

Rule 1002-8 EMPLOYMENT OF CLAIMS AND NOTICING AGENTS UNDER 28 U.S.C. § 156(c)

(a) An application seeking to retain a claims and noticing agent under 28 U.S.C. § 156(c) (“Section 156(c) Application”) should be limited in scope to those duties that would be performed by a Clerk of Court with respect to providing notice and processing claims (such as maintaining a claims register). The Section 156(c) Application should exclude those duties that would not be performed by a Clerk of Court, for example, duties involving the preparation of schedules, acting as balloting and tabulation agent, or distributing assets pursuant to a confirmed plan of reorganization; such services should be the subject of a separate application and order of the Court.

(b) A Section 156(c) Application shall be substantially in the form of Local Form 51, and the proposed order accompanying the Section 156(c) Application shall be substantially in the form of Local Form 52. The debtor or trustee filing those documents shall file them in both a “clean” version, and a “red-line” version which indicates any changes that have been made from Local Forms 51 and 52.

(c) Parties submitting a Section 156(c) Application shall adhere to the following procedures, and the Section 156(c) Application shall include representations and attachments as indicated:

(1) As a condition of retention, the claims and noticing agent has a duty to comply with all relevant statutory provisions and rules of procedure, including the Local Rules and General Orders of this Court and applicable guidelines.

(2) As a condition of retention, the claims and noticing agent shall agree to maintain records of all services which, at a minimum, will show dates, categories of services, fees charged, and expenses incurred.

(3) The fee structure for the claims and noticing agent shall be included in the engagement agreement. The engagement agreement shall be annexed to the Section 156(c) Application.

(4) The claims and noticing agent shall serve its monthly invoices on the committee, if any, monitoring the expenses of the debtor, and any party-in-interest who requests service of the monthly invoices.

(5) If requested by the claims and noticing agent, and disclosed in the Section

156(c) Application, the debtor or trustee may pay an agreed sum as a retainer to cover fees and expenses such as postage, printing, publication, etc.

(6) If any dispute arises relating to an 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.

(7) Debtor shall notify both the Clerk's Office and the claims and noticing agent within seven days of an order of dismissal or conversion of the case.

(8) At the end of a case or upon termination of the claims and noticing agent's services, the debtor or the trustee must obtain a termination order to terminate the services of the claims and noticing agent. The claims and noticing agent is responsible for archiving the claims with the Federal Archives Record Administration, if applicable.

(9) A claims and noticing agent shall be disinterested person as that term is defined in Section 101(14) of the Bankruptcy Code with respect to the matters upon which it is to be engaged.

(d) The failure of the claims and noticing agent to comply with the duties set out in this Local Rule, as applicable, and with the provisions set out in the Section 156(c) Application and the order approving it may lead to removal of the claims and noticing agent's name from any list of approved agents maintained by the Court.

(e) A debtor or trustee seeking an order terminating the services of a claims and noticing agent shall do so by filing an application setting forth the factual and legal basis for such termination. As part of such application the debtor or trustee shall include a Notice of Proposed Order Authorizing Termination of Claims and Noticing Agent, substantially in the form of Local Form 53, and a proposed Order Terminating Services of Claims and Noticing Agent, substantially in the form of Local Form 54.