

Rule 1002-6 FIRST DAY MOTIONS AND ORDERS IN COMPLEX CHAPTER 11 CASES

(a) “First Day Motions” are motions filed by the debtor on or shortly after the filing of the petition and the Notice of Designation of Complex Chapter 11 Case which require expedited consideration by the Court. “First Day Orders” are orders which result from First Day Motions.

(b) If the debtor in a Complex Chapter 11 case is filing any First Day Motions in the case, then along with the Notice of Designation of Complex Chapter 11 Case the debtor shall also file a Request for Emergency Consideration of First Day Motions, substantially in the form of Local Form 50.

(c) Promptly upon the receipt of a Request for Emergency Consideration of First Day Motions, the Court will issue an Order scheduling a First Day Motion hearing. Each Judge shall arrange the Judge's calendar so that First Day emergency hearings can be conducted consistent with the Bankruptcy Code and Rules, including Rule 4001, as required by the circumstances, but not more than two business days after the filing of a Request for Emergency Consideration of First Day Motions. If the Judge assigned to a Complex Chapter 11 Case is unable to hold hearings on any First Day Motions within two business days after request by the debtor, the Court will make another Judge available to hear any First Day Motions within two business days of the request by the debtor and the Clerk shall notify counsel for the debtor immediately thereof.

(d) As soon as practicable following filing of a Complex Chapter 11 case with First Day Motions, the debtor shall provide Chambers with a “First Day” binder with paper copies of the Notice of Designation of Complex Chapter 11 Case, the Request for Emergency Consideration of First Day Motions, all filed First Day Motions, any proposed Orders, any responses or objections that have been filed by that time, a proposed Agenda for the First Day hearing, and the Affidavit of Debtor meeting the requirements set forth in W. PA. LBR 1002-5.

(e) First Day Motions which may be entertained by the Court within two business days of the date of filing of the First Day Motions include, but are not limited to, the following:

- (1) Motions to authorize debtor's use of cash collateral on an emergency basis, pending a final hearing, and providing adequate protection; see W.PA.LBR 4001-2.
- (2) Motions to authorize debtor to obtain post-petition financing on an emergency basis, pending final hearing; see W.PA.LBR 4001-2.
- (3) Motions to direct joint administration of debtors' cases if more than one case is commenced.
- (4) Motions to authorize debtor to mail initial notices, including the Notice of Meeting of Creditors under 11 U.S.C. § 341(a).
- (5) Motions to extend debtor's time for filing schedules and statement of financial affairs to a specified date.
- (6) Motions to authorize payment of pre-petition amounts owed to critical vendors.

- (7) Motions to authorize employment and payment without fee applications of professionals used in ordinary course of business, not to exceed a specified individual and aggregate amount.
- (8) Motions to establish procedures for compensation and reimbursement of expenses of professionals.
- (9) Motions for interim order prohibiting utilities from altering, refusing or discontinuing service on account of pre-petition claims and establishing procedures for determining requests for additional adequate assurance.
- (10) Motions to authorize retention and appointment of claims and noticing agent under 28 U.S.C. §156(c) and 11 U.S.C. §105(a).
- (11) Motions to authorize the employment and retention of administrative agent.
- (12) Motions to authorize debtor to maintain existing bank accounts and cash management system, and to continue using existing business forms (including checks) without “debtor-in-possession” designation, subject to the requirements of W. PA. LBR 1002-7(a).
- (13) Motions to authorize debtor to deviate from enumerated permitted investments set forth in 11 U.S.C. § 345, subject to the requirements of W. PA. LBR 1002-7(b).
- (14) Motions to authorize debtor to pay pre-petition wages, salaries and commissions (including vacation, severance and sick leave pay) earned by an individual in an amount not to exceed specified per employee and aggregate amounts, subject to the requirements of W. PA. LBR 1002-7(c).
- (15) Motions to authorize debtor to pay claims for contribution to employee benefit plans in an amount not to exceed a specified amount, subject to the requirements of W. PA. LBR 1002-7(d).
- (16) Motions to authorize debtor to reimburse employee business expenses in an amount not to exceed a specified amount per employee and not to exceed a specified aggregate amount, subject to the requirements of W. PA. LBR 1002-7(e).
- (17) Motions to authorize debtor to honor pre-petition customer claims (e.g., refund of deposits, lay-a-way plans) and warranties, not to exceed specified aggregate and per claimant amounts, subject to the requirements of W. PA. LBR 1002-7(e).
- (18) Motions to authorize continued performance without assumption under key executory contracts, including payment of prepetition amounts due and owing thereunder in an amount not to exceed specified aggregate and per claimant amounts, subject to the requirements of W. PA. LBR 1002-7(f).
- (19) Motions for the entry of a case management order setting forth filing, notice and hearing procedural requirements for the case.

Comment: Generally, the purpose of First Day Motions is to expeditiously deal with essential

administrative matters to ensure that the debtor's business and operations are stabilized and conducted in a manner consistent with past practice so as to afford the debtor an opportunity to reorganize its affairs. While the Court recognizes the necessity and desirability of entertaining appropriate First Day Motions, the terms and conditions of any resulting First Day Orders will depend upon the facts and circumstances of the case, the notice given, and related factors, and they will take into account the needs of the debtor and the rights of other parties in interest.