

Rule 1002-2 COMPLEX CHAPTER 11 CASES

(a) A “Complex Chapter 11 Case” is defined as a case filed in the Western District of Pennsylvania under Chapter 11 of the Bankruptcy Code that requires special scheduling and other procedures because of a combination of factors, including, but not limited to, one (1) or more of the following factors:

- (1) the need for expedited hearings for consideration of case management and administrative orders, the use of cash collateral, debtor in possession financing, retaining professionals on an interim basis, maintaining existing bookkeeping systems, paying employees wages and benefits, utility deposit orders for a limited period, and other matters vital to the survival of the business;
- (2) the size of the case;
- (3) the large number of parties in interest in the case;
- (4) the fact that claims against the debtor and/or equity interests in the debtor are publicly traded;
- (5) the need for special noticing and hearing procedures.

(b) To secure designation as a Complex Chapter 11 Case, the party shall file a motion. The motion shall substantially conform to Local Bankruptcy Form 2 (Ex Parte Motion for Designation as Complex Chapter 11 Bankruptcy Case).

(c) Generally, requests for relief will be heard on at least forty-eight (48) hours’ notice to the parties specified in W.PA.LBR 1002-2(d). If immediate relief is requested, the Court, in its sole discretion, may preliminarily grant the relief requested without notice and hearing, provided, however, that the Court shall direct that any such order entered be served, together with a notice of objection and hearing dates, prior to entry of a final order. Upon the request of a party in interest, the Court may issue an order substantially in the form of Local Bankruptcy Form 3 (Initial Order for Complex Chapter 11 Bankruptcy Case).

(d) Any motion filed under this Local Bankruptcy Rule, together with notice providing the time by which any objection shall be filed and the date, time, and place of hearing, shall be served on:

- (1) the three (3) largest secured creditors;
- (2) any committee appointed under the Bankruptcy Code or its authorized agent or, if no committee has been appointed, on the twenty (20) largest unsecured creditors;
- (3) the Office of the United States Trustee, and
- (4) any other entity that the Court may direct.

(e) The Court may require agenda letters and paper copies of documents in complex cases.

(f) Any claims and/or noticing agent approved by the Court pursuant to 28 U.S.C. § 156(c) shall be subject to the following requirements:

- (1) the claims and/or noticing agent shall maintain records of all services rendered which, at a minimum, show dates, categories of services, fees charged, and expenses incurred;
- (2) counsel to the debtor shall notify the Clerk's Office and the claims and/or noticing agent within seven (7) days of an order of dismissal or conversion of the case;
- (3) at the conclusion of a case or upon termination of the claims and/or noticing agent's services, the debtor or the trustee must obtain an order terminating the services of the claims and/or noticing agent;
- (4) the claims and/or noticing agent is responsible for archiving the claims with the Federal Records Center or the National Archives, as applicable;
- (5) the claims and/or noticing agent shall file and serve monthly invoices on the debtor, U.S. Trustee, the committee, if any, monitoring the expenses of the debtor, and any party-in-interest who requests, in writing directed to the claims and/or noticing agent, service of the monthly invoices; and
- (6) if any dispute arises relating to the engagement agreement or monthly invoices, the parties shall meet and confer in an attempt to resolve the dispute. If resolution is not achieved, the parties may seek resolution of the matter from the Court.

Rule 1007-4 PROOF OF INCOME

(a) The individual debtor shall file with the Clerk copies of the payment advices described in 11 U.S.C. § 521(a)(1)(B)(iv). Debtors shall file payment advices in accordance with Fed. R. Bankr. P. 9037, Privacy Protection for Filings Made with the Court, which instructs parties to redact personal information such as the first five (5) numbers of a debtor's Social Security number and personal identifying numbers such as employee identification numbers. If the debtor does not have the required payment advices, then the debtor shall file a certification with the Clerk explaining the reason payment advices are not available.

(b) Each individual debtor shall also report to the trustee not later than fourteen (14) days before the date first set for the first meeting of creditors any other source of income not listed on debtor's payment advices.

(c) Chapter 13 debtors that are self-employed (including debtors acting as landlords) shall submit a completed Local Bankruptcy Form 5 (Chapter 13 Business Case Questionnaire) to the trustee at least fourteen (14) days prior to the first scheduled meeting of creditors.

Rule 1007-6 LIST OF 20 LARGEST UNSECURED CREDITORS

The List of 20 Largest Unsecured Creditors shall be filed with every voluntary Chapter 11 petition. The bankruptcy case shall be immediately dismissed if the List of 20 Largest Unsecured Creditors is not filed with the petition. In the event that there are fewer than twenty (20) creditors, the list shall so state.

Rule 1017-2 DISMISSAL OF BANKRUPTCY CASE FOR DEFICIENT FILING

(a) The Clerk shall serve electronically upon debtor's counsel, or by postal mail if the debtor is not represented by counsel, a Notice of Deficient Filing if the debtor fails to ~~timely~~ file all of the documents necessary to initiate the case as required by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, these Local Bankruptcy Rules, and/or any order of this Court.

(b) Pursuant to the United States trustee's motion to dismiss, as authorized by General Order #91-1, the Notice of Deficient Filing will identify the filing deficiencies and set forth a date for dismissal of the case.

(c) At any time before the date set for entry of an order of dismissal, the debtor:

- (1) may file a motion requesting a hearing at which debtor shall show cause why the case should not be dismissed for deficiencies; or
- (2) may file a motion and proposed order seeking an extension of time to comply with the Notice of Deficient Filing.

Rule 1019-1 MAILING MATRIX IN CONVERTED CASES

Local Bankruptcy Form 30 (Notice Regarding Modification to Mailing Matrix) and a supplemental Mailing Matrix, which meets the requirements of W.PA.LBR 1007-1 and lists the names and addresses of nonscheduled prepetition and postpetition creditors and executory contract holders, shall be filed by the debtor. If the debtor is the filing party, then all postpetition creditors added to the mailing matrix shall be served with a copy of the conversion motion.

Rule 2004-1 EXAMINATION

(a) The purpose of this Rule is to avoid a motion and Court order for a Fed. R. Bankr. P. 2004 examination unless an objection is filed.

(b) Before giving notice of a proposed examination, the movant shall confer with the proposed examinee (through counsel, if represented) to arrange for an agreeable date, place, and time for the examination. Failure by the movant to attempt to confer shall be grounds to quash under W.PA.LBR 2004-1(e).

(c) Not less than twenty-eight (28) days' written notice of a proposed examination shall be given to the entity to be examined, its counsel, and to other affected parties. The entity to be examined and other affected parties shall have fourteen (14) days after service to respond or object to the proposed examination. The notice shall apprise the party of the scope of the examination and categories of documents to be produced.

(d) If no response or objection is served, the notice to conduct an examination need not be filed, and the examination may occur as the parties agree.

(e) When an examinee or party in interest objects to the examination, the burden is on the party seeking the examination to file a motion to compel the examination, in ~~aeceord~~ accordance with Fed. R. Bankr. P. 2004(a). A certificate shall be attached to any motion to compel explaining the efforts made to meet and confer and certifying that such efforts were unsuccessful. All parties in interest, including the examinee and its counsel, shall be served with the motion.

(f) If anyone has been unreasonable in seeking or resisting discovery pursuant to Fed. R. Bankr. P. 2004, the Court may impose sanctions. The Court may condition the taking of an examination on terms that are just and promote efficient administration.

(g) This Rule does not apply to adversary proceedings and to contested matters.

(1) The discovery provisions of Part VII of the Local Bankruptcy Rules apply in adversary proceedings.

(2) Fed. R. Bankr. P. 9014 applies to discovery in contested matters.

Rule 2015-1 DUTY TO KEEP RECORDS, FILE REPORTS, AND MAKE PAYMENTS, INCLUDING TAXES

(a) Within sixty (60) days of the date of the initial filing of a bankruptcy petition, each debtor or debtor in possession shall file any and all federal, state, and local tax returns which are due but unfiled as of the date of the filing of the bankruptcy petition. The returns shall include all income, estate, gift, sales, excise, employment, real estate, school district, and other tax returns.

~~(b) For purposes of proper service, the party shall use the current address, if listed, in the Address Appendix located in the Local Bankruptcy Rules section of the Court's website.~~

~~(c) Any entity whose address is listed in the Address Appendix located in the Local Bankruptcy Rules section of the Court's website shall file a notice with the Clerk of any change of address necessary for the parties to comply with these Rules on or before the effective date of the change.~~

~~(d)~~ b Payments to the Chapter 13 trustee shall be made in accordance with instructions provided by the Chapter 13 trustee.

~~(e)~~ c Where applicable, a debtor in possession or a trustee in a Chapter 11 case, a Chapter 12 debtor, or a Chapter 13 debtor case shall comply with the following:

- (1) All checks issued by a debtor in possession under Chapter 11 shall bear the legend: "Debtor in Possession Account, Bankruptcy Case No. xx-xxxxx."
- (2) Any instrument used to make a Chapter 12 or Chapter 13 plan payment shall include the debtor's name and case number.
- (3) Keep current, and pay when due, all debts arising after the entry of the order for relief, including any debt arising from rentals or other money due on account of real estate leases and utility services, as well as any federal, state, and local employment, income, or other tax, as required by law.
- (4) Submit to the Pennsylvania Department of Revenue Bankruptcy Division, at the address listed on the ~~Address Appendix~~ Rule 5003(e) Register maintained on the Court's website, a certified or cashier's check in full payment of the following taxes in the manner hereafter set forth:
 - (A) all Pennsylvania sales tax collected pursuant to 72 P.S. § 7202 *et seq.* shall be remitted together with the proper tax returns, no later than the end of the seventh day following the last day of each month in which such sales taxes were required to be collected; and
 - (B) all employer withholding tax (personal income tax) withheld pursuant to 72 P.S. § 7316 *et seq.* shall be remitted together with the proper tax returns, no later than the end of the second business day after the payment of wages to employees.

Rule 3002-4 NOTICE OF MORTGAGE PAYMENT CHANGE

(a) A narrative summary of the chain of title, copies of all applicable lien assignments(s) and other appropriate evidence of the Creditor's authority to act and be paid, shall be filed as attachments to the Notice of Mortgage Payment Change, if filed by a creditor who, at the time of filing, is not a creditor of record.

(b) Within twenty-one (21) days after a Notice of Mortgage Payment Change is filed by the holder of a mortgage against property of a debtor which is being paid by the trustee under a Chapter 13 plan, the debtor(s) shall file:

- (1) an amended Chapter 13 plan;
- (2) a declaration certifying that the existing Chapter 13 plan is sufficient to pay the new payment amount; or
- (3) an objection to the Notice of Mortgage Payment Change.

(c) In the absence of a timely objection filed by the debtor, the new mortgage payment amount shall be allowed without further order, notice, or hearing. The Chapter 13 trustee shall not be required to implement the payment change until such time as the debtor has complied with section (b) of this Rule; however, the trustee may implement the payment change if the trustee determines that the Chapter 13 plan is adequately funded to do so.

(d) A debtor with mortgage payment amounts subject to changes more frequently than twice per year may satisfy the recurring obligations imposed by section (b) of this Rule:

- (1) by providing in the Chapter 13 plan that a monthly payment be made to the creditor in an amount calculated to be no less than the average payment in effect over the preceding twelve (12) months and no more than \$50 above the average payment in effect over the preceding twelve (12) months; and
- (2) the calculation used in section (d)(1), above, shall be reviewed annually by the Debtor to assure compliance with this Rule; and
- (3) by filing, and serving on the trustee and the affected creditor, an omnibus declaration substantially complying with Local Form 15 (Declaration Regarding Fluctuating Mortgage Payments).

Rule 3002-5 NOTICE OF POSTPETITION FEES, EXPENSES, AND CHARGES

(a) A holder of a claim: (i) for rent for debtor's residence or (ii) secured by a security interest in the debtor's assets asserting recovery against the debtor and/or against the debtor's assets for fees, expenses, or charges, incurred in connection with the claim after the bankruptcy case was filed, shall file a separate "Notice of Postpetition Fees, Expenses, and Charges," which:

- (1) shall be filed as a supplement to the holder's proof of claim;
- (2) shall be served no later than one hundred eighty (180) days after the date when the fees, expenses, or charges are incurred;
- (3) shall not be subject to Fed. R. Bank. P. 3001(f);
- (4) shall be served on the debtor(s), counsel to the debtor(s), and the Chapter 13 trustee;
- (5) need not be filed if fees, expenses, and charges were included in a previously filed "Notice of Mortgage Payment Change"; and
- (6) if not timely filed, shall result in the disallowance of any additional sums claimed by the creditor for the period in question.

(b) Within twenty-one (21) days ~~After~~ a Notice of Postpetition Fees, Expenses, and Charges is ~~docketed~~ filed, ~~the Court will issue an order requiring~~ the debtor(s) ~~within twenty-one (21) days to~~ shall file:

- (1) an amended Chapter 13 plan;
- (2) a declaration certifying that the existing Chapter 13 plan is sufficient to pay the modified debt; or
- (3) an objection to the Notice of Postpetition Fees, Expenses, and Charges.

(c) ~~If a Notice of Postpetition Fees, Expenses, and Charges is timely filed in the proper form and the debtor fails to timely file an~~ In the absence of a timely filed objection, the postpetition fees, expenses, and/or charges shall be allowed without further order, notice, or hearing. The Chapter 13 trustee shall not be required to pay the no such postpetition fees, expenses, and/or charges ~~shall be paid by the chapter 13 trustee~~ until such time as the debtor has complied with section (b) of this Rule; however, the trustee may make such payment if the trustee determines that the Chapter 13 plan is adequately funded to do so. or debtor's counsel files an amended chapter 13 plan or a declaration certifying that the existing chapter 13 plan is sufficient to pay the modified debt.

Rule 5005-1 MANDATORY ELECTRONIC FILING

(a) Electronic filing through the Court’s Case Management/Electronic Case Files System (the “CM/ECF System”) is mandatory in this District for attorneys. Filers not represented by an attorney (parties acting *pro se*) may file paper documents with the Clerk, who shall promptly file such documents using the CM/ECF System.

(b) The Court shall sanction violators of this Local Bankruptcy Rule in the amount of \$150.00 per paper filing. Counsel shall not charge to or collect the \$150.00 from the client as a fee, cost, expense, or other charge in the case.

Rule 5005-2 REGISTRATION AS A FILING USER

(a) A “Filing User” is anyone having a Court-issued CM/ECF System log-in and password. Any attorney appearing before the Court shall be registered as a Filing User. Pursuant to W.PA.LBR 9010-1 and Local Bankruptcy Form 18 (Motion for *Pro Hac Vice* Admission), *pro hac vice* admission requires association with a local registered Filing User.

(b) Any attorney admitted to the Bar of the Western District of Pennsylvania (including those admitted *pro hac vice*), United States trustees and their assistants, private trustees, attorneys representing the United States, or any State or County pursuant to W.PA.LBR 9010-1(c)(2), and others as the Court deems appropriate may apply for registration as a Filing User after attending CM/ECF System training provided by the Clerk.

(c) The Court may grant a *pro se* party to a pending action permission to apply for registration as a Filing User, subject to attending CM/ECF System training provided by the Clerk. If granted, the *pro se* party’s Filing User status is limited solely to the specific pending action. If, during the course of the action, an attorney appears on the party’s behalf, that attorney shall immediately advise the Clerk to terminate the *pro se* party’s registration as a Filing User.

(d) Applications for registration as a Filing User shall be submitted through the Court’s website.

Rule 5005-3 REGISTRATION AS A LIMITED FILING USER

(a) An individual who is registered as a CM/ECF System participant in another district and/or who has attended CM/ECF System training provided by the Clerk may apply for registration as a Limited Filing User. A Limited Filing User's CM/ECF System account is limited to filing proofs of claim, notice requests, withdrawals of claims, transfers of claims, objections to transfer of claim, reaffirmation agreements, notices of mortgage payment change, responses to notices of final cure mortgage payment, and notices of postpetition fees, expenses, and charges.

(b) A Limited Filing User will not receive electronic notification of documents or docket activity.

(c) Applications for registration as a Limited Filing User shall be submitted through the Court's website.

Rule 5005-4 TERMINATION OF REGISTERED FILING USER STATUS

(a) An attorney may terminate his or her status as a registered Filing User in a specific case only upon the granting of a motion for withdrawal of appearance in that case pursuant to W.PA.LBR 9010-2~~(be)~~.

(b) An attorney may terminate his or her status as a registered Filing User in the entire CM/ECF System only by using Local Bankruptcy Form 4C (Notice of Termination of CM/ECF Privileges), which shall be delivered to the Clerk by certified mail.

(c) Termination of registered Filing User status due to special circumstances (for example, death or mental incapacity) may be made by motion to the Court by an appropriate representative.

(d) At its discretion, the Court may terminate an individual's status as a registered Filing User for reasons that include, but are not limited to, an egregious or recurring violation of these Local Bankruptcy Rules and/or Federal Rules of Bankruptcy Procedure and/or in response to a finding of misconduct by any duly empowered tribunal.

Rule 5005-7 DECLARATION OF ELECTRONIC FILING

(a) The original signature of the debtor(s) authorizing the electronic filing of the bankruptcy case shall be ~~accomplished by filing~~ delivered to the Clerk on an executed paper version of Local Bankruptcy Form 1A (Declaration Re: Electronic Filing), or Local Bankruptcy Form 1B if the debtor is not represented by counsel, within fourteen (14) days of the electronic filing of the petition. Both debtors shall sign the authorization when a joint petition is filed. Parties shall not file these declarations electronically through CM/ECF.

~~(b) The attorney representing the debtor shall notify the Court forthwith if the debtor(s) fails to sign the declaration.~~

~~(e b)~~ The case shall be dismissed without prejudice when the Court is notified that the debtor has failed to sign the declaration or if the declaration is not filed within fourteen (14) days of the date the petition is filed.

Rule 5005-9 E-MAIL ACCOUNTS

(a) A Filing User shall maintain a current primary e-mail address in the CM/ECF System. Filing Users may also register a secondary e-mail address. It is the Filing User's responsibility to ensure that the primary and secondary e-mail accounts are active and fully functional.

(b) The CM/ECF System will automatically send Notices of Electronic Filing (NEFs) to the registered primary and secondary e-mail addresses of all Filing Users in a case. Filing Users are responsible for monitoring the docket activity in each of his or her cases, independently of the NEFs sent to the Filing User's registered e-mail accounts. Problems with a Filing User's e-mail account will not defeat the presumption of effective notice and service pursuant to W.PA.LBR 5005-8(a).

(c) If the CM/ECF System reports repeated e-mail delivery errors to a Filing User's primary or secondary e-mail addresses, the Chief Judge ~~shall~~ may issue a Rule to Show Cause to the Filing User.

Rule 5005-16 ~~WITHDRAWAL~~ REMOVAL OF FILES FROM THE CLERK’S OFFICE

(a) Records and papers on file in the Clerk’s Office may be ~~produced~~ removed pursuant to subpoena from any federal or state court directing their production.

(b) At the Clerk’s discretion, records or papers in the files of the Court may be temporarily removed by United States District Court Judges, United States Magistrate Judges, the United States attorney, the United States trustee, the standing Chapter 13 trustee, and panel member trustees of this District upon receipt of a signed requisition. Otherwise, records and papers may be removed from the files only upon order of the Court.

(c) Whenever records or papers are ~~withdrawn~~ removed, the person receiving them shall leave with the Clerk a signed receipt describing the records or papers taken, and shall return them within the time specified by the Clerk.

Rule 5007-1 REQUESTS FOR TRANSCRIPTS

(a) Parties may request transcripts or an audio recording on ~~cassette or~~ compact disk by either filing a transcript request with the Clerk on a form available from the Clerk and the Court's website or by verbal request made to an Electronic Court Reporter Operator ("ECRO"). If a verbal request is made, the party requesting the transcript shall provide the ECRO with a written request containing the details of the request and payment as described below before the request will be processed.

(b) W.PA.LBR 8006-1 shall apply to a request in connection with an appeal.

(c) The requesting party shall provide the ECRO with:

- (1) the name of the case;
- (2) the bankruptcy and motion or adversary numbers;
- (3) the date of the hearing;
- (4) the name of the Judge who heard the matter; and
- (5) the requesting party's name, telephone number, and mailing address and/or e-mail address and/or fax number.

(d) The ECRO shall estimate the cost of the transcript and the party requesting the transcript shall provide appropriate payment before the transcript request is processed. Checks written on a firm's business account will be accepted. Pro se litigants shall submit payment by money order, certified check, or cashier's check.

(e) When the completed transcript is received by the ECRO, the ECRO shall notify the requesting party that the transcript is available and shall notify the requesting party whether the actual cost of the transcript exceeded the estimate. If the actual cost of the transcript exceeded the estimate, the transcript will not be released until the additional payment is made. If the actual cost is less than the amount paid, the excess amount will be refunded.

(f) If the requesting party wants an expedited transcript, the requesting party shall notify the ECRO at the time the transcript is ordered. There is extra cost associated with expedited transcripts.

(g) Requests to redact personal identifiers from transcripts shall comply with W.PA.LBR 9037-1.

Rule 5095-1 DEPOSITS (OTHER THAN UNCLAIMED FUNDS) INTO A REGISTRY FUND

(a) A motion seeking Court approval of deposits into a registry fund shall be filed with the Court. The Clerk will not accept funds for a registry account without an order of Court.

(b) Upon entry of an order allowing the deposit of funds, the Clerk shall place the funds in ~~a depository that will provide collateral for the full amount of the deposit. The Clerk shall not accept the funds until adequate collateral is pledged by the depository~~ the Court Registry Investment System (CRIS).

~~(c) An administrative handling fee will be assessed and funds will be withdrawn from each invested account at a rate established by the Judicial Conference of the United States.~~

(c) Parties claiming an interest in invested registry funds may request from the Clerk not more often than monthly a report showing the earnings history on the account. Upon receiving a request, the Clerk will docket the report on the case.

Rule 7005-1 FILING OF DISCOVERY MATERIALS

(a) Depositions, interrogatories, requests for documents, requests for admissions, and responses thereto shall not be filed with the Clerk.

(b) A party seeking a protective order, to compel discovery, or other relief pursuant to Fed. R. Bankr. P. 7026 or 7037 shall file as an attachment to the motion only that portion of the deposition, interrogatory, request for document, or request for admissions that is the subject of an objection.

(c) When discovery material is essential to an appeal, upon application by a party in interest and order of Court, the necessary portion of the discovery material shall be filed with the Clerk.

(d) The party serving discovery or taking depositions shall retain the original as the custodian thereof.

Rule 7056-1 MOTIONS FOR SUMMARY JUDGMENT

(a) All motions for summary judgment shall set forth succinctly, but without argument, the specific grounds upon which the judgment is sought and must be accompanied by the following:

- (1) A separately filed Concise Statement of Material Facts setting forth the facts essential for the Court to decide the motion for summary judgment, which the moving party contends are undisputed and material, including any facts which for purposes of the summary judgment motion only are asserted to be true. The facts set forth in any party's concise statement shall be stated in separately numbered paragraphs. A party must cite to a particular pleading, deposition, answer to interrogatory, admission on file or other part of the record supporting the party's statement of the material fact;
- (2) A supporting brief that addresses applicable law and explains why there are no genuine issues of material fact to be tried and why the moving party is entitled to judgment as a matter of law; and
- (3) Documents referenced in the Concise Statement of Material Facts shall be included in an appendix. Such documents need not be filed in their entirety. Instead, the filing party may extract and highlight the relevant portions of each referenced document. Photocopies of extracted pages, with appropriate identification and highlighting, will be adequate.

(b) Within 30 days of service of the motion for summary judgment, the opposing party shall file:

- (1) A separately filed statement, which responds to each numbered paragraph in the moving party's Concise Statement of Material Facts by:
 - (A) admitting or denying whether each fact contained in the moving party's Concise Statement of Material Facts is undisputed and/or material;
 - (B) setting forth the basis for the denial if any fact contained in the moving party's Concise Statement of Material Facts is not admitted in its entirety (as to whether it is undisputed or material), with appropriate reference to the record (See W.PA.LBR 7056-1(a)(1) for instructions regarding format and annotation); and
 - (C) setting forth in separately numbered paragraphs any other material facts that are allegedly at issue, and/or that the opposing party asserts are necessary for the Court to determine the motion for summary judgment, with appropriate reference to the record (See W.PA.LBR 7056-1(a)(1) for instructions regarding format and annotation);

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- (2) A brief in opposition to the motion for summary judgment that addresses applicable law and explains why there are genuine issues of material fact to be tried and/or why the moving party is not entitled to judgment as a matter of law; and
- (3) Documents referenced in the Responsive Concise Statement shall be included in an appendix. (See W.PA.LBR 7056-1(a)(3) for instructions regarding the appendix).

(c) Within 14 days of service of the opposing party's submission in opposition to the motion for summary judgment, the moving party shall reply to the opposing party's submission in the same manner as set forth in W.PA.LBR 7056-1(b).

(d) Alleged material facts set forth in the moving party's Concise Statement of Material Facts or in the opposing party's Responsive Concise Statement, which are claimed to be undisputed, will for the purpose of deciding the motion for summary judgment, be deemed admitted unless specifically denied or otherwise controverted by a separate concise statement of the opposing party.

Rule 9010-1 ADMISSION TO PRACTICE

(a) Attorneys who are admitted to the Bar of the United States District Court for the Western District of Pennsylvania are admitted to the Bar of this Court.

(b) No one, other than an attorney regularly admitted to practice in this Court, shall appear in any proceeding except upon motion filed with the Clerk and order entered by the Court. Every motion to be admitted *pro hac vice* shall be signed and filed by an attorney admitted to practice in this District. The motion shall substantially conform to Local Bankruptcy Form 18 (Motion for *Pro Hac Vice* Admission). The party seeking *pro hac vice* admission shall pay the required fees of \$40.00 contemporaneously with filing the motion. If a motion for *pro hac vice* is made orally in open Court, it shall be followed promptly by the filing of a written motion signed by local counsel and the applicant. The Court may require counsel to provide evidence of admission in another district. An attorney admitted *pro hac vice* and local counsel shall appear at Court hearings and be prepared to address all issues set for argument.

(c) An attorney not admitted to practice by the United States District Court for the Western District of Pennsylvania may not be admitted *pro hac vice* in this Court unless associated with an attorney, as local counsel, who is a member of the Bar of this Court and who shall act as local counsel during the term of applicant's admission and who maintains an office in this District for the regular transaction of business, upon whom all documents, pleadings, and notices shall be served and who shall be required to sign all papers filed with the Clerk. Local counsel is not necessary for:

- (1) the filing or prosecution of a proof of claim or response to an objection to a proof of claim. The Court may, however, direct counsel to claimant to associate with local counsel if the claim litigation will involve extensive discovery or trial time.
- (2) an attorney not admitted in the United States District Court for the Western District of Pennsylvania but admitted in another United States District Court representing the United States of America (or any officer or agency thereof) or any State or County (or officer or agency thereof) provided that 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 the attorney has been admitted, and (c) that the attorney will be bound by the Local Bankruptcy Rules of this Court and submits to the jurisdiction of this Court for disciplinary purposes in connection with the matter in which the attorney is appearing.

~~(d) No attorney shall be given *pro hac vice* status on more than 3 occasions. At that point, general admission before the United States District Court for the Western District of Pennsylvania is required.~~

~~(e d)~~ The Local Rules of the United States District Court for the Western District of Pennsylvania as amended from time to time shall apply as to discipline of attorneys.

Rule 9013-5 SCHEDULING HEARINGS

(a) Parties are directed to ascertain, and shall comply with, procedures stated on the Court's website for the scheduling practices of each Judge.

(b) The moving party shall serve all parties in interest with the motion, proposed order, and notice of hearing. For Chapter 7 final accounts and proposed distributions, use the form prescribed by the United States Trustee. For fee applications in Chapter 7 and 13 cases, use Local Bankruptcy Form 8 (Summary Cover Sheet and Notice of Hearing on Professional Fees in Chapters 7, 12 and 13). For fee applications in Chapter 11 and 15 cases, use Local Bankruptcy Form 9 (Summary Cover Sheet for Fee Applications in Chapter 11 and Chapter 15).

~~(c) — If nothing is filed on the docket in response to a motion, then the moving party, assuming no agreement with the opposing party/counsel to the contrary, shall file with the Clerk a Certification of No Objection substantially in compliance with Local Bankruptcy Form 25 (Certification of No Objection). The Certification shall be filed no later than two (2) days after the objection deadline has expired. If the Court grants the relief by default, the hearing is canceled.~~

~~(d) — If a disputed matter has been settled prior to the hearing, counsel for movant shall file a Settlement and Certification of Counsel substantially in compliance with Local Bankruptcy Form 26 (Settlement and Certification of Counsel). A proposed consent order shall be filed as an attachment to the Settlement and Certification of Counsel.~~

(e c) Initial hearings on motions shall be brief, not more than ten (10) minutes in any case. No testimony will be heard. If there is an issue of fact, a discovery schedule, if appropriate, and an evidentiary hearing will be fixed by the Court at the initial hearing. If there is no issue of fact, the Court may dispose of the matter at such hearing, or on briefs, or as the Court may determine. Matters which are settled after responses are filed shall be heard prior to other matters scheduled for the same time upon request of the parties at the hearing.

(f d) If a filing is not in substantial compliance with these Local Bankruptcy Rules or procedures, an order may be entered dismissing the motion without prejudice, and movant shall promptly notify respondent thereof.

(g e) A motion for relief from default orders is governed by Fed. R. Bankr. P. 9023 or 9024 as applicable.

(h f) A movant who files a motion for relief from stay and selects a hearing date in accordance with a Judge's scheduling practice shall be deemed to have waived the 30-day period specified in 11 U.S.C. § 362(e) when the hearing is scheduled for a date more than thirty (30) days after the date the motion is filed. If a hearing date is not available within the 30-day period, a movant who would be harmed by a delay of the hearing beyond the 30-day period specified in 11 U.S.C. § 362(e) shall file a motion for expedited hearing.

Rule 9013-7 CERTIFICATES OF NO OBJECTION

(a) If an individual judge of the Court chooses to use the Certificate of No Objection (“CNO”) process, as will be indicated in the judge’s Procedure page located on the Court’s Website, and except as provided in subsection (h) below, this Rule shall apply in all instances wherein a party is seeking an order or other relief from the Court, whether by way of motion, application, or otherwise.

(b) The requirement of filing a CNO pursuant to this Rule is mandatory and is intended to assist the Court in the management of its hearing calendar and to facilitate the Court’s exercise of the option of granting requested relief without a hearing in the event there is no objection to it, and, it is otherwise appropriate.

(c) Within forty-eight (48) hours after the response deadline for the requested relief has passed, or as soon as possible if the hearing on the requested relief is scheduled for less than forty-eight (48) hours after the deadline, the party seeking the relief shall file a CNO, substantially in the form of Local Form 25, if–

- (1) No objection to the requested relief has been filed on the docket or served on the party seeking relief;
- (2) No agreement has been made with the opposing party which would excuse the filing of a response or objection; and
- (3) The party seeking relief is not otherwise aware of any specific information to indicate that the opposing party objects to the requested relief.

(d) By filing a CNO, attorneys or unrepresented parties represent to the Court that they have reviewed the Court’s docket and no objection appears thereon, that they are otherwise unaware of any objection to the requested relief, and that the motion or other request for relief was properly served on each opposing party.

(e) A CNO may not be used for any other purpose and may not be accompanied by any exhibit or attachment other than a certificate of service.

(f) The filing of a CNO does not automatically mean that an order will be entered granting the requested relief and cancelling the hearing. After a CNO is filed, it is the responsibility of attorneys and unrepresented parties to check the calendar and determine whether the hearing will nevertheless proceed.

(g) If the circumstances are such that a CNO should have been filed but was not, or

should not have been filed but was, the attorney or unrepresented party who improperly filed or failed to file it shall personally appear at the hearing to explain why this Rule was not followed and why a sanction should not be imposed if the failure to comply was willful.

(h) The CNO procedure as set forth in this Rule applies to motions filed within adversary cases, but does not apply with respect to a party that seeks judgment due to the failure of the opposing party to file an answer to a complaint. In such instances the proper procedure for seeking default and a default judgment is as set forth in Fed. R. Bankr. P. 7055, though if a motion for default judgment is filed as part of that procedure, the CNO requirement would apply as to such motion.

Rule 9013-8 CERTIFICATION OF COUNSEL

- (a) If an individual judge of the Court chooses to use the Certification of Counsel (“COC”) process, as will be indicated in the judge’s Procedure page located on the Court’s Website, and if a disputed matter has been settled prior to the hearing, counsel for movant shall file a COC, substantially in the form of Local Bankruptcy Form 26, in accordance with the following procedure:
 - (1) A COC may not be filed until after the expiration of any applicable objection or response deadline.
 - (2) A revised or agreed form of order shall be filed as an attachment to the COC. To the extent the parties seek entry of an order that materially differs from the proposed order attached to a previously filed motion or pleading, a redline of the order (showing the changes to the original version) shall also be attached to the COC.
 - (3) A COC shall be served on all affected parties in interest.
- (b) By filing a COC, attorneys or unrepresented parties represent to the Court that the revised or agreed form of order has been reviewed and approved by all parties affected by the order.
- (c) The filing of a COC does not automatically mean that an order will be entered granting the requested relief and cancelling the hearing. After a COC is filed, it is the responsibility of attorneys and unrepresented parties to check the calendar and determine whether the hearing will nevertheless proceed.

Rule 9015-1 JURY DEMAND

(a) The party making a jury trial demand shall file the demand with the Clerk of the Bankruptcy Court and serve all parties in interest. If the demand is made by the moving party, it shall be endorsed on the front of the initial motion or pleading. The last date on which a demand for jury trial may be made by any party is fourteen (14) days after:

- (1) an answer is filed and served to a complaint, cross-claim, or counterclaim in an adversary proceeding; or
- (2) a response to a motion or objection is filed and served in a contested matter.

(b) With respect to removed actions, Fed. R. Civ. P. 81 (c) applies. In such cases, demand for jury trial shall be made within thirty (30) days after filing the Notice of Removal.

(c) Within thirty (30) days of filing the demand, the party making the demand shall file with the Bankruptcy Clerk and serve on all parties in interest:

- (1) the consent of all parties to trial by jury in the Bankruptcy Court and the Bankruptcy Court's entry of final orders or judgments with respect to the same; or
- (2) a motion to withdraw the reference to the District Court, pursuant to 28 U.S.C. § 157. All proceedings shall continue in the Bankruptcy Court unless and until an Order is issued by the District Court withdrawing the reference.

(d) The failure to comply with this Local Bankruptcy Rule shall be deemed to be a waiver of trial by jury in the Bankruptcy Court.

Rule 9019-3 MEDIATORS

(a) The Clerk shall establish and maintain a register of persons (the “Register”) qualified and designated by the Court to serve as mediators in the Mediation Program. The Chief Bankruptcy Judge shall appoint a Judge of this Court to serve as the “Mediation Program Administrator.” The Mediation Program Administrator or designee shall receive applications for designation to the Register, maintain the Register, track and compile reports on the Mediation Program, and otherwise administer the program.

(b) Each applicant shall submit to the Mediation Program Administrator a statement of professional qualifications, experience, training, and other information relevant to designation to the Register, using Local Bankruptcy Form 31 (Application for Admission to Bankruptcy Mediation Program Register). Each applicant shall submit to the Mediation Program Administrator documentary confirmation that the applicant has completed forty (40) hours of mediation training, including training in the facilitative method of mediation with at least sixteen (16) hours of such training being in the form of simulated facilitative mediations.

(c) Each applicant shall agree to serve in a *pro bono* capacity for his or her initial mediation appointment. Thereafter, the applicant shall serve in a *pro bono* capacity for one (1) out of every five (5) subsequent appointments as a mediator.

(d) Not later than March 1 of every year using Local Bankruptcy Form 31 (Application for Admission to Bankruptcy Mediation Program Register), each applicant accepted for designation to the Register shall reaffirm the continued existence and accuracy of the qualifications, statements, and representations made in the application, file amendments as needed, and certify that such applicant has completed at least two (2) Continuing Legal Education credits in the preceding year with substantially mediation-related content.

(e) The Court in its sole and absolute determination on any basis shall grant or deny an application. If the Court grants the application, the applicant’s name shall be added to the Register.

(f) A person shall be removed from the Register either at the person’s request or by Court order entered on the sole and absolute determination of the Court. If removed by Court order, the person shall be eligible to file an application for reinstatement after one (1) year.

(g) Before serving as a mediator, each person designated 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 Mediation Program of the United States Bankruptcy Court for the Western District of Pennsylvania without respect to persons and will do so equally with respect to the poor and to the rich.”

(h) Upon assignment of a matter to mediation and unless special circumstances exist as determined by the Court, the parties shall select a mediator and may choose an alternate mediator from the Register whose appointment shall be authorized by the Court. If the parties fail to make

such selection within the time frame as set by the Court, then the Court shall appoint a mediator and may appoint an alternate mediator.

(i) If the mediator is unable or elects not to serve, the mediator shall file and serve on all parties to the mediation and on the alternate mediator, within seven (7) calendar days after receipt of a Notice of Appointment, a Notice of Inability or Election Not to Accept the Appointment. The alternate mediator then shall become the mediator, if the alternate does not file and serve on all parties to the mediation a Notice of Inability or Election Not to Accept the Appointment within seven (7) calendar days after receipt of the original mediator's Notice of Inability or Election Not to Accept the Appointment. If neither the mediator nor the alternate mediator can serve, the Court shall appoint another mediator and alternate mediator.

(j) 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. § 144. 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.

(k) Promptly after receiving Notice of Appointment, the mediator shall make inquiry sufficient to determine whether there is a basis for disqualification under W.PA.LBR 9019-3(j). The inquiry shall include, but shall not be limited to, a search for conflicts of interests 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 nonattorney mediators. Within seven (7) calendar days after receiving Notice of Appointment, the mediator shall file with the Court and serve on the parties to the mediation either (1) a statement that there is no basis for disqualification under W.PA.LBR 9019-3(j), and that the mediator has no actual potential conflict of interest, or (2) a Notice of Withdrawal.

(l) A party to the mediation 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 to the other parties to the mediation. If the mediator does not withdraw, and the movant is dissatisfied with this decision, the issue shall be brought to the Court's attention by the mediator or any of the parties to the mediation. The Court shall take such action as the Court deems necessary or appropriate to resolve the alleged conflict of interest.

(m) 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 pursuant to this Local Bankruptcy Rule on account of any act or omission in the course and scope of such person's duties as a mediator.

(n) Once eligible to serve as a mediator for compensation, which shall be at reasonable rates and subject to judicial review, the mediator may require compensation or reimbursement of expenses as agreed by the parties to the mediation. Prior Court approval shall also be required if the estate is to be charged. If the mediator consents to serve without compensation, and at the conclusion of the first full day of the mediation conference, it is determined by the mediator and the parties to the mediation that additional time will be both necessary and productive in order to complete the mediation, then:

- (1) if the mediator consents to continue to serve without compensation, the parties to the mediation may agree to continue the mediation conference; and
- (2) if the mediator does not consent to continue to serve without compensation, the mediator's fees and expenses shall be on such terms as are satisfactory to the mediator and the parties to the mediation, subject to Court approval.

(o) Where the parties have agreed to pay mediation fees and expenses, they shall share equally all such fees and expenses unless the parties to the mediation agree to some other allocation. The Court may, in the interest of justice, determine a different allocation.

(p) If the Court determines that a party to a matter assigned to mediation cannot afford to pay the fees and costs of the mediator, the Court may appoint a mediator to serve *pro bono* as to that party.

Rule 9019-6 POSTMEDIATION PROCEDURES

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

(b) If a settlement is reached at a mediation, a party designated by the mediator shall submit a fully executed stipulation and proposed order to the Court within ~~twenty-one-seven~~ (21 7) calendar days after the end of the mediation. If the party fails to prepare the stipulation and order, the Court may impose appropriate sanctions against the parties to the mediation. All stipulations and proposed orders required pursuant to this Local Rule shall include a provision that requires the payment of the mediator's fees and expenses.

(c) Promptly after the mediation conference, the mediator shall file with the Court, and serve on the parties and the Mediation Program Administrator, Local Bankruptcy Form 32 (Mediator's Certificate of Completion of Mediation Conference) showing compliance or noncompliance with the mediation conference requirements of this Local Bankruptcy Rule and whether or not a settlement has been reached. Regardless of the outcome of the mediation conference, the mediator shall not provide the Court with any details of the substance of the conference.

(d) Whether or not the mediation conference results in a settlement, within seven (7) days of the conclusion of the mediation the mediator shall file on the docket of the case the Mediator's Certificate of Completion of Mediation Conference (Local Bankruptcy Form 32) and submit to the Mediation Administrator the Report of Mediation Conference & Mediator Survey through the Court's website at: <http://www.pawb.uscourts.gov/bankruptcy-mediators-upload>.

Rule 9020-2 LOSS MITIGATION PROGRAM COMMENCEMENT

(a) At any time after the commencement of the case until ~~three (3)~~ thirty (30) days ~~before~~ after the first date scheduled for the First Meeting of Creditors, or at any time during the case with the lender's consent, a debtor with Eligible Property secured by an Eligible Loan may request the commencement of the LMP by filing a Motion for Loss Mitigation (substantially in the form of Local Bankruptcy Form 39). The Motion for Loss Mitigation shall be served on the Creditor and all other creditors whose claims are secured by liens against the Eligible Property.

(b) Prior to filing a Motion for Loss Mitigation, the debtor's counsel (or the debtor if not represented by counsel) shall:

- (1) perform adequate due diligence concerning the debtor's eligibility for loss mitigation by reviewing all of the loan documentation in the debtor's possession and confirming all information necessary to make the certifications required on the Certification of LMP Eligibility and Readiness (Local Bankruptcy Form 40);
- (2) fully and completely prepare the Primary LMP Documents using Court-approved Document Preparation Software; and
- (3) if the Creditor is registered on the Portal, download the Core LMP Package from the Portal and fully prepare all documentation that may be required and posted by the Creditor in addition to the Primary LMP Documents.

(c) A Certification of LMP Eligibility and Readiness (substantially in the form of Local Bankruptcy Form 40) and a proposed Loss Mitigation Order (substantially in the form of Local Bankruptcy Form 41) shall be attached to any Motion for Loss Mitigation.

(d) The deadline for filing an objection to a Motion for Loss Mitigation is fourteen (14) days from the service of the motion. Objections shall identify with specificity the grounds for the objection. If no objection is filed, the Court may enter a Loss Mitigation Order without further notice or hearing.

Rule 9020-4 LOSS MITIGATION PROGRAM DEADLINES

(a) The LMP commences upon the entry of a Loss Mitigation Order. The Court, at its discretion, may alter any of the deadlines set forth in these Local Rules. Where there is a conflict between the Loss Mitigation Order and these Local Rules, the Order governs.

(b) If not previously registered, within fourteen (14) days after the entry of the Loss Mitigation Order, the Creditor shall register and post its entire Core LMP Package on the Portal.

(c) Within seven (7) days after entry of the Loss Mitigation Order or the Creditor's registration on the Portal, whichever occurs later, the debtor shall upload and submit through the Portal debtor's completed Core LMP Package.

(d) Within fourteen (14) days after the debtor's submission of the Core LMP Package, the Creditor shall designate, via the Portal, a specific individual who, on behalf of the Creditor, is the single point of contact for the LMP and is responsible for communicating with the debtor. The Creditor shall provide the designee's name, title, email address and either a direct telephone number or direct extension. At the same time, Creditor shall acknowledge, via the Portal, receipt of debtor's Core LMP Package and advise debtor of any additional or missing information required for the Creditor to proceed with its review. The Creditor shall immediately notify the debtor, via the Portal, if there is a substituted designee and/or any change in the designee's contact information.

(e) Within sixty (60) days after the entry of the Loss Mitigation Order, the debtor, on notice to the Creditor, shall file and serve an LMP Status Report with an attached printout of the current and complete account history from the Portal. The LMP Status Report shall be completed in accordance with the instructions provided in the Portal.

(f) Within seven (7) days after the conclusion of the LMP Period, the debtor, on notice to the Creditor, shall file and serve an LMP Final Report with an attached printout of the current and complete account history from the Portal. The LMP Final Report shall be completed in accordance with the instructions provided in the Portal. The obligation to timely file an LMP Final Report applies in all cases where a Loss Mitigation Order was issued, regardless of whether the case was subsequently dismissed or converted.

(g) If the LMP participants agree to the terms of a loan modification on a trial/interim basis, the debtor shall file a proposed order to approve the interim trial loan modification (substantially in the form of Local Bankruptcy Form 47) not less than fourteen (14) days before the first modification payment is due. In Chapter 13 cases, when trial payments are included as part of the trial loan modification, the proposed order shall be filed not less than fourteen (14) days prior to the Chapter 13 Trustee's distribution date preceding the month in which the first trial payment is to begin.

(h) Debtor's counsel shall upload to the Portal a copy of any order relating to the LMP within seven (7) days of the entry of that order. This provision is in addition to the notice and

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service requirements set forth in these Local Rules, the Federal Rules of Bankruptcy Procedure and/or any Court order.

Rule 9020-5 LOSS MITIGATION PROGRAM DURATION

(a) The LMP Period ~~initially~~ shall be ~~ninety (90)~~ one hundred twenty (120) days unless ~~otherwise specified in the Loss Mitigation Order~~ extended for cause.

(b) A request to extend the LMP Period shall be made by way of a Motion to Extend the Loss Mitigation Period (substantially in the form of Local Bankruptcy Form 42). A proposed order (substantially in the form of Local Bankruptcy Form 43) and a complete and current printout of the account history from the Portal shall be attached to the Motion.

(c) A request to terminate the LMP process shall be made by way of a Motion to Terminate the Loss Mitigation Program (substantially in the form of Local Bankruptcy Form 44). A proposed order (substantially in the form of Local Bankruptcy Form 45) and a complete and current printout of the account history from the Portal shall be attached to the Motion.

(d) Requests to extend or terminate the LMP process shall be served on all parties in interest, including, where applicable, the trustee or Chapter 13 Trustee.

(e) The deadline for objecting to a request to extend or terminate the LMP process is seven (7) business days from the service of the motion.

(f) Where a timely objection is filed, the Court may schedule a hearing to determine whether granting the relief requested is appropriate under the circumstances.