LOCAL RULES

FOR

THE UNITED STATES BANKRUPTCY COURT

DISTRICT OF DELAWARE

(Effective February 1, ~~2011~~2012)

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PART I. COMMENCEMENT OF CASE; PROCEEDINGS RELATING TO PETITION AND ORDER FOR RELIEF

Rule 1001-1 Scope of Rules.

(a) Title and Citation. These rules ("Local Rules" or "Rules") shall be known as the "Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware" (the "Court"). They may be cited as "Del. Bankr. L.R. __."

(b) Application. These Local Rules shall be followed insofar as they are not inconsistent with the Bankruptcy Code (the "Code") and the Federal Rules of Bankruptcy Procedure ("Fed. R. Bankr. P."). These Local Rules may be amended from time to time by the Chief Judge of the Court, subject to approval by the Chief Judge of the United States District Court for the District of Delaware (the "District Court") and after a reasonable notice and comment period (the "Notice and Comment Period"). The Notice and Comment Period will be determined by the Chief Judge of the Court and displayed on the Court's website (defined below). The Local Bankruptcy Forms of the Court (the "Local Forms") may be revised from time to time, subject to approval by the Chief Judge of the Court and the Clerk of the Court (the "Clerk"). These Local Rules, the Local Forms, the Clerk's Office Procedures, General Orders and each Judge's chambers procedures are available on the Court's website at www.deb.uscourts.gov (the "Court's website"). Unless otherwise noted in these Local Rules or ordered by the Court, all filings in the District of Delaware relating to cases under Title 11 shall be made with the Clerk and shall be governed by these Local Rules, in addition to the Fed. R. Bankr. P. The Federal Rules of Civil Procedure ("Fed. R. Civ. P.") are applicable only to the extent provided herein or in the Fed. R. Bankr. P.

(c) Modification. The application of these Local Rules in any case or proceeding may be modified by the Court in the interest of justice.

(d) Effective Date. These Local Rules will be effective on February 1, 2010.

(e) Relationship to Prior Rules; Actions Pending on Effective Date. These Local Rules supersede all previous Local Rules promulgated by the Court, but do not affect any General

Order issued by the Court or any chambers procedures of any Judge of the Court. They shall govern all cases or proceedings filed after their effective date. They shall also apply to all proceedings pending on the effective date, except to the extent that the Court finds they would not be feasible or would work injustice.

Rule 1002-1 Commencement of Case.

(a) Petitions - Generally. All petitions shall be in compliance with the requirements set forth in the Clerk's Office Procedures, the Code, the Fed. R. Bankr. P. and their official forms ("Official Form") and these Local Rules.

(b) Petitions by Non-Individuals. Any petitioner other than an individual shall be represented by counsel. In a voluntary case, there shall be filed on the petition date a resolution authorizing the commencement of the bankruptcy case executed by the body whose approval is required for the commencement of a bankruptcy case under applicable law.

(c) Notice Regarding Filing of a Chapter 11 Petition. Unless there are exigent circumstances, counsel for the debtor shall contact the United States Trustee and the Clerk at least two (2) business days prior to filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code, for the purpose of advising the United States Trustee and the Clerk of the anticipated filing of the petition (without disclosing the identity of the debtor) and the matters on which the debtor intends to seek immediate relief. Counsel shall also comply with the noticing provisions set forth in Local Rule 9013-1(m)(iii).

Rule 1003-1 Entry of Order for Relief on Involuntary Petition. An order for relief on an involuntary petition will be entered only after (i) the filing of a consent to its entry by the putative debtor, (ii) the filing of a certification of counsel that the petition has been served in accordance with the Rules and that no answer has been filed by the putative debtor within the time permitted, or (iii) a hearing duly noticed under the Rules.

Rule 1006-1 Filing Fees.

(a) Petition Filing Fees. Petition filing fees are due at the time of filing, except as expressly provided in this Local Rule.

(b) Payment of Filing Fee in Installments. Individual filers may file with the petition an Application to Pay Filing Fee in Installments substantially in conformity with the form provided by the Clerk's office (the "Clerk's Office"). The application must be accompanied by a minimum initial payment of 25% of the filing fee. The number of installments shall not exceed four (4). The Court will issue an order regarding such application, without need for a hearing, unless the Court directs otherwise. Failure to comply with the provisions of the order may result in dismissal of the case.

(c) Application for Waiver of Fee in an Individual Chapter 7 Case. An individual chapter 7 filer may file an Application for Waiver of the Chapter 7 Filing Fee substantially in compliance with the Official Form. An order will be entered regarding such application, without need for a hearing, unless the Court directs otherwise.

(d) Case Reopening Fees. Case reopening fees are due at the time of filing of a motion to reopen unless the reopening is (i) to correct an administrative error, (ii) to take action relating to the debtor's discharge or (iii) accompanied by a request that the reopening fee be waived or deferred.

(e) Schedule of Fees. The schedule of fees is available at the Clerk's Office and on the Court's website.

Rule 1007-1 Lists, Schedules and Statements.

(a) Required Lists, Schedules and Statements. Required lists, schedules and statements of financial affairs shall be filed in accordance with the Fed. R. Bankr. P., the Code and these Local Rules and shall be in compliance with the appropriate Official Form and Local Forms, if any. The Clerk's Office Procedures should be consulted for a list of such requirements.

(b) Time for Filing Schedules and Statement of Financial Affairs in a Voluntary Chapter 11 Case. In a voluntary chapter 11 case, if the bankruptcy petition is accompanied by a list of all the debtor's creditors and their addresses, in accordance with Local Rule 1007-2, and if the total number of creditors in the debtor's case (or, in the case of jointly administered cases, the debtors' cases) exceeds 200, the time within which the debtor shall file its Schedules and Statement of Financial Affairs required under the Fed. R. Bankr. P. shall be extended to thirty (30) days from the petition date. Any further extension shall be granted, for cause, only upon filing of a motion by the debtor on notice in accordance with these Local Rules.

(c) Filing of Schedules in Jointly Administered Chapter 11 Cases. Notwithstanding any order jointly administering related cases, Schedules and Statements of Financial Affairs and any amendments thereto shall be filed for each debtor and docketed in that debtor's case, as well as in the main case. The statistical information requested by CM/ECF upon docketing shall be filled out for each separate debtor.

Rule 1007-2 **List of Creditors/Mailing Matrix**.

(a) In all voluntary cases, the debtor shall file with the petition a list containing the name and complete address of each creditor in such format as directed by the Clerk's Office Procedures.

(b) In all voluntary cases involving individual debtors, in the event a prior bankruptcy case was pending within one year before the filing of the case in connection with the debtor or a co-debtor, such list shall also include the name and complete address of each party and any counsel that entered its appearance in such case. In the event a foreclosure, repossession, or other action to enforce a claim against property of the debtor or a co-debtor was pending within one year before the filing of the case, such list shall also include the name and complete address of each party and any counsel that entered an appearance in such action. In an involuntary case, such list must be filed by the debtor within fourteen (14) days after the petition date.

Rule 1009-1 Notice by Chapter 7, Chapter 12 or Chapter 13 Debtor to Creditors Not Scheduled Prior to Meeting of Creditors. If at any time after the Court issues notice of the meeting of creditors under 11 U.S.C. § 341 in a chapter 7, chapter 12 or chapter 13 case the debtor amends Schedule D, E or F and/or the creditor matrix to add any creditor(s), the following procedures shall apply:

(a) The debtor shall pay the prescribed filing fee;

(b) The debtor shall serve upon such additional creditor(s) by first class mail:

(i) A copy of the original notice of meeting of creditors under 11 U.S.C. § 341;

(ii) A notice informing the creditor of the right to file a proof of claim by the later of the bar date in the original notice or twenty-one (21) days from the date of a later notice;

(iii) A notice informing the creditor of the automatic extension of time to file a complaint under Local Rules 4004-1 and 4007-1; and

(c) The debtor shall file a certificate of service with the Court and provide an amended creditor matrix to the Clerk ~~in such format as~~within 48 hours of filing the ~~Clerk's Office may direct.~~amended schedules or filing any schedules which contain creditors who were not listed on the original creditor matrix.

Rule 1009-2 **Notice of Amendment of Schedules in Chapter 11 Cases.** Whenever the debtor or trustee in a chapter 11 case amends the debtor's schedules to change the amount, nature, classification or characterization of a debt owing to a creditor, the debtor or trustee shall, within fourteen (14) days, transmit notice of the amendment to the creditor and notice of the creditor's right to file a proof of claim by the later of the bar date (if any) or twenty-one (21) days from the date of the notice. The debtor or trustee shall file a certificate of service of the notice with the Clerk within seven (7) days.

Rule 1014-1 **Transfer of Cases or Adversary Proceedings to Another District**. If a case or adversary proceeding is ordered transferred from this district, unless the transfer order is stayed, the Clerk shall, within seven (7) days of entry of such order, send to the transferee Court by overnight courier (or electronically at the transferee Court's option) (a) certified copies of the Court's or the District Court's order (and opinion, if any) transferring the case, and the docket entries in the case or adversary proceeding and (b) all pleadings that have been filed in the case or adversary proceeding. When transfer is ordered by the District Court, the Clerk of the District Court shall transmit the order of the District Court Judge to the Clerk, who shall transfer the file as set forth above.

Rule 1015-1 **Joint Administration of Cases Pending in the Same Court**. An order of joint administration may be entered, without notice and an opportunity for hearing, upon the filing of a motion for joint administration pursuant to Fed. R. Bankr. P. 1015, supported by an affidavit, declaration or verification, which establishes that the joint administration of two or more cases pending in this Court under title 11 is warranted and will ease the administrative burden for the Court and the parties. An order of joint administration entered in accordance with this Local Rule may be reconsidered upon motion of any party in interest at any time. An order of joint administration under this Local Rule is for procedural purposes only and shall not cause a "substantive" consolidation of the respective debtors' estates.

Rule 1017-1 **Petition Deficiencies**. A debtor filing a petition under chapter 7, chapter 12 or chapter 13 of the Code without all the documents required by the Fed. R. Bankr. P., the Code, these Local Rules and the Clerk's Office Procedures will receive a deficiency notice specifying time limits for the filing of the required documents. If the required documents are not filed by the deadline specified in such notice, and the debtor has neither sought nor obtained an extension of such deadline from the Court, the petition may be dismissed.

Rule 1017-2 Dismissal of Chapter 11 Case. No chapter 11 case (even one which is jointly administered with another case) shall be dismissed except by separate order, with notice provided by the claims agent (if one has been appointed) as required by Rules 1017 and 2002(a)(4).

Rule 1017-3 Closing of Cases by Substantive Consolidation

Whenever cases are sought to be substantively consolidated, whether in a plan of reorganization or motion, the plan proponent or movant shall present a separate proposed order for each case to be consolidated. Such order shall provide for the closing of each case, except for the remaining consolidated debtor case, and shall be docketed in each respective debtor's docket.

PART II. OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS; EXAMINATIONS; ELECTIONS; ATTORNEYS AND ACCOUNTANTS

Rule 2002-1 Notices to Creditors, Equity Security Holders, United States and United States Trustee.

(a) Omnibus Hearings. In any chapter 11 case, the Court may, sua sponte or upon motion of a party in interest, enter an order setting omnibus hearing dates for the case. Any such order shall be entered on the docket and be made available to anyone interested in obtaining a copy from (i) the Court or (ii) counsel for the debtor. Time permitting, on each omnibus hearing date, the Court will hear all motions timely filed under these Local Rules by any party in interest in the case in the order set forth in the hearing agenda filed pursuant to Local Rule 9029-3, unless the Court directs otherwise.

(b) Service. In chapter 11 cases, all motions (except matters specified in Fed. R. Bankr. P. 2002(a)(1), (4), (5), (7), 2002(b) and 2002(f) and Local Rules 4001-1 and 9013-1) shall be served only upon counsel for the debtor, the United States Trustee, counsel for all official committees, all parties who file a request for service of notices under Fed. R. Bankr. P. 2002(i) and all parties whose rights are affected by the motion. If an official unsecured creditors' committee has not been appointed, service shall be made on the twenty (20) largest unsecured creditors in the case in lieu of the creditors' committee.

(i) Service of Papers on the United States Trustee.

(A) Service by Overnight Mail. Service on the United States Trustee shall be made by overnight mail or hand delivery of papers that require a response within seven (7) days or less or that relate to a Court hearing scheduled to take place within seven (7) days of the date of service.

(B) Service by Fax. Service by fax shall be limited to emergent situations where action or response is required within forty-eight (48) hours. Every effort shall be made to limit faxes to a maximum of twenty (20) pages per document. If it is necessary to serve via fax

a document that will exceed twenty (20) pages in length, the serving party shall telephone the intended recipient(s) in advance to obtain permission to send the fax.

(c) Service List. Counsel for the debtor shall be responsible for maintaining a list of all parties who are entitled to receive service (as set forth in Local Rule 2002-1(b)) and shall furnish it, upon request, to any party.

(d) Entry of Appearance. Any entity entering an appearance in a case under title 11 shall include in the Notice of Appearance the entity's (i) name, (ii) mailing address, including street address for overnight and hand delivery, (iii) telephone number, (iv) facsimile number, (v) email address, if any, and (vi) party represented, if any. Any entity that requests, in a particular case or adversary proceeding, service of documents by receipt of ECF notices or by email only, needs to complete Local Form 114 Consent to Service of Documents by Receipt of ECF Notice or Email in Chapter 11 Cases. See also Del. Bankr. L.R. 5005-4.

(e) Bar Date. In all cases under chapter 11, the debtor may request a bar date for the filing of proofs of claim or interest. The request may be granted without notice and hearing if (i) the request gives fourteen (14) days' notice to the United States Trustee and the creditors' committee (or the twenty (20) largest unsecured creditors if no creditors' committee is formed), (ii) the request is filed after the Schedules and Statement of Financial Affairs have been filed and the 11 U.S.C. § 341(a) meeting of creditors has been held and (iii) the request provides that the bar date shall be not less than sixty (60) days from the date that notice of the bar date is served (and not less than 180 days from the order for relief for governmental units). On entry of the bar date order, the debtor shall serve actual written notice of the bar date on (A) all known creditors and their counsel (if known), (B) all parties on the service list described in Local Rule 2002-1(c), (C) all equity security holders, (D) indenture trustees, (E) the United States Trustee and (F) all taxing authorities for the jurisdictions in which the debtor does business.

(f) Notice and Claims Clerk. Upon motion of the debtor or trustee, at any time without notice or hearing, the Court may authorize the retention of a notice and/or claims clerk

under 28 U.S.C. § 156(c). In all cases with more than 200 creditors or parties in interest listed on the creditor matrix, unless the Court orders otherwise, the debtor shall file such motion on the first day of the case or within seven (7) days thereafter. The notice and/or claims clerk shall comply with the Protocol for the Employment of Claims and Noticing Agents under 28 U.S.C. § 156(c) (which can be found on the Court's website) and shall perform the ~~below~~ functions below.

(i) Serve the following notices: (a) 341 Notice (Notice of Commencement of Case); (b) Notice of Claims Bar Date in chapter 11 cases; (c) Objections to Claims and Transfers of Claims; (d) Notice of Hearing on confirmation of Plan/Disclosure Statement; (e) Notice of Hearing on motions filed by United States Trustee; ~~and~~ (f) Notice of Transfer of Claim; and (g) any motion to convert, dismiss, appoint a trustee, or appoint an examiner filed by the United States Trustee's Office.

(ii) Within seven (7) days of mailing, file with the Court, a copy of the notice served with a Certificate of Service attached, indicating the name and complete address of each party served;

(iii) Maintain copies of all proofs of claims and proofs of interest filed in the case;

(iv) Maintain the official claims register and record all Transfers of Claims and make changes to the creditor matrix after the objection period has expired. The claims clerk shall also record any order entered by the Court which may affect the claim by making a notation on the claims register and monitor the Court's docket for any claims related pleading filed and make necessary notations on the claims register. No claim or claim information should be deleted for any reason;

(v) Maintain a separate claims register for each debtor in jointly administered cases;

(vi) File a quarterly updated claims register with the Court in alphabetical and numerical order. If there

has been no claims activity, the claims clerk may file a Certification of No Claim Activity;

(vii) Maintain an up-to-date mailing list of all creditors and all entities who have filed proofs of claim or interest and/or request for notices in the case and provide such list to the Court or any interested party upon request (within forty-eight (48) hours);

(viii) Allow public access to claims and the claims register at no charge; ~~and~~

(ix) Within fourteen (14) days of entry of an Order converting or dismissing a case or within thirty (30) days of entry of a Final Decree, forward to the Clerk (a) all claims and updated claims register, (b~~)~~) a CD of all imaged claims, and (c) an excel spreadsheet containing all claims information, along with an updated ~~mailing~~2002 list and updated creditor mailing list, which shall contain the names and addresses of all creditors. The claims register, 2002 list and creditor mailing list ~~should~~shall be provided in both paper and on disc~~ and~~, in both alphabetical and numerical order. The creditor mailing list disc and the 2002 list disc should be in .txt format~~.~~; and

(x) Upon conversion of a chapter 11 case to a chapter 7 case, if there are more than 200 creditors, the claims agent appointed in the chapter 11 case shall continue to serve all notices required to be served, at the direction of the chapter 7 trustee or the Clerk's Office.

(g) Cases with Less Than 200 Creditors.

(i) In cases with less than 200 creditors and no claims agent retained under 28 U.S.C. § 156(c), the Clerk shall serve as the notice agent and the Debtor shall provide the Clerk with a complete, accurate and up-to-date creditor matrix in accordance with the time set forth in Fed. R. Bankr. P. 1007.

(ii) The Debtor, within fourteen (14) days of entry of an Order converting a case or within thirty (30) days

of entry of a Final Decree, shall provide an updated creditor matrix.

Rule 2003-1 <u>Submission of Interrogatories in Lieu of Live Testimony at Meetings Conducted under 11 U.S.C. § 341 in Chapter 7 and Chapter 13 Cases</u>.

(a) Upon written motion, and after notice and an opportunity for hearing, the Court may, for cause, permit a debtor to submit to examination by written interrogatories in lieu of the debtor's live appearance at a meeting of creditors or equity security holders convened under 11 U.S.C. § 341.

(b) A motion to proceed by written interrogatories filed by the debtor shall be served upon the interim trustee or the case trustee, as appropriate, the United States Trustee and all creditors who have filed a request for notices under Fed. R. Bankr. P. 2002. A notice of the filing of the motion to proceed by written interrogatories shall be served upon all creditors who have not been served with the full motion.

(c) The form of the written interrogatories shall be determined by the interim trustee or the case trustee, as appropriate.

(d) The original copy of the debtor's answers to written interrogatories shall be filed by the debtor with the Court and served upon the case trustee or the interim trustee, as appropriate.

Rule 2004-1 Rule 2004 Examinations.

(a) Conference Required. Prior to filing a motion for examination or for production of documents under Fed. R. Bankr. P. 2004, counsel for the moving party shall attempt to confer (in person or telephonically) with the proposed examinee or the examinee's counsel (if represented by counsel) to arrange for a mutually agreeable date, time, place and scope of an examination or production. If an agreement is reached, no motion shall be required, but a notice setting forth the identity of the examinee, and the date, time, place and scope of the examination or production shall be filed and served in accordance with this Local Rule.

(b) Certification of Conference Required. All motions for examination or production under this Local Rule shall include a certification of counsel that either (i) a conference was held as required and no agreement was reached or (ii) a conference was not held and an explanation as to why no conference was held.

(c) Service Requirements. In addition to any other rules of service that generally apply, all motions for or notices of examination or production of documents shall be served upon the following parties, through their counsel, if represented: (i) the debtor; (ii) the trustee; (iii) the United States Trustee; (iv) all official committees; and (v) the proposed examinee or party producing documents. All such motions shall be accompanied by a notice of motion setting forth (A) an objection, response or answer deadline not less than seven (7) days from service of the motion and (B) the date, time and place of the hearing. Such objection, response or answer deadline shall be no less than seventy-two hours prior to the hearing.

Rule 2011-1 **Certification of Debtor-in-Possession Status or Trustee Qualification**. Whenever evidence is required that a debtor is a Debtor-in-Possession or that a trustee has qualified, the Clerk, or the Clerk's designee, may so certify in a document substantially in conformity with Local Form 112A or 112B.

Rule 2014-1 Employment of Professional Persons.

(a) Motion for Approval. Any entity seeking approval of employment of a professional person under 11 U.S.C. § 327, 1103(a) or 1114 or Fed. R. Bankr. P. 2014 (including retention of ordinary course professionals) shall file with the Court a motion, a supporting affidavit or verified statement of the professional person and a proposed order for approval. Promptly after learning of any additional material information relating to such employment (such as potential or actual conflicts of interest), the professional employed or to be employed shall file and serve a supplemental affidavit setting forth the additional information.

(b) Notice and Hearing. All retention motions shall be heard on the first omnibus or other hearing date that would allow adequate notice of the retention motion and hearing in accordance with Local Rules 9013-1 and 2002-1(b). If the retention motion is granted, the retention shall be effective as of the date the motion was filed, unless the Court orders otherwise.

Rule 2015-2 Debtor-in-Possession Bank Accounts in Chapter 11 Cases.

(a) Bank Accounts and Checks. Where the debtor uses pre-printed checks, upon motion of the debtor, the Court may, without notice and hearing, permit the debtor to use its existing checks without the designation "Debtor-in-Possession" and use its existing bank accounts. However, once the debtor's existing checks have been used, the debtor shall, when reordering checks, require the designation "Debtor-in-Possession" and the corresponding bankruptcy number on all such checks.

(b) Section 345 Waiver. Except as provided in Local Rule 4001-3, no waiver of the investment requirements of 11 U.S.C. § 345 shall be granted by the Court without notice and an opportunity for hearing in accordance with these Local Rules. However, if a motion for such a waiver is filed on the first day of a chapter 11 case in which there are more than 200 creditors, the Court may grant an interim waiver until a hearing on the debtor's motion can be held.

Rule 2016-1 **Disclosure of Compensation**. Any attorney representing the debtor under the Code, or in connection with such a case, whether or not such attorney applies for compensation under the Code, shall file with the Court a statement of compensation paid or agreed to be paid, if such payment or agreement was made after one (1) year before the petition date, for services rendered or to be rendered in contemplation of or in connection with the case by such attorney and the source of such compensation as required by 11 U.S.C. § 329 and Fed. R. Bankr. P. 2016(b).

Rule 2016-2 Motion for Compensation and Reimbursement of Expenses.

(a) Scope of Rule. This Local Rule applies to:

(i) Any motion of a professional person employed under 11 U.S.C. § 327, 328 or 1103 requesting approval for compensation and/or reimbursement of expenses; and

(ii) Any request of an entity for payment of an administrative expense under 11 U.S.C. § 503(b)(3) or 503(b)(4).

(b) Effect of Rule. Any such motion or request for payment, in addition to complying with the Code and the Fed. R. Bankr. P. applicable to the filing and the contents of such a motion, shall comply with the information and certification requirements listed in Local Rule 2016-2(c)-(f). Any such motion not in compliance with these requirements will not be considered by the Court, unless a waiver is obtained under Local Rule 2016-2(g).

(c) General Information Requirements.

(i) The motion shall include, as its first page(s), Local Form 101 and the information requested therein (categories given are examples).

(ii) Immediately thereafter, the motion shall include Local Form 102 and the information requested therein (categories given are examples). Where the applicant deems appropriate, the motion may also include a firm resume.

(iii) The narrative portion of the motion shall inform the Court of circumstances that are not apparent from the activity descriptions or that the applicant wishes to bring to the attention of the Court, including special employment terms, billing policies, expense policies, voluntary reductions, reasons for the use of multiple professionals for a particular activity or reasons for substantial time billed relating to a specific activity.

(d) Information Requirements Relating to Compensation Requests. Such motion shall include activity descriptions which shall be sufficiently detailed to allow the Court to determine

whether all the time, or any portion thereof, is actual, reasonable and necessary and shall include the following:

(i) All activity descriptions shall be divided into general project categories of time;

(ii) All motions shall include complete and detailed activity descriptions;

(iii) Each activity description shall include a time allotment;

(iv) Activities shall be billed in tenths of an hour (six (6) minutes);

(v) Each activity description shall include the type of activity (e.g., phone call, research);

(vi) Each activity description shall include the subject matter (e.g., exclusivity motion, section 341 meeting);

(vii) Activity descriptions shall not be lumped - each activity shall have a separate description and a time allotment;

(viii) Travel time during which no work is performed shall be separately described and may be billed at no more than 50% of regular hourly rates;

(ix) The activity descriptions shall individually identify all meetings and hearings, each participant, the subject(s) of the meeting or hearing and the participant's role; and

(x) Activity descriptions shall be presented chronologically or chronologically within each project category.

(e) Information Requirements Relating to Expense Reimbursement Requests.

(i) The motion shall contain an expense summary by category for the entire period of the request. Examples of such categories are computer-assisted legal research, photocopying, outgoing facsimile transmissions, airfare, meals and lodging.

(ii) Following the summary, the motion shall itemize each expense within each category, including the date the expense was incurred, the charge and the individual incurring the expense, if available.

(iii) The motion shall state the requested rate for copying charges (which shall not exceed $.10 per page), computer-assisted legal research charges (which shall not be more than the actual cost) and outgoing facsimile transmission charges (which shall not exceed $1.00 per page, with no charge for incoming facsimiles).

(iv) Receipts or other support for each disbursement or expense item for which reimbursement is sought must be retained and be available on request.

(f) Certification Requirement. The motion shall also contain a statement that the professional person seeking approval of the motion has reviewed the requirements of this Local Rule and that the motion complies with this Local Rule.

(g) Waiver Procedure. An employed professional person or entity within the scope of this Local Rule may request that the Court waive, for cause, one or more of the information requirements of this Local Rule. Such a request should be made in the same motion in which the person seeks Court approval to be employed, or as soon as possible thereafter, and shall be served on debtor's counsel, counsel to any official committee and the United States Trustee. The caption of any motion that contains a waiver request shall explicitly state that the person is seeking a waiver of one or more of the information requirements of this Local Rule.

(h) Form of Order. The form of order submitted to the Court shall specifically recite the amounts requested in fees and in expenses.

(i) Fee Examiners. The Court may, in its discretion or on motion of any party, appoint a fee examiner to review fee applications and make recommendations for approval.

(j) Final Fee Applications in Chapter 7 Asset Cases. Estate professionals shall file final fee applications in chapter 7 asset cases but shall not notice the final fee application for hearing. Instead, the hearing date shall be stated as TBD. The final fee application shall only be

served upon the chapter 7 trustee and the United States Trustee. After the Trustee Final Report is filed with the Court, the Court will (i) notice the hearing for the final fee application and provide for the objection deadline and (ii) serve the notice of the final fee application. If the estate professional inadvertently notices a final fee application for hearing, it shall include language in the proposed form of order that "fees are subject to disgorgement pending approval of TFR."

PART III. CLAIMS AND DISTRIBUTION TO CREDITORS AND EQUITY INTEREST HOLDERS; PLANS

Rule 3001-1 Filing Proof of Claim; Transfer of Claim.

(a) Filing Proof of Claim. Any entity filing a proof of claim in a chapter 7, 12 or 13 case shall provide the Clerk with the original proof of claim and one (1) copy for the trustee and shall serve a copy on debtor's counsel or the debtor, if pro se. Any entity that files a proof of claim by mail and wishes to receive a clocked-in copy by return mail must include an additional copy of the proof of claim and a self-addressed, postage-paid envelope.

(b) Transfer of Claim. Any assignment or other evidence of a transfer of claim filed after the proof of claim has been filed shall include the claim number of the claim to be transferred. Absent any timely filed objection to the notice of transfer served by the Clerk, the claim shall be, without any further order of the Court, noted as transferred on the records of the Court or the claims agent, if one is appointed.

Rule 3002-1 **Government Deadline to File Proof of Claim After Conversion to Chapter 7 Asset Case**. If notice of insufficient assets to pay a dividend was given to creditors under the Federal Rules or these Local Rules, and subsequently the trustee notifies the court that payment of a dividend appears possible, the clerk shall give at least ninety (90) days' notice by mail to creditors of that fact and of the date by which proofs of claim must be filed. In such case, the proof of claim deadline for governmental entities shall be the longer of 180 days after the petition was filed or ninety (90) days after the notice of assets was served or as otherwise provided in the Federal Rules.

Rule 3003-1 **Proofs of Claim in Chapter 11 Cases**. Any entity filing a proof of claim in a chapter 11 case shall file with the claims agent or, if no claims agent is appointed by the Court, the Clerk's Office, the original proof of claim and one (1) copy and shall serve a copy on the trustee, if any. Any entity that files a proof of claim by mail and wishes to receive a clocked-in copy by return mail must include an additional copy of the proof of claim and a self-addressed, postage-paid envelope.

Rule 3007-1 Omnibus Objection to Claims.

(a) Scope of Rule. This Local Rule applies to any objection to the allowance of a claim under an omnibus objection (i.e., an objection to claims asserted by more than one claimant) ("Objection"). To the extent of any inconsistency between this Local Rule and Fed. R. Bankr. P. 3007, this Local Rule governs omnibus objections to claims.

(b) Effect of Rule. In addition to complying with those sections of the Code and those rules of the Fed. R. Bankr. P. generally applicable to an objection to the allowance of a claim, any Objection shall comply with the information and certification requirements listed in Local Rule 3007-1(c)-(f).

(c) Filed v. Scheduled Claim. If a claim has been scheduled on the debtor's schedules of liabilities and is not listed as disputed, contingent or unliquidated and a proof of claim has not been filed under Fed. R. Bankr. P. 3003, 3004 and/or 3005, the debtor may not object to the claim. Instead, the debtor must amend the schedules under Fed. R. Bankr. P. 1009 and provide notice as required by Local Rule 1009-2.

(d) Substantive v. Non-Substantive Objections. An Objection is deemed to be on a substantive basis unless it is based on one or more of the following:

(i) A duplicate claim; provided, however, that a claim filed against two different debtors is not a duplicate claim unless the cases have been substantively consolidated by order of the Court;

(ii) A claim filed in the wrong case;

(iii) An amended or superseded claim;

(iv) A late filed claim;

(v) A claim filed by a shareholder based on ownership of stock; provided, however, that an Objection with respect to a claim filed by a shareholder for damages shall be deemed a substantive Objection;

(vi) A claim that does not have a basis in the debtor's books and records and does not include or attach

sufficient information or documentation to constitute prima facie evidence of the validity and amount of the claim, as contemplated by Fed. R. Bankr. P. 3001(f); provided, however, that if the Court determines that the claim attaches or includes sufficient information or documentation and is otherwise in compliance with applicable rules, then the Objection shall be deemed substantive. Any Objection under this subsection must be supported by an affidavit or declaration that states that affiant or declarant has reviewed the claim and all supporting information and documentation provided therewith, made reasonable efforts to research the claim on the debtor's books and records and believes such documentation does not provide prima facie evidence of the validity and amount of the claim;

(vii) A claim that is objectionable under 11 U.S.C. § 502(e)(1); and

(viii) A claim for priority in an amount that exceeds the maximum amount under 11 U.S.C. § 507 of the Code.

(e) General Requirements for Objections.

(i) Objection. Each Objection shall conform to the following requirements:

(A) Each Objection shall be filed as either substantive or non-substantive, but not both. A particular claim may be subject to both a substantive and a non-substantive Objection;

(B) The title of the Objection shall clearly state whether the Objection is on substantive or non-substantive grounds;

(C) Objections shall be numbered consecutively regardless of basis, i.e., 1st Omnibus (duplicate), 2nd Omnibus (amended and superceded); not 1st Omnibus (duplicate), 1st Omnibus (amended and superceded);

(D) Exhibit(s) of claims to which the Objection relates, which exhibit(s) shall be consistent with Local Rule 3007-1(e)(iii) and must be attached to the Objection; and

(E) The Objection shall also contain a statement by the objector or the objector's counsel that the Objection complies with this Local Rule.

(ii) Affidavit or Declaration. If an affidavit or declaration is filed in support of the Objection, it shall state that the information contained in the exhibit is true and correct to the best of the affiant's or declarant's knowledge and belief.

(iii) Exhibits.

(A) Each exhibit attached to an Objection shall include, at a minimum, the information identified in the following table, with such information entered in the respective boxes as appropriate:

(1) Name of Claimant	(2) Claim Number	(3) Claim Amount	(4) Reason for Disallowance

(B) Each exhibit shall contain only those claims to which there is one common basis for objection (e.g., exhibit A duplicate claims; exhibit B amended or superseded claims).

(C) A claim for which there are two or more bases for objection (e.g., a claim that is both duplicative and late filed) shall be referenced on each applicable exhibit.

(D) Each exhibit shall have the claims listed alphabetically by the last name of the claimant (in the case of an individual) or the name of the entity (in the case of a corporation, partnership, limited liability company, etc.).

(E) If an Objection seeks to reduce the amount of a claim, a column shall be added between columns (3) and (4) titled "Modified Claim Amount" and column (4) shall be changed from "Reason for Disallowance" to "Reason for Modification."

(1) Name of Claimant	(2) Claim Number	(3) Claim Amount	Modified Claim Amount	(4) Reason for Modification

(F) If an Objection seeks to change the classification of a claim, two columns shall be added between columns (3) and (4) titled "Claim Classification Status" and "Modified Classification Status" and column (4) shall be changed from "Reason for Disallowance" to "Reason for Reclassification."

(1) Name of Claimant	(2) Claim Number	(3) Claim Amount	Claim Classification Status	Modified Classification Status	(4) Reason for Reclassification

(G) If an Objection seeks to change the priority of a claim, two columns shall be added between columns (3) and (4) titled "Claim Priority Status" and "Modified Priority Status" and column (4) shall be changed from "Reason for Disallowance" to "Reason for Modification."

(1) Name of Claimant	(2) Claim Number	(3) Claim Amount	Claim Priority Status	Modified Priority Status	(4) Reason for Modification

(H) If an Objection seeks to disallow amended or duplicate claims, the title of column (2) shall be changed from "Claim Number" to "Remaining Claim Number" and a column shall be added between columns (2) and (3) titled "Duplicate or Amended Claim to be Disallowed."

(1) Name of Claimant	(2) Remaining Claim Number	Duplicate or Amended Claim to be Disallowed	(3) Claim Amount	(4) Reason for Disallowance

(I) If an Objection seeks to disallow late filed claims, a column shall be added between columns (1) and (2) titled "Date Claim Filed."

(1) Name of Claimant	Date Claim Filed	(2) Claim Number	(3) Claim Amount	(4) Reason for Disallowance

(J) Where the Objection is based on substantive grounds, the exhibit must include a claim-specific declaration in the column titled "Reason for Disallowance" giving sufficient detail as to why the claim should be disallowed. The following are examples of "sufficient detail" necessary to sustain an Objection on a substantive basis:

(1) If the claim is against a non-debtor entity, then the non-debtor entity must be identified;

(2) If the claim has been paid or satisfied prepetition (not postpetition), then the check number and the date the check was issued must be identified. (An objection to a claim on the basis that the claim has been paid or satisfied postpetition is not a valid objection); and

(3) If the claim includes a postpetition claim, then the date the postpetition claim arose must be identified.

(iv) Proofs of Claim. If the Objection is non-substantive, then copies of the proofs of claim need not be provided to the Court, except that proofs of claim and any attached supporting documentation relating to an Objection based on Local Rule 3007-1(d)(vi) (i.e., a claim without any supporting documents) shall be provided to the Court as set forth in Local Rule 3007-1(e)(iv)(A)-(C). When the Objection is substantive, a copy of the proofs of claim and all supporting documentation shall be provided to the Court as follows:

(A) Proofs of claim shall be in a binder and separated by tabs;

(B) Proofs of claim shall be in the order as listed in the exhibit(s), with additional tabs indicating to which exhibit the claims relate; and

(C) At least fourteen (14) days before the hearing on the Objection, a Notice of Submission of Proofs of Claim is to be filed and delivered to the respective Judge's chambers with copies of the claims (with all attachments) along with the Objection to those claims. The Notice of Submission of Proofs of Claim stating that the claims have been delivered to chambers and that copies can be requested from objector's counsel shall be served upon all parties requesting notice under Fed. R. Bankr. P. 2002.

(v) Notice of Objection to Claim Holder. Each claim holder whose rights are affected by an Objection shall receive a "Notice of Objection to Claim" that shall conform to Local Form 113 or a copy of the Objection.

(f) Requirements Relating to Substantive Objections.

(i) As authorized by Fed. R. Bankr. P. 3007(c), the Court hereby orders that an Objection which is based on substantive grounds may contain more than one but no more than 150 claims, unless the Court orders otherwise.

(ii) No more than two substantive Objections may be filed each calendar month, unless the Court orders otherwise.

(iii) An Objection based on substantive grounds, other than incorrect classification of a claim, shall include all substantive objections to such claim. All Objections based on incorrect classification of a claim shall ~~(A) be separately filed, (B)~~ provide in the title (or otherwise conspicuously state) that substantive rights may be affected by this Objection and by any further Objection that may be filed and

~~(C)~~ shall otherwise comply with these Local Rules other than (i) and (ii) above.

(iv) Fed. R. Bankr. P. 7015 shall apply to any substantive Objection and upon the filing of a response to such substantive Objection, the objector may only amend such Objection upon leave of court or written consent of the claimant; provided, however, that if an Objection to a particular claim is determined to be substantive under Local Rule 3007-1(d)(vi) or the claimant filed a response to an Objection made under Local Rule 3007-1(d)(vi) and the response included supporting documentation or information, then the Objection may be amended without written consent or leave of Court.

(v) The Court will not consider any substantive Objection to personal injury or wrongful death claims that would be in violation of 28 U.S.C. § 157(b)(2)(B).

(g) Pro Se. Any claimant may participate pro se (and telephonically) at a hearing on an Objection to his or her claim by following the telephonic appearance procedures located on the Court's website.

(h) Responses and Replies to Objection.

(i) Response Deadline. Any response to an omnibus objection shall be due no later than seven (7) days before the hearing date. See also Del. Bankr. L.R. 9006-1.

(ii) Reply. Reply papers may be filed and, if filed, shall be served so as to be received by 4:00 p.m. prevailing Eastern Time the day prior to the deadline for filing the agenda. See also Del. Bankr. L.R. 9006-1.

(i) Hearings on Objections and Responses. Hearings on Objections, and any response thereto, may ordinarily be held on the regularly scheduled omnibus hearing dates in chapter 11 cases, consistent with these Local Rules. When the Court determines that the hearing on a particular claim Objection will require substantial time for the presentation of argument and/or evidence, then the Court, in its discretion, may reschedule the hearing on that claim

for a different hearing date and time. The parties may also request that a separate hearing on an Objection(s) based on substantive grounds be separately scheduled for a date and time convenient to the Court and the parties.

Rule 3011-1 Deposit or Release of Funds Paid into the Registry of the Court. The deposit or release of funds paid into the Registry of the Court shall be by motion in accordance with Del. Bankr. L.R. 9013-1.

(a) Deposit of Funds. A motion for the deposit of funds paid into the Registry of the Court shall specify the amount to be deposited and the reason for the deposit. If the deposit is for unclaimed distributions, then the movant shall also specify the list of payees (with the last four digits of taxpayer identification number, if available), the amount due to each payee and why the distributions did not occur to the payees.

(b) Withdrawal of Funds. In addition to the requirements set forth in 28 U.S.C. § 2042, any motion for the withdrawal of funds paid into the Registry of the Court shall (i) include a copy of the trustee's motion to deposit unclaimed funds into the registry of the Court, (ii) specify the amount to be withdrawn and state the name, address and the last four digits of taxpayer identification number of any entity to which funds are paid, (iii) specify the reason for the motion and proof of the right to payment for the entity to be paid and (iv) include a proposed order stating that the requested funds to be released be made payable to "the claimant, (name of claimant), c/o name of fund finder." In addition, the motion shall be brought by (i) an attorney admitted to practice before the District Court or admitted pro hac vice in this Court for the case at hand, (ii) the claimant or its legal successor, ~~or~~ (iii) the assignee of the claimant or its legal successor, or (iv) the attorney in fact for the claimant or its legal successor.

(c) Service. Any such motion for the deposit or withdrawal of funds shall be served upon the United States Trustee, the debtor or trustee, if any, and the original claimant or any assignee thereof. If the funds have been deposited with the Court for at least five years, the motion for the withdrawal of funds shall be noticed to the United States attorney, in accordance with 28 U.S.C. § 2042.

Rule 3011-2 **Motion for Release of Funds Paid into the Registry of the Court - Confidentiality**. Any motion for release of funds previously paid into the registry of the Court or any exhibit in support thereof that contains confidential information regarding the claimant shall be filed with the Clerk with all confidential information redacted. An unredacted copy of such motion or exhibit shall be delivered in a sealed envelope to the assigned judge.

Rule 3015-1 <u>Chapter 12 Plan and Confirmation Requirements</u>.

(a) If a Chapter 12 Plan is filed with the petition, the Court will serve the Plan. If a Chapter 12 Plan is filed after the petition date, the debtor shall file and serve upon the Chapter 12 trustee, all creditors, and parties requesting service, the proposed plan and a notice scheduling the hearing to consider confirmation. The notice shall include the time fixed for filing objections to the proposed plan that is not less than seven (7) days prior to the hearing. Unless the Court fixes a different time, the notice of the hearing shall be given not less than twenty-eight (28) days before the confirmation hearing.

(b) Objections to confirmation of the plan shall be filed with the Court and served on the debtor, the debtor's attorney, the Chapter 12 trustee, and parties requesting service not less than seven (7) days prior to the confirmation hearing.

(c) If an amended plan is filed before the scheduled confirmation hearing, the debtor shall serve upon the Chapter 12 trustee, all creditors, and parties requesting service, the amended plan with a new notice of hearing for the consideration of the amended chapter 12 plan, in such manner as to ensure that such parties receive the amended plan and notice not less than seven (7) days prior to the confirmation hearing.

(d) The debtor shall prepare a proposed Confirmation Order that recites the requirements of the plan and the Court's findings under 11 U.S.C. § 1225.

Rule 3017-1 Approval of Disclosure Statement.

(a) Hearing on Disclosure Statement. Upon the filing of a disclosure statement, the proponent of the plan shall obtain hearing and objection dates from the Court and shall provide notice of those dates in accordance with Fed. R. Bankr. P. 3017.

(b) Voting Procedures. The plan proponent shall timely file a motion to be heard at the disclosure statement hearing for approval of the voting procedures, including the form of ballots, the voting agent and the time and manner of voting.

(c) Service of Disclosure Statements. When a party in interest makes a written request of a plan proponent for service of a copy of the disclosure statement or plan under Fed. R. Bankr. P. 3017(a), service of that disclosure statement or plan shall be at the expense of the plan proponent.

Rule 3023-1 **Special Procedures in Chapter 13 Matters**. This Local Rule shall govern all cases filed under chapter 13 of the Code.

(a) Section 1326 Payments.

(i) The debtor shall, after commencing timely payments as required by 11 U.S.C. § 1326(a)(1), continue to make subsequent payments to the trustee in accordance with the proposed plan until the trustee or Court directs otherwise.

(ii) If the proposed plan provides for payment of secured debt through the plan and the debtor is making timely pre-confirmation payments to the trustee, the debtor need not continue to make regular payments directly on such secured debt. If the proposed plan provides for direct payments to a secured creditor or if no proposed plan is filed on the petition date, the debtor shall continue to make regular payments to such secured creditor(s) as and when due.

(b) Chapter 13 Plan and Plan Analysis.

(i) Filing of Plan. On the petition date, or within fourteen (14) days of conversion to chapter 13, the debtor shall file a proposed plan substantially in the form of Local Form 103, together with a plan analysis substantially in the form of Local Form 103A. If a plan or plan analysis is filed after such time, the debtor shall serve the plan and plan analysis upon all creditors in accordance with Fed. R. Bankr. P. 2002 and file a certificate of service with the Court.

(ii) Mortgage Claims and Procedures.

(A) If servicers/mortgagees include a flat fee cost in the proof of claim for review of the chapter 13 plan prior to confirmation and for the preparation of the proof of claim, it shall be reasonable and fairly reflect the attorney's fee included. A postpetition charge for the review of a chapter 13 plan and/or the preparation of a proof of claim may be asserted in the servicer/mortgagee's proof of claim that asserts prepetition claims;

(B) If servicers/mortgagees include attorney fees for pursuing relief from stay, such fees shall be clearly identified as well as how such fees are to be paid in any agreed order resolving a Motion for Relief from Stay or any other matter before the court;

(C) Servicers/mortgagees shall analyze the loan for escrow changes upon the filing of a bankruptcy case and each year thereafter. A copy of the escrow analysis shall be provided to the debtor and filed with the Court by the servicers/mortgagees or their representative each year;

(D) Servicers/mortgagees shall not include any prepetition cost or fees or prepetition negative escrow in any postpetition escrow analysis. These amounts shall be included in the prepetition claim amount unless the payment of such fee or cost was actually made by the servicer;

(E) Servicers/mortgagees shall attach a statement to a formal notice of payment change outlining all postpetition contractual costs and fees not previously approved by the court and due and owing since the prior escrow analysis or date of filing, whichever is later. This statement need not contain fees, costs, charges and expenses that are awarded or approved by the Bankruptcy Court order. In absence of any objection or challenge to such fees, the Debtor shall take appropriate steps to cause such fees to be paid as authorized by mortgage holder's note, security agreement and state law;

(F) Servicers/mortgagees shall monitor postpetition payments. If the mortgage is paid postpetition current, then the servicers/mortgagees shall not seek to recover late fees. No late fees shall be recovered or demanded for systemic delay but shall be limited to actual debtor default;

(G) Prepetition payments shall be tracked as applied to prepetition arrears and postpetition payments shall be tracked as applied to postpetition ongoing mortgage payments;

(H) Servicers/mortgagees shall file a notice and reason of any payment change with the court and provide same to the debtor;

(I) Servicers/mortgagees are required, at least annually, to file with the Court a notice of any protective advances made in reference to a mortgage claim, such as non-escrow insurance premiums or taxes. Such notice shall be provided to the debtors and filed with the Court;

(J) If appropriate, servicers/mortgagees should review the Trustee's website or NDC (National Data Center) to reconcile any payment discrepancies with their system prior to the filing of a Motion for Relief from Stay;

(K) Servicers/mortgagees shall clearly identify, in their proofs of claim, if the loan is an escrowed or non-escrowed loan and break out the monthly payment consisting of principal, interest, escrow and PMI components;

(L) Servicers/mortgagees shall attach to their proofs of claim or otherwise identify non-traditional or non-conforming mortgage loans in their proof of claim. Servicers/mortgagee's holding loans with options should identify on the proof of claim the type of loan as well as the various contractual payment options available during the bankruptcy to the borrower/debtor;

(M) Mortgage Arrearage Claims: When filing their initial proofs of claims, servicers/mortgagees should state their mortgage arrearage up to the date of the filing date of the bankruptcy petition, unless the plan or Trustee indicates otherwise, or local rule provides otherwise. The Chapter 13 Trustee will use the mortgage

arrearage claim to set up the arrearage balance on the claim, which in turn will show up as the "balance" on the voucher check, absent objection to the claim;

(N) ~~Upon consummation of the Plan, and~~ Within 30 days after the debtor completes all payments under the plan, the Trustee will file and serve on the Servicer/mortgagee, debtor and debtor's counsel a Notice of Final Cure and Completion of Plan Payments. Within 21 days of service of this Notice the debtor shall file an executed Local Form 104, and the servicer/mortgagee shall file and serve on the debtor, debtor's counsel and the Trustee an itemized statement as required under Fed. Bankr. Rule 3002.1(g) indicating whether it agrees that the debtor has paid in full the amount required to cure any default and whether the debtor is otherwise current on all payments. Absence of the filing of the servicer/mortgagee statement shall be deemed consent to the contents of the Notice of Final Cure and Completion of Plan Payments. Thereafter, upon issuance of a Discharge, a servicer/mortgagee shall adjust its permanent records to reflect the current nature of Debtor(s) account. Servicers/mortgagees should review the Trustee's website or NDC at the close or discharge of the bankruptcy to reconcile any payment discrepancies with their system. Provided, however, that if Debtor elected to defer the payment of approved post-petition charges until the conclusion of the case's administration, then a servicer/mortgagee shall be authorized to collect said sums in accordance with the provisions of its note, security agreement and state law. Otherwise, the mortgage shall be reinstated according to its original terms, extinguishing any right of the servicer/mortgagee or its assignee(s) to recover any amounts alleged to have arisen prior to the date of the Trustee's filing of a Request for Discharge of Debtor(s) and entry of Order deeming any mortgage current;

(O) Prior to filing a motion (other than a Motion for Relief from Stay) to enforce any mortgage claim, the notice requirements hereunder or plan provisions governing mortgage claims, the moving party shall attempt to confer in good faith with the affected parties in an effort to resolve the dispute without court actions. All such motions shall include a certification of counsel that a good faith attempt to confer was so made; and

(P) All statements, notices, escrow analysis, or similar documents required under this Local Rule to be filed with the Court by servicers/mortgagees need not be signed or filed by an attorney or an attorney of record.

(c) Amended Plans.

(i) If an amended plan is filed before the scheduled confirmation hearing on the previously filed plan, it shall be accompanied by a certificate of service. The certificate of service should evidence that a copy of the amended plan has been served upon each of the creditors listed in the chapter 13 Schedules and Statement of Financial Affairs, the Chapter 13 Trustee and the United States Trustee, in such a manner so as to ensure that such parties receive the amended plan no less than seven (7) days prior to the confirmation hearing. When a plan is confirmed on an interim basis, any subsequent plan filed prior to the final confirmation should be filed and titled an "Amended Plan" and should be noticed by the debtor or debtor's counsel. A certificate of service therefor should be filed with the Court.

(ii) Any motion to modify a plan after confirmation shall be noticed by the Court.

(d) Distribution. Before commencing distribution of the debtor's funds under a confirmed plan, the trustee shall mail to the debtor a copy of the debtor's master report reflecting those creditors that have or have not filed proofs of claim. The trustee shall not distribute funds to any creditor unless a proof of claim has been filed and deemed allowed or allowed by Court order.

(e) Plan Funding. In all plans, funding shall be by payroll deduction unless otherwise agreed by the trustee or ordered by the Court upon a demonstration of cause shown by the debtor. A wage order must be submitted by the debtor at the time the plan is confirmed by the Court.

(f) Confirmation. If timely pre-confirmation payments are made to the trustee and no objections are received, the plan may be confirmed without further notice or hearing upon the filing of a certificate by the trustee recommending that the Court confirm the plan.

(g) Discharge. Debtor and debtor's counsel shall file with the Court a Certification substantially in the form of Local Form 104 in order to comply with 11 U.S.C. § 1328 and obtain a discharge upon completion of all plan payments. Failure to file the Certification may be a basis for dismissal of the case.

PART IV. THE DEBTOR: DUTIES AND BENEFITS

Rule 4001-1 Procedure on Request for Relief from the Automatic Stay of 11 U.S.C. § 362(a).

(a) Service. Upon the filing of a motion seeking relief from the automatic stay under 11 U.S.C. § 362, the movant shall file and serve a notice of hearing substantially in compliance with Local Form 106A. In chapter 11 cases, an individual seeking relief from the automatic stay to pursue a personal injury or wrongful death action shall serve counsel for the debtor or trustee, counsel for all official committees, counsel for the Debtor-in-Possession financing lenders and any other party directly affected by the motion. In all other cases, the motion shall be served on counsel for the debtor, counsel for all official committees, any trustee, all parties requesting notices and all known parties having an interest in the subject property or relief requested.

(b) Scheduling. In chapter 11 cases where omnibus hearing dates have been scheduled by the Court, the movant may notice its motion for the earliest omnibus hearing date that provides sufficient notice in accordance with Local Rule 9006-1(c). If that omnibus hearing date is not within thirty (30) days of the filing of the motion, the movant shall obtain a date for the hearing from chambers that is within thirty (30) days of the filing of the motion, or the movant is deemed to have consented to the stay remaining in effect until such time the motion can be heard. If the movant consents to a continuance of the hearing on the motion, then the movant is deemed to consent to the stay remaining in effect until the adjourned hearing date on the motion. In all chapter 7 and chapter 13 cases, the movant shall obtain a hearing date from the Court's website in advance of filing and serving its motion and notice of motion.

(c) Supporting Documentation. With respect to a motion for relief from stay where the movant is seeking to foreclose on its collateral:

(i) The movant shall file the following documents with the motion:

(A) An affidavit and supporting exhibits containing the following data, if applicable:

(1) True copies of all notes, bonds, mortgages, security agreements, financing statements, assignments and every other document upon which the movant will rely at the time of hearing;

(2) A statement of amount due, including a breakdown of the following categories:

(a) Unpaid principal;

(b) Accrued interest to and from specific dates;

(c) Late charges to and from specific dates;

(d) Attorneys' fees;

(e) Advances for taxes, insurance and the like;

(f) Unearned interest; and

(g) Any other charges;

(3) A per diem interest factor; and

(4) Movant's good faith estimate of the value of the collateral as of the petition date of the respective debtor.

(ii) At least seven (7) days prior to the hearing, any party opposing the motion shall file with the Court and serve on the movant and all parties required to be served under this Rule the following documents:

(A) A response to the motion;

(B) An affidavit stating the responding party's good faith estimate of (1) the amount due to the movant and (2) the value of the collateral as of the petition date of the respective debtor; and

(C) A statement as to how the movant can be adequately protected if the stay is to be continued.

(iii) The hearing date specified in the notice of the motion will be a preliminary hearing at which the Court may (A) hear oral argument, (B) determine whether an evidentiary or other final hearing is necessary, (C) set a date by which the parties shall exchange supporting documentation, (D) set a date by which the parties must produce the report of any appraiser whose testimony is to be presented at the final hearing and/or (E) set a date and time for a final hearing.

(d) Conference. The attorneys for the parties shall confer with respect to the issues raised by the motion in advance of the hearing for the purpose of determining whether a consensual order may be entered and/or for the purpose of stipulating to relevant facts, such as the value of the property and the extent and validity of any security instrument.

Rule 4001-2 Cash Collateral and Financing Orders.

(a) Motions. Except as provided herein and elsewhere in these Local Rules, all cash collateral and financing requests under 11 U.S.C. §§ 363 and 364 shall be heard by motion filed under Fed. R. Bankr. P. 2002, 4001 and 9014 ("Financing Motions").

(i) Provisions to be Highlighted. All Financing Motions must (a) recite whether the proposed form of order and/or underlying cash collateral stipulation or loan agreement contains any provision of the type indicated below, (b) identify the location of any such provision in the proposed form of order, cash collateral stipulation and/or loan agreement and (c) justify the inclusion of such provision:

(A) Provisions that grant cross-collateralization protection (other than replacement liens or other adequate protection) to the prepetition secured creditors (i.e., clauses that secure prepetition debt by postpetition assets in which the secured creditor would not otherwise have a security interest by virtue of its prepetition security agreement or applicable law);

(B) Provisions or findings of fact that bind the estate or other parties in interest with respect to the validity, perfection or amount of the secured creditor's prepetition lien or the waiver of claims against the secured creditor without first giving parties in interest at least seventy-five (75) days from the entry of the order and the creditors' committee, if formed, at least sixty (60) days from the date of its formation to investigate such matters;

(C) Provisions that seek to waive, without notice, whatever rights the estate may have under 11 U.S.C. § 506(c);

(D) Provisions that immediately grant to the prepetition secured creditor liens on the

debtor's claims and causes of action arising under 11 U.S.C. §§ 544, 545, 547, 548 and 549;

(E) Provisions that deem prepetition secured debt to be postpetition debt or that use postpetition loans from a prepetition secured creditor to pay part or all of that secured creditor's prepetition debt, other than as provided in 11 U.S.C. § 552(b);

(F) Provisions that provide disparate treatment for the professionals retained by a creditors' committee from those professionals retained by the debtor with respect to a professional fee carve-out; and

(G) Provisions that prime any secured lien without the consent of that lienor.

(ii) All Financing Motions shall also provide a summary of the essential terms of the proposed use of cash collateral and/or financing (e.g., the maximum borrowing available on a final basis, the interim borrowing limit, borrowing conditions, interest rate, maturity, events of default, use of funds limitations and protections afforded under 11 U.S.C. §§ 363 and 364).

(b) Interim Relief. When Financing Motions are filed with the Court on or shortly after the petition date, the Court may grant interim relief pending review by interested parties of the proposed Debtor-in-Possession financing arrangements. Such interim relief shall be only what is necessary to avoid immediate and irreparable harm to the estate pending a final hearing. In the absence of extraordinary circumstances, the Court shall not approve interim financing orders that include any of the provisions previously identified in Local Rule 4001-2(a)(i)(A)-(F).

(c) Final Orders. A final order shall be entered only after notice and a hearing under Fed. R. Bankr. P. 4001 and Local Rule 2002-1(b). Ordinarily, the final hearing shall be held at least seven (7) days following the organizational meeting of the creditors' committee contemplated by 11 U.S.C. § 1102.

Rule 4001-3 **Investment in Money Market Funds**. There is "cause" for relief from the requirements of 11 U.S.C. § 345(b) where money of the estate is invested in an open-end management investment company, registered under the Investment Company Act of 1940, that is regulated as a "money market fund" pursuant to Rule 2a-7 under the Investment Company Act of 1940; so long as the debtor has filed with the Court (i) a statement identifying the fund; and (ii) the fund's certification, which shall be accompanied by its currently effective prospectus as filed with the Securities and Exchange Commission, that the fund:

(a) Invests exclusively in United States Treasury bills and United States Treasury Notes owned directly or through repurchase agreements;

(b) Has received the highest money market fund rating from a nationally recognized statistical rating organization, such as Standard & Poor's or Moody's;

(c) Has agreed to redeem fund shares in cash, with payment being made no later than the business day following a redemption request by a shareholder, except in the event of an unscheduled closing of Federal Reserve Banks or the New York Stock Exchange; and

(d) Has adopted a policy that it will notify its shareholders sixty (60) days prior to any change in its investment or redemption policies under (a) and (c) above.

Rule 4001-4 Procedures on Motion for Continuation or Imposition of Automatic Stay.

(a) Contents of motion. A motion for continuation of the automatic stay pursuant to 11 U.S.C. § 362(c)(3)(B), or a request for the imposition of the automatic stay pursuant to 11 U.S.C. § 362(c)(4)(B), shall be a contested matter commenced by the filing and service of a motion in accordance with Fed. R. Bankr. P. 9014. The objection deadline and hearing date shall be fixed in accordance with Del. Bankr. L.R. 9006-1(c), except as otherwise provided by the chambers procedures of the judge assigned to preside over the debtor's bankruptcy case. The motion shall contain allegations of specific fact supporting the requested relief, verified by an affidavit or declaration under oath upon the declarant's personal knowledge. Any relief sought by the movant or requesting party other than the continuation or imposition of the automatic stay shall not be included in the motion but may be sought in a separate request for relief filed in accordance with Fed. R. Bankr. P. 9014 and/or Fed. R. Bankr. P. 7001, as applicable.

(b) Notice. In addition to any requirements under applicable law and these local rules, including Local Rule 1007-2, with respect to a party against which the continuation or imposition of the automatic stay is sought, notice and copies of a motion made in accordance with subparagraph (a) of this rule shall be served upon (i) any attorney that represented such party in any bankruptcy case pending in connection with the debtor within one year before the filing of the petition commencing the case, and (ii) any attorney that represented such party in any foreclosure, repossession, or other action to enforce a claim against property of the debtor within one year before the filing of the petition commencing the case.

Rule 4002-1 Duties of Debtor under 11 U.S.C. § 521 in Chapter 7 and 13 Cases.

(a) The debtor shall deliver to the interim trustee or the standing Chapter 13 Trustee no later than the first date set for the meeting of creditors under 11 U.S.C. § 341 all books, records and papers, including appraisals, relating to property of the estate as well as copies of recorded documents, e.g., deeds and mortgages.

(b) No later than the first date set for the meeting of creditors under 11 U.S.C. § 341, the debtor shall advise the interim trustee or the standing Chapter 13 Trustee in writing of the payoff amounts on all secured debts.

(c) Immediately upon the entry of an order for relief, the debtor shall give written notice to any court or tribunal where an action is pending against the debtor and to the parties and counsel involved in that action. If an action is commenced subsequent to the date of the order for relief, the debtor shall give similar written notice to the court or tribunal and to all parties and counsel involved.

(d) Immediately upon the entry of an order for relief, the debtor shall give written notice to any creditor with a garnishment order, any garnishee defendant (other than the debtor's employer) and any creditor who the debtor anticipates may seek a garnishment order.

Rule 4003-1 Exemptions.

(a) Amendment to Claim of Exemptions. An amendment to a claim of exemptions under Fed. R. Bankr. P. 1009 and 4003 shall be filed and served by the debtor on the trustee, the United States Trustee and all creditors.

(b) Automatic Extension of Time to File Objections to Claim of Exemptions in Event of Amendment to Schedules to Add a Creditor. If the schedules are amended to add a creditor, and the amendment is filed and served either (i) less than thirty (30) days prior to the expiration of the time set forth in Fed. R. Bankr. P. 4003(b) for the filing of objections to the list of property claimed as exempt or (ii) at any time after such filing deadline, the added creditor shall have thirty (30) days from service of the amendment to file objections to the list of property claimed as exempt.

Rule 4004-1 **Automatic Extension of Time to File Complaint Objecting to Discharge in Event of Amendment**. If the schedules are amended to add a creditor, and the amendment is filed and served either (a) less than sixty (60) days prior to the expiration of the time set forth in Fed. R. Bankr. P. 4004(a) for the filing of a complaint objecting to discharge or (b) at any time after such filing deadline, the added creditor shall have sixty (60) days from service of the amendment to file a complaint objecting to discharge. Such circumstances shall be deemed to be "cause" for an extension and no motion to extend shall be necessary.

Rule 4007-1 **Automatic Extension of Time to File Complaint to Determine Dischargeability of a Debt in Event of Amendment**. If the schedules are amended to add a creditor and the amendment is filed and served either (a) less than sixty (60) days prior to the expiration of the time set forth in Fed. R. Bankr. P. 4007 for the filing of a complaint to obtain a determination of the dischargeability of any debt or (b) at any time after such filing deadline, the added creditor shall have sixty (60) days from service of the amendment to file a complaint objecting to the dischargeability of its claim. Such circumstances shall be deemed to be "cause" for an extension and no motion to extend shall be necessary.

PART V. COURTS AND CLERKS

Rule 5001-2 Clerk's Office Location; Hours; After Hours Filings.

(a) Clerk's Office Location and Hours. The Clerk's Office is located at 824 Market Street, Third Floor, Wilmington, Delaware 19801. The normal business hours of the Clerk's Office shall be Monday through Friday from 8:00 a.m. to 4:00 p.m. prevailing Eastern Time, except on legal holidays and as otherwise noticed by the Court's website or at the Clerk's Office.

(b) After Hours Filings. When the Clerk's Office is closed, papers not filed electronically may be filed with the Court by depositing them in the night depository maintained by the Clerk and shall be deemed filed as of the date and time stamped thereon. Each document deposited in the night depository shall be stamped in the upper right-hand corner of the first page of the document. The night depository is not to be used in the event that electronic filing is not available. In such instances, the Clerk's Office Procedures will govern.

Rule 5005-2 **Facsimile Documents**. Documents may not be transmitted by facsimile directly to the Clerk's Office for filing. However, copies of facsimile documents shall be accepted for filing, provided that the legibility is reasonably equivalent to the original. The original of any faxed document, including the original signature of the attorney, party or declarant, shall be maintained by the filing party for a period not less than two (2) years from the later of the date of the closure of the bankruptcy case or other proceeding in which the document was filed, unless otherwise ordered by the Court.

Rule 5005-4 **Electronic Filing**. The Court has designated all cases to be assigned to the Case Management/Electronic Case Filing System ("CM/ECF"). Unless otherwise expressly provided in these Local Rules or in exceptional circumstances preventing a registered CM/ECF user from filing electronically, all petitions, complaints, motions, briefs and other pleadings and documents required to be filed with the Court must be electronically filed by a registered CM/ECF user.

Attorneys who intend to practice in this Court (including those regularly admitted or admitted pro hac vice to the bar of the Court and attorneys authorized to represent the United States without being admitted to the bar) should register as CM/ECF users. United States Trustees, private trustees and others as the Court deems appropriate should also register as CM/ECF users. Registration forms, requirements and procedural information for CM/ECF are available on the Court's website.

By registering and becoming a CM/ECF user, one is consenting to receipt of electronic notices issued by the Court in accordance with Local Rule 9036-1. However, by registering and becoming a registered CM/ECF user, one is not consenting to service under these Rules, Fed. R. Bankr. P. 7005, the Fed. R. Civ. P. or any other rule pertaining to service. To consent in a particular case or adversary proceeding to service by receipt of the ECF notices or by email only, a party needs to complete Local Form 114 Consent to Service of Documents by Receipt of ECF Notice or Email in Chapter 11 Cases.

All petitions, complaints, motions, briefs and other pleadings and documents to be filed electronically with the Court shall be converted to PDF, electronically, as opposed to scanning a document, where practicable.

All electronically filed pleadings ~~that require original signatures~~ shall be maintained in paper form by the CM/ECF user electronically filing such pleadings~~. The CM/ECF user shall maintain a copy of such pleadings~~ with ~~the~~an original signature~~(s)~~ for a period not less than two (2) years from the later of the date of the closure of the bankruptcy case or other proceeding in which the document was filed, unless otherwise ordered by the Court.

Rule 5009-1 Closing of Chapter 11 Cases.

(a) Motion. Upon written motion, a party in interest may seek the entry of a final decree at any time after the confirmed plan has been substantially consummated provided that all required fees due under 28 U.S.C. § 1930 have been paid. Such motion shall include a proposed final decree order that (i) orders the closing of the lead case and any jointly administered cases and (ii) identifies the case name and the case number of all cases to be closed under the order.

(b) Service. A motion for the entry of a final decree shall be served upon the debtor, the trustee, if any, the United States Trustee, all official committees and all creditors who have filed a request for notice under Fed. R. Bankr. P. 2002 and Local Rule 9013.

(c) Final Report. The debtor (or trustee, if any) shall file a final report and account in the form prescribed by the United States Trustee on or before fourteen (14) days prior to the hearing on any motion to close the case.

Rule 5009-2 Closing of Chapter 7 Cases.

(a) Final Report and Account. The notice given by the trustee of the filing of a final report and account in the form prescribed by the United States Trustee in a chapter 7 case shall have on its face in bold print the following language or words of similar import:

> **A PERSON SEEKING: (1) AN AWARD OF COMPENSATION OR REIMBURSEMENT OF EXPENSES OR (2) PAYMENT OR REIMBURSEMENT FOR EXPENSES INCURRED IN THE ADMINISTRATION OF THE CHAPTER 7 ESTATE SHALL FILE A MOTION WITH THE CLERK AND SERVE A COPY ON THE TRUSTEE AND THE UNITED STATES TRUSTEE NO LATER THAN TWENTY-ONE (21) DAYS PRIOR TO THE DATE OF THE HEARING ON THE TRUSTEE'S FINAL ACCOUNT. FAILURE TO FILE AND SERVE SUCH A MOTION WITHIN THAT TIME MAY RESULT IN THE DISALLOWANCE OF FEES AND EXPENSES.**

(b) Closing Reports in Chapter 7 Asset and No Asset Cases. In a chapter 7 asset case, the trustee shall serve the original closing report (in a form designated by the United States Trustee), together with the affidavit of final distribution, upon the United States Trustee. After the United States Trustee's review of the closing report is completed, the United States Trustee shall file the closing report with the Clerk. In a chapter 7 no asset case, the trustee shall file the original closing report (in a form designated by the United States Trustee) with the Clerk, and serve a copy upon the United States Trustee.

Rule 5011-1 **Motions for Withdrawal of Reference from Bankruptcy Court**. A motion to withdraw the reference of a matter or proceeding shall be filed with the Clerk. The Clerk shall transmit such motion to the Clerk of the District Court for disposition by the District Court. The movant shall concurrently file with the Clerk a motion for a determination by the Bankruptcy Court with respect to whether the matter or proceeding is core or non-core. All briefing shall be governed by the rules of the District Court, including those rules governing timing, unless otherwise ordered by the Court.

PART VI. COLLECTION AND LIQUIDATION OF THE ESTATE

Rule 6004-1 Sale and Sale Procedures Motions.

(a) Applicability of Rule. Except as otherwise provided in these Local Rules, this rule applies to motions to sell property of the estate under Bankruptcy Code section 363(b) ("Sale Motions") and motions seeking approval of sale, bid or auction procedures in anticipation of or in conjunction with a Sale Motion ("Sale Procedures Motions").

(b) Sale Motions. Except as otherwise provided in these Local Rules, the Code, the Bankruptcy Rules or an Order of the Court, all Sale Motions shall attach or include the following:

(i) A copy of the proposed purchase agreement, or a form of such agreement substantially similar to the one the debtor reasonably believes it will execute in connection with the proposed sale;

(ii) A copy of a proposed form of sale order;

(iii) A request, if necessary, for the appointment of a consumer privacy ombudsman under Bankruptcy Code section 332; and

(iv) Provisions to be Highlighted. The Sale Motion must highlight material terms, including but not limited to (a) whether the proposed form of sale order and/or the underlying purchase agreement constitutes a sale or contains any provision of the type set forth below, (b) the location of any such provision in the proposed form of order or purchase agreement, and (c) the justification for the inclusion of such provision:

(A) Sale to Insider. If the proposed sale is to an insider, as defined in Bankruptcy Code section 101(31), the Sale Motion must (a) identify the insider, (b) describe the insider's relationship to the debtor, and (c) set forth any measures taken to ensure the fairness of the sale process and the proposed transaction.

(B) Agreements with Management. If a proposed buyer has discussed or entered into any

agreements with management or key employees regarding compensation or future employment, the Sale Motion must disclose (a) the material terms of any such agreements, and (b) what measures have been taken to ensure the fairness of the sale and the proposed transaction in the light of any such agreements.

(C) Releases. The Sale Motion must highlight any provisions pursuant to which an entity is being released or claims against any entity are being waived or otherwise satisfied.

(D) Private Sale/No Competitive Bidding. The Sale Motion must disclose whether an auction is contemplated, and highlight any provision in which the debtor has agreed not to solicit competing offers for the property subject to the Sale Motion or to otherwise limit shopping of the property.

(E) Closing and Other Deadlines. The Sale Motion must highlight any deadlines for the closing of the proposed sale or deadlines that are conditions to closing the proposed transaction.

(F) Good Faith Deposit. The Sale Motion must highlight whether the proposed purchaser has submitted or will be required to submit a good faith deposit and, if so, the conditions under which such deposit may be forfeited.

(G) Interim Arrangements with Proposed Buyer. The Sale Motion must highlight any provision pursuant to which a debtor is entering into any interim agreements or arrangements with the proposed purchaser, such as interim management arrangements (which, if out of the ordinary course, also must be subject to notice and a hearing under section 363(b) of the Bankruptcy Code) and the terms of such agreements.

(H) Use of Proceeds. The Sale Motion must highlight any provision pursuant to which a debtor proposes to release sale proceeds on or after the closing without further Court order,

or to provide for a definitive allocation of sale proceeds between or among various sellers or collateral.

(I) Tax Exemption. The Sale Motion must highlight any provision seeking to have the sale declared exempt from taxes under section 1146(a) of the Bankruptcy Code, the type of tax (e.g., recording tax, stamp tax, use tax, capital gains tax) for which the exemption is sought. It is not sufficient to refer simply to "transfer" taxes and the state or states in which the affected property is located.

(J) Record Retention. If the debtor proposes to sell substantially all of its assets, the Sale Motion must highlight whether the debtor will retain, or have reasonable access to, its books and records to enable it to administer its bankruptcy case.

(K) Sale of Avoidance Actions. The Sale Motion must highlight any provision pursuant to which the debtor seeks to sell or otherwise limit its rights to pursue avoidance claims under chapter 5 of the Bankruptcy Code.

(L) Requested Findings as to Successor Liability. The Sale Motion should highlight any provision limiting the proposed purchaser's successor liability.

(M) Sale Free and Clear of Unexpired Leases. The Sale Motion must highlight any provision by which the debtor seeks to sell property free and clear of a possessory leasehold interest, license or other right.

(N) Credit Bid. The Sale Motion must highlight any provision by which the debtor seeks to allow credit bidding pursuant to Bankruptcy Code section 363(k).

(O) Relief from Bankruptcy Rule 6004(h). The Sale Motion must highlight any provision whereby the debtor seeks relief from the ten-day stay imposed by Bankruptcy Rule 6004(h).

(c) Sale Procedures Motions. A debtor may file a Sale Procedures Motion seeking approval of an order (a "Sale Procedures Order") approving bidding and auction procedures either as part of the Sale Motion or by a separate motion filed in anticipation of an auction and a proposed sale.

(i) Provisions to Highlight. The Sale Procedures Motion should highlight the following provisions in any Sale Procedures Order:

(A) Provisions Governing Qualification of Bidders. Any provision governing an entity becoming a qualified bidder, including but not limited to, an entity's obligation to:

(1) Deliver financial information by a stated deadline to the debtor and other key parties (ordinarily excluding other bidders).

(2) Demonstrate its financial wherewithal to consummate a sale.

(3) Maintain the confidentiality of information obtained from the debtor or other parties or execute a non-disclosure agreement.

(4) Make a non-binding expression of interest or execute a binding agreement.

(B) Provisions Governing Qualified Bids. Any provision governing a bid being a qualified bid, including, but not limited to:

(1) Any deadlines for submitting a bid and the ability of a bidder to modify a bid not deemed a qualified bid.

(2) Any requirements regarding the form of a bid, including whether a qualified bid must be (a) marked against the form of a "stalking horse" agreement or a template of the debtor's preferred sale terms, showing amendments and other modifications (including price and other terms), (b) for all of the same assets or may be for less

than all of the assets proposed to be acquired by an initial, or "stalking horse", bidder or (c) remain open for a specified period of time.

(3) Any requirement that a bid include a good faith deposit, the amount of that deposit and under what conditions the good faith deposit is not refundable.

(4) Any other conditions a debtor requires for a bid to be considered a qualified bid or to permit a qualified bidder to bid at an auction.

(C) Provisions Providing Bid Protections to "Stalking Horse" or Initial Bidder. Any provisions providing an initial or "stalking horse" bidder a form of bid protection, including, but not limited to the following:

(1) No-Shop or No-Solicitation Provisions. Any limitations on a debtor's ability or right to solicit higher or otherwise better bids.

(2) Break-Up/Topping Fees and Expense Reimbursement. Any agreement to provide or seek an order authorizing break-up or topping fees and/or expense reimbursement, and the terms and conditions under which any such fees or expense reimbursement would be paid.

(3) Bidding Increments. Any requirement regarding the amount of the initial overbid and any successive bidding increments.

(4) Treatment of Break-Up and Topping Fees and Expense Reimbursement at Auction. Any requirement that the "stalking horse" bidder receive a "credit" equal to the break-up or topping fee and or expense reimbursement when bidding at the auction and in such case whether the "stalking horse" is deemed to have waived any such

fee and expense upon submitting a higher or otherwise better bid than its initial bid at the auction.

(D) Modification of Bidding and Auction Procedures. Any provision that would authorize a debtor, without further order of the Court, to modify any procedures regarding bidding or conducting an auction.

(E) Closing with Alternative Backup Bidders. Any provision that would authorize the debtor to accept and close on alternative qualified bids received at an auction in the event that the bidder selected as the "successful bidder" at the conclusion of the auction fails to close the transaction within a specified period.

(ii) Provisions Governing the Auction. Unless otherwise ordered by the Court, the Sale Procedures Order shall:

(A) Specify the date, time and place at which the auction will be conducted and the method for providing notice to parties of any changes thereto.

(B) Provide that each bidder participating at the auction will be required to confirm that it has not engaged in any collusion with respect to the bidding or the sale.

(C) State that the auction will be conducted openly and all creditors will be permitted to attend.

(D) Provide that bidding at the auction will be transcribed or videotaped.

PART VII. ADVERSARY PROCEEDINGS

Rule 7003-1 **Adversary Proceeding Cover Sheet**. Any complaint or other document initiating an adversary proceeding that is not electronically filed shall be accompanied by a completed adversary cover sheet conforming to Local Form 109.

Rule 7004-1 **Service on Foreign Parties**. ~~Requests~~In all cases in which there is a claims agent appointed, the claims agent is authorized to serve foreign defendants as an agent of the Clerk's Office in accordance with Fed. R. Bankr. P. 7004(a) and Fed. R. Civ. P. 4(f). In all other cases, requests for service of a summons and complaint on a foreign party shall be ~~governed by Fed. R. Bankr. P. 7004(a) and Fed. R. Civ. P. 4(f). Any such request~~ submitted to the Clerk's Office ~~shall include~~together with a copy of all documents ~~intended for service~~ to be served on the foreign party and a stamped, addressed envelope. Deadlines included in such documents shall allow ample time for the foreign party to respond accordingly~~.~~ after service by mail.

Rule 7004-2 **Summons and Notice of Pretrial Conference in an Adversary Proceeding**. A party or attorney filing a complaint or third-party complaint shall prepare a Summons and Notice of Pretrial Conference in an Adversary Proceeding (Local Form 108). The pretrial conference date shall be a date that is at least thirty-five (35) days from the date of service of the summons and complaint and set in accordance with Local Rule 7004-2(a) and (b) below. The completed summons and certificate of service shall be filed in the adversary proceeding. The party or attorney filing the complaint or third-party complaint shall be responsible for serving the summons and complaint.

(a) Chapter 11 Cases. In an adversary proceeding, the pretrial conference date required on Local Form 108 shall be obtained from (i) the order setting omnibus hearing dates located on the docket in the main bankruptcy case, when the adversary proceeding is assigned to the same judge presiding over the main bankruptcy case, or (ii) the assigned judge's scheduling clerk, when (A) there is no order setting omnibus hearing dates in the main bankruptcy case or (B) the adversary proceeding is assigned to a judge other than the judge presiding over the main bankruptcy case.

(b) Chapter 7, Chapter 12 and Chapter 13 Cases. In an adversary proceeding, the pretrial conference date required on Local Form 108 shall be obtained from the respective Judge's chambers page located on the Court's website.

Rule 7007-1 Briefs: When Required and Schedule.

(a) Briefing and Affidavit Schedule. A party filing a motion in an adversary proceeding (except for a discovery-related motion which shall be governed by Local Rule 9006-1(b)) shall not file a notice of said motion. Unless otherwise ordered by the Court or agreed by the parties, the briefing and affidavit schedule for presentation of all motions in adversary proceedings (except for discovery-related motions which shall be governed by Local Rule 9006-1(b)) shall be as follows:

(i) The opening brief and accompanying affidavit(s) shall be served and filed on the date of the filing of the motion;

(ii) The answering brief and accompanying affidavit(s) shall be served and filed no later than fourteen (14) days after service and filing of the opening brief; and

(iii) The reply brief and accompanying affidavit(s) shall be served and filed no later than seven (7) days after service and filing of the answering brief. An appendix may be filed with any brief. Any party may waive its right to file a brief in a filed pleading or in a separate notice filed with the Court.

(b) Citation of Subsequent Authorities. No additional briefs, affidavits or other papers in support of or in opposition to the motion shall be filed without prior approval of the Court, except that a party may call to the Court's attention and briefly discuss pertinent cases decided after a party's final brief is filed or after oral argument.

Rule 7007-2 Form and Contents of Briefs and Appendices.

This rule applies only to non-discovery related motions in adversary proceedings.

(a) Form.

(i) Covers. The front cover of each brief and appendix shall contain the caption of the case, a title, the date of filing, the name and designation of the party for whom it is filed, and the name, number, address and telephone number of counsel by whom it is filed, including the bar identification number for Delaware attorneys.

(ii) Format. All pleadings must be double-spaced, in Courier New font or Times New Roman and in at least 12 point typeface. All briefs and appendices shall be firmly bound at the left margin. Side margins of briefs shall not be less than 1¼ inches.

(iii) Page Numbering of Appendices. Pages of an appendix shall be numbered separately at the bottom. The page numbers of appendices associated with opening, answering and reply briefs, respectively, shall be preceded by a capital letter "A," "B" or "C." Transcripts and other papers reproduced in a manner authorized by this Local Rule shall be included in the appendix, both with original and appendix pagination.

(iv) Length. Without leave of Court, no opening or answering brief shall exceed forty (40) pages and no reply shall exceed twenty (20) pages, in each instance, exclusive of any tables of contents and citations.

(v) Form of Citations. Citations will be deemed to be in acceptable form if made in accordance with "A Uniform System of Citation" published and distributed from time to time by the Harvard Law Review Association. State reporter citations may be omitted but citations to the National Reporter System must be included. United States Supreme Court decisions shall be to the official citation.

(vi) Citation by Docket Number. References to earlier-filed papers in the case or proceeding shall include a citation to the docket item number as maintained by the Clerk's Office, namely "D.I. 1."

(vii) Unreported Opinions. If an unreported opinion is cited which is neither reported in the National Reporter System nor available on either WESTLAW or LEXIS, a copy of such opinion shall be attached to the document which cites it or shall otherwise be provided to the Court.

(b) Contents of Briefs. If briefs are required, the following format shall apply:

(i) Opening and Answering Briefs. The opening and answering briefs shall contain the following under distinctive titles, in the listed order:

(A) A table of contents setting forth the page number of each section, including all headings, designated in the body of the brief;

(B) A table of citations of cases, statutes, rules, textbooks and other authorities, alphabetically arranged. If a brief does not contain any citations therein, a statement asserting this fact should be placed under this heading;

(C) A statement of the nature and stage of the proceeding;

(D) A summary of argument stating in separate numbered paragraphs the legal propositions upon which each side relies;

(E) A concise statement of facts, with supporting references to appendices or record, presenting succinctly the background of the questions involved. The statement shall include a concise statement of all facts that should be known in order to determine the points in controversy. The answering counter-statement of facts need not repeat facts recited in the opening brief;

(F) An argument divided under appropriate headings distinctly setting forth separate points; and

(G) A short conclusion stating the precise relief sought.

(ii) Reply Briefs. The party filing the opening brief shall not reserve material for the reply brief that should have been included in a full and fair opening brief. There shall not be repetition of materials contained in the opening brief. A table of contents and a table of citations, as required by Local Rule 7007-2(b)(i)(A)-(B), shall be included in the reply brief.

(c) Contents of Appendices. Each Appendix shall contain a paginated table of contents and may contain such parts of the record that are material to the questions presented as the party wishes the Court to read. Duplication shall be avoided. Portions of the record shall be arranged in chronological order. If testimony of witnesses is included, appropriate references to the pages of such testimony in the transcript shall be made and asterisks or other appropriate means shall be used to indicate omissions. Appendices may be separately bound. Parts of the record not included in the appendix may be relied on in briefs or oral argument. Whenever a document, paper or testimony in a foreign language is included in any appendix or is cited from the record in any brief, an English translation made under the authority of the Court, or agreed by the parties to be correct, shall be included in the appendix or in the record.

(d) Joint Appendix. Counsel may agree on a joint appendix that shall be bound separately.

Rule 7007-3 <u>Oral Argument, Hearing on Adversary Proceeding Motions</u>. No hearing will be scheduled on motions filed in adversary proceedings, unless the Court orders otherwise, except for discovery-related motions which shall be governed by Local Rule 9006-1(b). An application to the Court for oral argument on a motion shall be in writing and shall be filed with the Court and served on counsel for all parties in the proceeding no later than seven (7) days after service of the reply brief. An application for oral argument may be granted or denied at the discretion of the Court.

Rule 7007-4 <u>Notice of Completion of Briefing or Certificate of No Objection, and Notice of Completion of Briefing Binder</u>. No later than seven (7) days after completion of briefing or expiration of a deadline on an adversary proceeding motion, counsel to the movant shall file and serve on counsel for all parties in the adversary proceeding a "Notice of Completion of Briefing" containing a list of all relevant pleadings with related docket numbers or a "Certificate of No Objection" to the extent the respective motion or pleading was unopposed and no briefing occurred. Upon the filing of said notice or certificate, counsel to the movant shall have delivered to the respective Judge's chambers a copy of the Notice of Completion of Briefing or Certificate of No Objection. The Notice of Completion of Briefing shall be delivered in a binder and include copies of the pleadings identified in the notice (including any request(s) for oral argument).

Rule 7016-1 **Fed. R. Civ. P. 16 Scheduling Conference**. In any adversary proceeding, the pretrial conference scheduled in the summons and notice issued under Local Rule 7004-2 shall be deemed to be the scheduling conference under Fed. R. Civ. P. 16(b).

(a) Attorney Conference Prior to Scheduling Conference.

(i) If the date for submitting a motion or answer to the complaint attached to the summons and notice issued under Local Rule 7004-2 is at least fourteen (14) days prior to the date of the Fed. R. Civ. P. 16(b) scheduling conference, all attorneys for all the parties shall confer at least seven (7) days prior to the Fed. R. Civ. P. 16(b) scheduling conference to discuss: (A) the nature of the case, (B) any special difficulties that counsel foresee in prosecution or defense of the case, (C) the possibility of settlement, (D) any requests for modification of the time for the mandatory disclosure required by Fed. R. Civ. P. 16(b) and 26(f) and (E) the items in Local Rule 7016-1(b).

(ii) In the event that Local Rule 7016-1(a)(i) does not apply, all attorneys for all parties shall confer on the items identified in that section at least seven (7) days prior to the Fed. R. Civ. P. 16(b) scheduling conference.

(b) Scheduling Conference. At the Fed. R. Civ. P. 16(b) scheduling conference, the Court may consider, in addition to the items specified in Fed. R. Civ. P. 16(b) and 16(c), the following matters:

(i) The schedule applicable to the case, including a trial date, if appropriate;

(ii) The number of interrogatories and requests for admissions to be allowed by any party and the number and location of depositions;

(iii) How discovery disputes are to be resolved;

(iv) The briefing practices to be employed in the case, including what matters are or are not to be briefed and the length of briefs;

(v) The possibility of settlement; and

(vi) Whether the matter could be resolved by voluntary mediation or binding arbitration.

(c) Attendance at Scheduling Conference. Unless otherwise permitted by the Court under Local Rule 7016-3, the conference described in Local Rule 7016-1(b) will be an in-person conference. All counsel who expect to have a significant role in the prosecution or defense of the case are required to attend the conference.

Rule 7016-2 **Pretrial Conference**. A pretrial conference shall be held if scheduled in a scheduling order issued under Local Rule 7016-1(b) (the "Scheduling Order") or if requested by a party under this Local Rule.

(a) Request for Pretrial Conference. Any party may request that a pretrial conference be held following the completion of discovery, as provided in the Scheduling Order, by contacting the Court. At least fourteen (14) days' notice of the time and place of such pretrial conference shall be given to all other parties in interest by the attorney for the party requesting the pretrial conference.

(b) Failure to Appear at Pretrial Conference or to Cooperate. Unless otherwise permitted by the Court under Local Rule 7016-3, all counsel who will conduct the trial are required to appear before the Court for the pretrial conference. Should an attorney for a party fail to appear or to cooperate in the preparation of the pretrial order specified in Local Rule 7016-2(d), the Court, in its discretion, may impose sanctions, such as costs and fines. The Court may further hold a pretrial hearing, ex parte or otherwise, and, after notice, enter an appropriate judgment or order.

(c) Attorney Conference Prior to Pretrial Conference. The parties shall meet and confer in good faith so that the plaintiff may file the pretrial order in conformity with this Rule.

(d) Pretrial Order. At least seven (7) days prior to the pretrial conference, the attorney for the plaintiff shall file with the Court an original and one (1) copy of a proposed pretrial order, signed by an attorney for each party, that covers the following items, as appropriate:

(i) A statement of the nature of the action, the pleadings in which the issues are raised (e.g., third amended complaint and answer) and whether counterclaims, crossclaims, etc., are involved;

(ii) The constitutional or statutory basis of federal jurisdiction, together with a brief statement of the facts supporting such jurisdiction;

(iii) A statement of the facts that are admitted and that require no proof;

(iv) A statement of the issues of fact that any party contends remain to be litigated;

(v) A statement of the issues of law that any party contends remain to be litigated, and a citation of authorities relied upon by each party;

(vi) A list of premarked exhibits, including designations of interrogatories and answers thereto, requests for admissions and responses, and depositions that each party intends to offer at trial, with a specification of those that may be admitted into evidence without objection, those to which there are objections and the Federal Rule of Evidence relied upon by the proponent of the exhibit. Copies of the exhibits, premarked and separated by tabs, shall be furnished to opposing counsel and submitted to the respective Judge's chambers in binders at least seven (7) days before the pretrial conference or trial (if no pretrial is requested). Copies of the exhibits should not be electronically filed with the Court;

(vii) The names of all witnesses a party intends to call to testify, either in person or by deposition, at the trial and the specialties of experts to be called as witnesses;

(viii) A brief statement of what the plaintiff intends to prove in support of the plaintiff's claims, including the details of the damages claimed or of other relief sought;

(ix) A brief statement of what the defendant intends to prove as defenses;

(x) Statements by counterclaimants or crossclaimants comparable to that required of the plaintiff;

(xi) Any amendments of the pleadings desired by any party with a statement whether it is unopposed or objected to and, if objected to, the grounds thereon;

(xii) A certification that the parties have engaged in a good faith effort to explore the resolution of the controversy by settlement;

(xiii) Any other matters that the parties deem appropriate; and

(xiv) The concluding paragraph of the draft of the pretrial order shall read:

> **THIS ORDER SHALL CONTROL THE SUBSEQUENT COURSE OF THE ACTION UNLESS MODIFIED BY THE COURT TO PREVENT MANIFEST INJUSTICE.**

Rule 7016-3 **Telephonic Fed. R. Civ. P. 16 Scheduling Conference or Pretrial Conference**. At least twenty-four (24) hours before the time scheduled for a scheduling conference or pretrial conference, any party to the conference may request that the conference be conducted by telephone or that the party be permitted to participate by telephone. Such request may be made by telephone to the Court and shall be communicated contemporaneously to other counsel known to be involved in the hearing or conference. Any party objecting to the request shall promptly advise the Court and other counsel.

Rule 7026-1 Discovery.

(a) Notice. All motion papers under Fed. R. Bankr. P. 7026 - 7037 shall be filed and served so as to be received at least seven (7) days before the hearing date on such motion. When service is made for a discovery related motion under this Local Rule, any objection shall be filed and served so as to be received at least one (1) business day before the hearing date.

(b) Motions to Include the Discovery at Issue. Any discovery motion filed pursuant to Fed. R. Civ. P. 26 through 37 shall include, in the motion itself or in a memorandum, a verbatim recitation of each interrogatory, request, answer, response, or objection which is the subject of the motion or shall have attached a copy of the actual discovery document which is the subject of the motion.

(c) Certification of Counsel. Except for cases or proceedings involving *pro se* parties or motions brought by nonparties, every motion under this Local Rule shall be accompanied by an averment of counsel for the moving party that a reasonable effort has been made to reach agreement with the opposing party on the matters set forth in the motion or the basis for the moving party not making such an effort. Unless otherwise ordered, failure to so aver may result in dismissal of the motion.

Rule 7026-2 Service of Discovery Materials.

(a) Service With Filing. In cases involving pro se parties, all requests for discovery under Fed. R. Civ. P. 26, 30, 31, 33 through 36, and answers and responses thereto, shall be served upon other counsel or parties and filed with the Court.

(b) Service Without Filing. Consistent with Fed. R. Civ. P. 5(a), in cases where all parties are represented by counsel, all requests for discovery under Fed. R. Civ. P. 26, 30, 31, 33 through 36 and 45, and answers and responses thereto, and all required disclosures under Fed. R. Civ. P. 26(a), shall be served upon other counsel or parties but shall not be filed with the Court. In lieu thereof, the party requesting discovery and the party serving responses thereto shall file with the Court a "Notice of Service" containing a certification that a particular form of discovery or response was served on other counsel or opposing parties, and the date and manner of service.

(i) Filing the notice of taking of oral depositions required by Fed. R. Civ. P. 30(b)(1) and 30(b)(6), and filing of proof of service under Fed. R. Civ. P. 45(b)(3) in connection with subpoenas, will satisfy the requirement of filing a "Notice of Service."

(ii) The party responsible for service of the discovery request or the response shall retain its respective originals and become the custodian of them. The party taking an oral deposition shall be custodian of the original deposition transcript; no copy shall be filed except pursuant to subparagraph (iii). Unless otherwise ordered, in cases involving out-of-state counsel, local counsel shall be the custodians.

(iii) If depositions, interrogatories, requests for documents, requests for admissions, answers, or responses are to be used at trial or are necessary to a pretrial or post trial motion, the verbatim portions thereof considered pertinent by the parties shall be filed with the Court when relied upon.

(iv) When discovery not previously filed with the Court is needed for appeal purposes, the Court, on its own motion, on motion by any party, or by stipulation of counsel, shall order the necessary material delivered by the custodian to the Court.

(v) The Court on its own motion, on motion by any party, or on application by a non-party, may order the custodian to file the original of any discovery document.

Rule 7026-3 Discovery of Electronic Documents ("E-Discovery").

(a) Introduction. This rule applies to all matters covered by Fed. R. Civ. P. 26. It is expected that parties to a case will cooperatively reach agreement on how to conduct e-discovery. In the event that such agreement has not been reached by the Fed. R. Civ. P. 16 scheduling conference, however, the following default standards shall apply until such time, if ever, the parties conduct e-discovery on a consensual basis.

(b) Discovery Conference. Parties shall discuss the parameters of their anticipated e-discovery at the Fed. R. Civ. P. 26(f) conference, as well as at the Fed. R. Civ. P. 16 scheduling conference with the Court, consistent with the concerns outlined below. More specifically, prior to the Rule 26(f) conference, the parties shall exchange the following information:

(i) A list of the most likely custodians of relevant electronic materials, including a brief description of each person's title and responsibilities;

(ii) A list of each relevant electronic system that has been in place at all relevant times and a general description of each system, including the nature, scope, character, organization, and formats employed in each system. The parties should also include other pertinent information about their electronic documents and whether those electronic documents are of limited accessibility. Electronic documents of limited accessibility may include those created or used by electronic media no longer in use, maintained in redundant electronic storage media, or for which retrieval involves substantial cost;

(iii) The name of the individual responsible for that party's electronic document retention policies ("the retention coordinator"), as well as a general description of the party's electronic document retention policies for the systems identified above;

(iv) The name of the individual who shall serve as that party's "e-discovery liaison"; and

(v) Notice of any problems reasonably anticipated to arise in connection with e-discovery.

To the extent that the state of the pleadings does not permit a meaningful discussion of the above by the time of the Rule 26(f) conference, the parties shall either agree on a date by which this information will be mutually exchanged or submit the issue for resolution by the Court at the Rule 16 scheduling conference.

(c) E-Discovery Liaison. In order to promote communication and cooperation between the parties, each party to a case shall designate a single individual through which all e-discovery requests and responses are made (the "e-discovery liaison"). Regardless of whether the e-discovery liaison is an attorney (in-house or outside counsel), a third party consultant, or an employee of the party, he or she must be:

(i) Familiar with the party's electronic systems and capabilities in order to explain these systems and answer relevant questions.

(ii) Knowledgeable about the technical aspects of e-discovery, including electronic document storage, organization, and format issues.

(iii) Prepared to participate in e-discovery dispute resolutions.

The Court notes that, at all times, the attorneys of record shall be responsible for compliance with e-discovery requests. However, the e-discovery liaisons shall be responsible for organizing each party's e-discovery efforts to insure consistency and thoroughness and, generally, to facilitate the e-discovery process.

(d) Timing of E-Discovery. Discovery of electronic documents shall proceed in a sequenced fashion.

(i) After receiving requests for document production, the parties shall search their documents, other than those identified as limited accessibility electronic documents, and produce responsive electronic documents in accordance with Fed. R. Civ. P. 26(b)(2).

(ii) Electronic searches of documents identified as of limited accessibility shall not be conducted until the initial electronic document search has been completed. Requests for information expected to be

found in limited accessibility documents must be narrowly focused with some basis in fact supporting the request.

(iii) On-site inspections of electronic media under Fed. R. Civ. P. 34(b) shall not be permitted absent exceptional circumstances, where good cause and specific need have been demonstrated.

(e) Search Methodology. If the parties intend to employ an electronic search to locate relevant electronic documents, the parties shall disclose any restrictions as to scope and method which might affect their ability to conduct a complete electronic search of the electronic documents. The parties shall reach agreement as to the method of searching, and the words, terms, and phrases to be searched with the assistance of the respective e-discovery liaisons, who are charged with familiarity with the parties' respective systems. The parties also shall reach agreement as to the timing and conditions of any additional searches which may become necessary in the normal course of discovery. To minimize the expense, the parties may consider limiting the scope of the electronic search (e.g., time frames, fields, document types).

(f) Format. If, during the course of the Rule 26(f) conference, the parties cannot agree to the format for document production, electronic documents shall be produced to the requesting party as image files (e.g., PDF or TIFF). When the image file is produced, the producing party must preserve the integrity of the electronic document's contents, i.e., the original formatting of the document, its metadata and, where applicable, its revision history. After initial production in image file format is complete, a party must demonstrate particularized need for production of electronic documents in their native format.

(g) Retention. Within the first thirty (30) days of discovery, the parties should work towards an agreement (akin to the standard protective order) that outlines the steps each party shall take to segregate and preserve the integrity of all relevant electronic documents. In order to avoid later accusations of spoliation, a Fed. R. Civ. P. 30(b)(6) deposition of each party's retention coordinator may be appropriate. The retention coordinators shall:

(i) Take steps to ensure that email of identified custodians shall not be permanently deleted in the ordinary course of business and that electronic documents maintained by the individual custodians shall not be altered; and

(ii) Provide notice as to the criteria used for spam and/or virus filtering of email and attachments; emails and attachments filtered out by such systems shall be deemed non-responsive so long as the criteria underlying the filtering are reasonable.

Within seven (7) days of identifying the relevant document custodians, the retention coordinators shall implement the above procedures and each party's counsel shall file a statement of compliance as such with the Court.

(h) Privilege. Electronic documents that contain privileged information or attorney work product shall be immediately returned if the documents appear on their face to have been inadvertently produced or if there is notice of the inadvertent production within thirty (30) days of such inadvertent production.

(i) Costs. Generally, the costs of discovery shall be borne by each party. However, the Court will apportion the costs of electronic discovery upon a showing of good cause.

Rule 7030-1 Depositions.

(a) Attendance at Deposition. A deposition may be attended only by (i) the deponent, (ii) counsel for any party and members and employees of their firms, (iii) a party who is a natural person, (iv) an officer or employee of a party who is not a natural person designated as its representative by its counsel, (v) counsel for the deponent, (vi) any consultant or expert designated by counsel for any party, (vii) the United States Trustee, (viii) counsel for any trustee, (ix) counsel for the debtor, (x) counsel for any official committee and (xi) counsel for any party providing postpetition financing to the debtor under 11 U.S.C. § 363 or 364. If a confidentiality order has been entered, any person who is not authorized under the order to have access to documents or information designated confidential shall be excluded from a deposition upon request by the party who is seeking to maintain confidentiality while a deponent is being examined about any confidential document or information.

(b) Reasonable Notice of Deposition. Unless otherwise ordered by the Court, "reasonable notice" for the taking of depositions under Fed. R. Civ. P. 30(b)(1) shall not be less than seven (7) days.

(c) Motions to Quash. Any party seeking to quash a deposition must file a motion with the Court under Fed. R. Civ. P. 26(c) or 30(d). If such motion is filed at least one (1) business day before the scheduled deposition, neither the objecting party, witness, nor any attorney is required to appear at a deposition to which a motion is directed until the motion is resolved.

Rule 7055-1 **Default**. All applications, motions or requests for default/default judgment under Fed. R. Bankr. P. 7055 shall be served on the party against whom a default is sought and the party's attorney if an entry of appearance has been filed in the adversary or bankruptcy case, in accordance with Local Rule 9013-1. Requests for default/default judgment shall be in compliance with the Clerk's Office Procedures.

PART VIII. APPEALS TO DISTRICT COURT OR BANKRUPTCY APPELLATE PANEL

Rule 8001-1 Appeals From Bankruptcy Court Orders.

(a) Appeals Generally. A notice of appeal shall be in conformity with Official Bankruptcy Form B 17 and shall be accompanied by the prescribed filing fee.

(b) Transmittal of Notice of Appeal to Bankruptcy Judge. When appealing from an order entered by a bankruptcy judge, substantially contemporaneous with the filing of a notice of appeal, the appellant shall mail or deliver a copy of the notice of appeal to the bankruptcy judge whose order is the subject of the appeal. For the avoidance of doubt, the failure of an appellant to provide a copy of the notice of appeal to the bankruptcy judge shall not affect the jurisdiction of any appellate court to hear such appeal.

(c) Opinion in Support of Order. Any bankruptcy judge whose order is the subject of an appeal may, within seven (7) days of the filing date of the notice of appeal, file a written opinion that supports the order being appealed or that supplements any earlier written opinion or recorded oral bench ruling or opinion.

(d) Notice to Official Committees. Simultaneously with the filing of any notice of appeal or notice of cross-appeal, with respect to an appeal in which any official committee in the bankruptcy case from which such appeal originated is not a named party to the appeal, the party filing such notice of appeal or notice of cross-appeal shall serve a copy of such notice on counsel to any such official committee and shall file with the notice of appeal or notice of cross-appeal a certificate of service.

(e) Committee Request for Notice. Any official committee wishing to be placed on the service list for any appeal for the purpose of receiving notices and copies of papers served shall, within twenty-one (21) days of service of the notice of appeal or the notice of cross-appeal as provided for in Local Rule 8001-1(a), file with the Court a request for notice. Such notice shall become part of the record for the appeal to be transmitted to the District Court Clerk by the Clerk.

(f) Intervention. Nothing contained herein shall affect or in any way determine any official committee's right to intervene in any appeal or cross-appeal or its obligation to seek leave to intervene in any appeal or cross-appeal if such official committee is not a named party to such appeal or cross-appeal.

Rule 8001-2 **Appeals From District Court Orders**. All appeals from a judgment, order or decree of a District Court Judge exercising original jurisdiction under 28 U.S.C. § 1334 over a bankruptcy case, matter or proceeding docketed in the Clerk's Office shall be:

(a) Filed with the District Court;

(b) Directed by the Clerk to the Third Circuit Court of Appeals; and

(c) Treated as an appeal from a final judgment, order or decree of a district court exercising jurisdiction under 28 U.S.C. § 1334 for purposes of Rule 6(a) of the Federal Rules of Appellate Procedure.

Rule 8006-1 **Filing of Copies of Record on Appeal**. The appellant, and appellee, if applicable, shall:

(a) File and serve a designation of the items to be included in the record on appeal/cross-appeal, along with a statement of the issues to be presented, in accordance with Fed. R. Bankr. P. 8006; and

(b) At the time of filing the designation identified in Local Rule 8006-1(a), deliver to the Clerk's Office:

(i) Those documents identified in the designation submitted under Local Rule 8006-1(a);

(ii) Any documents that may be expressly requested by the Clerk or the Court; and

(iii) A copy of the relevant transcript; if unavailable, evidence that the transcript has been ordered.

PART IX. GENERAL PROVISIONS

Rule 9004-1 Caption.

(a) Documents submitted for filing shall contain in the caption the name of the debtor, the case number, the initials of the Judge to whom the case has been assigned, the docket number assigned to the case and, if applicable, the adversary proceeding number. All documents filed with the Clerk that relate to a document previously filed and docketed shall contain in its title the title of the related document and its docket number, if available.

(b) The hearing date and time and the objection date and time of a motion shall be set forth in bold print (i) in the caption of the notice and motion and all related pleadings, below the case or adversary number and (ii) in the text of the notice.

Rule 9006-1 Time for Service and Filing of Motions and Objections.

(a) Generally. Fed. R. Bankr. P. 9006 applies to all cases and proceedings in which the pleadings are filed with the Clerk.

(b) Discovery-Related Motions. All motion papers under Fed. R. Bankr. P. 7026-7037 shall be filed and served in accordance with Local Rule 7026-1.

(c) All Other Motions.

(i) Service of Motion Papers. Unless the Fed. R. Bankr. P. or these Local Rules state otherwise, all motion papers shall be filed and served in accordance with Local Rule 2002-1(b) at least fourteen (14) days (and an additional three (3) days if service is by mail) prior to the hearing date.

(ii) Objection Deadlines. Where a motion is filed and served in accordance with Local Rule 9006-1(c)(i), the deadline for objection(s) shall be no later than seven (7) days before the hearing date. To the extent a motion is filed and served in accordance with Local Rule 2002-1(b) at least twenty-one (21) days prior to the hearing date, however, the movant may establish any objection deadline that is no earlier than fourteen (14) days after the date of service and no later than seven (7) days before the hearing date. Any objection deadline may be extended by agreement of the movant; provided, however, that no objection deadline may extend beyond the deadline for filing the agenda. In all instances, any objection must be filed and served so as to be received on or before the applicable objection deadline. The foregoing rule applies to responses to Omnibus Objection to Claims. Del. Bankr. L.R. 3007-1.

(d) Reply Papers. Reply papers by the movant, or any party that has joined the movant, may be filed and, if filed, shall be served so as to be received by 4:00 p.m. prevailing Eastern Time the day prior to the deadline for filing the agenda. The foregoing rule applies to replies to Omnibus Objection to Claims. Del. Bankr. L.R. 3007-1.

(e) Shortened Notice. No motion will be scheduled on less notice than required by these Local Rules or the Fed. R. Bankr. P. except by order of the Court, on written motion (served on all interested parties) specifying the exigencies justifying shortened notice. The Court will rule on such motion promptly without need for a hearing.

Rule 9006-2 **Bridge Orders Not Required in Certain Circumstances**. Unless otherwise provided in the Code or in the Fed. R. Bankr. P., if a motion to extend the time to take any action is filed before the expiration of the period prescribed by the Code, the Fed. R. Bankr. P., these Local Rules or Court order, the time shall automatically be extended until the Court acts on the motion, without the necessity for the entry of a bridge order.

Rule 9010-1 Bar Admission.

(a) The Bar of this Court. The Bar of this Court shall consist of those persons heretofore admitted to practice in the District Court and those who may hereafter be admitted in accordance with these Rules.

(b) Admission Pro Hac Vice. Attorneys admitted, practicing, and in good standing in another jurisdiction, who are not admitted to practice by the Supreme Court of the State of Delaware and the District Court, may be admitted pro hac vice in the discretion of the Court, such admission to be at the pleasure of the Court. Unless otherwise ordered by the Court, or authorized by the Constitution of the United States or acts of Congress, an applicant is not eligible for permission to practice pro hac vice if the applicant:

(i) Resides in Delaware; or

(ii) Is regularly employed in Delaware; or

(iii) Is regularly engaged in business, professional, or other similar activities in Delaware.

Any Judge of the Court may revoke, upon hearing after notice and for good cause, a pro hac vice admission in a case or proceeding before a judge. The form for admission pro hac vice, which may be amended by the Court, is Local Form 105 and is located on the Court's website.

(c) Association with Delaware Counsel Required. Unless otherwise ordered, an attorney not admitted to practice by the District Court and the Supreme Court of the State of Delaware may not be admitted pro hac vice unless associated with an attorney who is a member of the Bar of the District Court and who maintains an office in the District of Delaware for the regular transaction of business ("Delaware counsel"). Consistent with CM/ECF Procedures, Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. Unless otherwise ordered, Delaware counsel shall attend proceedings before the Court.

(d) Time to Obtain Delaware Counsel. A party not appearing pro se shall obtain representation by a member of the Bar of the District Court or have its counsel associate with a member of the Bar of the District Court in accordance with (paragraph (c) above) within thirty (30) days after:

(i) The filing of the first paper filed on its behalf; or

(ii) The filing of a case transferred or removed to this Court.

Failure to timely obtain such representation shall subject the defaulting party to appropriate sanctions.

(e) Association with Delaware Counsel not Required.

(i) Government Attorneys. An attorney not admitted in the District Court but admitted in another United States District Court may appear representing the United States of America (or any officer or agency thereof) or any State or local government (or officer or agency thereof) so long as a certification is filed, signed by that attorney, stating (a) the courts in which the attorney is admitted, (b) that the attorney is in good standing in all jurisdictions in which he or she has been admitted and (c) that the attorney will be bound by these Local Rules and that the attorney submits to the jurisdiction of this Court for disciplinary purposes.

(ii) Delaware Attorney with Out of State Office. Attorneys who are admitted to the Bar of the District Court and in good standing, but who do not maintain an office in the District of Delaware, may appear on behalf of parties upon approval by the Court.

(iii) Claim Litigation. Parties (pro se or through out of state counsel) may file or prosecute a proof of claim or a response to their claim. The Court may, however, direct the claimant to consult with Delaware counsel if the claim litigation will involve extensive discovery or trial time.

(f) Standards for Professional Conduct. Subject to such modifications as may be required or permitted by federal statute, court rule or decision, all attorneys admitted or authorized to practice before this Court, including attorneys admitted on motion or otherwise, shall also be governed by the Model Rules of Professional Conduct of the

American Bar Association, as may be amended from time to time.

Rule 9010-2 Substitution; Withdrawal.

(a) Substitution. If a party in an adversary proceeding or a debtor in any case wishes to substitute attorneys, a substitution of counsel document signed by the original attorney and the substituted attorney shall be filed. If a trustee, debtor or official committee wishes to substitute attorneys or any other professional whose employment was subject to approval by the Court, a motion for retention of the new professional must also be filed.

(b) Withdrawal. An attorney may withdraw an appearance for a party without the Court's permission (i) when such withdrawal will leave a member of the Bar of the District Court appearing as attorney of record for the party, or (ii) when the party (a) has no controversy pending before the Court and (b) the attorney certifies that the party consents to withdrawal of counsel. Otherwise, no appearance shall be withdrawn except by order on a motion duly noticed to each party and served on the party client, at least fourteen (14) days before the motion is presented, by registered or certified mail addressed to the client's last known address.

(c) Service. Substitutions and motions for withdrawal under this Local Rule shall be served (i) in an adversary proceeding, on all parties to the proceeding and (ii) in a bankruptcy case, on all parties entitled to notice under Fed. R. Bankr. P. 2002.

(d) Effect of Failure to Comply. Until paragraph (a) or (b), as applicable, and paragraph (c) of Local Rule 9010-2 are complied with and an order, if necessary, is entered, the original attorney remains the client's attorney of record.

Rule 9011-4 Signatures.

(a) Any motion, pleading or other document requiring a signature must, following the signature, include the address and telephone number of the attorney or pro se filer.

(b) Any motion, pleading or other document requiring a signature that is electronically filed by a registered CM/ECF user must be filed as either (a) a document containing the signature of the person(s) signing said document or (b) a document displaying the name of the person(s) signing said document, preceded by an "/s/" ("electronic signature") and typed in the space where the signature would otherwise appear (e.g., "/s/ Jane Doe"). The electronic signature of the person on the document electronically filed shall constitute the signature of that person for purposes of Fed. R. Bankr. P. 9011, and the use of a person's password to file a document electronically shall not constitute the signature of, or a representation to the court by, the person whose password is used for such electronic filing for purposes of Fed. R. Bankr. P. 9011. In the absence of a signature on a document electronically filed, the CM/ECF password used to file the document shall constitute a signature for purposes of Fed. R. Bankr. P. 9011.

Rule 9013-1 Motions.

(a) Application. This Local Rule applies to motions filed in bankruptcy cases. Motions filed in adversary proceedings shall be governed by Local Rule 7007-1.

(b) Requests for Relief. No request for relief (not otherwise governed by Fed. R. Bankr. P. 7001) may be made to the Court, except by written motion, by oral motion in open court or by certification of counsel. Letters from counsel or parties will not be considered.

(c) Cases with Omnibus Hearing Dates. In any case where omnibus hearing dates have been scheduled pursuant to Local Rule 2002-1(a), all motions and applications and related papers shall be heard only on such dates, unless otherwise ordered by the Court. In a case where there are no omnibus hearings scheduled, a hearing date may be obtained by contacting the Court.

(d) Evidentiary Hearing. All hearings on a contested matter will be an evidentiary hearing at which witnesses will be required to testify in person in Court with respect to any factual issue in dispute unless these Rules, the parties or the Court provides otherwise.

(e) Contents of Notice. Unless otherwise ordered by the Court, the motion shall, in substantial conformity with Local Form 106, provide:

(i) The title of the motion in bold print;

(ii) The date and time of the hearing on the motion;

(iii) The date and time by which objections shall be due;

(iv) The name and address of the parties on whom any objection shall be served; and

(v) A statement that the motion may be granted and an order entered without a hearing unless a timely objection is made.

(f) Form of Motion. All motions shall have attached thereto a notice conforming to Local Rule 9013-1(e), a proposed form of order specifying the exact relief requested, and a certificate of service showing the date, means of service

and parties served. All motions shall be titled in the form "Motion of [Movant's Name] for [Relief Requested]."

(g) Service of Motion and Notice. All motions shall be served in accordance with Local Rule 2002-1(b).

(h) Objections. Except for motions presented on an expedited basis, any objection to a motion shall be made in writing. The title of the objection shall conform to Local Rule 9004-1 and shall include the objector's name, the motion to which the objection relates and the docket number of the motion. The hearing date and time and the docket number of the related motion shall be set forth in bold print in the caption below the case number.

(i) Telephonic Appearance at Hearing. In extenuating circumstances where counsel cannot appear at the first hearing on a motion, a request can be made to the respective Judge's chambers for an appearance by telephone no later than 12:00 p.m. prevailing Eastern Time twenty-four (24) hours prior to the scheduled hearing date. Upon the approval of such request by the Court, counsel shall follow the telephonic appearance procedures located on the Court's website. This Local Rule shall not apply to evidentiary hearings.

(j) Certificate of No Objection. Forty-eight (48) hours after the objection date has passed with no objection having been filed or served, counsel for the movant may file a certificate of no objection (the "Certificate of No Objection" or "CNO"), substantially in the form of Local Form 107, stating that no objection has been filed or served on the movant. By filing the CNO, counsel for the movant represents to the Court that the movant is unaware of any objection to the motion or application and that counsel has reviewed the Court's docket and no objection appears thereon. In cases in which a Notice of Agenda is required under Local Rule 9029-3, debtor's counsel shall submit a binder that shall contain the Notice of Agenda and any uncontested matter where a Certificate of No Objection has been timely filed. In all other cases, pleadings shall be submitted in accordance with each respective Judge's chambers procedures. Such chambers procedures, if any, are available on the Court's website. Upon receipt of the Certificate of No Objection, the Court may enter the order accompanying the motion or application without further

pleading or hearing and, once the order is entered, the hearing scheduled on the motion or application shall be canceled without further notice.

(k) Amendment of Order. Any request for amendment of an order entered by the Court shall be made only as follows:

(i) If the amendment is non-material, by certification of counsel that the amendment is not material and that all parties in interest have consented to the amendment;

(ii) By motion under this Local Rule; or

(iii) By the filing of a stipulation to amend, signed by all interested parties. Any request for amendment shall have attached the proposed amended order and a blacklined copy reflecting the changes.

(l) Service of Order or Judgment. Service of an order or judgment shall be made in accordance with Local Rule 9022-1.

(m) Motions Filed with the Petition in Chapter 11 Cases.

(i) Definition. Any motion or application in which the debtor requests a hearing or the entry of an order with less than seven (7) days' notice and prior to the earlier of the creditors' committee formation meeting or the 11 U.S.C. § 341 meeting of creditors shall be governed by this Local Rule.

(ii) Scope of Relief Requested. Requests for relief under this Local Rule shall be confined to matters of a genuinely emergent nature required to preserve the assets of the estate and to maintain ongoing business operations and such other matters as the Court may determine appropriate.

(iii) Notice to the United States Trustee, Clerk and Certain Other Parties. Once a petition is filed, counsel for the debtor shall have a binder containing an agenda and all applications and motions sought to be heard on an emergent basis delivered to the Clerk's Office. Once the case is assigned to a Judge, the Court will contact counsel for the debtor and the United States Trustee to schedule a hearing on those applications and motions.

The debtor shall serve (a) all motions and applications that the debtor asks be heard under this Local Rule (in substantially final form) upon the United States Trustee and (b) the agenda upon the United States Trustee, the creditors included on the list filed under Fed. R. Bankr. P. 1007(d) and any party directly affected by the relief sought in such applications and motions, at least twenty-four (24) hours in advance of a hearing on such applications and motions, unless otherwise ordered by the Court, and shall file a certificate of service to that effect within forty-eight (48) hours.

(iv) Notice of Entry of Orders. Within forty-eight (48) hours of the entry of an order entered under this Local Rule ("First Day Order"), the debtor shall serve copies of all motions and applications filed with the Court as to which a First Day Order has been entered, as well as all First Day Orders, on those parties referred to in Local Rule 9013-1(m)(iii), and such other entities as the Court may direct.

(v) Reconsideration of Orders. Any party in interest may file a motion to reconsider any First Day Order, other than any order entered under 11 U.S.C. §§ 363 and 364 with respect to the use of cash collateral and/or approval of postpetition financing, within thirty (30) days of the entry of such order, unless otherwise ordered by the Court. Any such motion for reconsideration shall be given expedited consideration by the Court. The burden of proof with respect to the appropriateness of the order subject to the motion for reconsideration shall remain with the debtor notwithstanding the entry of such order.

Rule 9013-3 **Service Copies**. Unless otherwise ordered by the Court, only one (1) copy of pleadings, motions and other papers need be served upon another party.

Rule 9018-1 Lodged Exhibits; Documents under Seal; Confidentiality.

(a) Lodged Exhibits. All models, diagrams, documents or other exhibits lodged with the Clerk that are admitted into evidence at trial shall be retained by the Clerk (unless required to be forwarded to an appellate court for purposes of an appeal) until expiration of the time for appeal without any appeal having been taken, entry of a stipulation waiving or abandoning the right to appeal, final disposition of any appeal or order of the Court, whichever occurs first.

(b) Documents under Seal. Any party who seeks to file documents under seal must file a motion to that effect. The documents proposed to be filed under seal must be placed in a prominently marked envelope with a cover sheet attached containing the caption, related docket number of the motion to file under seal, title of the document to be filed under seal and the legend "DOCUMENTS TO BE KEPT UNDER SEAL" in bold print. This envelope must be delivered directly to the respective Judge's chambers with the Agenda to the hearing on the applicable motion to file under seal. The Court shall keep the documents segregated and under seal until the motion is decided. If the Court grants the motion to file under seal, the Clerk shall electronically docket the cover sheet and shall keep the documents segregated and under seal until the case or adversary proceeding is closed at which time the sealed documents shall be ~~returned to the party that filed them.~~destroyed, unless otherwise ordered by the Court. If the Court denies the motion to file under seal, the Clerk shall return the segregated, proposed sealed documents to counsel for the moving party without any disclosure to third parties and such documents shall not become part of the record in the case unless they are otherwise separately filed of record in accordance with the applicable rules.

(c) Order Authorizing Future Filing of Documents under Seal. If an order has been signed granting the filing of future documents under seal, the related docket number of the applicable order must also be included on the cover sheet. Any document filed under seal under a previously entered order of the Court shall be delivered to the Clerk's Office. The Clerk shall electronically docket the cover sheet and shall keep the documents segregated and under seal until

the case or adversary proceeding is closed at which time the sealed documents shall be ~~returned to~~destroyed, unless otherwise ordered by the ~~party that filed them.~~Court.

(d) Confidentiality. If any information or documents are designated confidential by the producing party at the time of production and the parties have not stipulated to a confidentiality agreement, until such an agreement has been agreed to by the parties or ordered by the Court, disclosure shall be limited to members and employees of the law firm representing the receiving party and such other persons as to which the parties agree. Such persons are under an obligation to keep such information and documents confidential and to use them only for purposes of the contested matter or the proceeding with respect to which they have been produced. Additionally, parties may stipulate to the application of this rule in connection with informal discovery conducted outside a contested matter or adversary proceeding (*e.g.*, a statutory committee's investigation of the validity, perfection or amount of a secured creditor's prepetition lien), in which case the documents and information produced shall be used only for the purpose defined by the parties' stipulation.

Rule 9019-1 **Certificate of Counsel**. Filed objection(s) or informal objection(s) to a Motion, Omnibus Objection to Claims or other pleading filed with the Court may be resolved by submitting a revised or agreed form of order filed with a Certificate of Counsel ("CoC") consistent with all of the following requirements stated in (a) – (c) below. The CoC procedure may also be utilized under such other circumstances as the Court directs.

(a) The CoC must be signed by Delaware Counsel (as defined in Local Rule 9010-1), and attach a proposed revised or agreed form of order as an exhibit. The CoC must state whether the revised or agreed form of order has been reviewed and approved by all the parties affected by the order. A CoC shall be served on all affected parties.

(b) If there is an applicable objection deadline, the CoC may not be filed until forty-eight (48) hours after that deadline.

(c) In cases in which a Notice of Agenda is required under Local Rule 9029-3 and where the revised or agreed form of order has been finalized in advance of the deadline for the filing of the Notice of Agenda, the Delaware counsel responsible for the filing of the Notice of Agenda shall include the CoC pleadings in the CNO binder that is otherwise required under these Local Rules. In all other cases, the CoC pleadings shall be submitted in accordance with each respective Judge's chambers procedures. Such chambers procedures, if any, are available on the Court's website.

Upon receipt of the CoC, the Court may enter the order attached to the CoC without further pleading or hearing or schedule the CoC for hearing.

Rule 9019-2 Mediator and Arbitrator Qualifications and Compensation.

(a) Register of Mediators and Arbitrators/ADR Program Administrator. The Clerk shall establish and maintain a register of persons (the "Register of Mediators") qualified under this Local Rule and designated by the Court to serve as mediators or arbitrators in the Mediation or Voluntary Arbitration Program. The Chief Bankruptcy Judge shall appoint a Judge of this Court, the Clerk or a person qualified under this Local Rule who is a member in good standing of the Bar of the State of Delaware to serve as the Alternative Dispute Resolution ("ADR") Program Administrator. Aided by a staff member of the Court, the ADR Program Administrator shall receive applications for designation to the Register, maintain the Register, track and compile reports on the ADR Program and otherwise administer the program.

(b) Application and Certification.

(i) Application and Qualifications. Each applicant shall submit to the ADR Program Administrator a statement of professional qualifications, experience, training and other information demonstrating, in the applicant's opinion, why the applicant should be designated to the Register. The applicant shall submit the statement substantially in compliance with Local Form 110A. The statement also shall set forth whether the applicant has been removed from any professional organization, or has resigned from any professional organization while an investigation into allegations of professional misconduct was pending and the circumstances of such removal or resignation. This statement shall constitute an application for designation to the ADR Program. Each applicant shall certify that the applicant has completed appropriate mediation or arbitration training or has sufficient experience in the mediation or arbitration process. Each applicant hereunder shall agree to accept at least one pro bono appointment per year. If after serving in a pro bono capacity insufficient matters exist to allow for compensation, credit for pro bono service shall be carried into subsequent years in order to

qualify the mediator to receive compensation for providing service as a mediator or arbitrator.

(ii) Court Certification. The Court in its sole and absolute determination on any feasible basis shall grant or deny any application submitted under this Local Rule. If the Court grants the application, the applicant's name shall be added to the Register, subject to removal under these Local Rules.

(iii) Reaffirmation of Qualifications. Each applicant accepted for designation to the Register shall reaffirm annually the continued existence and accuracy of the qualifications, statements and representations made in the application.

(c) Oath. Before serving as a mediator or arbitrator, each person designated as a mediator or arbitrator shall take the following oath or affirmation:

> "I, _____, do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent upon me in the Mediation or Voluntary Arbitration Program of the United States Bankruptcy Court for the District of Delaware without respect to persons and will do so equally and with respect."

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

(e) Appointment.

(i) Selection. Upon assignment of a matter to mediation or arbitration in accordance with these Local Rules and unless special circumstances exist as determined by the Court, the parties shall select a mediator or arbitrator. If the parties fail to make such selection within the time frame as set by the Court, then the Court shall appoint a mediator or arbitrator. A mediator shall be selected from the Register of Mediators, unless the parties stipulate and agree to a mediator not on the Register of Mediators.

(ii) Inability to Serve. If the mediator or arbitrator is unable to or elects not to serve, he or she shall file and serve on all parties, and on the ADR Program Administrator, within seven (7) days after receipt of notice of appointment, a notice of inability to accept the appointment. In such event, the parties shall select an alternate mediator or arbitrator.

(iii) Disqualification.

(A) Disqualifying Events. Any person selected as a mediator or arbitrator may be disqualified for bias or prejudice in the same manner that a Judge may be disqualified under 28 U.S.C. § 44. Any person selected as a mediator or arbitrator shall be disqualified in any matter where 28 U.S.C. § 455 would require disqualification if that person were a Judge.

(B) Disclosure. Promptly after receiving notice of appointment, the mediator or arbitrator shall make an inquiry sufficient to determine whether there is a basis for disqualification under this Local Rule. The inquiry shall include, but shall not be limited to, a search for conflicts of interest in the manner prescribed by the applicable rules of professional conduct for attorneys and by the applicable rules pertaining to the profession of the mediator or arbitrator. Within seven (7) days after receiving notice of appointment, the mediator or arbitrator shall file with the Court and serve on the parties either (1) a statement that there is no basis for disqualification and that the mediator or arbitrator has no actual or potential conflict of interest or (2) a notice of withdrawal.

(C) Objection Based on Conflict of Interest. A party to the mediation or arbitration who believes that the assigned mediator or arbitrator has a conflict of interest promptly shall bring the issue to the attention of the mediator or arbitrator, as applicable, and to the other parties. If the mediator or

arbitrator does not withdraw, and the movant is dissatisfied with this decision, the issue shall be brought to the attention of the ADR Program Administrator by the mediator, arbitrator or any of the parties. If the movant is dissatisfied with the decision of the ADR Program Administrator, the issue shall be brought to the Court's attention by the ADR Program Administrator or any party. The Court shall take such action as it deems necessary or appropriate to resolve the alleged conflict of interest.

(iv) Liability. Aside from proof of actual fraud or unethical conduct, there shall be no liability on the part of, and no cause of action shall arise against, any person who is appointed as a mediator or arbitrator under these Local Rules on account of any act or omission in the course and scope of such person's duties as a mediator or arbitrator.

(f) Compensation. A person will be eligible to be a paid mediator or arbitrator if that person has been trained and certified by any nationally-recognized certification program. Once eligible to serve as a mediator or arbitrator for compensation, which shall be at reasonable rates and subject to judicial review, the mediator or arbitrator may require compensation or reimbursement of expenses as agreed by the parties. Prior Court approval shall also be required if the estate is to be charged. If the mediator or arbitrator consents to serve without compensation and at the conclusion of the first full day of the mediation conference or arbitration proceeding it is determined by the mediator or arbitrator and the parties that additional time will be both necessary and productive in order to complete the mediation or arbitration, then:

(i) If the mediator or arbitrator consents to continue to serve without compensation, the parties may agree to continue the mediation conference or arbitration.

(ii) If the mediator or arbitrator does not consent to continue to serve without compensation, the fees and expenses shall be on such terms as are satisfactory to the mediator or arbitrator and the parties, subject to Court approval. Where the parties have

agreed to pay such fees and expenses, the parties shall share equally all such fees and expenses unless the parties agree to some other allocation. The Court may determine a different allocation.

(iii) Subject to Court approval, if the estate is to be charged with such expense, the mediator or arbitrator may be reimbursed for actual transportation expenses necessarily incurred in the performance of duties.

(g) Party Unable to Afford. If the Court determines that a party to a matter assigned to mediation or arbitration cannot afford to pay the fees and costs of the mediator or arbitrator, the Court may appoint a mediator or arbitrator to serve pro bono as to that party.

Rule 9019-3 Assignment of Disputes to Mediation or Voluntary Arbitration.

(a) Stipulation of Parties. Notwithstanding any provision of law to the contrary, the Court may refer a dispute pending before it to mediation and, upon consent of the parties, to arbitration. During a mediation, the parties may stipulate to allow the mediator, if qualified as an arbitrator, to hear and arbitrate the dispute.

(b) Safeguards in Consent to Voluntary Arbitration. Matters may proceed to voluntary arbitration by consent where

(i) Consent to arbitration is freely and knowingly obtained; and

(ii) No party is prejudiced for refusing to participate in arbitration.

Rule 9019-4 Arbitration.

(a) Referral to Arbitration under Fed. R. Bankr. P. 9019(c). The Court may allow the referral of a matter to final and binding arbitration under Fed. R. Bankr. P. 9019(c).

(b) Referral to Arbitration under 28 U.S.C. § 654. The Court may allow the referral of an adversary proceeding to arbitration under 28 U.S.C. § 654.

(c) Arbitrator Qualifications and Appointment. In addition to fulfilling the qualifications of a mediator found in Local Rule 9019-2(b), a person qualifying as an arbitrator hereunder must be certified as an arbitrator through a qualifying program that includes a bankruptcy component. An arbitrator shall be appointed (and may be disqualified) in the same manner as in Local Rule 9019-2(e). The arbitrator shall be liable only to the extent provided in Local Rule 9019-2(e)(iv).

(d) Powers of Arbitrator.

(i) An arbitrator to whom an action is referred shall have the power, upon consent of the parties, to

(A) Conduct arbitration hearings;

(B) Administer oaths and affirmations; and

(C) Make awards.

(ii) The Fed. R. Civ. P. and the Fed. R. Bankr. P. apply to subpoenas for the attendance of witnesses and the production of documents at a voluntary arbitration hearing.

(e) Arbitration Award and Judgment.

(i) Filing and Effect of Arbitration Award. An arbitration award made by an arbitrator, along with proof of service of such award on the other party by the prevailing party, shall be filed with the Clerk promptly after the arbitration hearing is concluded. The Clerk shall place under seal the contents of any arbitration award made hereunder and the contents shall not be known to any Judge who might be assigned to the matter until the Court has entered a

final judgment in the action or the action has otherwise terminated.

(ii) Entering Judgment of Arbitration Award. Arbitration awards shall be entered as the judgment of the Court after the time has expired for requesting a determination de novo, with no such request having been filed. The judgment so entered shall be subject to the same provisions of law and shall have the same force and effect as a judgment of the Court, except that the judgment shall not be subject to review in any other court by appeal or otherwise.

(f) Determination De Novo of Arbitration Awards.

(i) Time for Filing Demand. Within thirty (30) days after the filing of an arbitration award under Local Rule 9019-4(e) with the Clerk, any party may file a written demand for a determination de novo with the Court.

(ii) Action Restored to Court Docket. Upon a demand for determination de novo, the action shall be restored to the docket of the Court and treated for all purposes as if it had not been referred to arbitration.

(iii) Exclusion of Evidence of Arbitration. The Court shall not admit at the determination de novo any evidence that there has been an arbitration proceeding, the nature or amount of any award or any other matter concerning the conduct of the arbitration proceeding, unless

(A) The evidence would otherwise be admissible in the Court under the Federal Rules of Evidence; or

(B) The parties have otherwise stipulated.

(g) This Local Rule shall not apply to arbitration under 9 U.S.C. § 3, if applicable.

Rule 9019-5 Mediation.

(a) Types of Matters Subject to Mediation. The Court may assign to mediation any dispute arising in an adversary proceeding, contested matter or otherwise in a bankruptcy case.

(b) Effects of Mediation on Pending Matters. The assignment of a matter to mediation does not relieve the parties to that matter from complying with any other Court orders or applicable provisions of the Code, the Fed. R. Bankr. P. or these Local Rules. Unless otherwise ordered by the Court, the assignment to mediation does not delay or stay discovery, pretrial hearing dates or trial schedules.

(c) The Mediation Process.

(i) Time and Place of Mediation Conference. After consulting with all counsel and pro se parties, the mediator shall schedule a convenient time and place for the mediation conference and promptly give all counsel and pro se parties at least fourteen (14) days' written notice of the time and place of the mediation conference. The mediator shall schedule the mediation to begin as soon as practicable.

(ii) Submission Materials. Not less than seven (7) calendar days before the mediation conference, each party shall submit directly to the mediator and serve on all counsel and pro se parties any materials (the "Submission") the mediator directs to be prepared or assembled. The mediator shall so direct not less than fourteen (14) days before the mediation conference. Prior to the mediation conference, the mediator may talk with the participants to determine what materials would be helpful. The Submission shall not be filed with the Court and the Court shall not have access to the Submission.

(iii) Attendance at Mediation Conference.

(A) Persons Required to Attend. The following persons must attend the mediation conference personally, unless excused by the mediator:

(1) Each party that is a natural person;

(2) If the party is not a natural person, including a governmental entity, a representative who is not the party's attorney of record and who has full authority to negotiate and settle the matter on behalf of the party;

(3) If the party is a governmental entity that requires settlement approval by an elected official or legislative body, a representative who has authority to recommend a settlement to the elected official or legislative body;

(4) The attorney who has primary responsibility for each party's case; and

(5) Other interested parties, such as insurers or indemnitors or one or more of their representatives, whose presence is necessary for a full resolution of the matter assigned to mediation.

(B) Failure to Attend. Willful failure to attend any mediation conference, and any other material violation of this Local Rule, shall be reported to the Court by the mediator and may result in the imposition of sanctions by the Court. Any such report of the mediator shall comply with the confidentiality requirement of Local Rule 9019-5(d).

(iv) Mediation Conference Procedures. The mediator may establish procedures for the mediation conference.

(d) Confidentiality of Mediation Proceedings.

(i) Protection of Information Disclosed at Mediation. The mediator and the participants in mediation are prohibited from divulging, outside of the mediation, any oral or written information disclosed by the parties or by witnesses in the course of the mediation. No person may rely on or introduce as evidence in any arbitral, judicial or other proceeding, evidence pertaining to any aspect of the mediation effort, including but not limited to: (A) views expressed or suggestions made by a party with

respect to a possible settlement of the dispute; (B) the fact that another party had or had not indicated willingness to accept a proposal for settlement made by the mediator; (C) proposals made or views expressed by the mediator; (D) statements or admissions made by a party in the course of the mediation; and (E) documents prepared for the purpose of, in the course of, or pursuant to the mediation. In addition, without limiting the foregoing, Rule 408 of the Federal Rules of Evidence, any applicable federal or state statute, rule, common law or judicial precedent relating to the privileged nature of settlement discussions, mediations or other alternative dispute resolution procedures shall apply. Information otherwise discoverable or admissible in evidence does not become exempt from discovery, or inadmissible in evidence, merely by being used by a party in the mediation.

(ii) Discovery from Mediator. The mediator shall not be compelled to disclose to the Court or to any person outside the mediation conference any of the records, reports, summaries, notes, communications or other documents received or made by the mediator while serving in such capacity. The mediator shall not testify or be compelled to testify in regard to the mediation in connection with any arbitral, judicial or other proceeding. The mediator shall not be a necessary party in any proceedings relating to the mediation. Nothing contained in this paragraph shall prevent the mediator from reporting the status, but not the substance, of the mediation effort to the Court in writing, from filing a final report as required herein, or from otherwise complying with the obligations set forth in this Local Rule.

(iii) Protection of Proprietary Information. The parties, the mediator and all mediation participants shall protect proprietary information.

(iv) Preservation of Privileges. The disclosure by a party of privileged information to the mediator does not waive or otherwise adversely affect the privileged nature of the information.

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

(f) Post-Mediation Procedures.

(i) Preparation of Orders. If a settlement is reached at a mediation, a party designated by the mediator shall submit a fully-executed stipulation and proposed order to the Court within twenty-one (21) days after the end of the mediation. If the party fails to prepare the stipulation and order, the Court may impose appropriate sanctions.

(ii) Mediator's Certificate of Completion. No later than fourteen (14) days after the conclusion of the mediation conference, unless the Court orders otherwise, the mediator shall file with the Court, and serve on the parties and the ADR Program Administrator, a certificate in the form provided by the Court showing compliance or noncompliance with the mediation conference requirements of this Local Rule and whether or not a settlement has been reached. Regardless of the outcome of the mediation conference, the mediator shall not provide the Court with any details of the substance of the conference.

(iii) Mediator's Report. In order to assist the ADR Program Administrator in compiling useful data to evaluate the Mediation Program, and to aid the Court in assessing the efforts of the members of the Register, the mediator shall provide the ADR Program Administrator with an estimate of the number of hours spent in the mediation conference and other statistical and evaluative information on a form provided by the Court. The mediator shall provide this report whether or not the mediation conference results in settlement.

(g) Withdrawal from Mediation. Any matter assigned to mediation under this Local Rule may be withdrawn from mediation by the Court at any time.

(h) Termination of Mediation. Upon the filing of a mediator's certificate under Local Rule 9019-5(f) or the entry of an order withdrawing a matter from mediation under Local Rule 9019-5(g), the mediation will be deemed terminated and the mediator excused and relieved from further responsibilities in the matter without further order of the Court. If the mediation conference does not result in a resolution of all of the disputes in the assigned matter, the matter shall proceed to trial or hearing under the Court's scheduling order(s).

Rule 9019-6 **Other Alternative Dispute Resolution Procedures**. The parties may employ any other method of alternative dispute resolution.

Rule 9019-7 **Notice of Court Annexed Alternative Dispute Resolution Program**. The plaintiff, at the time of service of the complaint and summons, shall give notice of dispute resolution alternatives substantially in compliance with Local Form 110B.

Rule 9022-1 **Service of Judgment or Order**. Immediately upon the entry of a judgment or order, the Clerk shall serve a notice of the entry of the judgment or order on local counsel for the movant, via electronic means, as consented to by the movant. Registered CM/ECF users are deemed to have consented to service of the notice of the entry of orders or judgments via electronic means. If counsel for the movant is not a registered CM/ECF user, the Clerk shall serve a copy of the judgment or order on local counsel for the movant via first class mail. Counsel for the movant shall serve a copy of the judgment or order on all parties that contested the relief requested in the order and on other parties as the Court may direct and file a certificate of service to that effect within forty-eight (48) hours. For any pro se movant or sua sponte order, the Clerk's Office shall serve a copy of the judgment or order via first class mail on all parties affected thereby and file a certificate of service to that effect, unless otherwise directed by the Court.

Rule 9029-3 **Hearing Agenda Required**. In all chapter 7 asset cases and chapter 11 cases, debtor's counsel (or counsel to the trustee if one is appointed) shall file an agenda for each scheduled hearing in the case, in substantial conformity to Local Form 111 and meeting the requirements set forth in this Local Rule.

(a) General Requirements of Agenda.

(i) Local counsel shall file the agenda in the bankruptcy case and adversary proceeding, if applicable, with the Bankruptcy Court on or before 12:00 p.m. prevailing Eastern Time two (2) business days before the date of the hearing. Failure to file the agenda timely may subject counsel to a fine.

(ii) Resolved or continued matters shall be listed before unresolved matters. Contested matters (and documents within each matter) shall be listed in the order of docketing with corresponding docket numbers. All amended agendas shall list matters as listed in the original agenda, with added matters being listed last and all changes being made in bold print.

(iii) Copies of the proposed agenda shall be served upon local counsel who have entered an appearance in the case, as well as all other counsel with a direct interest in any matter on the agenda, substantially contemporaneous with the Court filing.

(b) Motions.

(i) General Information. For each motion, the agenda shall provide the title, docket number and date filed. Supporting papers shall be similarly listed.

(ii) Objection Information. For each motion, the agenda shall provide the objection deadline and any objections filed, and provide the docket number and the date filed, if available.

(iii) Status Information. For each motion, the agenda shall provide whether the matter is going forward, whether a continuance is requested (and any opposition to the continuance, if known), whether any or all of the objections have been resolved and any other pertinent status information.

(c) Adversary Proceedings. When an adversary proceeding is scheduled, the agenda shall indicate the adversary proceeding number in addition to the information required by Local Rule 9029-3(b).

(d) Hearing Binders. The agenda shall be submitted to the respective Judge's chambers in a hearing binder containing copies of all documents relevant to matters scheduled to be considered by the Court at such hearing. Hearing binders shall contain only the substantive documents necessary for the hearing (i.e., motions and responses) and shall not contain documents related to continued or resolved matters. Certificates of service shall not be included in the hearing binder unless adequacy of service is an issue to be considered by the Court.

(e) Amended Agenda. Where an amended agenda is necessary, the amended agenda shall (in bold print) note any material changes in the status of any agenda matter.

Rule 9036-1 Electronic Transmission of Court Notices; Use of Technology in the Courtroom.

(a) Court Notices. To eliminate redundant paper notices, all registered electronic filing participants will receive notices required to be sent by the Clerk via electronic transmission only. No notices from the Clerk's Office will be sent in paper format, with the exception of the Notice of Meeting of Creditors, which will be sent in both paper and electronic format. The electronic transmission of notices by the Clerk will be deemed complete upon transmission. The Court has established "opt-out" procedures to ensure that any registered electronic filing participant may receive paper notices in addition to electronic notices by requesting such notices in writing to the Clerk's Office.

(b) Use of Technology in the Courtroom. Parties intending to use any technology in the Courtroom must give the Court three (3) business days' notice. Notice should be sent via email to debml_Courtroom_Technology@deb.uscourts.gov. Appropriate chambers should also be notified.

Rule 9037-1 **Redaction of Personal Data Identifiers**. The responsibility for redacting personal data identifiers (as defined in Fed. R. Bankr. P. 9037) rests solely with counsel, parties in interest and non-parties. The Clerk, or claims agent if one has been appointed, will not review each document for compliance with this Rule. In the event the Clerk, or claims agent if one has been appointed, inadvertently discovers that personal identifier data or information concerning a minor individual has been included in a pleading, the Clerk, or claims agent if one has been appointed, is authorized, in its sole discretion, to redact all such information from the text of the docketed filing and make an entry indicating the correction.

PART X. CHRONOLOGY TABLE

DATE	COMMENT
February 1, 2007	Effective date of Local Rules
December 3, 2007	Revised Local Rule 3007-1
	Revised Local Rule 3011-1
	Added Local Rule 3011-2
	Revised Local Rule 3023-1(c)(1)
	Added Local Rule 6004-1
	Revised Local Rule 7007-4
	Revised Local Rule 7030-1
	Revised Local Rule 9011-4
	Revised Local Rule 9013-1
	Revised Local Rule 9018-1
	Revised Local Rule 9019-7
	Revised Local Rule 9029-3
	Revised Local Rule 9036-1
December 6, 2007	Revised Local Rule 1009-2
	Revised Local Rule 2002-1
	Revised Local Rule 2014-1
	Revised Local Rule 3007-1
	Revised Local Rule 6004-1
	Revised Local Rule 7016-1
	Revised Local Rule 7016-2
	Revised Local Rule 7026-1
	Added Local Rule 7026-2
	Added Local Rule 7026-3
	Revised Local Rule 7030-1
	Revised Local Rule 9006-1
	Revised Local Rule 9010-1
	Revised Local Rule 9013-1
January 29, 2008	Revised Local Rule 3007-1(f)
December 5, 2008	Revised Local Rule 1007-2(a)
	Added Local Rule 1007-2(b)
	Revised Local Rule 2002-1(f)
	Revised Local Rule 3011-1
	Revised Local Rule 3023-1(b)
	Revised Local Rule 3023-1(c)
	Added Local Rule 3023-1(g)
	Added Local Rule 4001-4
	Revised Local Rule 7007-2(a)
	Revised Local Rule 9010-2(b)
	Revised Local Form 103
	Added Local Form 103A
	Revised Local Form 104

DATE	COMMENT
October 22, 2009	Revised Local Rule 1002-1(c)
	Revised Local Rule 1007-2
	Revised Local Rule 1009-1
	Revised Local Rule 1009-2
	Revised Local Rule 1014-1
	Revised Local Rule 2002-1(b)(i)(A)
	Revised Local Rule 2002-1(e)
	Revised Local Rule 2002-1(f)
	Revised Local Rule 2004-1
	Revised Local Rule 3007-1
	Revised Local Rule 3023-1(b)(i)
	Revised Local Rule 3023-1(c)(i)
	Revised Local Rule 4001-1
	Revised Local Rule 4001-2(c)
	Revised Local Rule 5009-1(c)
	Revised Local Rule 5009-2
	Revised Local Rule 7007-1(a)(iii)
	Revised Local Rule 7007-3
	Revised Local Rule 7007-4
	Revised Local Rule 7016-1(a)
	Revised Local Rule 7016-2
	Revised Local Rule 7016-3
	Revised Local Rule 7026-1(a)
	Revised Local Rule 7030-1(b)
	Revised Local Rule 8001-1
	Revised Local Rule 9006-1(c)
	Revised Local Rule 9010-2(b)
	Revised Local Rule 9013-1
	Revised Local Rule 9018-1
	Revised Local Rule 9019-2
	Revised Local Rule 9019-5
	Revised Local Rule 9029-3(a)(i)
	Revised Local Rule 9036-1(b)
December 11, 2009	Revised Local Rule 2002-1(b)(2)(D)
	Revised Local Rule 2002-1(f)
	Revised Local Rule 3007-1
	Revised Local Rule 3011-1
	Revised Local Rule 4001-1
	Revised Local Rule 5005-4
	Revised Local Rule 9010-1(e)(iii)
	Revised Local Rule 9018-1
	Added Local Rule 9019-1
	Revised Local Rule 9019-2

DATE	COMMENT
	Revised Local Rule 9036-1(b)
	Added Local Form 114
	Added Local Rule 9037-1
December 22, 2010	Revised Local Rule 2002-1(f)(ix)
	Added subsection (g) to Local Rule 2002-1
	Added Local Rule 3002-1
	Added subsection (j) to Local Rule 2016-2
	Revised Local Rule 3007-1
	Revised Local Rule 9006-1
	Revised Local Rule 7007-2
	Added Local Rule 3015-1
	Revised Local Rule 9010-1
	Added Local Form 115
	Added Local Form 116
	Added Local Form 117
December 14, 2011	Added Local Rule 1003-1
	Revised Local Rule 1007-1
	Revised Local Rule 1009-1
	Added Local Rule 1017-2
	Added Local Rule 1017-3
	Revised Local Rule 2002-1
	Revised Local Rule 3007-1
	Revised Local Rule 3011-1
	Revised Local Rule 3023-1
	Revised Local Rule 5005-4
	Revised Local Rule 7004-1
	Revised Local Rule 9006-1
	Added Local Rule 9010-1(f)
	Revised Local Rule 9018-1
	Revised Local Rule 9037-1