

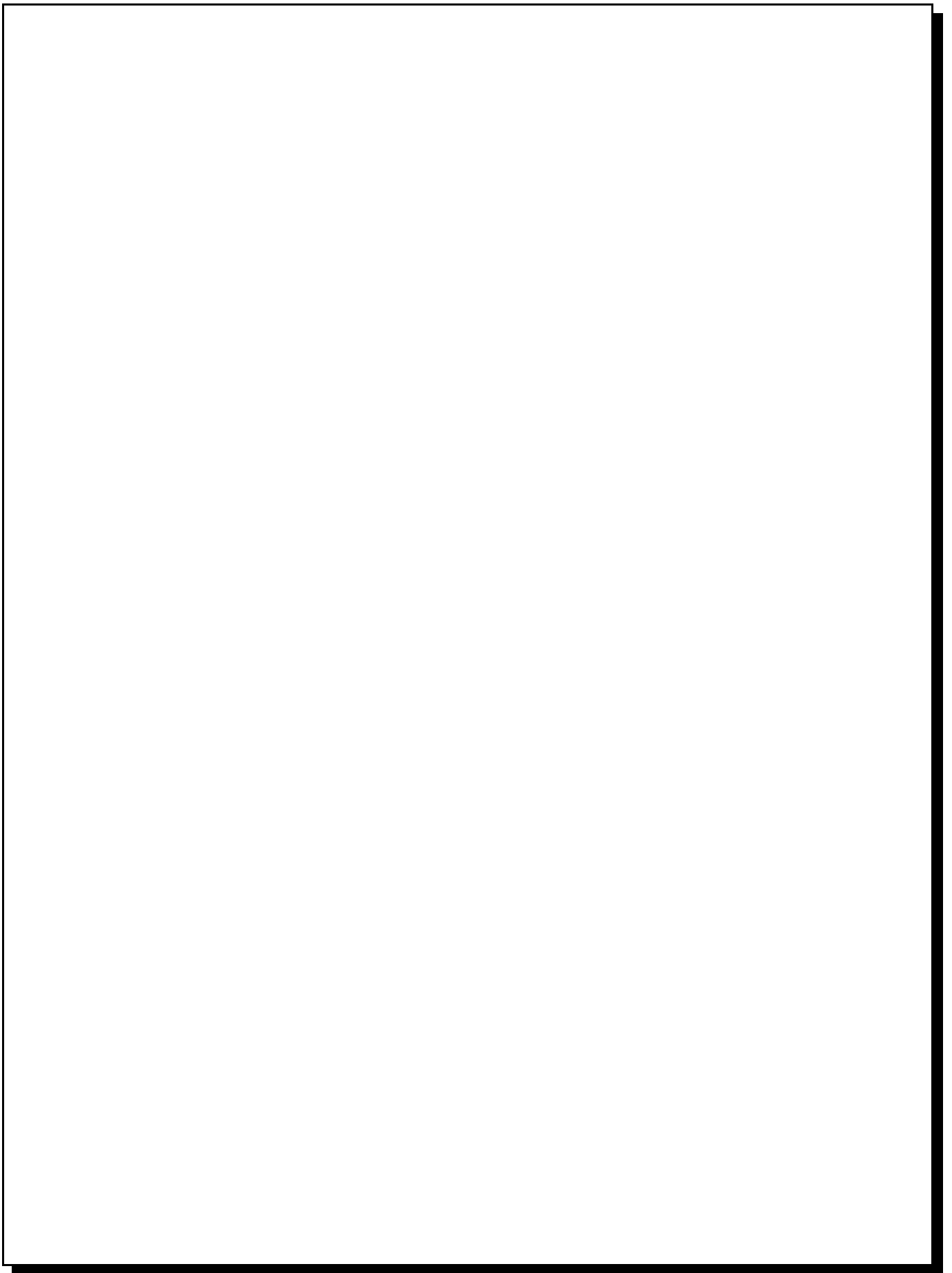
NORTHERN DISTRICT  
OF  
WEST VIRGINIA

LOCAL  
BANKRUPTCY  
RULES

L. Edward Friend, II, Judge

Michael D. Sturm, Clerk

Effective Date: November 21.2003



**UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**LOCAL BANKRUPTCY RULES**

**PREAMBLE**

*Due to the passage of time and the consequent statutory changes, administrative changes, adoption by the Judicial Conference of the United States of a uniform numbering system for local bankruptcy court rules and with the advent of Case Management / Electronic Court Filing (CM/ECF) in the United States Bankruptcy Courts for the Northern and Southern Districts of West Virginia, a revision of the Local Rules is necessary. It is the goal of these revisions to achieve orderly administration of the business of the court; to govern the practice of attorneys before the Court; to secure just, speedy and inexpensive determination of cases; to promote consistency in the practice of this Court alone, and sister Courts within the United States Bankruptcy System, particularly between the United States District Courts for the Northern and Southern Districts of West Virginia.*

*In carrying out this mission, it is the intention of these rules to encourage the increased use of electronic case filing without diminishing effective access to the Court by those whose interaction with the Court continues to be by traditional means. These Rules are therefore intended to treat electronic case filing in an evenhanded way with traditional filing. However, recognizing that different systems may have to be treated differently, it is the intent of these Rules to encourage the use of electronic case filing.*



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**UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**LOCAL RULES**

(Cite as: N.D.W.V. LBR \_\_\_\_\_ - \_\_)

**PART I.**

**N.D.W.V. LBR 1002-1**

**Petition - General.**

A voluntary or involuntary case is commenced by filing a petition with the Clerk of the Bankruptcy Court together with the required filing fee. A voluntary petition shall conform substantially with Official Form No. 1 of the Bankruptcy Rules and the involuntary petition shall conform substantially with Official Form No. 5. A separate petition must be filed by each entity seeking an order for relief, except in the case of a joint petition being filed by a husband and wife.

Cross Reference

*[Cross references are included for the convenience of those using these rules. They are not exhaustive nor should they be considered authoritative.]*

Official Forms No. 1 and No. 5  
N.D.W.V. LBR 1006-1 (Filing Fees)  
N.D.W.V. LBR 1074-1  
N.D.W.V. LBR Part V (CM/ECF)  
Appendix A (fees)

**N.D.W.V. LBR 1006-1**

### **Fees - Installment Payment.**

(a) Filing fees for cases filed under Chapter 7, 9, 11, 12, and 13 of the Bankruptcy Code are prescribed by the Judicial Conference and may be found in 28 U.S.C. 1930. Appendix A sets forth the current filing fees.

(b) Applications to pay the filing fee in installments shall be accompanied by an affidavit following Official Form No. 2, pursuant to Bankruptcy Rule 1006(b). Such fee shall be paid in full within four (4) months of the filing, unless otherwise ordered by the Court.

(c) Filing fees may be paid only by cash, certified check, money order, check drawn on an attorney's trust account, or approved attorney's credit card, provided that a "Credit Card Authorization" form (Appendix B) has been previously filed with the Court. The Clerk may refuse to accept personal checks, checks from an attorney filing their personal petition, and may also refuse to accept a check from any person who is known by the Clerk to have previously presented a check that was subsequently refused for payment.

#### Cross Reference

28 U.S.C. 1930  
Official Form No. 2  
Bankruptcy Rule 1006  
N.D.W.V. LBR 1002-1  
N.D.W.V. LBR 5005-4.02  
N.D.W.V. LBR 5080-1  
Appendix A  
Appendix B

**N.D.W.V. LBR 1007-1.**

### **Lists, Schedules & Statements.**

In the case of a paper filing of a proceeding under Chapters 7, 12, or 13, the original of the petition and all mandatory support documents (see N.D.W.V. LBR 5005-3) including a mailing matrix in compliance with N.D.W.V. LBR 5005-4.01 and 1007-2 shall be filed.

In the case of a paper filing of a proceeding under Chapters 9 or 11, the original of the petition and all mandatory support documents (see N.D.W.V. LBR 5005-3) including a mailing matrix in compliance with N.D.W.V. LBR 5005-4.01 and 1007-2 together with the number of copies set forth in Appendix M shall be filed.

Cross Reference

Bankruptcy Rule 1007  
N.D.W.V. Part V  
Official Forms 1, 2, 4, 6, 7 and 8  
Appendix M (copies)  
Appendix D-1 (addresses)  
Appendix D-2

**N.D.W.V. LBR 1007-1.01**

**Deficiencies in Filing Petitions, Schedules, and Statements of Affairs.**

The Clerk of the Bankruptcy Court may give notice to the debtor(s) or debtor(s)'s counsel of any material deficiencies in the documents filed, which deficiencies, if not corrected, would impair the performance of the Clerk's duties under the Bankruptcy Code and Rules. Failure to correct the deficiencies noted may be deemed sufficient cause for the Court to dismiss the case.

## **N.D.W.V. LBR 1007-2**

### **Mailing - List or Matrix.**

(a) A petition must be accompanied by a mailing matrix in electronic form in compliance with N.D.W.V. LBR 5005-4.01, which shall minimally include the full names and addresses listed in Appendix D-1 and /or D-2.

(b) The official charged with responsibility for conducting the first meeting of creditors (U.S. Trustee or case trustee) shall inform counsel for the debtor(s) at the Section 341 meeting of any deficiency in the matrix and shall preserve a record of the information so given; counsel for the debtor(s) shall acknowledge that he or she has been informed of such deficiency. Counsel for the debtor(s) shall have continuing responsibility for keeping the Court informed of the accuracy of the mailing matrix - creditors' names and addresses.

### Cross Reference

N.D.W.V. LBR 5005-4.01  
Appendix D-1, D-2

### Comment

The importance of the accuracy of the mailing matrix cannot be overemphasized. It is perhaps the single most vital document which is filed. An incorrect address or zip code may well deprive an entity of due process and ultimately lead to great expense, delay, and other hardship. Accuracy of the matrix is the responsibility of the debtor(s).

## **N.D.W.V. LBR 1009-1**

### **Amendments to Lists & Schedules.**

(a) Fee Required.

An amendment fee as set forth in Appendix A is required if the amendment is filed after mailing of the notice of the first meeting of creditors and the amendment affects the “D”, “E” or “F” schedules, the “Debts” portion of the Chapter 13 Statement, or the matrix.

(b) Verification.

As set forth in N.D.W.V. LBR 9011-4, the amendment shall be verified by the debtor(s).

(c) Certificate of Service.

Amendments to the Schedules must be accompanied by a certificate of service indicating that a copy of the amendment has been served on each party named therein or affected thereby, the trustee, and the examiner, if any. (See N.D.W.V. LBR 5005-4.10 re: electronic service)

(d) Amendments to “D”, “E” and “F” Schedules.

Amendments to “D”, “E” and “F” schedules extend the time for objecting to discharge, dischargeability, and the debtor(s)’s claim of exemptions.

The filing of an amendment to add a creditor or change the address of a creditor will operate to extend the times for the new creditors listed to object to the debtor(s)’s claim of exempt property, to dischargeability of a debt, and to discharge by sixty (60) days from filing the amendment. The Court will enter an order rescheduling the discharge and extending the time to object, if necessary.

(e) Amendments to “C” Schedules Extend Time for Objecting to Debtor(s)’s Claim of Exemptions.

The filing of an amendment to the exemption schedule will be deemed a motion to extend the time for objecting to the debtor(s)’s claim of exempt property by thirty (30) days from filing

the amendment.

(f) Non-Conforming Amendments.

Amendments which do not conform to these criteria may be refused for filing or returned with file-stamp voided.

Cross Reference

Bankruptcy Rule 1009  
Bankruptcy Rule 4003(b)  
28 U.S.C. 1930  
Appendix A  
N.D.W.V. LBR 9011-4  
N.D.W.V. LBR 5005-4.10

**N.D.W.V. LBR 1015-1**

**Joint Administration / Consolidation**

A party desiring to have two (2) or more bankruptcy cases consolidated procedurally, substantively, or for some other purpose must file a written motion requesting consolidation. Subsections (a) and / or (b) become applicable after consolidation is granted by the Court.

(a) Procedural consolidation

Cases that are procedurally consolidated are consolidated for noticing purposes only (they will share a joint mailing matrix). The party seeking procedural consolidation shall file a consolidated mailing matrix for each case included in the consolidation within ten (10) days from the date of the order granting the consolidation.

A pleading, order, or notice which concerns a matter in only one of the procedurally consolidated cases shall be docketed and filed in that case only, but shall reflect the consolidation

by stating, in parentheses below the style of the case, “(Procedurally consolidated with Case No. \_\_\_\_\_)”.

A pleading, order, or notice which concerns a matter in all of the procedurally consolidated cases shall contain the style of the cases and shall reflect the consolidation by stating, in parentheses below the style of the cases, “(Procedurally consolidated)”.

(b) Substantive consolidation

Cases are substantively consolidated when all of the requirements of procedural consolidation are met and when the assets and liabilities of the debtors are consolidated. When a case is substantively consolidated, the movant shall file within ten (10) days from the date of the order granting consolidation a mailing matrix for the combined cases. All further pleadings, orders, and notices shall contain the style of the consolidated cases and the style shall reflect the consolidation by stating, in parentheses below the style of the cases, “(Substantively consolidated)”.

(c) Modification of Procedure

The Court may, by administrative order, *sua sponte* or upon a motion of a party, modify the rules and procedures applicable to procedural or substantive consolidation.

Cross Reference

Bankruptcy Rule 1015  
Bankruptcy Rule 2009  
Bankruptcy Rule 7042

**N.D.W.V. LBR 1019-1**

**Conversion - Procedure Following.**



When a Chapter 13 case is either dismissed or converted, the Chapter 13 Standing Trustee shall dispose of the undistributed monies in his or her custody as follows:

(a) if a Chapter 13 plan has been confirmed, the funds shall be distributed to creditors in accordance with the confirmed plan.

(b) if a Chapter 13 plan has not been confirmed, the Standing Trustee shall provide notice to all creditors, including the Chapter 7 trustee if the case has been converted, and unless written objection is made within twenty (20) days of the notice, the trustee shall pay all funds collected to the debtor(s) directly.

Cross Reference

11 U.S.C. 348  
Bankruptcy Rule 1017  
Bankruptcy Rule 1019

**N.D.W.V. LBR 1070-1**

**Jurisdiction.**

Pursuant to 28 U.S.C. 157, prior orders of the District Court for the Northern District of West Virginia, and further, pursuant to the adoption of these rules by the District Court for the Northern District of West Virginia, any and all cases under title 11 of the United States Code, and any and all proceedings arising under title 11 of said Code, or arising in a case under title 11 of said Code, shall be and hereby are referred to the Bankruptcy Court and bankruptcy judge(s) for this district.

**N.D.W.V. LBR 1071-1**

**Divisions of Bankruptcy Court.**

The United States Bankruptcy Court of the Northern District of West Virginia is the proper venue for cases in which the debtor's residence is in one of the thirty-two (32) counties listed in LR Gen P 1.02(b).

The Northern District of West Virginia includes four (4) divisional offices located in the cities of Wheeling, Clarksburg, Elkins, and Martinsburg. The Bankruptcy Court is not bound by the divisional delineations of the District Court, and will, in the interests of the parties, conduct hearings and other proceedings, including meetings of creditors, at each of the divisional locations whenever feasible.

All pleadings and other papers shall be filed with the Clerk of the Bankruptcy Court at either the Wheeling or Clarksburg division as follows:

U. S. Bankruptcy Court  
12<sup>th</sup> and Chapline St.  
Post Office Box 70  
Wheeling, WV 26003

U. S. Bankruptcy Court  
324 West Main St.  
Clarksburg, WV 26301

In addition, the Clerk of the United States District Court for the Northern District of West Virginia, or his or her designee, is authorized to receive and file stamp bankruptcy petitions at the Martinsburg point of holding court in the event of an extreme emergency. Counsel for the debtor(s) shall consult with the District Clerk, or his or her designee, and the District Clerk shall determine whether such emergency does exist. Counsel for the debtor(s) shall also contact the Bankruptcy Clerk's office (304-233-1655) and notify it of such emergency. Counsel may also wish to consult Part V of these Rules with respect to filing by electronic means.

Cross Reference

Rule 5 Fed. R. Civ. Proc.  
Bankruptcy Rule 5005  
Bankruptcy Rule 1014 (Change of Venue)  
LR Gen P 1.02  
N.D.W.V. LBR Part V

**N.D.W.V. LBR 1074-1**

**Corporations.**

Any pleading, including, but not limited to petitions, motions, adversary proceedings and answers that are filed by a corporation, must be signed by an attorney as representative of the corporation. Officers or agents of a corporation may sign and file Proofs of Claim without legal representation.

Cross Reference

11 U.S.C. 101(9)

Comment

There are certain limited things which a corporation can do for itself (e.g., file a proof of claim...) At the same time, a corporation is prohibited from appearing in a case and practicing law. See, Rule 9010 of the Bankruptcy Rules, cases such as In re: Las Colinas Development Corp., 585 F.2d 7 (1<sup>st</sup> Cir. 1978), W. Va. Code Ann. 30-2-5, and cases decided under West Virginia law, such as Frieson v. Isner, 285 S.E.2d 641 (W.Va. 1981) (collection agency representing third parties).

By this rule, the Court does not wish to discourage a corporation from protecting its rights and, indeed, recognizes the practical considerations with which the corporate entity is

confronted. However, this Court is mindful of the policy considerations underlying the subject prohibition and is duty-bound to follow the law.

## **PART II.**

### **N.D.W.V. LBR 2002-1**

#### **Notice to Creditors & Other Interested Parties.**

Consistent with the directives of the Administrative Office of the United States Courts and the Office of Audit and Review, the Court may, from time to time, require counsel for an applicant or movant to serve or transmit required notices to all creditors or particular parties in interest.

#### Cross Reference

Bankruptcy Rule 9007

11 U.S.C. 362, see N.D.W.V. LBR 4001-1

11 U.S.C. 522, see N.D.W.V. LBR 4003-2

11 U.S.C. 722, see N.D.W.V. LBR 6008-1

See generally, N.D.W.V. LBR 9013-1(Notice)

### **N.D.W.V. LBR 2003-1**

#### **Meeting of Creditors & Equity Security Holders.**

(a) The United States Trustee shall be responsible for scheduling the date, time and place of the Section 341 meeting of creditors. The U. S. Trustee may authorize counsel or parties appearance by telephone where warranted. Unless prior arrangements are made, the debtor(s) shall be required to attend such meeting and shall bring the following documentation to the

meeting:

1. A valid photographic i.d. [List of acceptable items from U. S. Trustee include driver's license, passport, etc.]

2. An written indicia of debtor(s)'s Social Security Number or F.E.I.N.

3. Most recent tax returns (one (1) year for individuals, two (2) years for businesses).

4. For Chapter 13 cases, proof of earnings (e.g., pay stub, W-2, etc.).

In addition to the above, and in order to expedited the administration of the estate, debtor(s) is (are) also requested to bring copies of loan documents, security agreements, certificates of title and outstanding deeds of trust to the Section 341 hearing if they are available.

(b) A debtor may be excused from attendance at the meeting provided a Power of Attorney from the absent party to the testifying party is submitted to the trustee indicating good cause for the absence and reciting that the testimony of the absent party would conform to and be consistent with the testimony of the individual present and that the individual present is given authority to testify on behalf of the absent party.

(c) In the event of extreme life or health endangering circumstances and no alternative means of examining the debtor, including the use of telephonic testimony, the debtor may request that the Court permit the case to proceed without the debtor's attendance at the Section 341 meeting by filing a motion to excuse. Any such motion shall specifically state the circumstances which make the debtor unable to attend the meeting. Representations that a debtor's health prohibits his or her attendance should be verified by a statement signed by the debtor's physician. All such motions must also reflect that debtor's counsel has contacted the Office of the United States Trustee in an attempt to find an alternate means of examining the debtor.

Cross Reference

11 U.S.C. 341  
Bankruptcy Rule 2003  
N.D.W.V. LBR 9013-1 (Notice)

**N.D.W.V. LBR 2004-1**

**Depositions & Examinations.**

(a) Rule 2004 of the Bankruptcy Rules governs discovery within the bankruptcy case.

Upon proper motion, the Court may order that a person appear and be examined or respond to written interrogatories and requests for production.

(b) The proponent of a motion for examination shall attempt to arrange a mutually agreeable time, place and date for the examination and the motion shall reflect the agreement of the parties. If there is such agreement, an order shall be tendered with the motion which likewise reveals the agreed time, place and date of the examination. (See Forms, Appendix C)

(c) In the event that the parties cannot agree on the terms of the examination, a notice of hearing shall accompany the motion and the Court will decide the dispute upon evidence or argument. (See Appendix C-1a, re: contested motion.)

Cross Reference

Rule 45 Fed. R. Civ. Pro.  
Bankruptcy Rule 2004  
Bankruptcy Rule 9014 (Contested Matters)  
Bankruptcy Rule 7001 (Adversary Proceedings)  
N.D.W.V. LBR 9013-1 (Notice)  
N.D.W.V. LBR 7026-1 (Adversary Proceedings)  
Appendix C

## **N.D.W.V. LBR 2020-1**

### **United States Trustees.**

Official Bankruptcy Rule 9034 provides a list of pleadings, motions, objections or similar papers that must be served upon the office of the United States Trustee at the address set forth in Appendix T, or at such other address as the U. S. Trustee shall designate. In addition to those items set forth in Official Bankruptcy Rule 9034, the following documents should also be served upon the U. S. Trustee's office:

1. Initial operating reports
2. Monthly operating reports
3. Such other documents or information, including electronically formatted information, as the U. S. Trustee may from time to time designate, either generally with respect to all matters, or specifically with respect to an individual case.

#### Cross Reference

Bankruptcy Rule 9034  
Appendix E (Operating Order)

## **N.D.W.V. LBR 2090-1**

### **Attorneys - Admission to Practice**

Admission to practice before this Court by attorneys is governed by LR Gen P 83.01; by visiting attorneys is governed by LR Gen P 83.02; by *pro se* litigants is governed by LR Gen P 83.03; and by law students is governed by LR Gen P 83.04.

#### Cross Reference

Rules 8.0 & 10.0 West Virginia Rules for Admission to the  
Practice of Law

## **PART III.**

### **N.D.W.V. LBR 3001-1**

#### **Claims and Equity Security Interests - General.**

(a) For secured or priority claims in Chapters 7, 9, 11 and 12 cases, the original proof of claim and one duplicate shall be filed with the Clerk's office in accordance with Bankruptcy Rules 3002 - 3005 and 5005. For all other claims in Chapters 7, 9, 11 and 12 cases only an original proof of claim needs to be filed. In Chapter 13 cases, the creditor must file an original and one duplicate for all claims. (See Appendix M, re: copies in general)

To obtain verification of the filing of a proof of claim, one additional copy and a postage paid return envelope must be submitted to the Clerk's office.

(b) If a secured creditor fails to provide the requisite documentation supporting the perfection of the secured claim as required by Federal Bankruptcy Rule 3001, and continues to fail to provide such information after requested to do so by the case trustee, the case trustee may bring an action against the secured creditor requiring the delivery of such information and may recover the trustee's cost and expenses, including attorney's fees, attendant to such action.

(c) If a secured creditor fails to provide the requisite documentation supporting the perfection of the secured claim as required by Federal Bankruptcy Rule 3001, the Chapter 13 trustee is authorized to reserve but not distribute funds to that creditor until the perfection issue is resolved. The secured creditor shall not be entitled to interest during the period it fails to provide the trustee with evidence of perfection.



(d) In the event a student loan claim (see 11 U. S. C. 523(a)(8)) is filed in a Chapter 13 case in which the debtor(s) has (have) failed to acknowledge the student loan obligation, debtor(s)'s counsel shall address the claim as soon as practicable, but no later than three (3) days before the scheduled confirmation hearing. Failure to take action regarding the student loan claim will result in the claim as filed being paid by the Chapter 13 trustee and may result in denial of confirmation and / or dismissal of the petition. Student loan claims not treated expressly by the plan shall be paid with interest at the lesser rate of 9% per annum or the contract rate.

(e) In the event a student loan claim is filed after the governmental unit deadline for the filing of proofs of claims, the Chapter 13 trustee, absent an objection to the claim by the debtor(s), shall pay such claim as filed with interest at the lesser rate of 9% per annum or the contract rate, without having to file a motion to allow the claim.

Cross Reference

11 U.S.C. 501  
Bankruptcy Rule 3001  
Appendix M

**N.D.W.V. LBR 3007-1**

**Claims - Objections.**

(a) A party who files an objection to the allowance of a claim shall file it with the Clerk's office and shall serve a copy of the objection on the creditor filing the claim and on the following:

1. Chapter 7, 12 and 13 cases - Debtor and the case trustee
2. Chapter 9 and 11 cases - Debtor in possession and, if applicable, Chapter 11 Trustee, and counsel or chairperson of any creditors' committee.

(b) If the debtor(s) challenge(s) the lien position or obligation of a real estate secured claim, unless the Court orders otherwise, the debtor(s) shall pay to the Chapter 13 trustee the equivalent of adequate protection payments to be held until the adversary proceeding is resolved. The reserved funds shall be distributed pursuant to the terms of the adversary proceeding order.

(c) In a Chapter 13 proceeding, if a claim is filed as secured or priority and the debtor(s)'s plan proposed to treat such claim as unsecured, debtor(s)'s counsel shall address the claim as soon as practicable, but no later than three (3) days before the scheduled confirmation hearing, by filing an objection to the claim, clearly delineating the treatment the debtor(s) believe(s) is appropriate for the claim, amending the plan to provide the appropriate treatment for the claim, or filing a stipulation setting forth an agreed upon treatment of the claim. Failure to take action against the claim results in the claim as filed being paid by the trustee and may result in denial of confirmation and/or dismissal of the petition. Secured claims not treated expressly by the plan shall be paid with interest at the lesser rate of 10% per annum or contract rate, if ascertainable.

Cross Reference

11 U.S.C. 502  
Bankruptcy Rule 3007

Comment

Claims are paid based upon the amounts set forth in the Proofs of Claim and not upon the amounts set forth in the plan. Debtor(s)'s counsel is encouraged to examine the Claims Register maintained by the Clerk and available on PACER or to filing users in the electronic court filing system and to file objections before the confirmation hearing as to those claims with which they

are in disagreement.

#### **N.D.W.V. LBR 3012-1**

##### **Valuation of Collateral**

(a) Absent a showing of extraordinary circumstances to the contrary, the Court accepts as authoritative and dispositive the criteria set forth in Appendix N with respect to the valuation of collateral.

(b) If a Chapter 13 plan calls for a cram down of a secured claim, a motion to value the secured claim, setting forth the debtor(s)'s proposed value, shall be filed before the meeting of creditors. In the event there is a difference between the value of the secured claim as set forth in the plan and in the motion to value the secured claim, the Chapter 13 trustee is authorized to pay the claim at the lower of the two amounts pending entry of an order setting the value of the claim. In the event the motion to value is filed after the meeting of creditors and after distribution to the secured creditor by the trustee pursuant to N.D.W.V. LBR 3015-1(b), and further, if such motion sets a value lower than the amount paid by the trustee at the time valuation is set for the claim, the trustee has no responsibility to seek repayment from the secured creditor for the difference between the set amount of the secured claim and the value set forth in the plan.

#### **N.D.W.V. LBR 3015-1**

##### **Chapter 13 Plan.**

(a) The Chapter 13 Plan shall substantially comply with the contents of the sample contained in Appendix F.

(b) If sufficient funds are available, as soon as practicable upon the receipt of payments from the debtor(s), the Chapter 13 trustee shall make distribution to secured and priority creditors in at least the amount set forth in the plan. Such preconfirmation payments are subject to the trustee's ordinary and routine fee as an administrative expense. In the event the case is dismissed or converted to another chapter prior to confirmation, the trustee's fee shall be deemed to be an administrative award pursuant to 11 U.S.C. 503(b).

(c) The plan of any debtor(s) with student loan obligations (see 11 U.S.C. 523(a)(8)) shall state the treatment of the student loan(s). Student loans shall be paid in full with contract rate of interest unless a hardship discharge order is entered which sets forth a different treatment of the claim. Student loans may be paid directly or through the plan as a special class of unsecured claims. In the event the student loan is not paid in full with post-petition interest through the plan, the plan shall clearly state one of the following options:

1. The debtor(s) is (are) paying the student loan in full directly to the creditor at the contract rate of payment.
2. The debtor(s) is (are) paying the student loan in full directly to the creditor pursuant to an agreement by and between the creditor and the debtor(s).
3. The debtor(s) is (are) deferring payment of the student loan until after the completion of this plan. The debtor(s) acknowledge(s) that post-petition interest and other charges will be accrued against the student loan obligation and that the amount owed at the end of the case will be more than the amount owed at the beginning of the case.
4. The debtor(s) is (are) treating the student loan as a general unsecured creditor to be paid pro-rata with other unsecured creditors. The debtor(s) acknowledge(s) that post-

petition interest and other charges will be accrued against the student loan obligation and the amount owed at the end of the case may be more than the amount owed at the beginning of the case. The student loan creditor will apply payments received in the bankruptcy case first to interest and other charges and then to principal.

Cross Reference

11 U.S.C. 1321, et seq.

Bankruptcy Rule 3015

Appendix F

See: Brunner v. New York State Higher Education Services Corp., (1987, CA2, NY), 831 F2d 395

**N.D.W.V. LBR 3015-2**

**Chapter 13 - Amendments to Plans.**

(a) In the event that an amended plan is filed less than two weeks prior to the scheduled confirmation hearing, debtor(s)'s counsel shall file and shall serve on the entire mailing matrix in the case a notice that the scheduled confirmation hearing is continued. Debtor(s)'s counsel shall subsequently notice creditors of the amended plan and the date of the confirmation hearing. In the event debtor(s)'s counsel fails to give notice of the filing of the amended plan and the continuance of the confirmation hearing, debtor(s)'s counsel may be assessed the costs of the noticing by the Clerk's Office and may be assessed the attorney fees or other fees, as appropriate, for any party who appears for the confirmation hearing without notice of the filing of the amended plan.

(b) After confirmation, if there are substantial changes in the debtor(s)'s situation to require a modification of the debtor(s)'s confirmed plan, debtor(s)'s counsel shall file a motion to

modify a confirmed plan, which shall substantially comport with Appendix P. The motion to modify a confirmed plan shall be served on all parties in interest. The Chapter 13 trustee shall, no later than five (5) days prior to the hearing scheduled on the motion to modify the confirmed plan, file a report and recommendation. Any party in interest who objects to the modification of the confirmed plan shall file and serve a written objection on the debtor(s), debtor(s)'s counsel and the trustee no later than five (5) days prior to the scheduled hearing on the motion to modify.

(c) In the event that the taxing authorities file proofs of claim pursuant to 11 U.S.C. §1305, debtor(s)'s counsel shall file an objection to the same or a motion to modify the confirmed plan within thirty (30) days of the filing of the claim. If neither objection nor modification is filed, the trustee shall send notice to the debtor(s) and debtor(s)'s counsel of the amount necessary to increase the plan payments in order to pay the claim in full and not adversely affect the distribution to unsecured creditors pursuant to the terms of the confirmation order. If there is a wage withholding order in effect, the trustee is authorized to submit an amended wage withholding order changing the amount necessary for the payment of the plan as confirmed plus the post-petition tax claims. The amount in the notice by the trustee shall be the new plan payment and failure of the debtor(s) to comply with the same may result in the dismissal of the case.

Cross Reference

11 U.S.C. 1305  
11 U.S.C. 1323  
11 U.S.C. 1329  
Bankruptcy Rule 3015

**N.D.W.V. LBR 3015-3**

### **Chapter 13 - Confirmation**

(a) A written objection to a proposed Chapter 13 plan shall be filed with the Clerk of the Bankruptcy Court with certificate of service thereof on the trustee, debtor(s), and counsel for the debtor(s) within the time set by Court order. (See N.D.W.V. LBR 5005-4.10 re: electronic) If no objection is filed within such time, creditors will be deemed to have accepted the proposed plan and the Court may confirm the proposed plan without further notice to parties in interest.

(b) Confirmation hearings shall be set not sooner than 30 days after the bar date for unsecured claims. Debtor(s)'s counsel shall review the proofs of claims and shall file any objections to any proof of claim prior to the scheduled confirmation hearings.

(c) Counsel shall, if necessary, file motions to continue confirmation no later than one week before the scheduled confirmation hearing.

(d) In the event the trustee does not recommend confirmation, but the debtor(s) is (are) willing to comply with the trustee's objections, debtor(s)'s counsel shall advise the trustee in writing no later than noon the Monday before the scheduled confirmation hearing. A letter, which the trustee can attach to an amended recommendation to be filed with the Court, is sufficient. It is not necessary to file an amended plan if there are no creditors that are adversely affected. The order of confirmation should reflect this agreed upon change.

(e) The Chapter 13 trustee shall, no later than three (3) days before the scheduled confirmation hearing, and sooner if practicable, file a recommendation of confirmation. In the event the trustee recommends confirmation without a hearing, the debtor(s) and debtor(s)'s counsel are excused from attending the confirmation hearing. Other hearings which necessitate the appearance of the debtor(s) and counsel may be scheduled at the same time. The trustee's

recommendation does NOT affect the attendance of counsel and the debtor(s) at other matters.

Cross Reference

11 U.S.C. 1325

11 U.S.C. 1327

Bankruptcy Rule 3015

**N.D.W.V. LBR 3017-1**

**Disclosure Statement - Approval.**

Unless otherwise ordered by the Court, counsel for the proponent of a disclosure statement and plan shall mail copies of the orders setting hearings on the disclosure statement and confirmation of the plan, along with copies of the necessary related documents, to all parties in interest and shall certify such mailing to the Court within three (3) days of such mailing. (See N.D.W.V. LBR 5005-4.10 re: electronic service) Counsel for the proponent shall mail the notice of hearing by using copies of the mailing matrix.

Cross Reference

Bankruptcy Rule 3017

N.D.W.V. LBR 5005-4.10

N.D.W.V. LBR 9013-1(c)3

**N.D.W.V. LBR 3018-1**

**Ballots - Voting On Plans.**

(a) Ballots on the plan shall instruct all parties entitled to vote on the plan to submit their ballot directly to counsel for the proponent of the plan.

(b) Unless otherwise ordered by the Court, counsel for the proponent of the plan shall



tabulate the ballots, by class, and shall file the original ballots and tabulation with the Clerk of the Bankruptcy Court not less than three (3) working days prior to the hearing on confirmation.

(c) Counsel for the proponent of the plan shall certify to the Court that these rules have been complied with and that all ballots received by the proponent have not been modified and have been properly accounted for in the tabulation. Such certification may be done electronically.

(d) Upon request, the Clerk shall make the ballots available for inspection by parties in interest.

(e) Balloting may not be conducted by electronic means.

Cross Reference

Bankruptcy Rule 3017  
Bankruptcy Rule 3018  
Official Bankruptcy Form 14  
N.D.W.V. LBR Part V

**N.D.W.V. LBR 3022-1**

**Final Report / Decree (Ch. 11)**

(a) Operating Order - See Appendix E

(b) Closing of Case

Every six months after a Chapter 11 plan has been confirmed, the debtor in possession or trustee shall file a report with the Court and with the U. S. Trustee which describes the debtor's progress toward consummation of the plan. The U. S. Trustee shall review the report and may move to close the case or seek other relief as the circumstances may require.

(c) Post-Confirmation Quarterly Reports.

The order of confirmation may require the debtor in possession or trustee to file quarterly financial reports following confirmation and before consummation of the plan.

Cross Reference

11 U.S.C. 350  
11 U.S.C. 1143  
Bankruptcy Rule 3022

**PART IV.**

**N.D.W.V. LBR 4001-1**

**Automatic Stay - Relief From.**

(a) Generally

Upon filing of a motion for relief from the automatic stay provisions of 11 U.S.C. 362(a), the Court shall enter an order setting the matter for a preliminary telephonic hearing. The proponent of the motion shall initiate the call. All such motions shall be accompanied by an order granting the relief requested as set forth in N.D.W.V. LBR 9013-1.

(b) Contents

At a minimum, a motion for relief from stay shall contain the following information and be accompanied by the following exhibits:

1. Information:

- A. Debtor(s)
- B. Secured party
- C. Amount due

- D. Current value
- E. Petition value
- F. Current arrearage
- G. Interest rate

2. Exhibits:

A. Real Estate:

- (1.) Note
- (2.) Deed of Trust - including recording information (attach copy)

B. Motor Vehicle:

- (1.) Date of loan (attach copy of loan documents)
- (2.) Certificate of Title (attach copy)

C. Personal property under UCC:

- (1.) Loan documents (attach copy)
- (2.) UCC-1 recording (attach copy)

D. Additional collateral held:

- (1.) Loan documents (attach copy)
- (2.) Any indicia of perfection (attach copy)

(c) Notice.

Counsel for the moving party shall serve the motion for relief from stay upon the debtor(s), the debtor(s)'s attorney, the trustee, and any other party which may be affected by the relief sought; notice shall be evidenced by a certificate of service. (See N.D.W.V. LBR 5005-4.10 re: electronic service)

(d) Fee.

A filing fee as set forth in Appendix A is required under this Rule unless the debtor and creditor agree to relief from the stay and submit an agreed order at the time of the filing of the motion.

(e) Response.

Any opponent of the motion should file and serve a responsive pleading prior to the date of the preliminary hearing.

(f) Preliminary Telephonic Hearing.

1. Participants at the preliminary telephonic hearing shall be counsel for the proponent, the attorney for the debtor(s), and any other party in interest. As set forth in N.D.W.V. LBR 9074-1, the proponent shall initiate the telephonic hearing.
2. The Judge may designate his or her Law Clerk as the Court's representative at the telephonic hearing.
3. If it appears that genuine issues of fact exist between the interested parties, then the telephonic hearing will allow an opportunity to discuss the dispute, set necessary deadlines, and schedule the matter for final hearing. If it appears that only legal issues exist, then the Court will set a briefing schedule.

Cross Reference

11 U.S.C. 362  
11 U.S.C. 1301  
Rule 16(b) Fed. R. Civ. Pro.  
Bankruptcy Rules 4001; 9014  
N.D.W.V. LBR 9074-1; 9013-1

Appendix K, Forms K-1, 1a, 1b, & 2,  
Appendix A (fees)

**N.D.W.V. LBR 4001-3**

**Obtaining Credit**

In the event that a Chapter 13 debtor(s) desire(s) to incur post-petition indebtedness, debtor(s)'s counsel shall file and serve a motion and order to incur post-petition indebtedness substantially in compliance with Appendix Q-1 and Q-2.

Cross Reference

11 U.S.C. 364  
Bankruptcy Rule 4001

**N.D.W.V. LBR 4002-1**

**Debtor - Duties**

(a) In the event a debtor has a pre-petition cause of action, details of the same shall be communicated to the trustee, and the case trustee shall be responsible for filing an application for the employment of counsel for the debtor in the pre-petition cause of action. The debtor and debtor's counsel, whether bankruptcy or non-bankruptcy attorney, shall advise the trustee of any potential settlement or verdict, and counsel or the case trustee shall file the appropriate pleadings with the Court for the approval and distribution of funds. Any funds which are to be paid to the trustee shall be remitted promptly.

(b) In the event a debtor acquires a post-petition cause of action, the debtor shall notify his bankruptcy counsel and the trustee of the cause of action. In a Chapter 13 proceeding or, if

deemed property of the estate in a proceeding under another chapter, debtor's counsel or the case trustee, as appropriate, shall be responsible for filing an application for the employment of counsel in the post-petition cause of action. The debtor and debtor's counsel, whether bankruptcy or non-bankruptcy attorney, shall advise the trustee of any potential settlement or verdict. Counsel or the case trustee shall file the appropriate pleadings with the Court for the approval and distribution of funds. Any funds which are to be paid to the trustee shall be remitted promptly.

Cross Reference

11 U.S.C. 343  
11 U.S.C. 521  
Bankruptcy Rule 1007  
Bankruptcy Rule 4002

**N.D.W.V. LBR 4002-2**

**Address of Debtor**

In addition to duties of debtor imposed by the Bankruptcy Code and Bankruptcy Rules (See, *inter alia*, 11 U.S.C. 343; 11 U.S.C. 521; Bankruptcy Rules 1007, 4002) debtor(s) and (his, her or their) counsel must notify the Clerk of the Bankruptcy Court, the U. S. Trustee, and, if applicable, the case trustee of any change in debtor(s)'s address within ten (10) days of such change. Failure to notify these parties of a change in debtor(s)'s address may result in sanctions, including a dismissal of the petition.

Cross Reference

11 U.S.C. 343  
11 U.S.C. 521  
Bankruptcy Rules 1007, 4002

**N.D.W.V. LBR 4003-2**

**Lien Avoidance.**

A motion to avoid a lien shall, in addition to counsel's signature, be signed and verified by the debtor(s), (See N.D.W.V. LBR 5005-4.09 re: electronic signatures filing) and, to be deemed sufficient, shall set forth the following:

(a) Judicial Liens.

1. The market value of the debtor(s)'s real estate, the principal and interest due and owing on all valid and perfected deeds of trust against the subject real estate, and the amount of the exemption claimed by the debtor(s) in the real property;
2. That the holder of the lien sought to be avoided is not an infant or incompetent person; and,
3. That the lien in question was obtained and perfected subsequent to November 6, 1978.

(b) Nonpossessory, nonpurchase-money security interests in household goods, etc.

1. That the lien sought to be avoided is nonpossessory, nonpurchase-money security interest in household goods, etc., which the debtor(s) claimed as exempt in Schedule C;
2. That the holder of the lien sought to be avoided is not an infant or incompetent person; and,
3. That the lien in question was obtained and perfected subsequent to November 6, 1978.

(c) Counsel for the movant(s) shall file the paper original or the electronic equivalent of the motion to avoid lien and the appropriate order and notice (see N.D.W.V. LBR 9013-1). Upon

receipt of said motion and accompanying papers, the Clerk of the Bankruptcy Court shall issue a negative Notice of Motion and Order to the lienholder named in the motion at the address set forth, together with the motion to the creditor(s) affected thereby. Said Notice and Order will provide that the named lienholder shall serve upon the Clerk of the Bankruptcy Court and upon counsel for the movant(s) a written request for a hearing by a time specified in said Notice and Order. In the event that no written request for hearing is filed by the lienholder by the date specified, said Notice and Order shall provide that the relief requested by the movant(s) shall be granted effective as of the date specified in said Notice and Order. In the event the named lienholder shall request a hearing within the time so specified, the motion to avoid lien shall be set for a telephonic prehearing conference.

(d) In the event a Chapter 13 plan proposes a lien avoidance, the appropriate pleading shall be filed before the meeting of creditors. In the event that counsel fails to comply with this rule, and the motion or adversary proceeding remains unfiled as of the date of the filing of the trustee's recommendation regarding confirmation, the Court shall enter an order denying confirmation and the debtor(s) shall file an amended plan with appropriate lien avoidance pleadings within fifteen days of the entry of the order denying confirmation. Failure to file the amended plan with appropriate lien avoidance pleadings may result in the petition being dismissed.

#### Cross Reference

11 U.S.C. 522(f)  
Bankruptcy Rules 4003(d), 9014  
Appendix H, Forms H-1, H-1a, H-2, H-2a  
N.D.W.V. LBR 9013-1  
N.D.W.V. LBR 9011-4 (signatures)  
N.D.W.V. LBR 5005-4.09 (electronic signatures)



## **N.D.W.V. LBR 4004-2**

### **Objections to Discharge**

Objections to discharge shall be filed as an adversary proceeding and must be accompanied by the appropriate cover sheet and filing fee. In general, objections to discharge will be governed by Part VII of these rules.

#### Cross Reference

11 U.S.C. 523  
11 U.S.C. 727  
Bankruptcy Rule 4004(d)  
N.D.W.V. LBR Part VII (Adversary Proceedings)  
Appendix A (fees)

## **N.D.W.V. LBR 4008-1**

### **Reaffirmations.**

(a) Time For Filing - Court Approval Not Required.

To be effective, a reaffirmation agreement must be filed before the discharge is granted. A discharge is granted upon entry of the order of discharge.

(b) Contents of Agreement.

The reaffirmation agreement should include, at a minimum, the following:

1. The amount of the debt reaffirmed;
2. The interest rate, or, if applicable, the starting rate and variable modification schedule;
3. The amount of period payment;
4. The number of payments remaining;

5. A statement which reveals that the debtor(s) understand(s) that the agreement may be rescinded prior to entry of the discharge order or within sixty (60) days of filing of the agreement, whichever occurs later.

(c) Court Approval Required.

If the reaffirmation agreement is filed after the discharge order is entered, but before the case is closed, then the debtor(s) must request a hearing for reaffirmation or otherwise proceed as directed by the Court.

(d) Counsel Affidavit / *Pro Se* Debtors

If the debtor(s) is (are) represented by an attorney, the attorney shall file his or her affidavit with the reaffirmation agreement, which affidavit shall reveal that the debtor(s) entered into the agreement voluntarily and after having been fully informed, and that such agreement does not impose an undue hardship upon the debtor(s) or their dependents.

If the debtor(s) was (were) not represented by an attorney during negotiation of the reaffirmation agreement, a hearing shall be held and the Court, at the time of the reaffirmation hearing, shall inquire of the debtor(s) to insure that the agreement was entered into knowingly and voluntarily, that the agreement will not impose a burden upon the debtor(s), is in the best interests of the debtor(s), and that the debtor(s) understand(s) (his, her or their) rights with regard to rescission of the agreement.

Cross Reference

11 U.S.C. 524(c)  
Appendix I, Forms I-1, I-2

## **PART V.**

### **N.D.W.V. LBR 5001-1**

#### **Court Administration.**

The Court shall be in continuous session for transacting judicial business on all business days throughout the year.

### **N.D.W.V. LBR 5005-2**

#### **Filing Papers - Number of Copies.**

Appendix M lists the number of copies to be filed with the original of any document.

#### Cross Reference.

Appendix M

### **N.D.W.V. LBR 5005-3**

#### **Filing Papers - Size of Papers.**

In order to insure uniformity and ease and reliability of creating electronic images from traditional paper documents, any person filing paper documents shall comply with the following requirements:

1. Paper must be of a weight and composition which will allow documents to be readily scanned or imaged to electronic format. Ordinary copy paper of modest cost is sufficient. For example, paper which is coated, bonded, heavy, curled, known as “onionskin”, etc., is not suitable;

2. No paper with text on both sides shall be acceptable (i.e., no “two-sided” pages);
3. Pages of a document shall not be stapled or fastened together (except as by clips or other easily removable devices);
4. Carbon copies shall not be filed;
5. Exhibits shall not be “tabbed”;
6. All pages of a document, including attachments, shall be of letter size (8 ½" x 11") and not 8 ½" x 14".

**N.D.W.V. LBR 5005-4**

**Electronic Filing - Claims Exception.**

(a) Consistent with the Federal Rules of Civil Procedure and the Official Bankruptcy Rules, the Court will accept for filing documents submitted, signed or verified by electronic means that otherwise comply with federal statutes, official rules of procedure and local rules and internal procedures established by the Court.

(b) At the time of the adopting of these rules, claims may not be filed electronically, but must be submitted to the Clerk’s Office in paper form, on 8 ½ x 11" paper and one-sided. All claims filed will be scanned and docketed by the Clerk’s Office. This rule may be rescinded or modified by order of the Bankruptcy Judge upon the development of procedures for the filing of claims electronically.

(c) Due to continuing technological advances and reporting, a limited number of docket entries do not have documentary back-up, but rather, the docket entry serves as the document itself. A list of those events is contained in Appendix U.

Cross Reference

Rule 5(e) Fed. R. Civ. Pro.  
Bankruptcy Rule 5005(a)(2)

**N.D.W.V. LBR 5005-4.01**

**Electronic Mailing Matrix.**

The mailing matrix for every bankruptcy petition shall be submitted in electronic media form; provided, in the event that the case is filed *pro se*, the Judge, or the Clerk if designated by the Judge, may permit the matrix to be filed in any other form. For purposes of this Rule, “electronic media” shall mean a 3 ½" computer diskette and the document must be saved in the word processor as a .txt file.

Cross Reference

N.D.W.V. LBR 1007-2  
Appendix D-1; D-2

**N.D.W.V. LBR 5005-4.02**

**Scope of Electronic Filing and Use of Credit Cards.**

(a) Unless exempted by the Court, all cases will be assigned to the electronic case management system. All petitions, motions, memoranda of law, or other pleadings and documents required to be filed with the Court may be electronically filed by lawyers who have been certified and registered by the Court to participate in the electronic court filing (ECF) system.

(b) Attorneys who elect to file a pleading by electronic means must use the credit card

module provided in ECF (see Appendix B) if the document or pleading is one which must be accompanied by a fee, unless other arrangements are authorized by the office of the Clerk acting on behalf of the Judge or his or her designee.

Cross Reference

11 U.S.C. 1930  
N.D.W.V. LBR 1002-1  
N.D.W.V. LBR 1006-1  
Appendix B  
Appendix A (fees)

**N.D.W.V. LBR 5005-4.03**

**Eligibility, Registration, Certification, and Passwords.**

(a) Attorneys admitted to the bar of this Court, including those admitted *pro hac vice*, may register as filing users of the Court's electronic filing system. Registration is initiated by the Office of the Clerk at the time of certification training and requires the filing user's name, address, telephone number, internet e-mail address, and a declaration that the attorney is admitted to the bar of this Court. Furthermore, in order to become registered, the attorney or *pro se* litigant shall be certified by the Office of the Clerk as having successfully completed a prescribed training course presented by the Office of the Clerk of this Court or other authorized training program.

(b) If the Court permits, a party to a pending case or proceeding who is not represented by an attorney may register as a filing user in the electronic filing system solely for purposes of the action. Registration is in a form prescribed by the Clerk and requires identification of the action as well as the name, address, telephone number and internet e-mail address of the party. If, during the course of the action, the party retains an attorney who appears on the party's behalf, the

attorney must advise the Clerk to terminate the party's registration as a filing user upon the attorney's appearance.

(c) Registration as a filing user constitutes consent to electronic service of all documents as provided in these rules in accordance with the Federal Rules of Civil Procedure.

(d) Once registration is completed, the filing user will receive notification of the user login and password. Filing users agree to protect the security of their passwords and immediately notify the Clerk if they learn that their password has been compromised. Users may be subject to sanctions for failure to comply with this provision.

Cross Reference

N.D.W.V. LBR 5005-4.04

N.D.W.V. LBR 5005-4.10

**N.D.W.V. LBR 5005-4.04**

**Consequences of Electronic Filing.**

(a) Electronic transmission of a document to the electronic filing system consistent with these rules, together with the transmission of a Notice of Electronic Filing from the Court, constitutes filing of the document for all purposes of the Federal Rules of Civil Procedure and the local rules of this Court; constitutes entry of the document on the docket kept by the Clerk under the Federal Rules of Civil Procedure and the Official Bankruptcy Rules; and, constitutes service under the Federal Rules of Civil Procedure and the Official Bankruptcy Rules upon those filing users who receive the Notice of Electronic Filing.

(b) When a document has been filed electronically, the official record is the electronic recording of the document as stored by the Court, and the filing party is bound by the document

as filed.

(c) Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight local time where the Court is located in order to be considered timely filed that day.

Cross Reference

N.D.W.V. LBR 5005-4.10

**N.D.W.V. LBR 5005-4.05**

**Entry of Court Orders Electronically.**

Any order entered electronically without the original signature of a judge has the same force and effect as if the judge had affixed the judge's signature to a paper copy of the order and it had been entered on the docket in a conventional manner.

**N.D.W.V. LBR 5005-4.06**

**Attachments and Exhibits to Electronic Filings.**

(a) Filing users must submit in electronic form all documents referenced as exhibits or attachments, unless the Court permits conventional filing. A filing user may submit as exhibits or attachments only those excerpts of the referenced documents that are directly material to the matter under consideration by the Court. Excerpted material must be clearly and prominently identified as such. Filing users who file excerpts of documents as exhibits or attachments under this rule do so without prejudice to their right to timely file additional excerpts or the complete document. Responding parties may timely file additional excerpts or the complete document that



they believe are directly material.

(b) Documents electronically filed may not exceed fifty (50) pages in length. For those pleadings and motions, including attachments, exhibits, etc., that exceed fifty (50) pages, filing users shall break up their documents into separate attachments, each of which shall be no more than fifty (50) pages in length.

#### **N.D.W.V. LBR 5005-4.07**

##### **Sealed Documents in Electronic Filings.**

Documents ordered to be placed under seal must be filed conventionally and not electronically unless specifically authorized by the Court. A motion to file documents under seal may be filed electronically unless prohibited by law. The order of the Court authorizing the filing of documents under seal may be entered electronically unless prohibited by law.

#### **N.D.W.V. LBR 5005-4.08**

##### **Retention Requirements - Electronic Filing**

Consistent with the ongoing need to insure reliability and authenticity of the substance of documents filed electronically, and in consideration of other provisions of these Rules, for purposes of preservation of signatures and the substance of legal documents, filing users may submit a scanned pdf (portable document format) showing the actual signature(s) of the individual(s) executing the documents, or, in the alternative with respect to debtor(s), counsel for the debtor(s) shall keep and maintain an original signed copy of a Declaration Re: Electronic Filing (Appendix R) for a period of seven (7) years from the date that it was filed. The existence

of a scanned pdf signature or a properly executed Declaration Re: Electronic Filing (Appendix R) and debtor(s)'s testimony at the Section 341 meeting of creditors are prima facie evidence of the existence, authenticity and validity of the signatures on the original petition, schedules, and statement of affairs. During the period of transition from a paper to a paperless system, counsel are encouraged to retain all originals exhibiting debtor(s)'s or opposing counsel's signatures, but are not required to do so by these rules.

#### **N.D.W.V. LBR 5005-4.09**

##### **Signatures - Electronic Filing.**

(a) The user login and password required to submit documents to the electronic filing system serve as the filing user's signature on all electronic documents filed with the Court. They also serve as a signature for purposes of Federal Rules of Civil Procedure, Rule 11, Official Bankruptcy Rule 9011, the local rules of the Court, and any other purpose for which a signature is required in connection with proceedings before the Court. Electronically filed documents must include a signature block and must set forth the name, address, telephone number and the attorney's bar registration number, if applicable. The name of the filing user under whose login and password the document is submitted must be preceded by an "/s/" and typed in the space where the signature would otherwise appear. In addition, if debtor(s)'s original petition and schedules are submitted in an electronic form other than a scanned pdf, debtor(s)'s counsel and debtor(s) must execute a Declaration Re: Electronic Filing in substantial conformity with Appendix R. This Declaration Re: Electronic Filing is subject to the retention requirements of these rules (see N.D.W.V. LBR 5005-4.08).

(b) No filing user or other person may knowingly permit or cause to permit a filing user's password to be used by anyone other than an authorized agent of the filing user.

(c) Documents requiring signatures of more than one party must be electronically filed either by: (1) submitting a scanned pdf (portable document format) document containing all necessary signatures; (2) representing the consent of the other parties on the document; (3) identifying on the document the parties whose signatures are required and by the submission of a notice of endorsement by the other parties no later than three (3) business days after filing; or (4) in any other manner approved by the Court.

Cross Reference

Rule 11 Fed. R. Civ. Pro.  
Bankruptcy Rule 1008  
N.D.W.V. LBR 9011-4  
N.D.W.V. LBR 5005-4.08 (Retention)  
Appendix R.

**N.D.W.V. LBR 5005-4.10**

**Service of Documents by Electronic Means.**

(a) Electronic service of the Notice of Electronic Filing by the Clerk to registered filing users constitutes service of the filed document under the Federal Rules of Civil Procedure and the Official Bankruptcy Rules. Accordingly, if the filing party is a filing user and has filed the document or pleading electronically, it is not necessary for the filing party to provide any additional service or to file a certificate of service with respect to those filing users that received the Notice of Electronic Filing from the Clerk.

(b) Parties that are not filing users and do not receive electronic service are entitled to

receive a paper copy of any electronically filed pleading or other document from the filing user. Service of such paper copy must be made according to the Federal Rules of Civil Procedure and the local rules and must be accompanied by the appropriate certificate of service. The certificate of service evidencing delivery of the paper copies to non-filing users may be electronically filed with the initial filing.

(c) Nothing contained herein shall be construed to eliminate the necessity of service of the summons and complaint in accordance with the Federal Rules of Civil Procedure and the Official Bankruptcy Rules. The return of service may be filed electronically.

Cross Reference

Rule 4 Fed. R. Civ. Pro.  
Rule 5 Fed. R. Civ. Pro.  
Bankruptcy Rule 7004  
Bankruptcy Rule 7005  
LR Gen P 5.01 et seq.  
N.D.W.V. LBR 5005-4.04; 5005-4.14

**N.D.W.V. LBR 5005-4.11**

**Electronic Notice of Court Orders and Judgments.**

Immediately upon the entry of an order or judgment in an action assigned to the electronic filing system, the Clerk will transmit to filing users in the case, in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by the Federal Rules of Civil Procedure and the Official Bankruptcy Rules. The Clerk must give notice to a person who has not consented to electronic service in paper form in accordance with the Federal Rules of Civil Procedure.

Cross Reference

Rule 77(d) Fed. R. Civ. Pro.  
Bankruptcy Rule 9022

**N.D.W.V. LBR 5005-4.12**

**Technical Failures.**

A filing user whose filing is made untimely as the result of a technical failure may seek appropriate relief from the Court.

**N.D.W.V. LBR 5005-4.13**

**Public Access to Electronic Records.**

(a) For a fee, any person or organization may access electronically filed records at the Court's internet site by obtaining a PACER login and password at the online site or toll free number set forth in Appendix T. Those who have PACER access but who are not filing users may retrieve docket sheets and documents, but they may not file documents.

(b) In connection with the filing of any material in an action assigned to the electronic filing system, any person may apply by motion for an order limiting electronic access to or prohibiting the electronic filing of certain specifically identified materials on the grounds that such material is subject to privacy interests and that electronic access or electronic filing in the action is likely to prejudice those privacy interests.

(c) Information posted on the system must not be downloaded for uses inconsistent with the privacy requirements of federal law.

**N.D.W.V. LBR 5005-4.14**

**Filing by Facsimile.**

Filing by facsimile in this Court shall be governed by LR Gen P 5.01, et seq.

**N.D.W.V. LBR 5010-1**

**Reopening Cases.**

(a) A motion to reopen a Chapter 7 or Chapter 13 bankruptcy case for the sole purpose of including one or more creditors that were inadvertently left off of the original petition and matrix shall set forth the name and address of the creditor(s), the reason for the omission, and the amount(s) owed. The motion shall be accompanied by the appropriate filing fee together with an order and a twenty (20) day negative notice in substantial compliance with Appendices O-1, O-2 and O-3, together with a certificate of service showing delivery of the motion, order and notice to the creditor(s). If a motion to join the reopening and a nondischargeability complaint are filed by one or more of the added creditors within the twenty (20) day period, the Court shall conduct a telephonic conference to determine if the order should be entered, reopening is appropriate, or some other relief should be granted.

(b) In all other cases, a motion to reopen a Chapter 7 or Chapter 13 bankruptcy case which has been closed shall include particular grounds supporting the relief sought. Unless otherwise ordered, the required filing fee shall accompany the motion to reopen. Any party affected by reopening of the case shall be served with a copy of the motion and any supporting documents. The motion shall be accompanied by a notice which complies with N.D.W.V. LBR 9013-1.

Cross Reference

11 U.S.C. 350(b)  
Bankruptcy Rule 5010  
N.D.W.V. LBR 9013-1  
Appendices A (Fees); O (Suggested forms)

**N.D.W.V. LBR 5071-1**

**Continuances.**

Continuances of hearings and other proceedings may be had only upon written motion served upon all interested parties. The motion shall set forth with particularity the grounds therefore. If applicable, such motion shall be accompanied by an affidavit signed by counsel for the proponent which signifies that he (she) has orally informed every other party of the motion and contain a statement that there are no objections to the relief sought. Every such motion shall be accompanied by an order granting the relief sought. In order to be entertained by the Court, such motion must have been filed and served prior to five (5) days before the scheduled proceeding, absent extraordinary circumstances. If there are objections to the motion then counsel for the proponent shall arrange a telephonic hearing before the Court.

**N.D.W.V. LBR 5075-1**

**Clerk - Delegated Functions Of.**

(a) The Clerk of the Bankruptcy Court, or his or her authorized designee, may reject for filing any petition, list, schedules, pleadings, claims or other papers or electronic filing that contain the following deficiencies, except that such rejection by the office of the Clerk may be suspended,

altered, or rescinded by the Court for cause shown:

1. Petitions.

A. Where not accompanied by the proper filing fee or an application to pay in installments.

B. Except in cases of emergency, where not accompanied by a properly completed mailing matrix.

C. Where not verified by signature of the attorney or not containing an unsworn declaration with signature of all debtors, or not filed in compliance with N.D.W.V. LBR Part V.

D. Where two or more individuals are listed, or two or more entities listed, except that married persons may file joint petitions.

2. Adversary Proceedings.

A. Where not accompanied by the proper filing fee.

3. Claims.

A. Where the claim does not contain the caption of the case or the case number.

B. Where not properly signed by the claimant or an authorized agent.

4. Motions and Other Pleadings

A. Where offered for filing by a corporation or its agent or employee.

(b) Requests for Judicial Review

Where a proponent of a proposed filing objects to any rejection to filing by the Clerk or his or her designee, the proponent may request that the Clerk receive as lodged but not filed the proposed filing. The proponent shall, by written motion, request judicial review by the Court of



the rejection and appropriate relief. Such motion for judicial review shall be filed within seventy-two (72) hours of the rejected filing.

Cross Reference

N.D.W.V. LBR Parts V, VII  
N.D.W.V. LBR 1074-1 (corp.)

**N.D.W.V. LBR 5077-1**

**Transcripts.**

Transcripts of proceedings are available in electronic media through the Clerk's Office. Requests for transcripts may be made on a form substantially in compliance with Appendix S and should be accompanied by the applicable fee as set forth in Appendix A. The names of court reporters capable of transcribing from the electronic media will be provided by the Clerk upon request.

**N.D.W.V. LBR 5080-1**

**Fees - General.**

A filing fee consistent with the fee schedule set forth in Appendix A shall accompany any of the documents set forth on Appendix A, unless, in an adversary proceeding, the plaintiff is the trustee, the United States of America, the Chapter 7 debtor(s), or the Chapter 13 debtor(s). Pursuant to Bankruptcy Rule 1006, filing fees for petitions may, with approval, be paid in installments. Before any other document can be filed, the required filing fee must be paid in full.

Cross Reference

**PART VI.**

**N.D.W.V. LBR 6008-1**

**Redemption.**

(a) A Motion to Redeem Tangible Personal Property shall be accompanied by an affidavit signed by the debtor(s).

(b) Counsel for the debtor(s) shall file the paper original or electronic equivalent of the motion for redemption affidavit, notice and order (see N.D.W.V. LBR 9013-1). Upon receipt of the documents, the Clerk of the Bankruptcy Court shall issue a negative Notice of Motion and Order to the creditor named in the motion at the address set forth in said motion. Said Notice and Order will provide that the named creditor shall serve upon the Clerk of the Bankruptcy Court and upon counsel for the debtor(s) a written request for a hearing by a date specified in said Notice and Order. In the event that no written request for hearing is filed by any creditor by the date specified, the Bankruptcy Judge shall enter the order granting the motion to redeem. In the event a creditor does request a hearing, the motion for redemption shall be set for a telephonic prehearing conference.

No action will be taken on the motion for redemption until the affidavit is received.

Cross Reference

11 U.S.C. 722  
Bankruptcy Rule 6008  
Bankruptcy Rule 9014  
Appendix J, Form J-1, J-2, J-3  
N.D.W.V. LBR 9013-1

## **PART VII.**

### **N.D.W.V. LBR 7001-1**

#### **Adversary Proceedings - General.**

Adversary proceedings are governed by Parts VII and IX of the Bankruptcy Rules. The Federal Rules of Civil Procedure and the District Court Local Rules shall apply to all adversary proceedings unless expressly modified by Part VII of the Bankruptcy Rules or as supplemented by these Local Rules.

#### Cross Reference

Bankruptcy Rule 7001

### **N.D.W.V. LBR 7003-1**

#### **Cover Sheet.**

All complaints initiating adversary proceedings shall be accompanied by a fully completed Bankruptcy Cover Sheet (Form BC 104), containing a complete summary of the adversary proceeding as required thereon.

#### Cross Reference

See generally, Part VII, Bankruptcy Rules

## **N.D.W.V. LBR 7004-2**

### **Summons.**

Upon receipt of the complaint, the Clerk shall prepare a summons which shall include the time, date, and place of the pretrial conference and transmit such summons to counsel for the plaintiff for service as required by law. Upon service of the complaint and summons, counsel shall file a conformed copy of the summons indicating proof of service.

Counsel for the plaintiff shall initiate the conference call.

### Cross Reference

N.D.W.V. LBR 9074-1

## **N.D.W.V. LBR 7026-1**

### **Discovery - General.**

Discovery shall be conducted in accordance with LR Civ P 26.01, et seq.; Bankruptcy Rule 7001, et seq.; the Federal Rules of Civil Procedure where made applicable by the Bankruptcy Rules; and these rules.

### Cross Reference

N.D.W.V. LBR 2004-1

## **N.D.W.V. LBR 7054-1**

### **Costs - Taxation/Payment.**

The judgment creditor is entitled to interest from the date of the entry of the judgment. The interest shall be calculated at a rate equal to the coupon issue yield equivalent of the average

accepted auction price for the last auction of fifty-two (52) week United States Treasury bills settled immediately prior to the date of the judgment.

#### **N.D.W.V. LBR 7055-1**

##### **Default - Failure to Prosecute.**

In any pending adversary proceeding when it appears to the Court that the principal issues have been adjudicated, or have become moot, or that the parties have shown no manifest interest in further prosecution of the action, the Court may direct the Clerk to give written notice, by United States mail, or electronic means where applicable, to counsel of record that the action will be dismissed thirty (30) days from and after the date of the notice unless good cause for its nondismissal is shown. In the absence of good cause shown within such period of time, the Court may dismiss the action. The Clerk shall mail an attested copy of any order of dismissal to counsel of record.

##### Cross Reference

Rule 41 Fed. R. Civ. Pro.  
Bankruptcy Rule 7041  
LR Civ P 41.01

#### **N.D.W.V. LBR 7069-1.01**

##### **Praeipie - Judgment - Payment Of.**

To obtain the following post-judgment remedies, a judgment creditor must file with the Clerk of the Bankruptcy Court a written request (praeipie) for the relief sought.

## **N.D.W.V. LBR 7069-1.02**

### **Writ of Execution.**

Unless otherwise ordered by the Court, a writ of execution cannot be issued until ten (10) days after the entry of the judgment order. A writ of execution cannot be issued if the judgment debtor(s) has (have) obtained a stay pending appeal from the Court and posted a supersedeas bond in the amount set by the Court. No bond is required for an appeal taken by the United States or an agency thereof.

A writ of execution shall be made returnable not less than thirty (30) days nor more than ninety (90) days after issuance. The praecipe should indicate the return date desired by the judgment creditor. The party requesting the writ must furnish the Clerk with a completed U. S. Marshal's Process Receipt and Return Form 285.

### Cross Reference

Appendix L, Form L-1

## **N.D.W.V. LBR 7069-1.03**

### **Abstract of Execution.**

Upon application in writing (praecipe) by the judgment creditor, a Clerk of the Bankruptcy Court may issue an abstract of execution for filing with a Clerk of the County Commission.

## **N.D.W.V. LBR 7069-1.04**

### **Suggestion.**

A suggestion can be issued only after a writ of execution has been issued (or at the same time if both are forwarded to the United States Marshal). The judgment creditor must provide the Bankruptcy Clerk with a completed suggestion with summons, U. S. Marshal's Form 285, and a notice of possibility of exemptions, if required, which is served by the Clerk on the judgment debtor(s) via certified mail.

Cross Reference

Appendix L, Form L-2

**N.D.W.V. LBR 7069-1.05**

**Suggestee Execution.**

A suggestee execution will be issued by the Bankruptcy Clerk after receiving from the judgment creditor a completed suggestee execution, affidavit for suggestee execution, notice of possibility of exemptions, if required, and U. S. Marshal's Form 285. The notice of possibility of exemptions is served on the debtor(s) by the Clerk via certified mail.

The amount contained in the affidavit for suggestee execution can be less than the amount contained in the judgment order, but never more. Renewal of a suggestee execution must be requested and issued prior to the expiration of the one-year period for which it was originally issued.

Cross Reference

Appendix L, Forms L-3, L-4, L-5, L-6, L-7

**N.D.W.V. LBR 7069-1.06**

### **Abstract of Judgment.**

Upon application in writing (praecipe) by the judgment creditor, the Clerk of the Bankruptcy Court may issue an abstract of judgment any time after entry of the judgment order.

#### Cross Reference

Appendix L, Form L-8

### **N.D.W.V. LBR 7069-1.07**

#### **Writ of Possession.**

The Bankruptcy Clerk may issue a writ of possession only upon order of the Court.

### **N.D.W.V. LBR 7069-1.08**

#### **Certification of Judgment for Registration in Another District.**

(a) Issuance: Upon request and payment of the prescribed fee, the Bankruptcy Clerk will complete the Certification of Judgment Form and forward it along with a certified copy of the judgment order to the requesting party. It is the responsibility of the requesting party to forward the certification of judgment form with a certified copy of the judgment order to the Bankruptcy Clerk of the district in which the party desires to register the judgment.

(b) Filing: Upon receipt of a proper certification of judgment for registration in another district and the proper filing fee, the Bankruptcy Clerk will create a main case docket card and assign it a miscellaneous case number.

#### Cross Reference

Appendix L, Form L-9



## **PART VIII.**

### **N.D.W.V. LBR 8001-1**

#### **Notice of Appeal.**

The Bankruptcy Clerk shall serve notice of the filing of a Notice of Appeal by mailing copies to counsel of record and the office of the U. S. Trustee. The Notice of Appeal shall be accompanied by the required filing and docketing fees.

#### Cross Reference

Bankruptcy Rules 8001; 8002; 8004  
Official Bankruptcy Form 17  
Appendix A (Fees)

### **N.D.W.V. LBR 8006-1**

#### **Designation of Record - Appeal.**

The designation of record shall give the docket number and an abbreviated description of the docket entry for each item being designated. Any party filing a designation of items to be included in the record shall provide to the Clerk a copy of the items designated or, if the party fails to provide the copy, the Clerk shall prepare the copy at the expense of the party. A copy of a designation of record and statement of issues shall be served by the appellant *on the* appellee, *and*, if applicable, on the United States Trustee.

#### Cross Reference

F.R.App.P. 10  
F.R.App.P. 11

Bankruptcy Rule 8006

**PART IX.**

**N.D.W.V. LBR 9004-2**

**Caption - Papers, General.**

(a) The style on an adversary pleading shall comply with Official Form 16C of the Official Bankruptcy Rules.

(b) Objections, replies, or other pleadings in response to a specific pleading or document should, in the title of the objection, reply, or other pleading, reference the docket number of the pleading or document to which it is in response. [e.g., Creditor's Objection to Debtor's Motion No. (docket number) , to (description of Debtor's motion) ]

**N.D.W.V. LBR 9006-1**

**Time Periods.**

Each party to an action may obtain stipulated extensions of time not to exceed a total of twenty (20) days in which to file motions or responsive pleadings. This may be done by filing with the Clerk a written stipulation between the parties for such extension; provided, that the aggregate time for all extensions by stipulation during the action shall not exceed a total of twenty (20) days. A stipulation filed with the Clerk shall affirmatively state that no prior stipulated extensions to that party, together with the stipulated extension then filed, exceed a total of twenty (20) days. Neither the stipulation nor any entry to that effect need to be submitted to the Court

for such extensions. If no such stipulation is obtained, or if additional extensions beyond the stipulated period are requested, the party desiring an extension must move the Court for the additional extension within the original or extended response time.

#### **N.D.W.V. BR 9011-4**

##### **Signatures.**

All petitions, lists, schedules, statements and amendments shall be verified or contain an unsworn declaration pursuant to Bankruptcy Rule 1008.

##### Cross Reference

Rule 11 Fed. R. Civ. Pro.  
Bankruptcy Rule 1008  
Official Form 2  
N.D.W.V. LBR 1009-1  
N.D.W.V. LBR 5005-4.09

#### **N.D.W.V. LBR 9013-1**

##### **Motion Practice.**

(a) Motion and Application Practice in the Main Bankruptcy Case.

Motion and application practice in the main bankruptcy case are governed principally by Rules 5 and 7 of the Federal Rules of Civil Procedure and, among others, Rule 9013 of the Bankruptcy Rules. Particular attention should be paid to the notice / service provisions required by law.

(b) Motion and Application Practice in Adversary Proceedings.

Motion and application practice in adversary proceedings are governed principally by Rules 5 and 7 of the Federal Rules of Civil Procedure and the comparable Rules 7005 and 7007 of the Bankruptcy Rules.

(c) Papers to Accompany Motions and Applications.

Each motion or application shall be accompanied, when appropriate, by the following papers or their electronic equivalents:

1. Order — In appropriate circumstances, a proposed form of order which, if entered by the Court, would grant the relief sought by the motion. Such orders should not bear the engraved or printed firm name;

2. Notice

A. Telephonic - sets forth with particularity the nature of the pleading and relief sought and which provides that: "...a telephonic hearing with the Court will be initiated by the Movant at \_\_\_\_o'clock, \_\_\_\_m., on the \_\_\_\_day of \_\_\_\_\_, 20\_\_\_\_." (See Appendix G-1) The movant or applicant may obtain a time and date from the Court Clerk prior to preparing the notice and submit the completed notice for service by the Clerk; or,

B. Negative notice - sets forth with particularity the nature of the pleading and relief sought and which provides that: "...an order may be entered granting the relief sought unless a specific written objection is filed within \_\_\_\_(\_\_) days of the date of the mailing of this notice" (See Appendix G-2)

C. The Clerk's Office generates most notices of hearing on routine motions and applications. However, a movant must prepare a notice for the following:

- (1.) Motion to Compromise - twenty (20) day negative notice [See Bankruptcy Rule 2002(a); N.D.W.V. LBR 9019-1]
- (2.) Proposed Use, Sale or Lease of Property - twenty (20) day negative notice [See Bankruptcy Rules 2002(a), 2002(c)]
- (3.) Motion to Sell Free and Clear of Liens and Other Interests Pursuant to Bankruptcy Rule 6004(c) - Twenty (20) day negative notice [See Bankruptcy Rule 2002(c)]
- (4.) Motion for Redemption - Twenty (20) day negative notice. [See N.D.W.V. LBR 6008-1]
- (5.) Motion to Avoid Lien - Twenty (20) day negative notice. [See N.D.W.V. LBR 4003-2]
- (6.) Motion to Reopen [See N.D.W.V. LBR 5010-1; Appendix O]

3. Certificate of Service — The notice provisions of the Federal Rules of Civil Procedure, the Bankruptcy Rules and these Local Rules are neither intended to supersede, nor to be a substitute for, the requirement that pleadings and orders be served upon the interested parties, provided that if the entire creditor body is served, the certificate of service may recite service on “...all creditors listed on the mailing matrix on file in the Bankruptcy Clerk’s Office as of (date).”. A certificate of service shall be utilized when required. (See N.D.W.V. LBR 5005-4.10 re: electronic service)

#### Cross Reference

Rule 5 Fed. R. Civ. Pro.  
Rule 7 Fed. R. Civ. Pro.  
Bankruptcy Rule 2002

Bankruptcy Rule 9013  
Bankruptcy Rule 7005  
Bankruptcy Rule 7007  
N.D.W.V. LBR Part IX; See also Part V (Electronic)  
Appendices G, O

#### **N.D.W.V. LBR 9019-1**

##### **Settlements and Agreed Orders.**

In the event that the parties to an adversary proceeding which effects property of the estate compromise their positions and settle their differences, counsel for the plaintiff(s) shall prepare a negative notice which allows a twenty (20) day objection period and which sets forth the terms and conditions of the proposed settlement; counsel shall tender such notice to the Clerk of the Bankruptcy Court for his or her signature and transmittal to all creditors and other parties in interest. In addition, counsel for the plaintiff(s) shall submit an agreed judgment order for consideration by the Bankruptcy Court.

##### Cross Reference

Bankruptcy Rule 2002(a)  
N.D.W.V. LBR 9013-1

#### **N.D.W.V. LBR 9029-1**

##### **Local Rules - Effective Date.**

By Order entered on the 22<sup>nd</sup> day of October, 2003, these Rules were adopted by the Judges of this District and became effective thirty (30) days after entry thereof.

## **N.D.W.V. LBR 9029-1.01**

### **Scope and Construction of Rules.**

(a) These rules govern practice and procedure in the United States Bankruptcy Court for the Northern District of West Virginia. The rules shall govern all proceedings, including proceedings under Part VII of the Bankruptcy Rules, and Bankruptcy Rule 9014, in all cases filed after the effective date and in all further proceedings in cases pending on the effective date, unless otherwise specifically ordered by the Court.

(b) These rules, and any form which may be provided herein, shall be construed in a manner consistent with the United States “Bankruptcy Rules and Official Forms” and with the local rules adopted by the District Court.

(c) These rules shall be construed to achieve an orderly administration of the business of this Court; to govern the practice of attorneys before this Court; to secure the just, speedy, and inexpensive determination of cases; and to promote consistency in the practice of this Court alone, together with consistency of practice in this Court, and sister courts within the United States Bankruptcy System, and the United States District Court for the Northern District of West Virginia.

## **N.D.W.V. LBR 9029-2**

### **Local Rules - General Orders**

Prior to the effective date of these rules, local practice and procedure were governed by entry of various general orders. The effective general orders of this Court have been incorporated in these rules and by adoption of the rules, all general orders of the Court inconsistent with these

rules on the date of adoption are rescinded; provided, general orders may be entered which govern internal office practices or the duties and responsibilities of Court personnel and panel trustees, or as a means of adding to, altering, or discontinuing procedural aspects of these rules not in conformity with then current practice and until these rules can be further amended; and provided further, that the judge of the Bankruptcy Court may make corrections, additions, deletions or modifications with respect to the Appendices of these rules at any time.

Cross Reference

Bankruptcy Rule 9029

**N.D.W.V. LBR 9072-1**

**Orders - Proposed.**

Unless otherwise ordered by the Court, the party prevailing at any hearing or trial shall submit to the Court an order conforming to the Court's decision not later than five (5) working days following the hearing or trial. The use of telephone or other authorization not requiring counsel's actual signature is permitted, but the preferred method of insuring accuracy of the order is to obtain the written endorsement of counsel for any party in interest. Pursuant to Part V of these rules, orders may be submitted electronically. If submission is electronic, counsel for the prevailing party may maintain the original order with written endorsement in compliance with N.D.W.V. LBR 5005-4.08.

Cross Reference

N.D.W.V. LBR 9013-1

N.D.W.V. LBR Part V



**N.D.W.V. LBR 9074-1**

**Telephone Conferences.**

For the convenience of the attorneys, the litigants, and the Court, and in the interest of cost and efficiency, wherever practicable the Court will conduct conferences and hearings by telephone. The Clerk shall give notice of the time and date of such telephonic conferences or hearings together with the names of the participants. Unless otherwise directed, it shall be the duty of the proponent of a motion, application, or other request to initiate such telephonic conference.

Cross Reference

N.D.W.V. LBR 9013-1

## APPENDIX - LOCAL RULES - N.D.W.V. BANKRUPTCY COURT

### A - [Fee Schedule](#)

[See: N.D.W.V. LBR 1002-1; 1006-1; 1009-1; 4001-1; 4004-2; 5005-4.02; 5010-1; 5077-1; 5080-1; 8001-1]

### B - [Credit Card Authorization](#)

[See: N.D.W.V. LBR 1006-1; 5005-4.02]

### C - [2004 Exam](#) - (1) Motion; (1a) Contested Motion; (2) Order

[See: N.D.W.V. LBR 2004-1]

### D - [Mailing Matrix Addresses](#)

[See: N.D.W.V. LBR 1007-1; 1007-2; 5005-4.01]

### E - [Operating Order - Chapter 11](#)

[See: N.D.W.V. LBR 2020-1; 3022-1]

### F - [Chapter 13 Plan](#)

[See: N.D.W.V. LBR 3015-1]

### G - [Notices](#) - (1) Telephonic Hearing; (2) Negative

[See: N.D.W.V. LBR 9013-1]

### H - [Lien Avoidance](#): Judicial Lien - (1) Motion; (1a) Order Nonpossessory, ... - (2) Motion; (2a) Order

[See: N.D.W.V. LBR 4003-2]

### I - [Reaffirmation Agreement](#) - (1) Agreement; (2) Motion

[See: N.D.W.V. LBR 4008-1]

### J - [Redemption](#) - (1) Motion; (2) Affidavit; (3) Order

[See: N.D.W.V. LBR 6008-1]

### K - [Relief from Automatic Stay](#) - (1) Motion re: Real Estate; (1a) Motion re: Vehicle; (1b) Motion re: UCC Filing; (2) Order

[See: N.D.W.V. LBR 4001-1]

### L - [Post Judgment Remedies](#): (1) Writ of Execution

[See: N.D.W.V. LBR 7069-1.02]

(2) Suggestion and Summons

[See: N.D.W.V. LBR 7069-1.04]

- (3) Notice of Possibility of Exemptions to Suggestion  
[See: N.D.W.V. LBR 7069-1.05]
- (4) Affidavit for Suggestee Execution  
[See: N.D.W.V. LBR 7069-1.05]
- (5) Notice of Possibility of Exemptions to Suggestee Execution  
[See: N.D.W.V. LBR 7069-1.05]
- (6) Suggestee Execution  
[See: N.D.W.V. LBR 7069-1.05]
- (7) Abstract of Execution  
[See: N.D.W.V. LBR 7069-1.03]
- (8) Abstract of Judgment  
[See: N.D.W.V. LBR 7069-1.06]
- (9) Certification of Judgment for Registration in Another District  
[See: N.D.W.V. LBR 7069-1.08]

**M - Number of Copies Required**

[See: N.D.W.V. LBR 1007-1 (petitions); 3001-1 (proof of claim); 5005-2; 6008-1 (redemption)]

**N - Valuation of Collateral**

[See: N.D.W.V. LBR 3012-1]

**O - Reopening Practice - (1) Motion to Reopen to Add Creditor; (2) Order; (3) Notice**

[See: N.D.W.V. LBR 5010-1; 9013-1]

**P - Amendments to Plan - Motion to Modify Confirmed Plan (Chapter 13)**

[See: N.D.W.V. LBR 3015-2]

**Q - Obtaining Credit - Chapter 13 - (1) Motion to Incur Post-Petition Indebtedness; (2) Agreed Order Approving Post-Petition Financing**

[See: N.D.W.V. LBR 4001-3]

**R - Declaration Re: Electronic Filing**

[See: N.D.W.V. LBR 5005-4.08; 5005-4.09]

**S - Request for Transcript**

[See: N.D.W.V. LBR 5077-1]

**T - United States Trustee's Address**

[See: N.D.W.V. LBR 2020-1]

PACER Contact - Online & Toll-Free

[See: N.D.W.V. LBR 5005-4.13]

**U - Docket Entries Which Serve as the Document Itself**

[See: N.D.W.V. LBR 5005-4]

## FEES EFFECTIVE NOVEMBER 1, 2003

(Signed check, money order, credit card or cash; if debtor, must be cash or money order)  
(Check or money order made payable to "Clerk, U.S. Bankruptcy Court")

CHAPTER 7 VOLUNTARY AND INVOLUNTARY CASE	209.00
[\$155 filing fee + \$39 administrative fee + \$15 trustee surcharge fee]	
CHAPTER 9 CASE [\$800 filing fee + \$39 administrative fee]	839.00
[\$500 deposited in fund 51000]	
CHAPTER 11 CASE [\$800 filing fee + \$39 administrative fee]	839.00
RAILROAD [\$1000 filing fee + \$39 administrative fee]	1039.00
CHAPTER 12 CASE [\$200 filing fee + \$39 administrative fee]	239.00
CHAPTER 13 CASE [\$155 filing fee + \$39 administrative fee]	194.00
ADVERSARY PROCEEDING	150.00
[If the United States or a chapter 7 or 13 debtor is the plaintiff, no fee is required. If a trustee or DIP is the plaintiff, the fee should be payable only from the estate and to the extent there is any estate realized.]	
APPLICATION FOR REMOVAL	150.00
[If the United States or a chapter 7 or 13 debtor is the plaintiff, no fee is required.]	
FILING A PETITION ANCILLARY TO A FOREIGN PROCEEDING	800.00
FEE FOR AMENDMENT TO DEBTOR'S SCHEDULES OF CREDITORS, LISTS OF CREDITORS, MATRIX OR MAILING LISTS ( <i>this does not apply to an amendment to change the address of a creditor or to add the name and address of an attorney for a creditor</i> )	26.00
MOTION TO VACATE OR MODIFY AUTOMATIC STAY (NO FEE IF AGAINST CO-DEBTOR)	150.00
MOTION TO WITHDRAW REFERENCE	150.00
MOTION TO COMPEL ABANDONMENT OF PROPERTY OF THE ESTATE	150.00
DECONSOLIDATION OF A JOINT PETITION AT DEBTOR'S REQUEST [The statutory filing fee for filing a second separate original petition.]	
Chapter 7 Case	155.00
Chapter 11 Case	800.00
Chapter 12 Case	200.00
Chapter 13 Case	155.00
FEE TO REOPEN A CASE: [Same as the filing fee for new case on date of reopening; no administrative or trustee surcharge fee charged for reopening] (Unless to Correct an Administrative Error or for Actions	

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Related to Debtor's Discharge; No Fee Should Be Charged  
to File a Complaint to Determine Dischargeability.)

Chapter 7 Case	155.00
Chapter 13 Case	155.00
Chapter 11 Case	800.00
Chapter 12 Case	200.00
NOTICE OF APPEAL FILED BY ANYONE OTHER THAN THE BANKRUPTCY TRUSTEE OR DIP (\$5.00 Filing Fee & \$250 Docketing Fee)	255.00
NOTICE OF APPEAL FILED BY BANKRUPTCY TRUSTEE OR DEBTOR-IN-POSSESSION [If the trustee or DIP is the appellant, the \$250 fee is payable only from the estate and to the extent that any estate is realized. The trustee or DIP are obligated to pay the \$5.00 notice of appeal fee.]	5.00
DOCKETING OF A CROSS APPEAL	250.00
REGISTERING A JUDGMENT FROM ANOTHER DISTRICT	30.00
FILING OR INDEXING A MISCELLANEOUS PAPER	39.00
SEARCH (PER NAME OR ITEM SEARCHED)	26.00
CERTIFYING ANY DOCUMENT	9.00
EXEMPLIFICATION OF ANY DOCUMENT	Twice Charge for Certification
MICROFICHE SHEET OF FILM/MICROFILM JACKET COPY	5.00
CHECK RETURNED FOR NONSUFFICIENT FUNDS	45.00
REPRODUCTION OF ANY RECORD OR PAPER (PER PAGE)	.50
PETITION	10.00
DEBTS & ASSETS	4.00
DEBTS	3.00
REPRODUCTION OF RECORDINGS OF PROCEEDINGS (REGARDLESS OF THE MEDIUM) INCLUDING COST OF MATERIALS	26.00
PRINTING OF COPIES THROUGH PUBLIC ACCESS TERMINALS AT CLERKS' OFFICES (PER PAGE)	.10
RETRIEVAL OF A RECORD FROM FEDERAL RECORDS CENTER, NATIONAL ARCHIVES	45.00
CONVERSION BY DEBTOR FROM CHAPTER 7 OR 13 TO CHAPTER 11 CASE (No Conversion Fee to 12)	645.00*
[ \$161.25 to be credited to Fund 086900 & \$483.75 to be credited to 5073xx ]	
*Cash Register Code CV11	

**A**

\*\*\*\*\*

**NOTICE/MOTION TO CONVERT TO CASE UNDER CHAPTER 7: \$15.00**

Fee is required even if Motion to Convert is combined with other requested relief, i.e. Motion to Convert and or Dismiss.

The fee is not refunded if case is dismissed or Motion to Convert is denied.

One \$15.00 fee for each Motion to Convert even if Motion is being filed by more than one party.

If \$15.00 does not accompany Motion to Convert, Motion to Convert will be filed but Order to Show Cause will be issued why Motion to Convert should not be dismissed for failure to pay \$15.00 fee.

United States Trustee is exempt from paying fee.

Case Trustee must pay \$15.00 fee at time of filing Motion to Convert or certify in writing that there is no money in the estate or if there is less than \$15.00 in the estate, the case trustee will pay that amount.

Chapter 11 debtors do not pay \$15.00 fee upon the filing of a Notice/Motion to Convert; it is paid from the estate.

feeschedule

4/25/00; 11/27/00; 11/29/00; 1/11/01, 5/25/01, 6/15/01, 12/27/01, 10/6/03

A

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF WEST VIRGINIA**

**CREDIT CARD BLANKET AUTHORIZATION FORM**

I hereby authorize the United States Bankruptcy Court for the Northern District of West Virginia to charge the credit card identified below for payment of fees, costs and expenses which are incurred by the authorized users which I have listed below. I certify that I am authorized to sign this form on behalf of my law firm.

**Individual or Firm Name:**(print) \_\_\_\_\_

**Address:** \_\_\_\_\_

**Telephone Number:** \_\_\_\_\_ **Facsimile Number:** \_\_\_\_\_

**Credit Card Holder Name:** \_\_\_\_\_

**Authorized Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Names of persons within your firm who are authorized to use the credit card (s) / account number(s) which you have provided:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**VISA Account No :** \_\_\_\_\_ **Exp. Date:** \_\_\_\_\_

**MASTERCARD Account No :** \_\_\_\_\_ **Exp. Date:** \_\_\_\_\_

**AMERICAN EXPRESS Account No :** \_\_\_\_\_ **Exp. Date:** \_\_\_\_\_

**DISCOVER CARD Account No.:** \_\_\_\_\_ **Exp. Date:** \_\_\_\_\_

Name of the person who you wish to receive receipts for payment: \_\_\_\_\_

*This form will remain on file in a secure location with this office and will remain in effect until specifically revoked by a writing signed by a person with authority to cause such revocation.*

*It is the responsibility of the law firm to submit a new form on any occasion when a person or persons are added or deleted from this authorization or when the credit card or credit card number changes.*



UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s).

MOTION FOR 2004 EXAMINATION

Comes now \_\_\_\_\_, a party in interest, and, pursuant to Rule 2004 of the Bankruptcy Rules and N.D.W.V. LBR 2004-1, moves the Court for an Order directing \_\_\_\_\_ to appear for their 2004 examination on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, at \_\_\_\_ o'clock, \_\_ m., at the offices of \_\_\_\_\_, located at \_\_ [address] \_\_\_\_\_. [**OR** moves the Court for an Order directing \_\_\_\_\_ to answer written interrogatories and produce \_\_\_\_ (list documents) \_\_\_\_.]

\_\_\_\_\_  
Counsel for Movant

CERTIFICATE OF SERVICE

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s)

**MOTION FOR 2004 EXAMINATION - CONTESTED**

Comes now \_\_\_\_\_, a party in interest, and, pursuant to Rule 2004 of the Official Bankruptcy Rules and N.D.W.V. LBR 2004-1, moves the Court for an Order directing \_\_\_\_\_ to appear for [his, her] 2004 examination at a time and place to be set by the Court. [**OR** moves the Court for an Order directing \_\_\_\_\_ to answer written interrogatories and produce the following documents: \_\_\_\_\_] By this motion, the Court is advised that the parties have discussed the 2004 examination and have not been able to arrive at an agreement as to the time and place for such examination.

\_\_\_\_\_  
Counsel for Movant

CERTIFICATE OF SERVICE



UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s)

AGREED ORDER RE: 2004 EXAMINATION

The parties having agreed upon the Rule 2004 examination of \_\_\_\_\_, it is accordingly,

ADJUDGED and ORDERED that \_\_[deponent]\_\_\_\_ shall appear at the office of \_\_\_\_\_, at \_\_[address]\_\_\_\_, on the \_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_ o'clock \_\_\_\_m., for examination pursuant to Rule 2004 of the Bankruptcy Rules. [**OR** shall answer written interrogatories propounded by the movant and produce \_\_ (list documents) \_\_ for inspection and copy by \_\_ (movant) \_\_. ]

Approved for entry:

Entered this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

U.S. Bankruptcy Judge

\_\_\_\_\_

1. [if the Internal Revenue Service is listed as a creditor]

Internal Revenue Service  
Post Office Box 21126  
Philadelphia, PA 19114

2. [if the Federal government is a creditor]

United States Attorney's Office  
Post Office Box 591  
Wheeling, WV 26003

3. [if the State Tax Department is a creditor]

West Virginia Department of Tax & Revenue  
Bankruptcy Unit  
Post Office Box 766  
Charleston, WV 25323-0766

4. United States Trustee (or their representative)
5. All creditors

Cases filed under Chapter 11 shall include:

1. Shareholders
2. Internal Revenue Service  
Post Office Box 21126  
Philadelphia, PA 19114
3. Larry Bonham, Associate Counsel  
West Virginia Insurance Commission  
Legal Division  
1124 Smith Street  
Post Office Box 50540  
Charleston, WV 25305-0540
4. Securities & Exchange Commission  
3475 Lenox Road NE, Suite 1000  
Atlanta, GA 30326-1239
5. Attorney General of West Virginia  
Building 1, E-26  
Ground Floor, Main Unit Capitol Building  
Charleston, WV 25301
6. Secretary of the Treasury  
15<sup>th</sup> Street & Pennsylvania Avenue  
Washington, D.C. 20220
7. West Virginia Department of Tax & Revenue  
Bankruptcy Unit  
Post Office Box 766  
Charleston, WV 25323-0766
8. Office of the Assistant United States Trustee  
2025 United States Courthouse  
300 Virginia Street East  
Charleston, WV 25301

**UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**IN RE:**

BK NO.:  
Chapter 11

Debtor.

**OPERATING ORDER**

The above-named Debtor having filed a voluntary Chapter 11 petition in this District on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and the Debtor being authorized to continue to operate the Debtor's business under the provisions of 11 U.S.C. §1108 as the Debtor in Possession, it is hereby

**ORDERED** as follows:

**I. INITIAL OPERATING REPORT**

The Debtor in Possession shall file, within fifteen (15) days after the date of the entry of this Order, a sworn Initial Operating Report. The Initial Operating Report shall, at a minimum, state (1) the estimated costs of operation for the succeeding thirty (30) days; (2) the estimated cash balance increase or decrease or the profit or loss for the next succeeding thirty (30) days; (3) the amount of cash available for the use in the operation of the Debtor in Possession; (4) an explanation as to how the Debtor in Possession intends to fund the cost of operation for the next succeeding thirty (30) days; (5) the location, identifying number and balance of all bank accounts including those established pursuant to this Order; (6) a statement of insurance coverage giving policy numbers, carriers and amounts of coverage for general liability, automobile, worker's compensation and any other coverage in force. The Debtor in Possession shall provide a copy of this report to the Assistant U. S. Trustee at U.S. Courthouse, 300 Virginia Street East, Room 2025, Charleston, West Virginia 25301 and to the designated representative of the Creditors' Committee as soon as such Committee is formed and a representative chosen to accept such reports.

**II. MONTHLY OPERATING REPORTS**

THE Debtor in Possession shall file with the Court within forty-five (45) days after the date of the entry of this Order and not later than the fifteenth (15<sup>th</sup>) day of each month thereafter, a sworn written report of the operations and financial condition of the Debtor's estate. This report will differ from the Initial Operating Report and conform to the format outlined in the following paragraphs of this Order. The Debtor in Possession shall provide a copy of each report to the Assistant U. S. Trustee and to the designated representative of the Creditors' Committee. All reports shall be filed on a calendar month basis unless otherwise approved by the Court.

## **A. SELECTION OF REPORTING FORMAT**

The Debtor in Possession shall file the Monthly Operating Reports using the format approved by the Office of the United States Trustee. The format for these reports will be sent to you by that office.

## **B. CONTENTS OF OPERATING REPORT**

The Operating Report shall, at a minimum, include (1) a statement of total cash receipts and disbursements; (2) an income statement that reflects net operating income (loss) for the monthly period; (3) a statement of the increase (decrease) in cash for the reporting period, which may be stated in conjunction with the income, receipts and disbursements statements or separately; (4) an aging of accounts receivable; (5) an aging of postpetition accounts payable; (6) a statement of the tax withholding account, giving the amounts placed in the accounts during the reporting period, the amounts paid over to the proper taxing authority, and a statement that sufficient amounts are being placed in the withholding account and the taxes are being paid timely; (7) a statement of postpetition payments to secured creditors reflecting amounts paid and arrearages since the filing of the petition; (8) statements as to the general condition of the business, assets, inventory, a statement as to the status of insurance in force, and any unusual occurrences that might affect the business; (9) a copy of the most recent bank statement for each account listed in Paragraph I, Item 5. The Operating Report shall be dated, sworn and signed by the reporting officer, owner or partner. Refer to the attached Operating Report format for clarification of what is required in an Operating Report.

## **III. QUARTERLY FEES**

Pursuant to 28 U.S.C. §1930, the Debtor in Possession must pay a quarterly fee to the United States Trustee every calendar quarter from the time the petition is filed until the date of entry of an order confirming a plan or an order dismissing or converting the case. Failure to pay the quarterly fee is cause for conversion or dismissal of the Chapter 11 case. (Section 1112 (b) (10) of the Bankruptcy code.) Debtors will be invoiced each quarter by the Executive Office for United States Trustees for the quarterly fee. Quarterly fees are to be made payable to the United States Trustees and are to be mailed to the address in Georgia set forth below. Fees are not to be mailed or delivered to the local office of the United States Trustee. To ensure proper credit, it is imperative that Debtors in Possession and Chapter 11 Trustees write the case Account Number on each check and return it with the Payment Coupon provided with the quarterly billings. A separate check and coupon are required for each quarterly payment even if more than one quarterly fee is paid at the same time. Send payments to:

United States Trustee  
P.O. Box 198246  
Atlanta, GA 30384

*(DO NOT SEND PLEADINGS TO THIS ADDRESS)*

The amount of the quarterly fee is based upon the aggregate amount of all disbursements made by



the Debtor during the quarter. The fee schedule will appear on the invoice. Any questions may be directed to the Assistant U.S. Trustee for West Virginia.

#### **IV. NEW BOOKS OF ACCOUNT**

The Debtor in Possession shall close or cut off its books of account as of the close of business on the date of filing of the petition, and shall open new books of account as of the opening of business on the next succeeding business day. In the new books of account, the Debtor shall cause to be kept proper accounts of earnings, expenses, receipts, disbursements and all obligations incurred and transactions had in the operation of the business and the management, preservation and protection of the property within the estate. The Debtor in Possession shall preserve proper vouchers for all payments made on account of such disbursement. The Debtor in Possession shall request a statement for all bank accounts from the banking institution where each account is located to reflect the cash balances in the accounts as of the date of the petition. Upon the filing of the petition, the Debtor in Possession shall, after reconciling existing bank accounts to determine the correct balance thereof, close these accounts and transfer all available funds on deposit to new Debtor in Possession accounts unless such funds constitute cash collateral in which event court approval to make the transfer may be necessary (see Paragraph VII). The Debtor in Possession hereby is authorized to make payments and to draw all checks incidental to the ordinary conduct of its business, and to open and maintain bank accounts in compliance with the provisions of 11 U.S.C. §345.

#### **V. SEPARATE TAX ACCOUNTS**

The Debtor in Possession is directed and required to segregate and hold separate and apart from all other funds all monies withheld from employees for Federal 941 taxes, including social security taxes; monies withheld for state or local income taxes; monies collected from others for Federal or state excise taxes and state or local sales taxes; or any other tax where money was actually withheld or collected from others, and forthwith to deposit the monies so withheld or collected in a separate bank account, and at the same time shall deposit in such account the Debtor's share or contribution required for such withheld or collected taxes, and the Debtor in Possession shall retain such funds in such separate bank account and timely pay over those taxes as they become due to the proper taxing authorities, obeying all Federal, state and local depository requirements that may require sums to be deposited with the taxing authority as they accrue. Copies of Federal tax deposit forms shall be transmitted to the District Director of Internal Revenue Service to the attention of the Chief, Special Procedures Section.

#### **VI. EMPLOYMENT OF PRINCIPALS AND PROFESSIONALS**

The Debtor in Possession shall not, prior to confirmation of a plan of reorganization, compensate or remunerate itself, or any of its partners, officers, directors or shareholders, in any manner without prior written approval of the Court. The application should set forth the name and proposed position of the individual sought to be employed along with a detailed description of the duties the individual is to perform, the number of hours each week the individual will devote to those duties and the reasons why employment of the individual is necessary to the successful reorganization of the Debtor. The application should also set forth the amount of compensation sought on a weekly

or monthly basis and disclose all perquisites, benefits, and consideration of any kind the individual is to receive, for example, use of company vehicles, payment of life or health insurance premiums, reimbursement for expenses. The application should disclose the individual's salary history for the year immediately preceding the filing of the Chapter 11 petition, and shall be under oath. The Debtor in Possession is also advised that professional persons, such as accountants, attorneys, appraisers and auctioneers, may be employed and compensated only upon application to, and approval by, this Court. All applications for employment of principals and professionals must be served on the Assistant U.S. Trustee.

**VII. RESTRICTIONS ON THE ACTIVITIES OF THE DEBTOR IN POSSESSION**

The Debtor in Possession may not use cash collateral, obtain credit or use, sell or lease property of the estate out of the ordinary course of business without seeking permission of the court after notice to certain creditors. Cash collateral is cash, negotiable instruments, documents of title, securities, deposit accounts, or other cash equivalents in which the estate and an entity other than the estate have an interest. Requests to the Court for permission to engage in the restricted activities must be in the form prescribed by the Bankruptcy Rules. Bankruptcy Rule 4001 governs cash collateral and obtaining credit; Bankruptcy Rule 6004 governs use, sale or lease of property of the estate.

**VIII. DUTY TO FILE REPORT UPON FAILURE TO FILE PLAN**

In the event that the Debtor in Possession fails to file a plan of reorganization, pursuant to 11 U.S.C. §1121, within 120 days after the filing of the petition, the Debtor in Possession shall, in compliance with 11 U.S.C. §1106(a)(5), file a report with the Court indicating (1) why a plan has not been filed; and (2) whether a plan will be filed, or (3) whether and why the Debtor in Possession recommends dismissal, conversion or continuance of the case.

**IX. CONVERSION OR DISMISSAL UPON FAILURE TO COMPLY**

The Debtor in Possession shall provide to the United States Trustee such other information regarding the conduct of its affairs as he may from time to time request. Failure to file any report required by this Order, or failure to comply with any provision of this Order, will result in a hearing to show cause why this case should not be converted or dismissed. It is further **ORDERED** that copies of this Order shall be served by United States Mail on the Debtor in Possession, counsel for the Debtor in Possession, and the Assistant U.S. Trustee; and that counsel for the Debtor in Possession shall review the requirements of this Order with the Principal Officer of the Debtor in Possession and with the accountant for the Debtor in Possession.

**ENTER:**

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U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:  
Chapter 13

Debtor(s).

**[EXAMPLE ONLY - INDIVIDUAL DEBTOR(S)'S SITUATIONS  
MUST BE CONSIDERED IN DRAFTING A PLAN!]**

**CHAPTER 13 PLAN**

**YOUR RIGHTS WILL BE AFFECTED.** You should read these papers carefully and discuss them with your attorney. Anyone who wishes to oppose any provision of this plan must file a timely written objection. This plan may be confirmed and become binding unless written objection is filed before the deadline stated on the separate Notice you should have received from the Court.

**THIS PLAN DOES NOT ALLOW CLAIMS:** You must file a proof of claim to receive distributions under any plan that may be confirmed.

**1. PAYMENT AND LENGTH OF PLAN**

There shall be paid to the Chapter 13 Trustee the sum of \$\_\_\_\_\_ each month for \_\_\_\_\_ months by debtor(s) in such installments as agreed upon with the Trustee, for payment of all existing debts of debtor(s) pursuant to this Plan, except as the Court may otherwise order. Debtor(s) submit(s) all future income to the supervision and control of Trustee during the pendency of this case and agree to pay sufficient funds to the Trustee to fully complete this Plan.

From the payments so received, the Trustee shall make disbursements as follows:

**2. ADMINISTRATIVE CLAIMS**

- A. Trustee's Fees and Expenses:     \$ \_\_\_\_\_
- B. Unpaid Attorney Fees:            \$ \_\_\_\_\_
- C. Other Priority Claims:            \$ \_\_\_\_\_

**3. SECURED DEBT PAID OUTSIDE THE PLAN AND SURRENDER OF COLLATERAL**

The following payments will be made to secured creditors during the time of the Plan. If the collateral is not surrendered to the creditor, the creditor will retain its lien upon the collateral securing its claim.

<u>Name of Creditor</u>	<u>Type Collateral</u>	<u>Amt. Owed</u>	<u>Fair Value</u>	<u>Payment / Month</u>
1. _____				
2. _____				

(CONTINUE AS NEEDED)

Debtor(s) surrender(s) the following collateral. Upon confirmation, the stay is lifted as to surrendered collateral.

<u>Creditor</u>	<u>Collateral to be Surrendered</u>
1. _____	

(CONTINUE AS NEEDED)

**4. UNSECURED CLAIMS**

After payment is made to administrative claims set forth in paragraph 2. above, the Trustee shall pay dividends, prorata, on claims allowed to all remaining unsecured creditors, which amounts to \_\_\_\_\_% of the total unsecured debt. The amounts owed to the unsecured creditors and their names are listed as follows:

NAME OF CREDITOR	AMOUNT OWED
1. _____	
2. _____	
3. _____	

(CONTINUE AS NEEDED)

TOTAL UNSECURED                      \$ \_\_\_\_\_

**5. CO-DEBTOR CLAIMS**

Co-debtor claims will be handled as follows: \_\_\_\_\_

**6. ANTICIPATED MOTIONS AND OTHER PLAN PROVISIONS**

**A. LIEN AVOIDANCE (11 U.S.C. 522(f)):**

Debtor(s) intend(s) to or has (have) filed motions to avoid the fixing of liens pursuant to 11 U.S.C. 522(f) against the following creditors:

1. \_\_\_\_\_  
(CONTINUE AS NEEDED)

**B. LIEN RETENTION:**

All secured creditors, except those whose liens are avoided pursuant to the provisions of 522(f), shall retain their liens until paid as provided for by this Plan.

**C. MOTIONS TO VALUE COLLATERAL (11 U.S.C. 506):**

Debtor(s) intend(s) to or has (have) filed motions to value collateral with respect to the following creditors and collateral:

NAME OF CREDITOR:	COLLATERAL:
1. _____	_____
2. _____	_____

(CONTINUE AS NEEDED)

**D. VESTING OF PROPERTY OF THE ESTATE**

Property of the estate shall revert in Debtor(s) upon confirmation [**OR** discharge **OR** other].

**E. PAYMENT NOTICES**

Creditors and lessors provided for in this plan may continue to mail customary notices or coupons to the Debtor(s) or trustee notwithstanding the automatic stay.

**7. CURING OF DEFAULTS**

The debtors(s) propose(s) to cure defaults within a reasonable time in accordance with 11 U.S.C. 1322(b)(3) and (5) and shall do so as follows:

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**8. REJECTION OF CLAIM -- SECURED CREDITOR**

Debtor(s) elect(s) not to assume the lease or contract with creditors named in this paragraph and shall surrender to such creditor the collateral subject to the lien or lease in full satisfaction of any and all claims, secured or unsecured creditor may have against debtor(s) arising from the transaction creating creditors interest in the said property.

1. \_\_\_\_\_

2. \_\_\_\_\_

(CONTINUE AS NEEDED)

**9. EXECUTORY CONTRACTS**

All executory leases and contracts not set forth above are rejected except \_\_\_\_\_

---

(CONTINUE AS NEEDED)

Dated: \_\_\_\_\_

\_\_\_\_\_  
Counsel for Debtor(s)

Dated: \_\_\_\_\_

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s).

NOTICE OF TELEPHONIC HEARING

**PLEASE TAKE NOTICE that a telephonic hearing will be held**  
on \_\_\_\_\_ at \_\_\_\_\_, \_\_\_\_\_.m.  
To consider and act upon the following:

[Description of motion, etc.]

IT IS THE RESPONSIBILITY OF [\_\_Movant\_\_] TO INITIATE THE CONFERENCE CALL  
AND TO INCLUDE THE U.S. BANKRUPTCY JUDGE BY CALLING: 304-233-1681

Dated:

Michael D. Sturm  
Clerk, U.S. Bankruptcy Court

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s).

NOTICE OF MOTION TO \_\_\_\_\_

NOTICE IS HEREBY GIVEN of the filing by \_\_\_\_ [Proponent] \_\_\_\_ of a Motion to \_\_\_\_\_, which requests the Court to enter an Order \_\_\_\_\_ [requested relief set forth with particularity] \_\_\_\_\_ in the above styled case.

Failure to respond in writing within \_\_\_\_\_ ( ) days from the date of this notice may result in the requested relief being granted by the Court without a hearing or further notice; but,

If a response is filed in writing within \_\_\_\_\_ ( ) days, a telephonic hearing on the motion and response thereto will be set by order of this Court.

Dated:

Michael D. Sturm  
Clerk, U.S. Bankruptcy Court



UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s).

MOTION TO AVOID JUDICIAL LIEN

Come(s) now the Debtor(s), in person and by (his, her or their) counsel, and move(s) the Court, pursuant to 11 U.S.C. 522(f), to avoid a certain judicial lien, and further represent(s) as follows:

1. That the Debtor(s) is (are) the owner(s) of certain real property which has a value of \_\_\_\_\_ which is more fully described in Schedule A of (his, her or their) petition, and which property (he, she or they) (is or are) entitled to exempt under 11 U.S.C. 522 and 38-10-4 W.Va. Code Ann.; (or, “the Debtor(s) own(s) no real estate, but allege(s) that the judgment will interfere with (his, her or their) ability to obtain a fresh start subsequent to bankruptcy”);

2. That the Debtor(s) has (have) exempted the property set forth in paragraph 1. on Schedule C of (his, her or their) petition;

3. That the Creditor, [\_\_\_name and address\_\_\_] holds a perfected judicial lien which was recorded in the office of the Clerk of \_\_\_\_\_County, West Virginia, on the \_\_\_day of \_\_\_\_\_, \_\_\_\_\_, in JB\_\_\_\_,at page\_\_\_\_, and which impairs an exemption to which the Debtor(s) is (are) entitled;

4. That the Creditor is neither an infant, an incarcerated convict, nor an incompetent person.

5. The judgment was recorded after the 6<sup>th</sup> day of November, 1978.

WHEREFORE, the Debtor(s) move(s) the Court for an order permitting the subject lien to be avoided according to law.

Dated:

\_\_\_\_\_  
Debtor(s)

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\_\_\_\_\_  
Counsel for Debtor(s)

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s).

ORDER AVOIDING JUDICIAL LIEN

By motion filed with the Clerk of this Court on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the Debtor(s) and (his, her or their) counsel seek(s) to avoid a judicial lien which impairs an exemption to which the Debtor(s) is (are) entitled. Thereafter, by Notice which was issued, the Creditor was advised of its right to file its written request for a hearing, if desired, within twenty (20) days of the date of the Notice.

It now appearing to the Court that the Creditor has not made a request for a hearing, nor otherwise objected to the relief sought, and the Court, having inspected the motion of the Debtor(s), it is

ORDERED that the judicial lien of the Creditor which has been recorded with the documents in the Office of the County Commission of \_\_\_\_\_ County, West Virginia, in Book \_\_\_\_\_, at page \_\_\_\_\_, is hereby AVOIDED pursuant to 11 U.S.C. 522(f).

The Clerk is directed to transmit copies of this order to all parties in interest.

ENTER:

\_\_\_\_\_  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s).

MOTION TO AVOID NONPOSSESSORY  
NONPURCHASE MONEY SECURITY INTEREST

This day comes the Debtor(s) in person and by (his, her or their) counsel, and, pursuant to 11 U.S.C. 522(f) and Bankruptcy Rules 4003(d) and 9014, move(s) the Court for an order avoiding the nonpossessory, nonpurchase money security interest in household goods and furnishings maintained by the Debtor(s) for personal and family use.

The Creditor who holds the nonpossessory, nonpurchase money security interest is as follows:

(Name)  
(Address)  
(City, State, Zip Code)

The Debtor(s) further represent(s) that the security interest held by the above named Creditor impairs an exemption set forth on Schedule C and to which the Debtor(s) would be entitled under 38-10-4, W.Va. Code Ann., and is property of the type described under 11 U.S.C. 522(f).

The lienholder is neither an infant, incompetent person, nor an incarcerated convict.

The lien attached after the 6<sup>th</sup> day of November, 1978.

WHEREFORE, the Debtor(s) pray(s) that the Court enter an order permitting avoidance of the lien of the Creditor to the extent that such lien impairs the exemption to which the Debtor(s) is (are) entitled.

Dated:

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor

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\_\_\_\_\_  
Counsel for Debtor(s)

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s).

ORDER AVOIDING NONPOSSESSORY, NONPURCHASE MONEY LIEN

By motion filed with the Court on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, Debtor(s) and (his, her or their) counsel seek(s) to avoid a certain lien placed upon household goods by (\_\_name and address of Creditor\_\_). Thereafter, by Notice, the Creditor was advised to file its written request for a hearing, if a hearing was desired, within twenty (20) days of the Notice.

It now appearing to the Court that the Creditor has not made its request for a hearing, nor otherwise objected to the relief sought, and the Court, having inspected the motion of the Debtor(s), it is

ORDERED that the relief prayed for in the 11 U.S.C. 522(f) motion of the Debtor(s) be, and hereby is, GRANTED, and the subject lien is AVOIDED.

The Clerk is directed to transmit copies of this Order to the parties in interest.

ENTER:

\_\_\_\_\_  
U.S. Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**IN RE:**

BK. NO.:

**REAFFIRMATION AGREEMENT**

*Instructions:*     1. Attach a copy of all court judgments, security agreements, and evidence of their perfection  
                      2. File all of the documents by mailing them or delivering them to the Clerk of the Bankruptcy Court

**NOTICE TO DEBTOR(S):**

This agreement results in your giving up the protection of your bankruptcy discharge for this particular debt.

As a result of this agreement, the creditor may be able to take your property or wages if you do not pay the agreed amounts. The creditor may also act to collect the debt in other ways.

You may rescind (cancel) this agreement at any time before the bankruptcy court enters a discharge order or within 60 days after this agreement is filed with the court, whichever is later, by notifying the creditor that the agreement is cancelled.

You are not required to enter into this agreement by any law. It is not required by the Bankruptcy Code, by any other law, or by any contract (except another reaffirmation agreement made in accordance with Bankruptcy Code §524©))

You are allowed to pay this debt without signing this agreement. However, if you do not sign this agreement and are later unwilling or unable to pay the full amount, the creditor will not be able to collect it from you. The creditor will also not be allowed to take your property to pay the debt unless the creditor has a lien on that property.

If the creditor has a lien on your personal property, you may have a right to redeem the property and eliminate the lien by making a single payment to the creditor which is equal to the current value of the property, as agreed to by the parties or determined by the court.

This agreement is not valid or binding unless it is filed with the clerk of the bankruptcy court. If you were not represented by an attorney during the negotiation of this reaffirmation agreement, the agreement cannot be enforced by the creditor unless: 1.) you have attended a reaffirmation hearing in the bankruptcy court, and 2.) the agreement has been approved by the bankruptcy court. (Court approval is not required if this is a consumer debt secured by a mortgage or other lien on your real estate.)

**REAFFIRMATION AGREEMENT**

The Debtor and creditor named above agree to reaffirm the debt described in this agreement as follows:

**THE DEBT:**

Total amount of debt when case was filed \$ \_\_\_\_\_

Total amount of debt reaffirmed: \$ \_\_\_\_\_

Above total includes the following:

Interest accrued to date of agreement: \$ \_\_\_\_\_

Attorney fees: \$ \_\_\_\_\_

Late Fees: \$ \_\_\_\_\_

Other expenses or costs relating to  
The collection of this debt: \$ \_\_\_\_\_

Annual Percentage Rate (APR): \_\_\_\_\_%

Amounts of monthly payments: \$ \_\_\_\_\_

Date payments begin: \_\_\_\_\_

Total number of payments to be made: \_\_\_\_\_

Total of payments is made according to schedule: \_\_\_\_\_

Date any lien is to be released: \_\_\_\_\_

The debtor agrees that any and all remedies available to the creditor under the security agreement remain available.

All additional terms agreed to by these parties (if any): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Payments on this debt [were] [were not] in default on the date on which this bankruptcy case was filed.

This agreement differs from the original agreement with the creditor as follows: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**CREDITOR'S STATEMENT CONCERNING AGREEMENT AND SECURITY/COLLATERAL (IF ANY)**

Description of collateral. If applicable, list manufacturer, year and model. \_\_\_\_\_

\_\_\_\_\_

Value: \$ \_\_\_\_\_

Basis or source for valuation: \_\_\_\_\_

Current location and use of collateral: \_\_\_\_\_

Expected future use of collateral: \_\_\_\_\_

Check applicable Boxes:

**G** Any lien described herein is valid and perfected.

**G** This agreement is part of a settlement of a dispute regarding the dischargeability of this debt under §523 of the Bankruptcy Code (11 U.S.C. §523) or any other dispute. The nature of the dispute is \_\_\_\_\_

### **DEBTOR'S STATEMENT OF EFFECT OF AGREEMENT ON DEBTOR'S FINANCES**

My monthly income (take home pay plus any other income received) is: \$\_\_\_\_\_

My current monthly expenses total: \$\_\_\_\_\_ not including any payment due under this agreement or any debt to be discharged in this bankruptcy case.

I believe that this agreement [will] [will not] impose an undue hardship on me or my dependents.

### **DEBTOR'S STATEMENT CONCERNING DECISION TO REAFFIRM**

I agreed to reaffirm this debt because: \_\_\_\_\_

I believe that this agreement is in my best interest because: \_\_\_\_\_

I [considered] [did not consider] redeeming the collateral under 722 of the Bankruptcy Code (11 U.S.C. 722). I chose not to redeem because: \_\_\_\_\_

I [was] [was not] represented by an attorney during negotiations on this agreement.

### **CERTIFICATION OF ATTACHMENTS**

Any documents which created and perfected the security interest or lien [are] [are not] attached. (If documents are not attached: the documents which created and perfected the security

interest or lien are not attached because: \_\_\_\_\_

**SIGNATURES**

\_\_\_\_\_  
Name of Debtor

\_\_\_\_\_  
Name of Creditor

\_\_\_\_\_  
Signature of Debtor

\_\_\_\_\_  
Signature of Creditor Representative

Date: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Name of Joint Debtor

\_\_\_\_\_  
Signature of Joint Debtor

Date: \_\_\_\_\_

**CERTIFICATION BY DEBTOR’S ATTORNEY (IF ANY)**

I hereby certify that: 1.) This agreement represents a fully informed and voluntary agreement by the debtor(s); 2.) This agreement does not impose a hardship on the debtor or any dependent of the debtor; and, 3.) I have fully advised the debtor of the legal effect and consequences of this agreement and any default under this agreement.

\_\_\_\_\_  
Attorney’s Name

\_\_\_\_\_  
Signature of Attorney

Date: \_\_\_\_\_



**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**IN RE:**

BK. NO.:

**MOTION FOR APPROVAL OF REAFFIRMATION AGREEMENT**

The debtor named above and \_\_\_\_\_, a creditor of the debtor have made an agreement reaffirming the debtor's debt to the creditor. The agreement is dated \_\_\_\_\_ and [has] [has not] been filed with the court.

The court [has] [has not] granted a discharge to the debtor.

The debtor [was] [was not] represented by an attorney during the negotiation of this agreement.

The debt reaffirmed in the agreement [is] [is not] an unsecured debt.

The reaffirmation agreement includes the debtor's statement that the debtor believes that the reaffirmation agreement is in the best interest of the debtor.

The reaffirmation agreement includes the debtor's statement that the debtor believes that the reaffirmation agreement does not impose an undue hardship on the debtor or the dependents of the debtor.

I ask the court to approve the reaffirmation agreement.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Debtor

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of creditor or attorney for creditor

*Substantially reproduced from Form B 240M (7/99)*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**IN RE:**

BK. NO.:

**ORDER APPROVING REAFFIRMATION AGREEMENT**

For reasons appearing from the record, it is hereby ORDERED that the reaffirmation agreement entered into between the debtor and \_\_\_\_\_ be, and hereby is, APPROVED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s)

MOTION FOR REDEMPTION

Come(s) the Debtor(s) by (his, her or their) counsel, and represent(s) to the Court as follows:

1. This motion is brought pursuant to 11 U.S.C. 722 and Bankruptcy Rule 6008, to redeem collateral;
2. The Trustee, by notice dated \_\_\_\_\_ has abandoned the collateral which is the subject of this motion;
3. The name and address of the secured party and the description, balance owed, and value of the subject collateral are as follows:

CREDITOR:

ADDRESS:

COLLATERAL:

BALANCE OWED:

VALUE OF COLLATERAL:

4. Prior to filing of the petition in bankruptcy, the collateral, which is tangible personal property, was intended primarily for personal, family, or household use.

WHEREFORE, your Debtor(s) respectfully move(s) the Court for an Order requiring the Creditor, \_\_\_\_\_, to release its security interest in the collateral upon payment of the value as set forth hereinabove.

\_\_\_\_\_  
Counsel for Debtor(s)

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s).

STATE OF WEST VIRGINIA,  
COUNTY OF \_\_\_\_\_.

AFFIDAVIT

Your affiant(s), \_\_\_\_\_(and \_\_\_\_\_), swear(s) and affirm(s) as follows:

1. That (he, she or they)(is or are) the debtor(s) in the above styled matter.
2. That by motion filed herein, your Affiant(s) and Debtor(s) seek(s) a court order which grants to (him, her or them) permission to redeem a certain item of tangible personal property which is described as follows:\_\_\_\_\_.
3. That the property described is intended for personal, family, or household use and is used in such fashion;
4. That the Creditor,\_\_\_\_\_, has a secured interest in the above described property, but its lien secures a dischargeable consumer debt;
5. That your Affiant(s) verily believe(s) that the fair market value of the subject property is \$\_\_\_\_\_;
6. That the Trustee did abandon the property by notice filed with the Clerk of the Bankruptcy Court on the \_\_\_\_day of \_\_\_\_\_, 20\_\_;
7. That the Affiant(s) and Debtor(s) believe(s) that (he, she or they) are otherwise entitled to redeem the above described property for the sum of \$\_\_\_\_\_.

Dated:

\_\_\_\_\_  
Affiant / Debtor

\_\_\_\_\_  
[Affiant / Debtor]

[STATEMENT OF NOTARY]

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s).

ORDER OF REDEMPTION

By motion and affidavit the Debtor(s), by counsel, seek(s) redemption of certain tangible personal property which has been described as \_\_\_\_\_. The property described is found to be intended primarily for personal family, or household purposes and the lien in question is held by the Creditor,\_\_\_\_\_.

In (his, her or their) affidavit, the Debtor(s) allege(s) that the fair market value of the subject property is \$\_\_\_\_\_. The Court finds that the Trustee has abandoned the property which is the subject of the motion and no objection to abandonment has been filed.

It now appearing to the Court that the Creditor has not made its request for a hearing, nor otherwise objected to the relief sought, and the Court, having inspected the motion of the Debtor(s) and the affidavit filed in support of said motion, it is

ORDERED that the Debtor(s) be, and hereby is (are), permitted to redeem the subject property for the sum of \$\_\_\_\_\_, which sum the Court finds to be the secured value of the debt owed.

The Clerk is directed to transmit copies of this Order to the parties in interest.

ENTER:

\_\_\_\_\_  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s)

MOTION TO LIFT STAY RE: REAL ESTATE

Comes now \_\_\_\_ [name of movant] \_\_\_\_, a secured party, by its counsel, and alleges to the Court as follows:

1. That the Debtor(s) filed (his, her or their) Chapter \_\_\_\_ bankruptcy petition on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.
2. That the Debtor(s) listed certain real estate on (his, her or their) schedules as being valued at \$\_\_\_\_\_ and commonly referred to as \_\_\_\_ [address of property] \_\_\_\_.
3. That the fair market value of the real estate described in Paragraph 2 is \$\_\_\_\_\_.
4. That Debtor(s) currently owe(s) movant the principal amount of \$\_\_\_\_\_ plus interest of \$\_\_\_\_\_ calculated at \_\_\_\_\_% per annum with a per diem of \_\_\_\_\_ which debt is secured by a valid and properly recorded Deed of Trust against the real estate described in Paragraph 2 above. A copy of the note and Deed of Trust is attached hereto as Exhibit A.
5. Monthly payments are \$\_\_\_\_\_, and Debtor(s) is (are) \_\_\_\_\_ monthly payments in arrears on the debt referred to in Paragraph 4.
6. Debtor(s) does (do) not have any equity in the real estate described in Paragraph 2. [or plead one or more of the other grounds for relief specified in 11 U.S.C. 362(d)].

WHEREFORE, Movant prays that the stay be lifted to permit it to exercise its State law rights with respect to Debtor(s)'s real estate described herein and for such other and further relief as this honorable Court deems just and proper.

\_\_\_\_\_  
Counsel for Movant [incl. Bar number]

[APPROPRIATE CERTIFICATE OF SERVICE]

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s).

MOTION TO LIFT STAY RE: MOTOR VEHICLE

Comes now \_\_\_\_ [name of movant] \_\_\_\_, a secured party, by its counsel, and alleges to the Court as follows:

1. That the Debtor(s) filed (his, her or their) Chapter \_\_\_\_ bankruptcy petition on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.
2. That the Debtor(s) listed a certain motor vehicle on (his, her or their) schedules as being valued at \$\_\_\_\_\_, and being described as a \_\_\_\_ [description of vehicle] \_\_\_\_, VIN \_\_\_\_\_. A copy of the Certificate of Title is attached hereto as Exhibit A.
3. That the NADA Blue Book value of the vehicle referred to in Paragraph 2 is \_\_\_\_ [list all values \_\_\_\_].
4. That the Debtor(s) currently owe(s) movant the principal amount of \$\_\_\_\_\_ plus interest of \$\_\_\_\_\_ calculated at \_\_\_\_\_% per annum with a per diem of \_\_\_\_\_ which debt is secured by a valid lien upon the Certificate of Title to said vehicle. A copy of the loan documents including the note are attached as Exhibit B.
5. Monthly payments are \$\_\_\_\_\_, and Debtor(s) is (are) \_\_\_\_\_ monthly payments in arrears on the debt referred to in Paragraph 4.
6. Debtor(s) does (do) not have any equity in the vehicle described herein. [or plead one or more of the other grounds for relief specified in 11 U.S.C. 362(d)]

WHEREFORE, Movant prays that the stay be lifted to permit it to exercise its State law rights with respect to Debtor(s)'s vehicle described herein and for such other and further relief as this honorable Court deems just and proper.

\_\_\_\_\_  
Counsel for Movant [incl. Bar number]

[APPROPRIATE CERTIFICATE OF SERVICE]

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s)

MOTION TO LIFT STAY RE: UCC PERSONALTY

Comes now \_\_\_[name of movant]\_\_\_, a secured party, by its counsel, and alleges to the Court as follows:

1. That the Debtor(s) filed (his, her or their) Chapter \_\_\_ bankruptcy petition on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_.
2. That the Debtor(s) listed certain personal property on (his, her or their) schedules as being valued at \$\_\_\_\_\_ and more specifically described as \_\_\_[give specific description incl. Serial numbers where appropriate]\_\_\_\_\_.
3. That the fair market value of the personalty described in Paragraph 2 is \$\_\_\_\_\_.
4. That Debtor(s) currently owe(s) movant the principal amount of \$\_\_\_\_\_ plus interest of \$\_\_\_\_\_ calculated at \_\_\_\_\_% per annum with a per diem of \_\_\_\_\_ which debt is secured by a valid and properly filed UCC-1 financing statement. A copy of the note, security agreement and financing statement showing the recording information is attached hereto as Exhibit A.
5. Monthly payments are \$\_\_\_\_\_, and Debtor(s) is (are) \_\_\_\_\_ monthly payments in arrears on the debt referred to in Paragraph 4.
6. Debtor(s) does (do) not have any equity in the personalty described herein. [or plead one or more of the other grounds for relief specified in 11 U.S.C. 362(d)].

WHEREFORE, Movant prays that the stay be lifted to permit it to exercise its State law rights with respect to Debtor(s)'s personalty described herein and for such other and further relief as this honorable Court deems just and proper.

\_\_\_\_\_  
Counsel for Movant [incl. Bar number]

[APPROPRIATE CERTIFICATE OF SERVICE]

K-1b



UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s).

AGREED ORDER MODIFYING STAY RE: \_\_\_\_ [GIVE GENERIC DESCRIPTION] \_\_\_\_

On a prior day came the parties by this Agreed Order, and as well, came the Movant by its Motion to Lift Stay duly filed herein, and advised the Court with respect to the matters contained within the Motion, the Exhibits tendered therein, and this Order. The Court, having reviewed the documents and being of the opinion that the relief requested should be granted, does accordingly,

ADJUDGE AND ORDER that the automatic stay imposed by 11 U.S.C. 362, is modified to permit the Movant, \_\_\_\_\_, to proceed with its State law remedies with respect to \_\_\_\_ [give specific description of property] \_\_\_\_.

[IN CHAPTER 13 CASES]

ADJUDGE AND ORDER that the Trustee is relieved from making any further disbursements pursuant to the claim previously filed by [NAME OF SECURED CREDITOR] in this case unless [NAME OF CREDITOR] files an amended claim within 90 days for a deficiency claim from the liquidation of the collateral.

ENTER:

\_\_\_\_\_  
United States Bankruptcy Judge

Approved for entry:

\_\_\_\_\_  
Counsel for Movant

\_\_\_\_\_  
Counsel for Debtor(s)

\_\_\_\_\_  
Trustee

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UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s)

Plaintiff

v.

Adversary Proceeding No.

Defendant

WRIT OF EXECUTION TO THE UNITED STATES MARSHAL

Name and Address of Judgment Creditor:

Amount of Judgment:

\$ \_\_\_\_\_

Clerk's Fee:

\$ \_\_\_\_\_

Other Costs:

\$ \_\_\_\_\_

vs.

Interest From: \_\_\_\_\_

Name and Address of Judgment Debtor:

\$ \_\_\_\_\_

Cost of this Writ:

\$ \_\_\_\_\_

TO THE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF  
WEST VIRGINIA:

You are directed to levy upon the property of the above named judgment debtor to satisfy a money judgment in accordance with the attached instructions.

TO THE JUDGMENT DEBTOR:

You are notified that federal and state exemptions may be available to you and that you have a right to seek a court order releasing as exempt any property specified in the marshal's schedule from the levy.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Clerk of the Bankruptcy Court

UNITED STATES MARSHAL'S RETURN

I received this writ on \_\_\_\_\_, and executed the same on \_\_\_\_\_.  
(Date) (Date)

\_\_\_\_\_  
United States Marshal

By: \_\_\_\_\_  
Deputy Marshal

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s)

Plaintiff,

v.

A.P.

Defendant

SUGGESTION

WHEREAS in an adversary proceeding in which judgment was recovered in the United States Bankruptcy Court for the Northern District of West Virginia on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ against \_\_\_\_\_ for \$\_\_\_\_\_, with interest thereon at the rate of \_\_\_\_\_% per annum, until paid, and \$\_\_\_\_\_ costs, and upon which judgment a writ of fieri facias has issued, and is now in the hands of the United States Marshal for the Northern District of West Virginia, unpaid and unsatisfied, the Plaintiff, \_\_\_\_\_, by attorney, suggests that there is a liability, by reason of the lien of said writ upon \_\_\_\_\_, Defendant, of said District, who is not the judgment debtor. The Bankruptcy Clerk is therefore required to issue a summons upon said Suggestion.

\_\_\_\_\_  
Counsel for Plaintiff

SUMMONS

To the United States Marshal for the Northern District of West Virginia:

In the name of the United States of America, we command you to summon \_\_\_\_\_ (suggestee), if \_\_\_\_\_ be found in your bailiwick, to serve upon \_\_\_\_\_, Plaintiff's attorney, whose address is \_\_\_\_\_, and file with the United States Bankruptcy Clerk, an answer, in writing under oath, to the above suggestion within twenty (20) days after service of this summons.

DATE:

UNITED STATES BANKRUPTCY CLERK

(SEAL OF THE COURT)

by: \_\_\_\_\_

Deputy Clerk

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s)

Plaintiff

v.

A.P.

Defendant

v.

Suggestee.

NOTICE OF POSSIBILITY OF EXEMPTIONS TO SUGGESTION

To:

NOTICE IS HEREBY GIVEN that in the above-styled case, a suggestion has been filed by the plaintiff for money owed to you by \_\_\_\_\_(suggestee).

Please refer to the attached document for details for the suggestion requested by the plaintiff.

NOTICE IS FURTHER GIVEN that under the laws of the State of West Virginia or the United States of America, there exist certain exemption rights that may be available to you which would relieve you of the obligation to pay all or part of this judgment by means of the suggestion requested by the plaintiff.

You may consult an attorney for more specific information on the nature and kind of these exemptions to see whether or not you are eligible to claim any of these exemptions. If you are eligible for such exemptions, your attorney (or you , if you have no attorney) may file a Request for Exemption with the United States Marshal, stating specifically your reason for an exemption and requesting a hearing to determine your exemption rights. This Request for Exemption should be filed within twenty (20) days of receiving this notice. A copy of your Request for Exemption should also be sent to plaintiff's attorney, whose name and address are listed below:

\_\_\_\_\_  
\_\_\_\_\_

Date:

UNITED STATES BANKRUPTCY CLERK

(SEAL OF THE COURT)

\_\_\_\_\_

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s)

Plaintiff

v.

A.P.

Defendant

v.

Employer

AFFIDAVIT FOR SUGGESTEE EXECUTION

This day personally appeared before the undersigned authority, \_\_\_\_\_, who after being first duly sworn, says that \_\_\_\_\_ secured a judgment against \_\_\_\_\_ of \_\_\_\_\_ in the sum of \$ \_\_\_\_\_ and costs of \$ \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

The undersigned further states upon oath that since the date of judgment payments in the total sum of \$ \_\_\_\_\_ have been applied to said judgment and that there is still due and unpaid the sum of \$ \_\_\_\_\_, together with interest at the rate of \_\_\_\_\_% on the principal sum from the date of judgment.

The undersigned further states that the Defendant, \_\_\_\_\_, is employed by \_\_\_\_\_ at \_\_\_\_\_ and that he believes that the weekly disposable earnings in excess of thirty times the federal minimum hourly wage in effect at the time the earnings were payable are now, or will hereafter, within one year from this date, become due to the judgment debtor.

\_\_\_\_\_  
Affiant

Taken, sworn, and subscribed before me, the undersigned authority, this the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
United States Bankruptcy Clerk  
or

\_\_\_\_\_  
Notary Public  
My commission expires:

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s)

Plaintiff

v.

A.P.

Defendant

v.

Employer.

NOTICE OF POSSIBILITY OF EXEMPTIONS TO SUGGESTEE EXECUTION

To:

NOTICE IS HEREBY GIVEN that in the above-styled case, a suggestee execution (garnishee) has been filed by the plaintiff for salary, wages, or commissions owed to you by \_\_\_\_\_[name of employer]\_\_\_\_. Please refer to the attached document for details of the suggestee execution requested by the plaintiff.

NOTICE IS FURTHER GIVEN that under the laws of the State of West Virginia or the United States of America, there exist certain exemption rights that may be available to you which would relieve you of the obligation to pay all or part of this judgment by means of the suggestion requested by the plaintiff.

You may consult an attorney for more specific information on the nature and kind of these exemptions to see whether or not you are eligible to claim any of these exemptions. If you are eligible for such exemptions, your attorney (or you, if you have no attorney) may file a Request for Exemption with the United States Marshal stating specifically your reason for an exemption and requesting a hearing to determine your exemption rights. This Request for exemption should be filed within twenty (20) days of receiving this notice. A copy of your Request for Exemption should also be sent to plaintiff's attorney, whose name and address are listed below:

\_\_\_\_\_  
\_\_\_\_\_

Date:

UNITED STATES BANKRUPTCY CLERK  
by

(SEAL OF THE COURT)

\_\_\_\_\_  
Deputy Clerk

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s)

Plaintiff

v.

A.P.

Defendant

SUGGESTEE EXECUTION

To the United States Marshal for the Northern District of West Virginia:

WHEREAS in an adversary proceeding in the United States Bankruptcy Court for the Northern District of West Virginia, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_ recovered a judgment against \_\_\_\_\_ for the sum of \$\_\_\_\_\_ and \$\_\_\_\_\_ costs, with interest on the principal sum at the rate of \_\_\_\_\_% per annum from the said \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, until paid;

AND WHEREAS satisfactory proof has been filed in this office that weekly disposable earnings are now, or will hereafter, within one year from this date, become due to the judgment debtor from \_\_\_\_\_, his (or her) employer, after the deduction of State and federal taxes in excess in any week of thirty times the federal minimum hourly wage now in effect;

THEREFORE, you are commanded in the name of the United States of America to levy for the amount due on said judgment upon twenty percent (20%) of the wages and salary of the judgment debtor now due or to become due within one year from this date from the said employer, provided such levy will not reduce the amount payable to the judgment debtor to an amount per week that is less than thirty times the federal minimum hourly wage now in effect, and receive and collect from the above-named employer for the benefit of the judgment creditor the percent aforesaid of the said wages and salary, and make return of your proceedings hereunder at the office of the United States Bankruptcy Clerk on the first Monday of the month following the expiration of one year from the date hereof.

A certified copy of this Suggestee Execution is being mailed concurrently with issuance to the judgment debtor.

WITNESS, the UNITED STATES BANKRUPTCY CLERK for the Northern District of west Virginia, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_m.

UNITED STATES BANKRUPTCY CLERK

by

\_\_\_\_\_  
Deputy Clerk

(SEAL OF THE COURT)

RECEIVED ON ACCOUNT THEREOF:

Amount of Judgment: \$ \_\_\_\_\_

Payment Received: \$ \_\_\_\_\_

Make Remittance To: \_\_\_\_\_

Mail To: \_\_\_\_\_ L-6



UNITED STATES BANKRUPTCY CLERK  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s)

Plaintiff

v.

A.P.

Defendant

ABSTRACT OF EXECUTION

Execution was issued on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in favor of Plaintiff, \_\_\_\_\_, against Defendant, \_\_\_\_\_, for the sum of \$\_\_\_\_\_, with legal interest thereon at the rate of \_\_\_\_\_% per annum from the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, until paid, and costs of \$\_\_\_\_\_; which execution was forwarded to the United States Marshal for the Northern District of West Virginia on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and is returnable on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

I hereby certify the above is a true abstract of the execution issued by me as aforesaid.

Date:

UNITED STATES BANKRUPTCY COURT  
by

\_\_\_\_\_  
Deputy Clerk

(SEAL OF THE COURT)

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s)

Plaintiff

v.

A.P.

Defendant

ABSTRACT OF JUDGMENT

Judgment was rendered by the United States Bankruptcy Court for the Northern District of West Virginia on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, in the above-styled adversary proceeding, in favor of the Plaintiff against the Defendant, for the sum of \_\_\_\_\_ Dollars, with legal interest thereon at the rate of \_\_\_\_\_% per annum from said date the judgment was entered, until paid.

Date:

UNITED STATES BANKRUPTCY CLERK  
by

\_\_\_\_\_  
Deputy Clerk

(SEAL OF THE COURT)

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s)

Plaintiff

v.

A.P.

Defendant

CERTIFICATION OF JUDGMENT FOR  
REGISTRATION IN ANOTHER DISTRICT

I, Clerk of the Bankruptcy Court of this district, do certify that the attached judgment is a true and correct copy of the original judgment entered in the above entitled proceeding on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, as it appears of record in my office, and that:

\_\_\_\_ No notice of appeal from this judgment has been filed, and no motion of the kind set forth in Federal Rule of Civil Procedure 60, as made applicable by Bankruptcy Rule 9024, has been filed. **OR**

\_\_\_\_ No notice of appeal from this judgment has been filed, and any motions of the kind set forth in Federal Rule of Civil Procedure 60, as made applicable by Bankruptcy rule 9024, have been disposed of, the latest order disposing of such a motion having been entered on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. **OR**

\_\_\_\_ An appeal was taken from this judgment, and the judgment was affirmed by mandate of the \_\_\_[name of court]\_\_\_ issued on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. **OR**

\_\_\_\_ An appeal was taken from this judgment, and the appeal was dismissed by order entered on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated:

\_\_\_\_\_  
Clerk of the Bankruptcy Court

By: \_\_\_\_\_  
Deputy Clerk

## NUMBER OF COPIES

### Petitions:

[N.D.W.V. LBR 1007-1]

Chapter 7	Original only
Chapter 9	Original plus 3 copies
Chapter 11	Original plus 3 copies
Chapter 12	Original only
Chapter 13	Original only

### Proofs of Claim:

[N.D.W.V. LBR 3001-1]

Chapter 7	Secured or Priority claims	Original plus one copy
	All other claims	Original only
Chapter 9	Secured or Priority claims	Original plus one copy
	All other claims	Original only
Chapter 11	Secured or Priority claims	Original plus one copy
	All other claims	Original only
Chapter 12	Secured or Priority claims	Original plus one copy
	All other claims	Original only
Chapter 13	All claims	Original plus one copy

### Redemptions:

[N.D.W.V. LBR 6008-1]

Original plus a copy for each creditor affected.

## VALUATION OF COLLATERAL

Real Estate: Debtor(s)'s opinion; current appraisal (less than one year old); expert opinion.

Vehicles: The most recent NADA Blue Book or Kelly Blue Book average of the loan and retail values.

Other Personalty: Debtor(s)'s opinion; current appraisal (less than one year old); expert opinion.



UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s).

MOTION TO REOPEN TO ADD CREDITOR

Come(s) now the debtor(s), by (his, her or their) counsel, and moves the Court for an order reopening the above styled matter in order to add [\_\_\_\_NAME AND ADDRESS OF CREDITOR\_\_\_\_] to the original bankruptcy petition and matrix herein. On the date of the original filing, Debtor(s) owed creditor the principal amount of \$\_\_\_\_\_ which was inadvertently left off of Debtor(s)'s original filings due to [\_\_\_\_SET FORTH REASON \_\_\_\_].

---

Counsel for Debtor(s)

CERTIFICATE OF SERVICE

[Include twenty (20) day negative notice and Order with Motion]

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s)

ORDER

The Court has received the Debtor(s)'s Motion to Reopen to Add Creditor filed by the debtor(s) to add the following creditor inadvertently omitted from the original bankruptcy petition:

[\_\_\_LIST NAME AND ADDRESS OF CREDITOR\_\_\_]

Upon consideration of the Motion to Reopen to Add Creditor and the Notice mailed to said creditor, and upon further consideration of creditor not having asserted an objection to discharge, it is the opinion of this Court that the debt listed in the Debtor(s)'s Motion to Reopen to Add Creditor was discharged, even though not listed in the bankruptcy petition and it is therefore,

ORDERED that the Debtor(s)'s Motion to Reopen to Add Creditor is DENIED.

ENTERED:

---

United States Bankruptcy Judge



UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:

Debtor(s)

NOTICE OF MOTION TO REOPEN TO ADD CREDITOR

NOTICE IS HEREBY GIVEN of the filing by the Debtor(s) of a Motion to Reopen to Add Creditor, which requests the Court to enter an Order reopening this bankruptcy matter for the purposes of adding you to the creditor list.

Pursuant to 11 U.S.C. 727 this debt was discharged. If, however, you believe you have a claim of nondischargeability that may be prosecuted with respect to this indebtedness, you must file such claim by way of a motion to join in the reopening of this matter and, in addition, an adversary proceeding setting forth with specificity the grounds of your claim of nondischargeability within twenty (20) days from the date of this notice. Failure to respond will result in an order being entered affirming the discharge.

If a response as set forth above is filed in writing within the twenty (20) days, a telephonic hearing on the motion and complaint will be set by order of this Court.

Dated:

Michael D. Sturm  
Clerk, United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:  
CHAPTER 13

Debtor(s)

MOTION TO MODIFY CONFIRMED PLAN

Come(s) now the debtor(s), by counsel, and move(s) the Court to modify (his, her or their) confirmed plan for the reasons and in the manner set forth below.

In support of this motion, the debtor(s) assert(s) as follows:

1. The debtor(s) filed a voluntary petition under Chapter 13 of the United States Bankruptcy Code on the \_\_\_\_ day of \_\_\_\_\_,\_\_\_\_\_.
2. The debtor(s)'s plan was confirmed on the \_\_\_\_ day of \_\_\_\_\_,\_\_\_\_\_.
3. The debtor(s) need(s) to modify the confirmed plan because [CASE SPECIFIC REASONS].
4. The modification is supported by amended Schedules I and J, which are attached hereto and incorporated by reference.
5. The plan as confirmed and its proposed modification are as follows:
  - A. The plan was confirmed with payments of \$\_\_\_\_\_ for \_\_\_\_ months. The debtor(s) propose to [EXTEND OR REDUCE] the plan to run \_\_\_\_\_ months from confirmation.

B. Plan payments will [INCREASE OR DECREASE] to \$\_\_\_\_\_ for the remaining months of the plan, if modification is approved.

C. SECURED CREDITORS PAID IN THE PLAN

[List each creditor being paid in the plan, its present treatment, and the changes. DO NOT deduct payments which have been made through the plan if nothing is changing with respect to

that creditor. By way of example, and not limitation, options might include:

Bank X, secured by a lien against the debtor(s)'s principle residence, to be paid a pre-petition arrearage in the amount of \$\_\_\_\_\_ with monthly payments of \$\_\_\_\_\_ with interest at \_\_\_\_\_%, shall:

— continue to be paid pursuant to the terms of the confirmation order.

**OR**

— have an additional claim for post-petition arrearages in the amount of \$\_\_\_\_\_ to be paid in monthly installments of \$\_\_\_\_\_ with \_\_\_\_\_% interest.

**OR**

— have an administrative claim for attorney fees or other administrative expense in the amount of \$\_\_\_\_\_ to be paid in monthly installments of \$\_\_\_\_\_.

**OR**

— receive its collateral and will continue to have a secured claim as confirmed to be reduced by the sale of the collateral, which sale shall be reported to the trustee, debtor(s)'s counsel and the debtor(s). The trustee shall withhold additional payments to the creditor pending the receipt of the report of sale.

**OR**

— continue to have a secured claim in the amount of \$\_\_\_\_\_, but it shall be paid in monthly installments of \$\_\_\_\_\_ with interest at \_\_\_\_\_% for the remaining period of the plan, if the modification is approved.

**AND / OR**

The debtor(s) has (have) incurred a post-petition default to Creditor A, which was to have received direct payments by the debtor(s) on its note secured by a deed of trust against the debtor(s)'s principle residence. The debtor(s) propose(s) to pay the post-petition arrearage in the amount of \$\_\_\_\_\_ in monthly installments of \$\_\_\_\_\_ with interest at \_\_\_\_\_% over the next consecutive \_\_\_\_\_months, if the modification is approved.]

#### D. PRE-PETITION PRIORITY CLAIMS

— Pre-petition priority claims shall be paid pursuant to the terms of the original confirmation order.

**OR**

— Pre-petition priority claims shall be paid: [State the confirmed treatment and the proposed modification].

#### E. 1305 CLAIMS

— The debtor(s) has (have) incurred no post-petition claims

**OR**

— The debtor(s) shall pay the post-petition claims as follows:

[List indebtedness and proposed treatment. NOTE: Post-petition tax claims can only be paid through the plan with the acquiescence of the taxing authorities. However, if the taxing

authorities file a 1305 claim, the trustee is required to pay such claim unless a different treatment is agreed to by the taxing authorities. Other post-petition liabilities may be treated in the plan but must be paid at 100% unless a different treatment is agreed to by the post-petition creditor.]

#### F. UNSECURED CREDITORS

Pursuant to the terms of the confirmed plan, allowed unsecured claims were to receive a minimum of \_\_\_\_%.

— Distribution to allowed unsecured claims shall remain the same.

**OR**

— Distribution to allowed unsecured claims shall be [INCREASED TO \_\_\_\_% OR DECREASED TO \_\_\_\_%].

#### G. DIRECT PAYMENTS

The following creditors will continue to receive direct payments from the debtor(s) on current installments. The debtor(s) is (are) current on said obligations. [List each creditor, including any post-petition creditors whether or not approval was sought and received.]

#### H. OTHER TERMS OF THE MODIFICATION

— List with specificity.

WHEREFORE, the debtor(s) pray(s) that the Court will approve the modification of (his, her or their) plan.

---

Counsel for Debtor(s)

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:  
CHAPTER 13

Debtor(s)

**MOTION TO INCUR POST-PETITION INDEBTEDNESS**

Come(s) now the debtor(s), by counsel, and move(s) the Court to approve the debtor(s)'s purchase of [DESCRIPTION].

In support of this motion, the debtor(s) assert(s) as follows:

1. The debtor(s) filed a voluntary petition under Chapter 13 of the United States Bankruptcy Code on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. The plan was confirmed on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. [OR, confirmation of the plan is pending.]

2. Since the filing of the case, [SOMETHING BAD HAPPENED - SUCCINCTLY DESCRIBED].

3. The debtor(s) need(s) to replace [OLD THING - DESCRIBE] which was [being paid directly by the debtor(s) at the rate of \_\_\_\_ per month - OR - being paid through the plan.]

4. The debtor(s) can purchase a [NEW / USED THING - DESCRIBE] from \_\_\_\_\_, not related to the debtor(s), for the sum of \$ \_\_\_\_\_ with interest at the rate of \_\_\_\_% per annum. The monthly payment will be \$ \_\_\_\_\_.

**OR**

4. The debtor(s) does (do) not have an exact figure for the purchase, but believe(s), based upon (his, her or their) investigation into the purchase of [THE THING] that it can be purchased for no more than \$ \_\_\_\_\_ with an interest rate between \_\_\_\_% and \_\_\_\_%. The anticipated monthly payment will be within the range of \$ \_\_\_\_\_ to \$ \_\_\_\_\_. The debtor(s) will [will not] trade in [OLD THING].

5. The debtor(s) is (are) current on plan payments and this purchase will not adversely impact upon the plan because [explain where the money to pay for the new thing is coming from]

**OR**

5. The debtor(s) is (are) current on the plan payments, but this purchase will adversely impact on the plan. The debtor(s) will need to file a motion to modify the confirmed plan if this motion is granted. [Substitute "amended plan" if unconfirmed]

6. The debtor(s) believe(s) that the purchase of [THING] is necessary because [REASON — such as needing dependable transportation to work].

WHEREFORE, the debtor(s) pray(s) that the Court will approve the purchase of the same upon negative notice to the creditor body.

---

Counsel for Debtor(s)

CERTIFICATE OF SERVICE

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

BK NO.:  
CHAPTER 13

Debtor(s)

**AGREED ORDER APPROVING POST-PETITION FINANCING**

This day came the debtor(s), by counsel, and the Chapter 13 Trustee, and represented to the Court that the Chapter 13 Trustee has no objection to the following proposed transaction:

[RECITE TERMS AND CONDITIONS]

By signing this Order, the Trustee asserts that the debtor(s) is (are) current on plan payments.

For the reasons recited by the debtor(s) in the motion filed in this matter, the Trustee is of the opinion that [the incurring of post-petition financing will not adversely affect the plan; **OR**, the incurring of post-petition financing will adversely affect the plan and a motion to modify the confirmed plan (or “an amended plan”) will be necessary; however, the Trustee is further of the opinion that it is in the best interests of the debtor(s) and the creditor body for the post-petition financing to be approved.]

The Court, after reviewing the motion filed herein and the recitals in this Order, is of the opinion to grant the motion, and it is hereby,

ORDERED that the debtor(s) may incur post-petition financing on the terms set forth above; and it is further,

ORDERED [where appropriate] that the debtor(s) shall file a motion to modify the confirmed plan [or “an amended plan”] within 45 days of the entry of this order; and it is further,

ORDERED that the Clerk shall mail a copy of this Order to all parties in interest on the mailing matrix. In the event any party has an objection hereto, said party shall file a written objection with the Clerk, with copies to the debtor(s), debtor(s)’s counsel, and the Trustee, within ten (10) days of the date of this Order. Failure of any party to object will make this Order final on the eleventh (11<sup>th</sup>) day after entry and shall constitute approval of the debtor(s) to proceed with the post-petition financing.

ENTERED:

[signature lines for approval by counsel,  
trustee and debtor(s)]

\_\_\_\_\_  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE:

\_\_\_\_\_, SS NO. \_\_\_\_\_  
\_\_\_\_\_, SS NO. \_\_\_\_\_

Debtor(s).

**DECLARATION RE: ELECTRONIC FILING**

PART I - DECLARATION OF PETITIONER(S):

I (We) \_\_\_\_\_ and \_\_\_\_\_, the undersigned debtor(s) [OR corporate officer, partner, or member]: (1) hereby consent(s) to the electronic filing of the petition and other pleadings and documents herein; (2) hereby acknowledge(s) having reviewed the information contained in the petition and schedules; (3) under penalty of perjury do(es) now declare that the information contained in the petition and schedules is true and correct; and, (4) hereby designate(s) the attorney listed herein as my (our) agent to receive service of process and service of all pleadings in all proceedings, including adversary actions and contested matters, pursuant to Bankruptcy Rule 7004(b)(8), in this Court arising in this case. This designation shall expire upon entry of the final decree.

PART II - DECLARATION OF ATTORNEY:

The debtor(s) signed this Declaration before I submitted the petition, schedules and statements. I will give the debtor(s) a copy of all pleadings and information to be filed with, or received from, the United States Bankruptcy Court, and have complied with all other requirements in the most recent General Orders, Administrative Procedures and this Court's Local Rules.

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Attorney for Debtor(s)  
(Address, bar number, etc.)

\_\_\_\_\_  
Debtor

NOTARY

R



REQUEST FOR TRANSCRIPT

Case Style: \_\_\_\_\_ Case Number: \_\_\_\_\_

Adversary Style (if applicable): \_\_\_\_\_ A.P.No. \_\_\_\_\_

\_\_\_\_\_

Date of Hearing: \_\_\_\_\_

Courtroom (i.e., Wheeling, Clarksburg, etc.): \_\_\_\_\_

Comments, limitations, explanations, etc. (If any): \_\_\_\_\_

\_\_\_\_\_

Requesting Party: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

UNITED STATES TRUSTEE'S OFFICE

United States Trustee  
300 Virginia Street  
Room 2025  
Charleston, WV 25303

PACER

To obtain a login and password  
(N.D.W.V. LBR 5005-4.13)

ONLINE: <http://pacer.psc.uscourts.gov>

TOLL FREE: 1-800-676-6856

DOCKET ENTRIES WHICH SERVE AS THE DOCUMENT ITSELF

1. No Asset Report
2. 11 U.S.C. 341(a) Minute Sheet

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