

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

**PROPOSAL TO AMEND
THE LOCAL BANKRUPTCY RULES**

The full Court met in executive session on Wednesday, October 20, 2021, and approved a proposal to amend the Local Bankruptcy Rules (9090-1, 9090-2, 9090-3, 9060-1) as attached (additions shown thus, and deletions shown ~~thus~~):

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COMMENT: By direction of the full Court and pursuant to 28 U.S.C. §207(b) regarding appropriate public notice and opportunity for comment, the Clerk is directed to: (a) cause notice of the proposal to amend the Local Bankruptcy Rules (9090-1, 9090-2, 9090-3, 9060-1) to be published in the *Chicago Daily Law Bulletin*, (b) cause notice of the proposal and requests for comment to be posted on the web site for the United States District Court Northern District of Illinois, (c) cause notice of the proposal to be posted in the Courthouses at Chicago and Rockford, (d) indicate in such notice a final date for receipt of comments, which date shall be sixty days from the first date of publication in the *Law Bulletin*, (e) collect and distribute among the members of the Advisory Committee for Local Rules all comments received, and (f) following receipt of a copy of the report and recommendation of the advisory committee to distribute copies of the comments together with copies of the report and recommendation among the members of the Court for consideration at a regular meeting of the full Court.

ENTER:
FOR THE COURT



Hon Rebecca R. Pallmeyer, Chief Judge

Dated at Chicago, Illinois this 25th day of October 2021.

RULE 9090-1 DESIGNATION AS COMPLEX CHAPTER 11 CASE

A. Definition

A “Complex Chapter 11 Case” means a case under Chapter 11 of the Bankruptcy Code, other than a single asset real estate case as defined in 11 U.S.C. § 101(51B), that meets one of the following conditions:

- (1) The petition lists \$50 million or more in assets and \$50 million or more in liabilities, aggregated in cases that are related under Rule 1015-1;
- (2) The debtor has filed a Notice of Designation as a Complex Case under section (B) of this rule; or
- (3) The court has ordered the case designated a Complex Chapter 11 Case under section (D) of this rule.

B. Notice of Designation

- (1) If a case is a Complex Chapter 11 Case under section (A)(1) of this rule, the debtor must file with the petition a Notice of Designation as a Complex Case.
- (2) If a case is not a Complex Chapter 11 Case under section (A)(1) of this rule, the debtor may file a Notice of Designation as a Complex Chapter 11 Case within 30 days of the petition date. The Notice must explain why the designation is warranted. Designation as a Complex Chapter 11 Case may be warranted for any reason, including:
 - (a) The debtor has a large amount of assets, liabilities, or both;
 - (b) The case has a large number of parties in interest;
 - (c) The case will likely involve a large amount of litigation; and
 - (d) Claims against the debtor or equity interests in the debtor are publicly traded.

C. Objection to Notice of Designation

No later than 14 days after a Notice of Designation as a Complex Chapter 11 Case is filed, a party in interest may file an objection to the Notice. The objection must explain why the designation is not warranted and must be noticed for presentment as a motion.

D. Motion to Designate Case

A Chapter 11 case may be designated a Complex Chapter 11 Case at any time on motion of a party in interest or on the court’s own motion.

E. Revocation of Designation

The designation of a case as a Complex Chapter 11 Case may be revoked at any time on motion of a party in interest or on the court’s own motion.

RULE 9090-2 FIRST DAY MOTIONS AND PROCEDURES

A. Applicability

This Rule applies in a case designated as a Complex Chapter 11 Case under Rule 9090-1.

B. Case Management Summary

No later than three business days after the petition date, the debtor-in-possession must file a Chapter 11 Case Management Summary providing the following information:

- (1) A description of the debtor's business;
- (2) The locations of the debtor's operations and whether leased or owned;
- (3) The debtor's reasons for filing bankruptcy;
- (4) The names and titles of the debtor's officers, directors, and insiders, if applicable, and their salaries and benefits at the time of filing and during the one year prior to filing;
- (5) The debtor's annual gross revenues for the last five calendar years;
- (6) The aggregate amounts owed, including current year to date and prior fiscal year, to the following categories of creditors:
 - (a) priority creditors such as governmental creditors for taxes,
 - (b) secured creditors and their respective collateral, and
 - (c) unsecured creditors;
- (7) A general description and the approximate value of the debtor's current and fixed assets;
- (8) The number of the debtor's employees and the gross wages owed to employees on the petition date;
- (9) The status of the debtor's payroll and sales tax obligations, if applicable; and
- (10) The debtor's strategic objectives, e.g., refinancing, cram down, or the surrender or sale of assets or business.

C. First Day Motions

Motions under this rule are not subject to Local Rule 9013-2 and may be noticed for presentment, subject to the court's availability, within two business days of the petition date. As soon as possible after the hearing is scheduled, the debtor must serve each such motion by email or hand delivery on all parties entitled to notice, including the Office of the United States Trustee and on all parties who may be affected by the motion. At the time of service, the debtor must also provide telephonic notice of the hearing date and time to all parties served with a first day motion. First day motions include:

- (1) **Motion to Use Cash Collateral.** In addition to the requirements of 11 U.S.C. § 363 and Rules 4001(b) or (d) of the Federal Rules of Bankruptcy Procedure, a motion to use cash collateral must comply with Local Bankruptcy Rule 4001-2.

(2) Motion to Approve Post-petition Financing. In addition to the requirements of 11 U.S.C. § 364 and Rules 4001(c) or (d) of the Federal Rules of Bankruptcy Procedure, a motion to approve post-petition financing must comply with Local Bankruptcy Rule 4001-2.

(3) Motion to Pay Prepetition Wages. A motion to pay employees of the debtor prepetition wages outstanding as of the petition date must include a schedule stating:

- (a) the name of each employee to whom wages are sought to be paid;
- (b) the amount due each employee as of the petition date;
- (c) the amounts to be withheld from such wages, including all applicable payroll taxes and related benefits;
- (d) the period for which prepetition wages are due;
- (e) whether the employee is currently employed by the debtor;
- (f) the irreparable harm that will result if the relief is not granted; and
- (g) whether any of the employees are insiders under 11 U.S.C. § 101(31).

The motion must also include the debtor's representation that all applicable payroll taxes and related benefits due to the debtor's employees will be paid concurrently with payment of the wages.

(4) Motion to Maintain Prepetition Bank Accounts. A motion to maintain prepetition bank accounts must include:

- (a) a schedule listing each prepetition bank account that the debtor seeks to maintain post-petition;
- (b) the reason for seeking such authority;
- (c) the amount on deposit in each account as of the petition date;
- (d) whether the depository is an authorized depository under 11 U.S.C. § 345(b); and
- (e) a representation that the debtor has consulted with the Office of the United States Trustee about the continued maintenance of prepetition bank accounts and a representation about whether the United States Trustee has consented to the proposed maintenance of use of the accounts.

If the debtor is unable to provide the information in sections (a)-(e), the motion must explain why it is unavailable and must estimate when the debtor will supplement its motion with the information.

(5) Motion for Authority to Pay Affiliate Officer Salaries. A motion to pay, on an interim basis, the salary of any officer, manager, or employee, who qualifies as an affiliate under 11 U.S.C. § 101(2)(A) must include:

- (a) the person's name, position, and job responsibilities;
- (b) the nature of the person's relationship to the debtor;
- (c) the salary that the person received by in the 12 months before the filing of the

debtor's Chapter 11 petition, including a description of any prepetition employment agreement;

(d) a description of any services performed for any third party or compensation received or that will be received by the person from any source other than the debtor-in-possession after the date of the petition;

(e) the salary proposed to be paid to the person, including all benefits; and;

(f) the amounts to be withheld from the person's salary, including all applicable payroll taxes and related benefits.

RULE 9090-3 OMNIBUS HEARINGS, MOTIONS, AND BRIEFS

A. Applicability

This Rule applies in a case designated as a Complex Chapter 11 Case under Rule 9090-1. Rules 7016-1 and 9013-1(D), (E) and (F) do not apply in a Complex Chapter 11 Case.

B. Omnibus Hearings

Regular monthly omnibus hearings must be scheduled at which the court will hear motions and other matters. Unless the court orders otherwise, motions and other matters will be heard only at scheduled omnibus hearings.

C. Agendas

Before each omnibus hearing at which more than one matter will be heard, the debtor must file a hearing agenda. The agenda must group the matters the debtor expects to be heard depending on whether they are contested or uncontested. For each matter listed, the agenda must give the title and docket number. The agenda must be filed with the court at least two business days before the omnibus hearing.

D. Motions

(1) Presentment of Motions

Unless the court orders otherwise or the motion is an emergency motion under Rule 9013-2, every motion must be noticed for presentment at an omnibus hearing. The notice of motion must be filed and served at least 14 days before the date of presentment, unless the movant asks in the motion to have the notice shortened for cause.

(2) Improper Notice

Unless the court orders otherwise or the movant has asked for shortened notice, a motion that is either (a) noticed for presentment on a date when no omnibus hearing is scheduled or (b) filed and served less than 14 days before the omnibus hearing will be continued to the next scheduled omnibus hearing.

(3) No Cause to Shorten Notice

If the movant has asked for shortened notice and the court finds no cause to shorten the notice, the motion will be continued to the next scheduled omnibus hearing date.

E. Briefing and Certifications of No Objection

(1) Briefing

(a) If a motion is noticed for presentment 21 days or more before the omnibus hearing where the motion will be presented, an opposing party may file a response no later than 7 days before the omnibus hearing.

(b) If a motion is noticed for presentment fewer than 21 days before the omnibus hearing where the motion will be presented, an opposing party may file a response no later than 3 days before the omnibus hearing.

(2) Certification of No Objection

If no response to a motion is filed under sections (D)(1)(a) or (b) of this Rule, the movant may file a certification of no objection. If a certification of no objection is filed, the court may grant the motion without a hearing.

F. Fifteen-Page Limit

No motion, response to a motion, brief, or memorandum in excess of fifteen pages may be filed without court approval. A request to file a motion or a supporting brief or memorandum in excess of fifteen pages may be made in the motion itself.

RULE 9060-1 MEDIATION AND ARBITRATION

A. Generally

Except to the extent required by the Bankruptcy Code or Federal Rules of Bankruptcy Procedure, parties to an adversary proceeding or contested matter need not request court approval before pursuing mediation or arbitration. Parties must promptly file a motion with the court requesting any scheduling changes that the proposed mediation or arbitration may necessitate.

B. Assignment of Matters to Mediation

On the motion of any party in interest, the court may order the mediation of any dispute, whether it arises in an adversary proceeding, contested matter, or otherwise.

C. Mediation Order

The order for mediation must address these subjects:

- the identity of the mediator
- the subject of the mediation
- the time and place of the mediation
- who may attend the mediation and who must attend
- the costs of the mediation and who will bear them
- the confidentiality and admissibility of statements made during or in connection with the mediation

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