

OFFICE OF THE CLERK OF COURT

Procedures for Staffing Support provided under 11 U.S.C. § 156(c)

April 2001

In light of (a) the size and complexity of cases falling under the 'Mega Case' classification, (b) the burdens being imposed on the Clerk of the Bankruptcy Court's office and its available resources, and (c) the public interest involved in appropriately allocating resources to respond to the high volume of filings and information requests anticipated in mega cases while maintaining continuity of service to all other pending cases, Debtors falling in the mega case category will be asked to provide assistance to the Clerk's office in the form of personnel resources. Pursuant to 11 U.S.C. § 156(c), the Office of Clerk of Court for the Bankruptcy Court for the District of Delaware will seek staff support to provide assistance for noticing, docketing, answering telephones, filing and performing other case administrative functions for cases filed under the provisions of title 11. Costs for this staff will be paid for out of the assets of the estates deemed to be in the mega case classification.

MEGA CASE CRITERIA

A mega case is typically defined as an extremely large case with: (1) at least 1,000 creditors; (2) \$100 million or more in assets; (3) a great amount of court activity as evidenced by a large number of docket entries; (4) a large number of attorneys who have made an appearance of record; and (5) regional and/or national media attention.

PROCEDURES TO BE FOLLOWED:

Order - When feasible, debtors should move the Court to enter an Order to provide staffing assistance with other 'first day' orders. If not provided for at the inception of a case, the Clerk of Court will pursue appropriate assistance under 156(c). A sample Order is attached.

Temporary Staff - Upon entry the Order, the Clerk of Court will coordinate retention of staff to support work created by the mega case. Staff will be hired through a temporary agency. Quotes will be received periodically for services. A temporary service vendor capable of providing qualified clerical staff will be selected. Clerical staff must sign a waiver indicating that they are acting as employees of the Court and not acting as personal representatives of the estate. A copy of the waiver is attached. All temporary staff will be required to pass a standard background check. The Clerk of Court will assign permanent staff to supervise all temporary staff provided under 156(c) Orders. All temporary staff will be required to complete time sheets indicating the amount of daily time spent on each mega case. For example, if the staff person is filing in case X for 2 hours, they will indicate such on their daily time sheet. All time sheets will be reviewed and signed off on by permanent bankruptcy staff. Time sheets will be forwarded to the Temporary Staffing Agency for billing to the debtor.

Billing - The temporary staff agency will be responsible for billing the debtor with actual costs incurred for their case. All billing will be done on a weekly or monthly basis. Bills are due for payment within 2 weeks of receipt. Copies of bills will be forwarded to counsel for the debtor as well as the Clerk of Court.

Questions

Questions regarding this process should be directed to the Clerk of Court.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In RE :
: Case No.(s): _____
:
:
Debtor :

**Order Pursuant to 28 U.S.C. § 156(c) Requiring Debtor to
Provide Staffing Services for Case Administration**

The Court has been informed by the Clerk of Court that this case is a 'mega case' as defined by the Judicial Conference of the United States. The Clerk of Court has conferred with Debtor's counsel on the necessity for the Debtor to provide additional staffing services to the Court in this case, due to the size and complexity of this case, the burdens it is likely to impose on the Court and its available resources and the public interest involved in appropriately allocating resources to respond to the high volume of filings and information requests anticipated in this case. Debtor through its counsel agrees that this case will have a substantial impact on the Court's operations from time to time which will require additional staffing services and does not object to the entry of this order.

Section 156(c) of Title 28 authorizes bankruptcy courts to use outside facilities or services to provide notices, dockets, calendars and other administrative information to parties in bankruptcy cases where the cost of such facilities or services are paid for out of the assets of the estate and are not charged to the United States, it is therefore:

ORDERED that the Debtor will provide staffing services not to exceed the equivalent of one full-time person to assist in matters directly related to the administration of the Debtor's case in the manner and form prescribed by the Clerk of the U.S. Bankruptcy Court during the pendency of this case.

Done and Ordered this _____ day of _____, 2001

United States Bankruptcy Judge

**United States Bankruptcy Court
District of Delaware
824 Market Street, 5th Floor
Wilmington, Delaware 19801**

**Waiver Agreement for Special Employees of the Estate
(The Company Name)**

I, _____, hereby declare that in performing services for the court my status will be that of a "special employee of the estate" of _____, debtor in case number _____ in the United States Bankruptcy Court for the District of Delaware. A "special employee of the estate" for the purpose of this agreement is defined as a person who is employed by the debtor's estate pursuant to 28 U.S.C. Section 156(c) to perform services for the court under the direction of the clerk of court.

I understand that as a "special employee of the estate," I am not an employee of the Federal Government and that the debtor's estate is responsible for the payment of all wages and benefits to which my services may entitle me. I understand that as a "special employee of the estate," I am not entitled to the protections provided to Federal Government employees by the Federal Tort Claims Act from liability for negligence in the performance of duties or by the federal worker's compensation program for on-the-job injuries. I further understand that I will be directly answerable to the clerk of the court, and that I will not take instructions, directions or orders from the debtor or any trustee who may be appointed in the bankruptcy case, nor will I provide any services to these entities without the approval of the clerk.

I hereby waive any claim or right to receive salary or other compensation, including fringe benefits, from the Federal Government as a result of my services. Further, I hereby agree to; (a) abstain from public comment about a pending or impending proceeding in the court; and (2) refrain from disclosing to any person outside of the clerks office, including the debtor or the trustee or representatives of the debtor or the trustee, any confidential information received in the performance of my duties and from employing such information for personal gain.

Name

Date

Witness

Date

Pursuant to 28 U.S.C. Section 156(c), I hereby accept the services of the above named "special employee of the estate" on behalf of the court subject to the understandings and waivers set forth above

Clerk of Court

Date