s) did you use? (IF MORE THAN ONE METHOD USED, PLEASE ESTIMATE PERCENTAGE OF TIME SPENT ON EACH)

(a) Early neutral evaluation: _____ (_____%)

(b) Settlement negotiation: _____ (_____%)

(c) Mediation: _____ (_____%)

(d) Other: _____ (_____%)

(Describe): _____

_____

7. Were you compensated for your mediation services? _____

8. Have you filed Form 706 (Mediator's Certificate Regarding Completion of Mediation Conference) with the Court, and mailed courtesy copies to the judge assigned to the matter and to Judge Russell (the Mediation Program Administrator)? _____

9. Comments/suggestions: _____

_____

_____

_____

_____

DATED: _____

_____
(Name of Mediator)

_____
(Signature of Mediator)

MEDIATION CONFERENCE ATTENDANCE FORM

Case Name: _____

Case No.: _____

Adversary Proceeding Name: _____

Adversary Proceeding No.: _____

Date(s) of Conference(s): _____

Mediator: _____

Instructions: All attorneys and client representatives who attend the conference shall provide the following information to the Mediator. **PLEASE WRITE OR PRINT CLEARLY.**

ATTORNEYS

Name: _____
Firm: _____
Address: _____
_____
Phone: _____
E-mail: _____
Attorney for: _____
_____

Name: _____
Firm: _____
Address: _____
_____
Phone: _____
E-mail: _____
Attorney for: _____
_____

Name: _____
Firm: _____
Address: _____
_____
Phone: _____
E-mail: _____
Attorney for: _____
_____

Name: _____
Firm: _____
Address: _____
_____
Phone: _____
E-mail: _____
Attorney for: _____
_____

[Attach additional page(s) if necessary.]

CLIENT AND/OR CLIENT REPRESENTATIVES

Name: _____
Title: _____
Organization: _____
_____
Address: _____
_____
_____
Phone: _____
Party Representing: _____
_____

Name: _____
Title: _____
Organization: _____
_____
Address: _____
_____
_____
Phone: _____
Party Representing: _____
_____

Name: _____
Title: _____
Organization: _____
_____
Address: _____
_____
_____
Phone: _____
Party Representing: _____
_____

Name: _____
Title: _____
Organization: _____
_____
Address: _____
_____
_____
Phone: _____
Party Representing: _____
_____

[Attach additional page(s) if necessary.]

Mail to: Hon. Barry Russell
Mediation Program Administrator
United States Bankruptcy Court
255 East Temple Street, Suite 1660
Los Angeles, California 90012

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address	FOR COURT USE ONLY
☐ *Attorney for* _____	

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - **SELECT DIVISION DIVISION**

In re: Debtor(s). Plaintiff(s), vs. Defendant.	CASE NO.: CHAPTER **Select Chapter** ADVERSARY NO.: **REQUEST FOR ASSIGNMENT TO MEDIATION PROGRAM** **[NOTE: A COMPLETED ORDER ASSIGNING MATTER TO MEDIATION AND APPOINTING MEDIATOR AND ALTERNATE MEDIATOR MUST BE CONCURRENTLY UPLOADED THROUGH LODGED ORDER UPLOAD (LOU) WITH THIS REQUEST]** [NO HEARING REQUIRED]

I hereby request that the following matter be assigned to the Bankruptcy Mediation Program of this district:

Description of the Matter:

1. ☐ Objection to claim/claim resolution
2. ☐ Plan
   - ☐ Objection to plan confirmation
   - ☐ Plan formulation/negotiation
3. ☐ Valuation
4. ☐ Preference

5. ☐ Fraudulent transfer
6. ☐ Lien avoidance
7. ☐ Dischargeability

   Specify grounds:_____

8. ☐ Other. Please specify:_____

Amount of money at issue in Matter:

1. ☐ $0 to $1,000
2. ☐ $1,001 to $10,000
3. ☐ $10,001 to $50,000
4. ☐ $50,001 to $100,000
5. ☐ $100,001 to $500,000
6. ☐ $500,001 to $1,000,000
7. ☐ $1,000,001 to $5,000,000
8. ☐ $5,000,001 to $10,000,000
9. ☐ If more than $10,000,000,

   state amount: $_____
10. ☐ Money not at issue.

SUBMITTED JOINTLY BY:

Date:_____

_____
(Name of party)

_____
(Signature of party)

Date:_____

_____
(Name of party's counsel)

_____
(Signature of party's counsel)

Date:_____

_____
(Name of party)

_____
(Signature of party)

Date:_____

_____
(Name of party's counsel)

_____
(Signature of party's counsel)

Instructions from the court: A completed ORDER ASSIGNING MATTER TO MEDIATION PROGRAM AND APPOINTING MEDIATOR AND ALTERNATE MEDIATOR must be concurrently uploaded through Lodged Order Upload (LOU) with this Request for Assignment to Mediation Program.

cc: Hon. Barry Russell
Mediation Program Administrator
United States Bankruptcy Court
255 East Temple Street, Suite 1660
Los Angeles, CA 90012

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

A true and correct copy of the foregoing document described as **REQUEST FOR ASSIGNMENT TO MEDIATION PROGRAM** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Order(s) and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On _____, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) stated below:

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL OR OVERNIGHT MAIL (state method for each person or entity served): On _____, I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Mediator:

Alternate Mediator:

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on _____, I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

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

Date:_____ Signature:_____

Printed Name:_____

UNITED STATES BANKRUPTCY COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

In re Debtor(s).	Case No. [Chapter]
Plaintiff(s)/ Movant(s), v. Defendant(s)/Respondent(s).	Adv. No. MEDIATOR'S CERTIFICATE REGARDING COMPLETION OF MEDIATION CONFERENCE

1. I was assigned to mediate this matter by order of this Court dated _____ _____ as the:

(a) Mediator ;

(b) Alternate Mediator _____;

(c) Successor Mediator _____;

(d) Successor Alternate Mediator _____.

2. I hereby certify that, to the best of my information and belief, the mediation assignment:

(a) Settled _____;

(b) Did NOT settle _____.

3. If the matter SETTLED:

(a) Did the matter settle prior to the mediation conference without a mediation conference being held? _____

(b) If you conducted a mediation conference that settled, on what date(s) did the conference occur? _____

(c) If you conducted a mediation conference that settled, who did you designate to prepare the settlement documentation? _____.

4. If the matter DID NOT settle:

(a) Was the matter dismissed by the Court prior to the mediation conference? _____

(b) Did you conduct a mediation conference? _____

(c) If you conducted a mediation conference, on what date(s) did the conference occur? _____

_____.

DATED: _____

_____
(Name of Mediator)

_____
(Signature of Mediator)

cc: Hon. Barry Russell
Mediation Program Administrator
United States Bankruptcy Court
255 East Temple Street, Suite 1660
Los Angeles, California 90012

UNITED STATES BANKRUPTCY COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

In re Debtor(s).	Bk. No. [Chapter]
Plaintiff(s)/Movant(s), v. Defendant(s)/Respondent(s).	Adv. No. INITIAL MEDIATION CONFIDENTIALITY AGREEMENT **CONFIDENTIAL -- NOT TO BE FILED WITH THE COURT**

This is an Agreement between the parties and the Mediator to enter into confidential discussions about the mediation of the following issues: _____

_____

_____

_____

[Attach additional page(s) if necessary.]

Form 708 Revised 11/09

The undersigned understand and agree to the strict confidentiality of their mediation. Mediation discussions, any draft resolutions and any unsigned mediated agreements shall not be disclosed to anyone not involved in the Mediation Program and shall not be admissible in any court or administrative proceeding. Only an agreement signed by all parties may be so admissible.

The parties further agree not to call the Mediator to testify concerning the mediation nor to provide any materials from the Mediation Program in any court or administrative proceeding between the parties, except as to matters governed by FRBP 7068.

In addition, the Mediator shall not be compelled to divulge any materials from the Mediation Program or to testify in regard to the mediation in any judicial or other proceeding.

DATED: _____

_____
(Name of Party)

_____
(Signature of Party)

DATED: _____

_____
(Name of Party's Counsel)

_____
(Signature of Party's Counsel)

DATED: _____

_____
(Name of Party)

_____
(Signature of Party)

DATED: _____

_____
(Name of Party's Counsel)

_____
(Signature of Party's Counsel)

DATED: _____

_____
(Name of Mediator)

_____
(Signature of Mediator)

[Attach additional page(s) if necessary.]

Delaware

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. 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 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).

(iii) Court Certification. The Court in its sole and absolute determination on any 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.

(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 of Mediators (i) at the person's request, (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 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 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 fourteen (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.

(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, the mediator or arbitrator may require compensation 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) 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.

(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.

Arizona

Notes 2018: Rule 9071-1 revised to simplify language.

Rule 9072-1. Procedures Governing Alternative Dispute Resolution Matters in Bankruptcy Cases

(a) ADR Program. Litigation in bankruptcy cases frequently imposes significant economic and other burdens on parties and often delays resolution of disputes. Alternative Dispute Resolution ("ADR") procedures have the potential to reduce delay, cost, stress and other burdens often associated with bankruptcy and bankruptcy related litigation. Mediation, in particular, allows parties more active involvement in determining the resolution of their disputes. To provide a court-annexed ADR procedure, the court adopts Local Rules 9072-1 through 9072-9 creating an ADR Program for the District of Arizona (the "ADR Program").

(b) ADR Methods. It is the court's intention that the ADR Program shall operate in such a way as to allow the participants to take advantage of and utilize a wide variety of ADR methods. These methods may include, but are not limited to, mediation, negotiation, early neutral evaluation, and settlement facilitation. The specific method or methods employed will be those that are appropriate and applicable as determined by the mediator and the parties, or as directed by the court and will vary from matter to matter. Nothing contained herein is intended to preclude other forms of ADR with the consent of the parties.

Rule 9072-2. Assignment of Matters to ADR

The court may assign a matter for inclusion in the ADR Program sua sponte, upon written stipulation of the parties to the matter, or on motion of a party to the matter or the United States Trustee. While participation by the parties in the ADR Program is generally intended to be voluntary, the court may designate specific matters for inclusion in the ADR Program, or the United States Trustee, the court may order additional parties to participate in the ADR Program if the participation of the additional parties would be necessary or helpful.

Rule 9072-3.Types of Matters Subject to ADR

Unless otherwise ordered by the court, all controversies arising in an adversary proceeding, contested matter, or other dispute in a case are eligible for referral to the ADR Program.

Rule 9072-4. Effect of ADR on Pending Matters

The assignment of a matter to the ADR Program does not relieve the parties to that matter from complying with any other court orders or applicable provisions of the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or the local bankruptcy rules of this Court. Unless otherwise ordered by the Court, the assignment of this matter to the ADR Program does not delay or stay discovery, pretrial, hearing dates, or trial schedules.

Rule 9072-5. Panel of Mediators/ADR Program Administrator

The clerk shall establish and maintain two lists of attorneys and panel trustees (the "Panel") qualified under Local Rule 9072-6 and approved by the court to serve as mediators in the ADR Program. The Chief Bankruptcy Judge shall appoint a judge of this court, who is willing, to serve as the ADR Program Administrator (the "ADR Program Administrator"). Aided by staff members of the court, the ADR Program Administrator shall receive applications for approval to the Panel, track and compile reports on the ADR Program, and otherwise administer the ADR Program and handle such other administrative duties as are necessary.

Rule 9072-6. Application and Certification of Mediators

(a) Application and Qualification Requirements. Each attorney or panel trustee applying for approval to the Panel must submit to the ADR Program Administrator the Application Form which can be obtained from the court's website. Except as otherwise determined by the court, to be approved as a mediator in the ADR Program, each applicant must meet the following criteria:

(1) if the applicant is an attorney, be a member in good standing of the bar of any state or the District of Columbia, with at least five years of practice; or

(2) if the applicant is an attorney, be a member in good standing of the bar of the Federal District Court of Arizona, with at least five years of practice; or

(3) if the applicant is a panel trustee, be an active panel trustee in good standing with the office of the United States Trustee with at least five years of service as a panel trustee, or if retired, have been a panel trustee in good standing with the; office of the United States Trustee with at least five years of service as a panel trustee;

(4) not have been suspended, or have had a professional license or bond revoked, or have pending any proceeding to suspend or revoke such license or bond;

(5) not have resigned from a professional organization or panel while an investigation was pending into allegations of misconduct which would warrant suspension, disbarment or professional license or bond revocation;

(6) not have been conflicted of a felony;

(7) have completed appropriate mediation training, or have sufficient experience, in the mediation process;

(8) be determined by the court to be competent to perform the duties of a mediator; and

(9) be willing to serve as mediator in at least one matter during each quarter of each year, subject only to unavailability due to conflicts, personal or

professional commitments, or other matters which would make such service inappropriate.

(b) Term. Mediators shall serve as members of the Panel for a term of three (3) years unless the mediator is advised otherwise by the court or submits a written request to withdraw from the Panel to the ADR Program Administrator. Reappointment will occur at the court's discretion, and an application for reappointment shall not be required. A mediator assigned to act as a mediator in a matter before expiration of his or her term shall continue said service until the mediation is concluded regardless of term expiration.

(c) Court Certification. The court, in its sole discretion, shall grant or deny an application submitted pursuant to Local Rule 9072-6. If the court grants the application, the applicant's name shall be added to the Panel, subject to removal pursuant to Local Rule 9072-6(f).

(d) Reaffirmation of Qualifications. Each applicant approved for designation to the Panel shall reaffirm annually the continued existence and accuracy of the qualifications, statements, and representations made in the application. Failure to comply with this section shall be grounds for removal under Local Rule 9072-6(f).

(e) Mediator's Oath. Before serving as a mediator, each person designated to the Panel as a mediator 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 as a Mediator in the ADR Program of the United States Bankruptcy Court for the District of Arizona with equal respect to all persons regardless of race, religion, gender, ethnicity, or economic status . So help me God."

(f) Removal from Panel. A person shall be removed from the Panel either at the person's request or by court order. If removed by court order, the person shall not be returned to the Panel absent a court order obtained on motion to the ADR Program Administrator, supported by an affidavit sufficiently explaining the circumstances of such removal and the reasons justifying the return of the person to the panel.

Rule 9072-7. Appointment of Mediator

(a) Selection and Appointment of Mediator.

(1) Selection by Parties. Unless otherwise ordered by the court, within seven days following the receipt of notice of assignment of a matter to the ADR Program, the parties to the matter shall select a mediator and an alternate mediator, and shall present the court with a proposed order of appointment. If such selection is not from the Panel, the parties shall submit with the proposed order of appointment a stipulation by the parties that the proposed mediator is not on the Panel but is otherwise qualified under Local Rule 9072-6 to mediate the matter. If the court, in its sole discretion approves the parties' selection, immediately after entry of the order of appointment, the court shall notify the parties, the mediator, and the alternative mediator of the appointment.

(2) **Selection/Appointment by Court.** If the parties cannot agree upon a mediator within 14 days following the receipt of notice of assignment of a matter to the ADR Program, the parties shall notify the court; thereupon, the court shall appoint a mediator and an alternative mediator from the Panel, and shall notify in writing the parties, the mediator, and the alternative mediator of such appointment.

(b) Inability of Mediator to Serve. If the mediator is unable to serve, the mediator shall, within seven days after receipt of notice of the appointment, file and serve on all parties to the matter, and on the alternate mediator a notice of inability to accept the appointment. If the alternate mediator does not file and serve on all parties to the mediation a notice of inability to accept the appointment within seven days after receipt of the original mediator's notice of inability to accept the appointment, the alternate mediator shall then become the mediator. If neither the mediator nor the alternate mediator can serve, the court shall appoint another mediator and alternative mediator.

(c) Disqualification of Mediator.

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

(2) **Inquiry by Mediator; Disclosure.** Promptly after receiving notice of appointment, the mediator shall make inquiry sufficient to determine whether there is a basis for disqualification under Local Rule 9072-7(c)(1). The inquiry shall include, but not be limited to, a search for conflicts of interest in the manner prescribed by the applicable rules of professional conduct for attorney mediators, and by the applicable rules pertaining to the mediator's profession for non-attorney mediators. Within seven days after receiving notice of appointment, the mediator shall file with the court and serve on the parties to the mediation either (a) a statement that there is no basis for disqualification under Local Rule 9072-7(c)(1) and that the mediator has no actual or potential conflict of interest or (b) a notice of withdrawal.

(3) **Objection Based on Conflict of Interest.** A party to the mediation who believes that the assigned mediator and/or the alternate mediator has a conflict of interest, promptly shall bring the issue to the attention of the mediator and/or the alternate mediator, as applicable, and to the other parties to the mediation. If the mediator does not voluntarily withdraw, the issue shall be brought to the court's attention by the mediator or any of the parties to the mediation. Any pleading shall be filed with the court, and copies of the pleading shall be mailed to all of the parties to the mediation, their counsel of record, if any, the mediator, the alternative mediator, and the ADR Program Administrator. The court shall take such action as the court deems necessary or appropriate to resolve the alleged conflict of interest and to avoid the appearance of impropriety.

(d) Mediator's Liability. 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 on account of any act or omission in the course and scope of such person's duties as a mediator.

(e) Compensation.

(1) Compensated Mediation. Mediators who meet the requirements of Local Rule 9072-6 shall be paid fees and expenses on such terms as the mediator and the parties to the mediation may agree or as the court otherwise may direct. The parties to the mediation shall share equally all ADR fees and expenses unless the parties to the mediation agree otherwise. The court may, in the interest of justice, determine a different allocation or a different fee structure. ADR fees and expenses are subject to prior court approval if the bankruptcy estate is to be charged with any portion. Notwithstanding the foregoing, the mediator's fee, whether agreed to by the parties or fixed by the court, may not be contingent or otherwise based on the result or outcome of the ADR process. The court shall maintain a list of all mediators who are qualified to be compensated mediators.

(2) Uncompensated Mediation. The court shall maintain a list of mediators who have agreed to serve as mediators without compensation in those cases where one or more of the parties can not afford to pay for mediation. Any attorney or panel trustee willing to serve as an uncompensated mediator shall file then Application Form pursuant to Local Rule 9072-6 above and state that they are willing to serve as an uncompensated mediator. To be approved as a uncompensated mediator it is not required that the applicant have completed mediation training.

Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.

Rule 9072-8. The Mediation

(a) Initial Telephonic Conference. Promptly, but no later than 14 days of receipt of notification of appointment, the mediator shall conduct a telephone conference with counsel of record for the parties (or the parties, where appearing pro se) to discuss (1) fixing a convenient date and place for the ADR Conference; (2) the procedures that will be followed during the ADR Conference; (3) who shall attend the ADR Conference on behalf of each party; (4) what material or exhibits should be provided to the mediator before the ADR Conference; and (5) any issues or matters that it would be especially helpful to have the parties address in the Submission materials.

(b) Time and Place of ADR Conference. After consulting with all counsel and pro se parties, the mediator shall schedule a convenient time and neutral place for the ADR Conference, and promptly give all counsel and pro se parties at least 14 days advance written notice of the time and place of the ADR Conference. The mediator shall schedule the ADR Conference to begin as soon as practicable after entry of the order of appointment.

(c) Submission Materials. Not less than seven days before the ADR Conference, each party shall submit directly to the mediator, and shall serve on all counsel and pro se parties,

an ADR statement (the "Submission"). The Submission shall not be filed with the court and the court shall not have access to the submission of any portion thereof. The Submission may include any information that the parties would consider useful, but must:

(1) Identify the person(s), in addition to counsel of record, who will attend the ADR Conference as representative of the party with decision making authority;

(2) Describe briefly the nature and scope of the substance of the dispute;

(3) Address whether there are legal or factual issues whose early resolution might reduce appreciably the nature and scope of the dispute or significantly contribute to settlement;

(4) Identify the discovery that could contribute most to equipping the parties for meaningful settlement discussions;

(5) Set forth the history of past settlement discussions, including disclosure of prior and any presently outstanding offers, counteroffers, and demands;

(6) Make an estimate of the cost and time to be expended for further discovery, pretrial motions, expert witnesses, and trial;

(7) Indicate presently scheduled court dates for further status conferences, pretrial conferences, trial, or otherwise; and

(8) Attach copies of the document(s) from which the dispute has arisen or other relevant documents or information whose availability would materially advance the purposes of the Mediation Conference.

(d) Attendance at ADR Conference.

(1) Persons Required to Attend. The following persons must attend the ADR Conference:

(A) Each party who is a natural person;

(B) If a party is not a natural person, 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;

(C) If the party is a governmental or quasi 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;

(D) The attorney who has primary responsibility for each party's case. The attorney shall come prepared to discuss all liability issues, all damage issues, and the position of the party relating to settlement, in detail and good faith; and

(E) 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 the ADR program.

(2) Excuse. A person required to attend the ADR Conference is excused from appearing if all parties and the mediator agree that the person need not attend the ADR Conference. The court for cause may excuse a person's attendance at the ADR Conference. Any party or attorney who is excused by the mediator from appearing in person at the ADR Conference may be required by the mediator to participate telephonically. Telephonic participation at the ADR Conference should be the exception rather than the rule and shall only be permitted upon good cause shown. This decision is within the mediator's sole discretion.

(3) Failure to Attend. Willful failure to attend any ADR Conference, and any other material violation of these Local Rules, shall be reported to the court by the mediator and may result in the imposition of sanctions by the court or other appropriate relief. Any such report of the mediator shall comply with the confidentiality requirements of the Local Rules. The court will take whatever action(s) it deems necessary and appropriate under the circumstances to resolve the issue of such willful failure to attend the ADR Conference and/or other violations of the Local Rules.

(e) ADR Conference Procedures. The mediator may establish appropriate procedures for the ADR Conference. The ADR Conference shall proceed informally. The Rules of Evidence shall not apply. There shall be no formal examination of witnesses.

(f) Confidentiality of ADR Proceedings.

(1) Protection of Information Disclosed at ADR. Unless otherwise agreed by the parties, the mediator and the participants in the ADR process are prohibited from divulging, outside of the ADR proceeding, any oral or written information disclosed by the parties or by witnesses in the course of the ADR Conference including the Submission of materials or any portion thereof. No person may rely on or introduce as evidence in any arbitral, judicial, or other proceedings, evidence pertaining to any aspect of the ADR proceeding, 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 ADR Proceeding; and (e) documents prepared for the purpose of, in the course of, or pursuant to the ADR proceeding or Local Rules. In addition, without limiting the foregoing, and notwithstanding Local Rule 9072-8(e), Rule 408, Fed.R.Evid. and any applicable federal or state statute, rule, common law, or judicial precedent relating to the privileged nature of settlement discussions, mediation, or other ADR procedure shall apply. Information otherwise discoverable or admissible in evidence, however, does not become exempt from discovery, or inadmissible in evidence, merely by being used by a party in a ADR Conference.

(2) **Discovery from Mediator.** The mediator shall not be compelled to disclose to the court or to any person outside the ADR Conference any of the records, reports, summaries, notes, communications, testimony, or other documents received or made by a mediator while serving in such capacity. The mediator shall not testify or be compelled to testify in regard to the ADR proceeding in connection with any arbitral, judicial, or other proceeding. The mediator shall not be a necessary party in any proceeding relating to the ADR proceeding. Nothing contained in this subsection shall prevent the mediator from reporting the status, but not the substance, of the ADR proceeding to the court in writing, from filing a final report as required by Local Rule 9072-8(g), or from complying with any of the other obligations set forth in Local Rule 9072-9.

(3) **Protection of Proprietary Information.** The parties, the mediator, and all ADR participants shall protect proprietary information obtained during the ADR Conference.

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

(g) Recommendation 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 the attorneys or pro se litigants, but not to the court.

Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.

Rule 9072-9. Post ADR Procedures

(a) Preparation of Orders. If a settlement is reached at an ADR Conference, the party designated by the mediator shall submit a fully executed stipulation and proposed order to the court within 21 days after the conclusion of the ADR Conference. If the party designated by the mediator fails to prepare the stipulation and order proposed, the court may impose appropriate sanctions or other appropriate relief.

(b) Mediator's Certificate of Completion. Promptly after the conclusion of the ADR Conference, the mediator shall file with the court, and serve on the parties and the ADR Program Administrator, a certificate in the form provided by the court showing compliance or noncompliance with the Mediation Conference requirements of Local Rules 9072-1 through 9072-9 and whether or not a settlement has been reached. Regardless of the outcome of the ADR Conference, the mediator shall not provide the court with any details of the substance of the ADR Conference.

(c) Mediator's Report. In order to assist the ADR Program Administrator in compiling useful data to evaluate the ADR Program, and to aid the court in assessing the efforts of the members of the Panel, the mediator shall provide the ADR Program Administrator with an

estimate of the number of hours spent in the ADR Conference and other statistical and evaluative information on a form provided by the court. The mediator shall provide this report whether or not the ADR Conference results in settlement.

(d) Withdrawal from ADR. Upon the filing of a mediator's certificate pursuant to Local Rule 9072-9(b) or the entry of an order withdrawing a matter from ADR pursuant to Local Rule 9072-9(d), the ADR will be deemed terminated, and the mediator excused and relieved from further responsibilities in the matter without further court order. If the ADR Conference does not result in a resolution of all of the disputes in the assigned matter, the matter shall proceed to trial or hearing on all remaining issues pursuant to the court's scheduling orders.

(e) Termination of ADR. Upon the filing of the mediator's certificate pursuant to Local Rule 9072-9(b) or the entry of an order withdrawing a matter from ADR pursuant to Local Rule 9072-9(d), the ADR will be deemed terminated and the mediator excused and relieved from further responsibilities in the matter without further court order.

Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.

Rule 9076-1. Electronic Service

(a) NEF Constitutes Service on Registered CM/ECF Users. Registration as an ECF user constitutes consent to electronic service under FRCP 5. Receipt of the Notice of Electronic Filing (NEF) constitutes service on a registered CM/ECF user who has electronically filed a document in the case. The filer shall provide non-registered users with notice of the filing by other means in accordance with the FRBP.

(b) NEF Does Not Constitute Service. Electronic transmission of a NEF does not constitute service or notice of certain initiating documents. A filer must serve by hand-delivery, courier, mail, or email (if the party has consented to email service) the following documents:

(1) Service of a summons and involuntary petition under FRBP 1010;

(2) Service of a summons and complaint under FRBP 7004;

(3) Service of papers that commence a contested matter under FRBP 9014, e.g., a motion for stay relief or objection to claim;

(4) Service of a subpoena under FRBP 9016; and

(5) Where conventional service is otherwise required under the FRCP, FRBP, LRs, or by court order.

Notes 2018: New LR adopted to conform to amendments made to the FRCP 5 authorizing a party to use the Court' transmission facilities to make service under FRCP 5(b)(2)(E). Serving papers under FRCP 5 or FRBP 9022, including answers to complaints, motions in adversary proceedings, responses to motions, and notices of entry of judgment or order, is governed by

subparagraph (a) of this LR. Service on any party registered as an Electronic Case participant may be accomplished by the automatically generated NEF. This LR does not apply to initiating papers such as a complaint served under FRCP 4.

Part III

Compensation

Central District of California

is confirmed or the case is dismissed or converted to another chapter under title 11.

(2) Each interim statement and operating report must be filed on the date that such documents are submitted to the United States trustee, but not later than the 15th day of the month following expiration of the month which is the subject of the statement or report.

(c) Duties Upon Conversion to Chapter 7. Upon entry of an order converting a case to one under chapter 7, the debtor in possession or chapter 11 trustee, if any, must, in addition to complying with those duties set forth in FRBP 1019:

(1) Secure, preserve and refrain from disposing of property of the estate;

(2) Contact the chapter 7 trustee and arrange to deliver property of the estate and all books and records to the trustee or the trustee's designated agent; and

(3) Within 7 days after entry of the conversion order, file and serve upon the United States trustee and the chapter 7 trustee, a verified schedule of all property of the estate as of the conversion date.

LBR 2016-1. COMPENSATION OF PROFESSIONAL PERSONS

(a) Interim Fee Applications.

(1) Form of Fee Application. An application for interim fees incurred or costs advanced by an attorney, accountant or other professional person, and a trustee or examiner must contain the following:

(A) A brief narrative history and report concerning the status of the case, including the following:

(i) Chapter 11. Applicant must describe the general operations of the debtor, stating whether the business of the debtor, if any, is being operated at a profit or loss, whether the business has sufficient operating cash flow, whether a plan has been filed, and if not, the prospects for reorganization and the anticipated date for the filing of a plan.

(ii) Chapter 7. Applicant must report the status of administration of the estate, discussing the actions taken to liquidate property of the estate, the property remaining to be administered, the reasons the estate is not in a position to be closed, and whether it is feasible to pay an interim dividend to creditors.

(iii) All Cases. Applicant must disclose the amount of money on hand in the estate and the estimated amount of other accrued expenses of administration. At the hearing on an application for interim fees, the

applicant should be prepared to supplement the application by declaration or by testimony to inform the court of the current financial status of the debtor's estate.

(iv) Multiple Fee Applications. If more than 1 application for interim fees in a case is noticed for hearing at the same date and time, the narrative history provided in one of the applications may be incorporated by reference into the other interim fee applications to be heard contemporaneously by the court.

(v) Exception. A fee application submitted by an auctioneer, real estate broker, or appraiser does not have to comply with subsection (a)(1)(A) of this rule, except that auctioneers, unless otherwise ordered by the court, must file the report required by FRBP 6004(f) prior to receiving final compensation.

(B) The date of entry of the order approving the employment of the individual or firm for whom payment of fees or expenses is sought, and the date of the last fee application for the professional.

(C) A listing of the amount of fees and expenses previously requested, those approved by the court, and how much has been received.

(D) A brief narrative statement of the services rendered and the time expended during the period covered by the application.

(E) Unless employment has been approved on a fixed fee, percentage fee, or contingent fee basis, the application must contain a detailed listing of all time spent by the professional on matters for which compensation is sought, including the following:

(i) Date Service was Rendered;

(ii) Description of Service. It is not sufficient to merely state "Research," "Telephone Call," "Court Appearance," *etc.* Applicant must refer to the particular person, motion, discrete task performed, and other matters related to such service. A summary that lists a number of services under only 1 time period is not satisfactory;

(iii) Amount of Time Spent. A summary is not adequate. Time spent must be accounted for in tenths of an hour and broken down in detail by the specific task performed. Lumping of services is not satisfactory; and

(iv) Identification of Person who Rendered Service. If more than 1 person's services are included in the application, applicant must identify the person who performed each item of service.

(F) An application that seeks reimbursement of actual and necessary expenses must include a summary listing of all expenses by category (*i.e.*, long distance telephone, photocopy costs, facsimile charges, travel, messenger and computer research). As to each unusual or costly expense item, the application must state:

(i) The date the expense was incurred;

(ii) A description of the expense;

(iii) The amount of the expense; and

(iv) An explanation of the expense.

(G) Unless employment has been approved on a fixed fee, percentage fee, or contingent fee basis, the application must contain a listing of the hourly rates charged by each person whose services form a basis for the fees requested in the application. The application must contain a summary indicating for each attorney by name:

(i) The hourly rate and the periods each rate was in effect;

(ii) The total hours in the application for which compensation is sought; and

(iii) The total fee requested in the application.

(H) A description of the professional education and experience of each of the individuals rendering services, including identification of the professional school attended, year of graduation, year admitted to practice, publications or other achievements, and explanation of any specialized background or expertise in bankruptcy-related matters.

(I) If the hourly rate changed during the period covered by the application, the application must specify the rate that applies to the particular hours for which compensation is sought.

(J) A separately filed declaration from the client indicating that the client has reviewed the fee application and has no objection to it. If the client refuses to provide such a declaration, the professional must file a declaration describing the steps that were taken to obtain the client's declaration and the client's response thereto.

(K) A statement that the applicant has reviewed the requirements of this rule and that the application complies with this rule.

(2) Notice of Interim Fee Application and Hearing.

(A) In all cases where the employment of more than one professional person has been authorized by the court, a professional person who files an application for interim fees must give other professional persons employed in the case not less than 45 days notice of the date and time of the hearing. The notice of hearing must further state:

> "Other professional persons retained pursuant to court approval may also seek approval of interim fees at this hearing, provided that they file and serve their applications in a timely manner. Unless otherwise ordered by the court, hearings on interim fee applications will not be scheduled less than 120 days apart."

(B) Applicant must serve not less than 21 days notice of the hearing on the debtor or debtor in possession, the trustee (if any), the creditors' committee or the 20 largest unsecured creditors if no committee has been appointed, any other committee appointed in the case, counsel for any of the foregoing, the United States trustee, and any other party in interest entitled to notice under FRBP 2002. The notice must identify the professional person requesting fees, the period covered by the interim application, the specific amounts requested for fees and reimbursement of expenses, the date, time and place of the hearing, and the deadline for filing and serving a written opposition.

(C) In addition to the notice, a copy of the application, together with all supporting documents, must be served on the debtor or debtor in possession, the trustee (if any), any committee appointed in the case, counsel for any of the foregoing, and the United States trustee. A copy of the complete application must also be promptly furnished upon specific request to any other party in interest.

(3) Objections. Any opposition or other responsive document by the United States trustee or other party in interest must be served and filed at least 14 days prior to the hearing in the form required by LBR 9013-1(f).

(b) Motions to Approve Compensation Procedures in Chapter 11 Cases, Including Monthly Draw-down and Contingency or Success Fee Agreements. A professional person employed in a chapter 11 case may request approval for and modifications of draw-down procedures and an order allowing payment of interim compensation more frequently than once every 120 days.

(c) Final Fee Application.

(1) Who Must File. The trustee, if any, and each professional person employed in the case must file a final fee application.

(2) Contents. An application for allowance and payment of final fees and expenses must contain the information required of an interim fee application under LBR 2016-1(a)(1).

(3) When Filed; Notice Required in Chapter 11 Cases.

(A) Unless otherwise ordered by the court, a final fee application by the trustee, if any, and each professional person employed in a chapter 11 case must be filed and set for hearing as promptly as possible after confirmation of a plan.

(B) A final fee application must cover all of the services performed in the case, not just the last period for which fees are sought, and must seek approval of all prior interim fee awards.

(C) Applicant must serve not less than 21 days notice of the hearing on the debtor or debtor in possession, the trustee (if any), any committee appointed in the case, counsel for any of the foregoing, the United States trustee, and any other party in interest entitled to notice under FRBP 2002. The notice must identify the person or entity requesting a final allowance of fees and expenses, the period covered by the final application, the specific amounts requested for fees and reimbursement of expenses, the date, time and place of the hearing, and the deadline for filing and serving a written opposition.

(D) In addition to the notice, a copy of the application, together with all supporting documents, must be served on the debtor or debtor in possession, the trustee (if any), any committee appointed in the case, counsel for any of the foregoing, and the United States trustee. A copy of the complete application must also be promptly furnished upon specific request to any other party in interest.

(4) When Filed; Notice Required in Chapter 7 Cases.

(A) A chapter 7 trustee must give at least 30 days written notice of intent to file a final report and account to the attorney for the debtor, the trustee's attorney and accountant, if any, and any other entity entitled to claim payment payable as an administrative expense of the estate.

(B) A professional person seeking compensation must file and serve an application for allowance and payment of final fees and expenses on the trustee within 21 days of the date of the mailing of the trustee's notice. The failure to timely to file an application may be deemed a waiver of compensation.

(C) All final fee applications by professional persons must be set for hearing with the chapter 7 trustee's final application for allowance and payment of fees and expenses. Notice of a final fee application must be given by the chapter 7 trustee as part of the notice of the hearing on the trustee's request for compensation. A separate notice by the applicant is not required.

(5) Objections. Any opposition or other responsive document by the United States trustee or other party in interest must be served and filed at least 14 days prior to the hearing in the form required by LBR 9013-1(f).

(d) **Fee Examiner.** The court may, either on its own motion or on the motion of a party in interest, with or without a hearing, exercise its discretion to appoint a fee examiner to review fee applications and make recommendations to the court for approval.

LBR 2016-2. COMPENSATION AND TRUSTEE REIMBURSEMENT PROCEDURES IN CHAPTER 7 ASSET CASES

(a) **No Order Required: Payment of Expenses, Up to $1,000, that are Inherent in the Appointment of a Chapter 7 Trustee.** During the course of a chapter 7 case, a trustee may disburse up to $1,000 from estate funds to pay the following actual and necessary expenses of the estate without further authorization from the court (the "Authorized Allocation"):

(1) Actual cost of noticing, postage, copying;
(2) Computer charges;
(3) Long distance telephone;
(4) Postage;
(5) Moving or storage of estate assets;
(6) Teletransmission;
(7) Travel charges for trustee (includes lodging, meals, mileage and parking);
(8) Bank charges for research or copies;
(9) Court reporting fees;
(10) Delivery of documents;
(11) Expedited mail;
(12) Filing and process serving;
(13) Notary fees;
(14) Recording fees;
(15) Deposition/transcript fees;
(16) Witness fees;
(17) Locate and move assets;
(18) Prepare litigation support documents;
(19) Locksmith;
(20) Security services; and
(21) Utilities.

(b) **Order Required: Payment of Expenses, Up to $5,000, After Limited Notice and Opportunity to Request a Hearing.** If a trustee determines that it is necessary or appropriate to pay actual and necessary administrative expenses of the estate using estate funds, and such expenses do not exceed $5,000, the trustee must file a notice of the trustee's intent to pay such obligations using form F 2016-2.3.NOTICE.TRUSTEE.DISBURSE. After the waiting period set forth below, if there is no opposition or request for a hearing, the trustee must lodge a proposed order

authorizing such payment pursuant to LBR 9013-1(o)(3). The trustee is not required to serve the notice on any party or the court, other than the debtor and counsel for the debtor.

Any party that objects to the payment of the administrative expenses as set forth in the trustee's notice must file a response and request for hearing within 14 days after the date of filing of the notice, and serve the response on the trustee and the trustee's counsel, if any. Upon receipt of a response and request for hearing, the trustee must follow the procedures set forth in LBR 9013-1(o)(4) to set the matter for hearing.

Pursuant to the procedure set forth above, a trustee may disburse up to $5,000 from estate funds to pay the following actual and necessary administrative expenses of the estate (the "Administrative Allocation"):

(1) Costs to advertise sale;
(2) Insurance;
(3) Rent;
(4) Obligations to taxing agencies arising under 11 U.S.C. § 507(a)(2), provided the estate is and is likely to remain administratively solvent; and
(5) Obligations to taxing agencies arising under 11 U.S.C. § 503(b)(1)(B), but not preconversion tax obligations.

(c) **No Order Required: Bond Premiums.** In addition to payments that may be made from the Authorized Allocation and/or the Administrative Allocation, the trustee may pay bond premiums required by 11 U.S.C. § 322(a) during the ordinary course of the trustee's administration of an estate.

(d) **Expenses for Preparation of Tax Returns.** The trustee may, by a single application, seek authorization to employ and pay a tax preparer a flat fee (not to exceed $1,000 unless the court orders otherwise) for preparation of tax returns for the estate. If the court grants such application, the trustee may pay the flat fee so ordered without further application or order. This amount is in addition to payments that may be made from the Authorized Allocation and/or the Administrative Allocation.

(e) **Emergency Expenses.** The trustee may exceed the Authorized Allocation and/or the Administrative Allocation to pay emergency expenses, without prior court approval, to protect assets of the estate that might otherwise be lost or destroyed. Emergency expenses are limited to:

(1) Charges for storage of the debtor's records to prevent the destruction of those records and related necessary cartage costs;
(2) Insurance premiums to prevent liability to the estate;
(3) Locksmith charges to secure the debtor's real property or business; and
(4) Security services to safeguard the debtor's real or personal property.

If the trustee disburses more than the Authorized Allocation and/or the Administrative Allocation to pay emergency expenses and other expenses for which the Authorized Allocation and/or the Administrative Allocation may be used, the trustee must file and

serve a cash disbursements motion, as described in subsection (g) of this rule, within 7 days after such expenses are paid.

(f) **Procedures for Employment of Paraprofessionals and Payment of Paraprofessional Fees and Expenses.** A trustee must obtain court approval to employ and to pay a paraprofessional.

(1) Definition. The term "paraprofessional" includes all persons or entities other than "professionals" who perform services at the trustee's request and seek payment for services and expenses directly from the bankruptcy estate, including an agent, a field representative, an adjuster, and a tax preparer.

(2) Employment. A trustee may seek court approval to employ a paraprofessional by filing an employment application using court-approved form F 2016-2.1.APP.TRUSTEE.EMPLOY. The court's approval of the employment of any paraprofessional is not a judicial determination as to whether services of the paraprofessional constitute "trustee services." The following is a nonexclusive list of services that the court deems "trustee services" subject to the limitation on compensation contained in 11 U.S.C. § 326(a):

(A) Review schedules;
(B) Acceptance and qualification as a trustee;
(C) Routine investigation regarding location and status of assets;
(D) Initial contact with lessors, secured creditors, assignee for benefit creditors, *etc*., if same can be accomplished from office;
(E) Turnover or inspection of documents, such as bank documents;
(F) UCC search review;
(G) Recruit and contract appraisers, brokers, and professionals;
(H) Mail forwarding notices;
(I) Routine collection of accounts receivable;
(J) Letters regarding compliance with LBR 2016-1;
(K) Conduct 11 U.S.C. § 341(a) examinations;
(L) Routine objections to exemption;
(M) Routine motions to dismiss;
(N) 11 U.S.C. § 707(b) referral to United States trustee;
(O) Routine documentation of notices of sale, abandonment, compromise, *etc*.;
(P) Appear at hearings on routine motions;
(Q) Review and execute certificates of sale, deed, or other transfer documents;
(R) Prepare and file notifications of asset case;
(S) Prepare and file cash disbursements motions and necessary attachments;
(T) Prepare exhibits to operating reports;
(U) Prepare quarterly bond reports;
(V) Prepare trustee's interim reports;
(W) Routine claims review and objection;
(X) Prepare and file final reports and accounts and related orders;
(Y) Prepare motions to abandon or destroy books and records;
(Z) Prepare and file FRBP 3011 reports;
(AA) Prepare and file notices and motions to abandon assets and related orders;

(BB) Attend sales;
(CC) Monitor litigation;
(DD) Answer routine creditor correspondence and phone calls;
(EE) Prepare and file applications to employ paraprofessionals;
(FF) Review and comment on professional fee applications;
(GG) Participate in audits;
(HH) Answer United States trustee questions;
(II) Close and open bank accounts;
(JJ) Verify proposed disbursements;
(KK) Post receipts and disbursements;
(LL) Prepare details and calculations for payment of dividend;
(MM) Prepare dividend checks;
(NN) Organize and research bills;
(OO) Prepare checks for the trustee's signature;
(PP) Prepare internal cash summary sheets;
(QQ) Reconcile bank accounts;
(RR) Prepare and make deposits; and
(SS) Additional routine work necessary for administration of the estate.

(3) Reimbursement of Fees and Expenses. A trustee may pay a paraprofessional only upon specific order of the court.

(A) If the paraprofessional or trustee contends that the paraprofessional's services are not "trustee services," the trustee or paraprofessional must present evidence to support that contention. Absent adequate proof, the court may find that the services of the paraprofessional are "trustee services" subject to the limitation on compensation under 11 U.S.C. § 326(a).

(B) If a trustee refuses or neglects to file a fee application for the paraprofessional, the paraprofessional may file a separate fee application pursuant to 11 U.S.C. § 330. In addition to fulfilling the requirements of 11 U.S.C. § 330, FRBP 2014 and these rules, the paraprofessional's fee application must include: (i) a declaration explaining why a separate fee application is necessary; and (ii) evidence establishing which services are "trustee services" and which are not. The paraprofessional must serve any separate fee application on the trustee, debtor, debtor's counsel (if any), the United States trustee, and all professionals and other paraprofessionals employed in the case, and must give notice of the application to all creditors.

(g) Cash Disbursements Motion.

(1) Filing and Service. If the trustee wishes to pay expenses not authorized by this rule from estate funds, the trustee must file a cash disbursements motion to obtain court approval of payments for emergency expenses and all other expenses the trustee deems necessary for effective administration of the case. The cash disbursements motion must be in substantially the same form as court-approved form F_2016-2.2.MOTION.TRUSTEE.DISBURSE and may be brought under LBR 9013-1(o). The trustee must serve the motion on the debtor, debtor's

Delaware

Rule 2016-2 Motion for Compensation and Reimbursement of Expenses.

(a) Scope of Rule. This Local Rule applies to:

(i) Any motion of a professional person employed under 11 U.S.C. § 327, 328 or 1103 requesting approval for compensation and/or reimbursement of expenses; and

(ii) Any request of an entity for payment of an administrative expense under 11 U.S.C. § 503(b)(3) or 503(b)(4).

(b) Effect of Rule. Any such motion or request for payment, in addition to complying with the Code and the Fed. R. Bankr. P. applicable to the filing and the contents of such a motion, shall comply with the information and certification requirements listed in Local Rule 2016-2(c)-(g). Any such motion not in compliance with these requirements will not be considered by the Court, unless a waiver is obtained under Local Rule 2016-2(h).

(c) General Information Requirements.

(i) The motion shall include, as its first page(s), Local Form 101 and the information requested therein (categories given are examples).

(ii) Immediately thereafter, the motion shall include Local Form 102 and the information requested therein (categories given are examples). Where the applicant deems appropriate, the motion may also include a firm resume.

(iii) The narrative portion of the motion shall inform the Court of circumstances that are not apparent from the activity descriptions or that the applicant wishes to bring to the attention of the Court, including special employment terms, billing policies, expense policies, voluntary reductions, reasons for the use of multiple professionals for a particular activity or reasons for substantial time billed relating to a specific activity.

(d) Information Requirements Relating to Compensation Requests. Such motion shall include activity descriptions which shall be sufficiently detailed to allow the Court to determine

whether all the time, or any portion thereof, is actual, reasonable and necessary and shall include the following:

(i) All activity descriptions shall be divided into general project categories of time;

(ii) All motions shall include complete and detailed activity descriptions;

(iii) Each activity description shall include a time allotment;

(iv) Activities shall be billed in tenths of an hour (six (6) minutes);

(v) The aggregate amount of fees requested for all activities within a particular time entry;

(vi) Each activity description shall include the type of activity (e.g., phone call, research);

(vii) Each activity description shall include the subject matter (e.g., exclusivity motion, section 341 meeting);

(viii) Activity descriptions shall not be lumped - each activity shall have a separate description and a time allotment;

(ix) Travel time during which no work is performed shall be separately described and may be billed at no more than 50% of regular hourly rates;

(x) The activity descriptions shall individually identify all meetings and hearings, each participant, the subject(s) of the meeting or hearing and the participant's role; and

(xi) Activity descriptions shall be presented chronologically or chronologically within each project category.

(e) Information Requirements Relating to Expense Reimbursement Requests.

(i) The motion shall contain an expense summary by category for the entire period of the request. Examples of such categories are computer-assisted

legal research, photocopying, outgoing facsimile transmissions, airfare, meals and lodging.

(ii) Following the summary, the motion shall itemize each expense within each category, including the date the expense was incurred, the charge and the individual incurring the expense, if available. With regard to meal reimbursements, the itemization shall list each meal separately and for each meal identify the meal (breakfast, lunch, etc.) and the number of persons attending. For travel reimbursements, the itemization shall list each trip separately and for each trip identify the mode of transportation (air, train, etc.), the departure and destination, and the name of the person travelling.

(iii) The motion shall state the requested rate for copying charges (which shall not exceed $.10 per page for black and white copies and $.80 for color copies), computer-assisted legal research charges (which shall not be more than the actual cost) and outgoing facsimile transmission charges (which shall not exceed $.25 per page, with no charge for incoming facsimiles).

(iv) Receipts or other support for each disbursement or expense item for which reimbursement is sought must be retained and be available on request.

(f) Reimbursement of Payments Made to Other Professionals. If any entity subject to this Local Rule seeks reimbursement for any payment it made to another professional, such entity must provide, with respect to the services rendered or expenses incurred by such other professional, the information required by paragraphs (c), (d), and (e) hereof, unless a waiver is obtained under paragraph (h) hereof.

(g) Certification Requirement. The motion shall also contain a statement that the professional person seeking approval of the motion has reviewed the requirements of this Local Rule and that the motion complies with this Local Rule.

(h) Waiver Procedure. An employed professional person or entity within the scope of this Local Rule may request that the Court waive, for cause, one or more of the information requirements of this Local Rule. Such a request should be made in the same motion in which the person seeks Court approval to be employed, or as soon as possible thereafter,

and shall be served on debtor's counsel, counsel to any official committee and the United States Trustee. The caption of any motion that contains a waiver request shall explicitly state that the person is seeking a waiver of one or more of the information requirements of this Local Rule.

(i) Form of Order. The form of order submitted to the Court shall specifically recite the amounts requested in fees and in expenses.

(j) Fee Examiners. The Court may, in its discretion or on motion of any party, appoint a fee examiner to review fee applications and make recommendations for approval. On conversion, the authority of the fee examiner ends unless retained by the chapter 7 trustee or otherwise ordered by the Court.

(k) Final Fee Applications in Chapter 7 Asset Cases. Estate professionals shall file final fee applications in chapter 7 asset cases but shall not notice the final fee application for hearing. Instead, the hearing date shall be stated as TBD. The final fee application shall only be served upon the chapter 7 trustee and the United States Trustee. After the Trustee Final Report is filed with the Court, the Court will (i) notice the hearing for the final fee application and provide for the objection deadline and (ii) serve the notice of the final fee application. If the estate professional inadvertently notices a final fee application for hearing, it shall include language in the proposed form of order that "fees are subject to disgorgement pending approval of TFR."

Northern District of Illinois

RULE 5082-1 APPLICATIONS FOR COMPENSATION AND REIMBURSEMENT FOR PROFESSIONAL SERVICES IN CASES UNDER CHAPTERS 7, 9, 11, AND 12.

A. Applications

Any application for interim or final compensation for services performed and reimbursement of expenses incurred by a professional person employed in a case filed under Chapter 7, 9, 11, or 12 of the Bankruptcy Code must begin with a completed and signed cover sheet in a form approved by the court and published by the clerk. The application must also include both a narrative summary and a detailed statement of the applicant's services for which compensation is sought.

B. Narrative Summary

(1) The narrative summary must set forth the following for the period covered by the application:

(a) a summary list of all principal activities of the applicant, giving the total compensation requested in connection with each such activity;

(b) a separate description of each of the applicant's principal activities, including details as to individual tasks performed within such activity, and a description sufficient to demonstrate to the court that each task and activity is compensable in the amount sought;

(c) a statement of all time and total compensation sought in the application for preparation of the current or any prior application by that applicant for compensation;

(d) the name and position (partner, associate, paralegal, etc.) of each person who performed work on each task and activity, the approximate hours worked, and the total compensation sought for each person's work on each such separate task and activity;

(e) the hourly rate for each professional and paraprofessional for whom compensation is requested, with the total number of hours expended by each person and the total compensation sought for each;

(f) a statement of the compensation previously sought and allowed; and

(g) the total amount of expenses for which reimbursement is sought, supported by a statement of those expenses, including any additional charges added to the actual cost to the applicant.

(2) The narrative summary must conclude with a statement as to whether the requested fees and expenses are sought to be merely allowed or both allowed and paid. If the

latter, the narrative summary must state the source of the proposed payment.

C. Detailed Statement of Services

The applicant's detailed time records may constitute the detailed statement required by Fed. R. Bankr. P. 2016(a). Such statement must be divided by task and activity to match those set forth in the narrative description. Each time entry must state:

(1) the date the work was performed;

(2) the name of the person performing the work;

(3) a brief statement of the nature of the work;

(4) the hourly billing rate of the person performing the work;

(5) the time expended on the work in increments of tenth of an hour; and

(6) the fee charged for the work described in the entry.

D. Privileged Information and Work Product

If compliance with this Rule requires disclosure of privileged information or work product, the applicant may file a motion pursuant to Rule 5005-4, Restricted Documents.

E. Failure to Comply

Failure to comply with any part of this Rule may result in reduction of fees and expenses allowed. If a revised application is made necessary because of any failure to comply with provisions of this Rule, compensation may be denied or reduced for preparation of the revision. The court may also excuse or modify any of the requirements of this Rule.

RULE 5082-2 APPLICATIONS FOR COMPENSATION AND REIMBURSEMENT FOR PROFESSIONAL SERVICES IN CASES UNDER CHAPTER 13

A. Definitions

For the purpose of this Rule:

(1) "Court-Approved Retention Agreement" means Local Bankruptcy Form 23c.

(2) "Form Itemization" means Local Bankruptcy Forms 21 and 22.

(3) "Form Fee Application" means Local Bankruptcy Form 23-1 or 23-2.

(4) "Form Fee Order" means Local Bankruptcy Form 23-3 or 23-4.

(5) "Flat Fee" means a fee not supported by an itemization of time and services.

(6) "Creditors Meeting Notice" means the Notice of Chapter 13 Bankruptcy Case. (Official Form B 309I.)

(7) "Original Confirmation Date" means the date of the confirmation hearing specified in the Creditors Meeting Notice.

B. Requirements

(1) All requests for awards of compensation to debtor's counsel in Chapter 13 cases must be made using the Form Fee Application, which must be accompanied by a completed Form Fee Order specifying the amounts requested.

(2) All requests for awards of compensation to debtor's counsel must include a certification that the disclosures required by Rule 2016-1 have been made.

(3) Applications for original fees must be noticed for hearing on the Original Confirmation Date at the time for confirmation hearing.

C. Flat Fees

(1) If debtor's counsel and the debtor have entered into the Court-Approved Retention Agreement, counsel may apply for a Flat Fee not to exceed the amount authorized by the applicable General Order. If the Court-Approved Retention Agreement has been modified in any way, a Flat Fee will not be awarded, and all compensation may be denied.

(2) If debtor's counsel and the debtor have not entered into the Court-Approved Retention Agreement, the Form Fee Application must be accompanied by a completed Form Itemization.

(3) The Flat Fee will not be awarded and all compensation may be denied if, in addition to the Court-Approved Retention Agreement, the debtor and an attorney for the debtor have entered into any other agreement in connection with the representation of the debtor in preparation for, during, or involving a Chapter 13 case, and the agreement provides for the attorney to receive:

(a) any kind of compensation, reimbursement, or other payment; or

(b) any form of, or security for, compensation, reimbursement, or other payment that varies from the Court-Approved Retention Agreement.

D. Notice

(1) All fee applications must be filed with the clerk, served on the debtor, the trustee, and all creditors, and noticed for hearing as an original motion. However, a fee application

need not be served on all creditors if:

(a) the Creditor Meeting Notice is attached to the application, has been served on all creditors, and discloses the amount of original compensation sought; and

(b) the hearing on compensation is noticed for the Original Confirmation Date.

(2) Rule 9013-1(E)(2), which governs the dates for the presentment of motions, does not apply to requests under this Rule.

RULE 7005-1 PROOF OF SERVICE OF PAPERS

Unless another method is expressly required by these Rules or by applicable law, an attorney may prove service of papers by certificate, and other persons may prove service of papers by affidavit or by other proof satisfactory to the court.

RULE 7016-1 CASE MANAGEMENT AND SCHEDULING CONFERENCES IN CHAPTER 11 CASES

The court on its own motion or on the motion of a party in interest may conduct case management and scheduling conferences at such times during a case as will further the expeditious and economical resolution of the case. At the conclusion of each such conference, the court will enter case management or scheduling orders as may be required. Such orders may establish notice requirements, set dates on which motions and proceedings will be heard (omnibus hearing dates), establish procedures regarding payment and allowance of interim compensation under § 331 of the Bankruptcy Code, set dates for filing the disclosure statement and plan, and address such other matters as may be appropriate.

RULE 7020-1 [RESERVED]

RULE 7026-1 DISCOVERY MATERIALS

A. Definition

For the purposes of this Rule, the term "discovery materials" includes all materials related to discovery under Fed. R. Civ. P. 26 through Fed. R. Civ. P. 36, made applicable to bankruptcy proceedings by Fed. R. Bankr. P. 7026 through Fed. R. Bankr. P. 7036 and Fed. R. Bankr. P. 9014, and to discovery taken under Fed. R. Bankr. P. 2004.

Arizona

(c) Reducing or Extending Notice Period. Nothing in this rule prohibits parties from stipulating to an earlier or later examination or production or from shortening the notice period under LR 9013-1.

Notes 2018: New LR clarifying that 2004 Orders are subject to reconsideration and protective orders, and establishing a twenty-one (21) day notice period.

Rule 2014-1. Compensation of Professionals on a Fixed or Contingent Basis

(a) Reviewed for Reasonableness. All professional fees may be reviewed for reasonableness under Code § 330(a)(3) unless the application expressly states in the caption and the body of the document that the appointment is under § 328 and such provision is approved by the Court.

(b) Disclosure of Retention of Professionals. Any estate professional who retains another professional must promptly disclose such retention and if appropriate, file an application for employment or compensation. If the disclosures or application would cause privileged information or confidential litigation strategy to be revealed, the Court may enter appropriate orders to protect the information.

Notes 2018: Subpart (b) added requiring disclosure of retention of estate professional by other estate professionals or third parties, such as expert witnesses.

Rule 2015-1. Interim Reports

In all chapter 11 and 12 cases, on a monthly basis until the plan is confirmed or the case is converted or dismissed, the case trustee, debtor in possession, or other responsible person must file an interim operating report or reports in substantial compliance with such local forms as developed by the United States Trustee. In addition to the foregoing, the Court, upon motion, may require the filing of interim operating reports in any case.

Notes 2018: The current version of the United States Trustee's Guidelines for reports may be found at: http://www.azb.uscourts.gov/chapter-11-operating-reports.

Rule 2084-1. Scope and Definition - Chapter 13 Rules

(a) Scope. Local Rules 2084-1 through 2084-28 govern chapter 13 practice.

(b) Definitions. As used in these 2084 Rules:

(1) "arrearage" is the total amount past due to a secured creditor or lessor as of the petition date or, if applicable, as of the date of the filing of a plan;

(2) "conduit payment" is the regular contractual post-petition payment owed by a debtor to a real property creditor when the debtor is in default under

Part IV

Miscellaneous

Delaware

PART II. OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS; EXAMINATIONS; ELECTIONS; ATTORNEYS AND ACCOUNTANTS

Rule 2002-1 Notices to Creditors, Equity Security Holders, United States and United States Trustee.

(a) Chapter 11 Hearings.

(i) Omnibus Hearings. In any chapter 11 case, the Court may, sua sponte or upon motion of a party in interest, enter an order setting omnibus hearing dates for the case. Any such order shall be entered on the docket and be made available to anyone interested in obtaining a copy from (i) the Court or (ii) counsel for the debtor. Time permitting, on each omnibus hearing date, the Court will hear all motions timely filed under these Local Rules by any party in interest in the case in the order set forth in the hearing agenda filed pursuant to Local Rule 9029-3, unless the Court directs otherwise.

(ii) Special and Emergency Hearings. In any chapter 11 case, the Court may, sua sponte or upon request of a party in interest, schedule a special or emergency hearing date in a case for a specific motion or other issues such as a discovery dispute. The party requesting such a special hearing (or if requested by the Court, a party directed by the Court) shall promptly file a notice of hearing on the docket specifying the date and time of the hearing and the general issue before the Court, e.g., the title of the motion, "discovery conference," etc. The subject matter of the special hearing will be limited to the issues identified in the notice and no party in interest may present any additional motion or issue at the hearing without leave of the Court.

(b) Service. In chapter 11 and chapter 15 cases, all motions (except matters specified in Fed. R. Bankr. P. 2002(a)(1), (4), (5), (7), 2002(b), 2002(f) and 2002(q) and Local Rules 4001-1 and 9013-1) shall be served only upon counsel for the debtor, counsel for the foreign representative, the United States Trustee, counsel for all official committees, all parties who file a request for service of notices under Fed. R. Bankr. P. 2002(i) and all parties whose rights are affected by the motion, as applicable. If an official unsecured creditors' committee has not been appointed,

service shall be made on the twenty (20) largest unsecured creditors in the case in lieu of the creditors' committee.

(i) Service of Papers on the United States Trustee.

(A) Service by Overnight Mail. Service on the United States Trustee shall be made by overnight mail or hand delivery of papers that require a response within seven (7) days or less or that relate to a Court hearing scheduled to take place within seven (7) days of the date of service.

(B) Service by Fax. Service by fax shall be limited to emergent situations where action or response is required within forty-eight (48) hours. Every effort shall be made to limit faxes to a maximum of twenty (20) pages per document. If it is necessary to serve via fax a document that will exceed twenty (20) pages in length, the serving party shall telephone the intended recipient(s) in advance to obtain permission to send the fax.

(c) Service List. The claims agent shall be responsible for maintaining a list of all parties who are entitled to receive service (as set forth in Local Rule 2002-1(b)), including whether such parties have opted to receive email service. The claims agent shall furnish the service list, upon request, to any party. If no claims agent has been appointed in a case, counsel for the debtor shall bear the responsibilities set forth in this subparagraph.

(d) Entry of Appearance. Any entity entering an appearance in a case under title 11 shall include in the Notice of Appearance the entity's (i) name, (ii) mailing address, including street address for overnight and hand delivery, (iii) telephone number, (iv) facsimile number, (v) email address, if any, and (vi) party represented, if any. Any entity that requests, in a particular case or adversary proceeding, service of documents by email only needs to opt-in to email service when docketing the Notice of Appearance as provided in Local Rule 5005-4.

(e) Bar Date. In all cases under chapter 11, the debtor may request a bar date for the filing of proofs of claim or interest. The request may be granted without notice and hearing if (i) the request gives fourteen (14) days' notice

to the United States Trustee and the creditors' committee (or the twenty (20) largest unsecured creditors if no creditors' committee is formed), (ii) the request is filed after the Schedules and Statement of Financial Affairs have been filed and the 11 U.S.C. § 341(a) meeting of creditors has been held and (iii) the request provides that the bar date shall be not less than sixty (60) days from the date that notice of the bar date is served (and not less than one hundred eighty days (180) days from the order for relief for governmental units). On entry of the bar date order, the debtor shall serve actual written notice of the bar date on (A) all known creditors and their counsel (if known), (B) all parties on the service list described in Local Rule 2002-1(c), (C) all equity security holders, (D) indenture trustees, (E) the United States Trustee, (F) all taxing authorities for the jurisdictions in which the debtor does business and (G) all environmental authorities listed in Part 12 of the Statement of Financial Affairs for Non-Individuals or Part 10 of the Statement of Financial Affairs for Individuals filing for Bankruptcy, as applicable.

(f) Notice and Claims Clerk. Upon motion of the debtor or trustee, at any time without notice or hearing, the Court may authorize the retention of a notice and/or claims clerk under 28 U.S.C. § 156(c). In all cases with more than two hundred (200) creditors or parties in interest listed on the creditor matrix, unless the Court orders otherwise, the debtor shall file such motion on the first day of the case or within seven (7) days thereafter. The notice and/or claims clerk shall comply with the Protocol for the Employment of Claims and Noticing Agents under 28 U.S.C. § 156(c) (which can be found on the Court's website) and shall perform the functions below.

(i) Serve the following notices: (a) 341 Notice (Notice of Commencement of Case); (b) Notice of Claims Bar Date in chapter 11 cases; (c) Objections to Claims and Transfers of Claims; (d) Notice of Hearing on confirmation of Plan/Disclosure Statement; (e) Notice of Hearing on motions filed by United States Trustee; (f) Notice of Transfer of Claim; and (g) any motion to convert, dismiss, appoint a trustee, or appoint an examiner filed by the United States Trustee's Office.

(ii) Within seven (7) days of mailing, file with the Court a copy of the notice served with a 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 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 twenty-eight (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 to the

Philadelphia Federal Records Center, 14470 Townsend Road, Philadelphia, Pennsylvania 19154 and docket a completed SF-135 Form indicating the accession and location numbers of the archived claims.

(x) Within fourteen (14) days of entry of an Order converting a case, (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. A Final Claims Register shall also be docketed in each jointly-administered case containing the claims of only that specific case. The claims agent shall further box and transport all original claims to the Philadelphia Federal Records Center, 14470 Townsend Road, Philadelphia, Pennsylvania 19154 and docket a completed SF-135 Form indicating the accession and location numbers of the archived claims.

(xi) Upon conversion of a chapter 11 case to a chapter 7 case, if there are more than two hundred (200) creditors, the claims agent appointed in the chapter 11 case shall (i) continue to serve all notices required to be served, at the direction of the chapter 7 trustee or the Clerk's Office or (ii) submit a termination order. If a termination order has been granted, the Claims Agent shall comply with Del. Bankr. L.R. 2002-1(f)(x) above.

(xii) Upon entry of a termination order, terminating the service of a claim agent, the claims agent shall (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. A Final Claims Register shall also be docketed in each jointly-administered case containing the claims of only that specific case. The claims agent shall further box and transport all original claims to the Philadelphia Federal Records Center, 14470 Townsend Road, Philadelphia, Pennsylvania 19154 and docket a 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 twenty-eight (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).

Rule 3017-2 Combined Hearings on Approval of Disclosure Statements and Confirmation of Plans in Liquidating Chapter 11 Cases.

(a) Applicability. This Local Rule shall be applicable to all cases arising under chapter 11 of the Code where the following requirements are met:

(i) All or substantially all of the assets of the debtor[s] were or will be liquidated pursuant to a sale under 11 U.S.C. § 363; and

(ii) The plan of liquidation proposes to comply with section 1129(a)(9) of the Code; and

(iii) The plan of liquidation does not seek non-consensual releases/injunctions with respect to claims creditors may hold against non-debtor parties; and

(iv) The debtor's combined assets to be distributed pursuant to the proposed plan of liquidation are estimated, in good faith, to be worth less than $25 million (excluding causes of action).

(b) Combined Disclosure Statement and Plan of Liquidation. A plan proponent may combine the disclosure statement and plan of liquidation into one document.

(c) Interim Approval of the Disclosure Statement; Approval of Solicitation Procedures and Scheduling Combined Hearing on Approval of the Adequacy of Disclosure Statement and Confirmation of Plan. In the event that the requirements of subsection (a) above are satisfied, upon the filing of a disclosure statement and proposed plan of liquidation, a plan proponent may file a motion requesting (1) interim approval of the disclosure statement; (2) approving solicitation procedures; and (3) the scheduling of a joint hearing to consider final approval of the adequacy of the disclosure statement and confirmation of the proposed plan of liquidation. Such motion may be granted without notice and a hearing if:

(i) Notice. The motion provides at least fourteen (14) days' notice to the United States Trustee and the creditors' committee (or the twenty (20) largest unsecured creditors, if no creditors' committee is formed), and all parties who have requested service of notices under Fed. R. Bankr. 2002(d). If an

objection is timely filed within such notice period, a hearing on the motion will not occur less than seven (7) days after expiration of the notice period; and

(ii) Provisions to be Highlighted. All motions under this rule requesting a joint disclosure statement and confirmation hearing must: (A) recite whether the proposed form of order and/or plan of liquidation contains any provision of the type indicated below and (B) identify the location of any such provision in the proposed form of order and/or plan of liquidation:

(A) Provisions which seek consensual releases/injunctions with respect to claims creditors may hold against non-debtor parties; and

(B) Provisions that seek to release any claims the debtor[s] may have against non-debtor parties who are insiders of a debtor; and

(C) Any provision which seeks an exemption under section 1146 of the Code; and

(iii) The motion identifies the proposed balloting agent, which may include counsel to the plan-proponent; and

(iv) The motion identifies any voting procedures in addition to those required in section (d) of this Local Rule; and

(v) The requested hearing date will not occur earlier than forty-five(45) days after entry of an order scheduling the combined hearing to consider the final approval of the adequacy of the disclosure statement and confirmation of the plan of liquidation; and

(vi) The motion is accompanied by a proposed order which, in addition to setting the hearing date, approves: (A) on an interim basis, the disclosure statement; (B) the voting procedures to be utilized; (C) the form of notice to be provided to creditors and interest holders of the debtor[s]; and (D) the form of ballot which will be provided to creditors and interest holders entitled to vote on the proposed

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 9006-2 Bridge Orders Not Required in Certain Circumstances. Unless otherwise provided in the Code or in the Fed. R. Bankr. P., if a motion to extend the time to take any action is filed before the expiration of the period prescribed by the Code, the Fed. R. Bankr. P., these Local Rules or Court order, the time shall automatically be extended until the Court acts on the motion, without the necessity for the entry of a bridge order.

Rule 9029-3 **Hearing Agenda Required.** In all chapter 7 asset cases, chapter 11 cases and chapter 15 cases, the counsel for the debtor, the statutory trustee, the foreign representative or the post-confirmation estate representative, as applicable, shall file an agenda for each scheduled hearing in the case, in substantial conformity to Local Form 111 and meeting the requirements set forth in this Local Rule.

(a) General Requirements of Agenda.

(i) Delaware Counsel shall file the agenda in the bankruptcy case and adversary proceeding, if applicable, with the Bankruptcy Court on or before 12:00 p.m. prevailing Eastern Time two (2) business days before the date of the hearing. Failure to file the agenda timely may subject counsel to a fine.

(ii) Resolved or continued matters shall be listed before unresolved matters. Contested matters (and documents within each matter) shall be listed in the order of docketing with corresponding docket numbers. Unless otherwise authorized by the Court, a matter may only be listed as continued if all parties that have outstanding objections to the matter consent to such continuance. All amended agendas shall list matters as listed in the original agenda, with added matters being listed last and all changes being made in bold print.

(iii) Copies of the proposed agenda shall be served upon Delaware Counsel who have entered an appearance in the case, as well as all other counsel with a direct interest in any matter on the agenda, substantially contemporaneous with the Court filing.

(b) Motions.

(i) General Information. For each motion, the agenda shall provide the title, docket number and date filed. Supporting papers shall be similarly listed.

(ii) Objection Information. For each motion, the agenda shall provide the objection deadline and any objections filed, and provide the docket number and the date filed, if available.

(iii) Status Information. For each motion, the agenda shall provide whether the matter is going forward,

whether a continuance is requested (and any opposition to the continuance, if known), whether any or all of the objections have been resolved and any other pertinent status information.

(c) Adversary Proceedings. When an adversary proceeding is scheduled, the agenda shall indicate the adversary proceeding number in addition to the information required by Local Rule 9029-3(b).

(d) Hearing Binders. The agenda shall be submitted to the respective Judge's chambers in a hearing binder containing copies of all documents relevant to matters scheduled to be considered by the Court at such hearing. Hearing binders shall contain only the substantive documents necessary for the hearing (i.e., motions and responses) and shall not contain documents related to continued or resolved matters. Certificates of service shall not be included in the hearing binder unless adequacy of service is an issue to be considered by the Court.

(e) Amended Agenda. Where an amended agenda is necessary, the amended agenda shall (in bold print) note any material changes in the status of any agenda matter.