

Guidelines

Guideline 1 Notifying the United States Trustee and the Clerk of First Day Motions

Before filing a chapter 11 case that is accompanied by First Day Motions, counsel for the debtor is encouraged to communicate with the United States trustee's office and the clerk's office. With respect to contact with the clerk's office, counsel should contact the clerk of the court. If the clerk is not available, contact may be made with the chief deputy clerk or the operations manager of the clerk's office. Counsel for the debtor may discuss any relevant issues in the case with the United States trustee and the clerk of the court.

The court strongly encourages the parties to discuss the following with the United States trustee's office:

- (1) The nature of the first day relief to be requested.
- (2) The debt structure of the business, including the public and trade debt.
- (3) Description of the debtor's cash management system and issues under § 345.
- (4) Issues that may be resolved by consent (*e.g.*, extensions of time to file schedules, adequate assurances of utility payments, wage and benefit payments up to statutory limitation(s), joint administration, necessity doctrine payments, professional employment issues, including conflicts and indemnification requests).
- (5) Corporate governance issues.
- (6) Collateral issues including Federal Trade Commission issues, taxing authority issues, Security and Exchange Commission issues, pension and other Department of Labor issues, Environmental Protection Agency and Michigan Department of Environmental Quality issues and insurance issues.
- (7) The status of any attempted out-of-court workout, including perceived impediments to a successful reorganization and whether there was an unofficial prepetition committee.
- (8) The number of creditors and any special needs due to the size of the case.
- (9) The need for a noticing vendor for the notice of the meeting of creditors and any other notice requirement.

The court strongly encourages the parties to discuss the following with the clerk:

- (1) The number of creditors and any special needs due to the size of the case.

(2) The need for a noticing vendor for the notice of the meeting of creditors and any other notice requirement.

(3) The need for the availability of the clerk or staff outside of ordinary business hours.

Guideline 2 Expedited Formation of Committee in a Large Bankruptcy Case

In Large Bankruptcy Cases, the United States trustee's office is encouraged to appoint a committee of creditors within 3 Business Days after receiving the information from the debtor required by Local Rule 2003-3, provided that creditors are willing to serve in accordance with § 1102.

Guideline 3 Missing Papers

The clerk will not issue a discharge in a chapter 13 case if the debtor has not filed a Debtor's Certification Regarding Domestic Support Obligations, as required by Local Rule 4004-1.

Guideline 4 Waiver of Filing Fee

An application to waive the filing fee must be filed on the official form. The court will review all such applications in chambers. The court may deny an application without a hearing. If the court schedules a hearing, the court will give notice to the debtor and the trustee.

Guideline 5 Tax Return Compliance

A motion under §§ 521(j), 1307(e) or 1308 must be filed under Local Rule 9014-1.

Guideline 6 Chapter 13 Post-Confirmation Motions to Excuse Plan Payments or Tax Refunds in Chapter 13 Cases and Plan Modifications

Because post-confirmation motions to excuse plan payments or tax refunds in chapter 13 cases are actually plan modifications, for which the national and local rules establish a

procedure, the Court will no longer consider such motions. Upon the filing of such a post-confirmation motion, the Court will enter an order denying it without prejudice to the debtor's right to file a proposed plan modification.

Any such proposed plan modification must comply with LBR 3015-2(b); and be filed in ECF using the event, "Chapter 13 Post-Confirmation Plan Modification."

Guideline 7 Entry of a Discharge in an Individual Chapter 11 Case

11 U.S.C. § 1141(d)(5) provides that in an individual chapter 11 case, a discharge is entered after the completion of all payments under the confirmed plan and after the court makes the findings required by § 1141(d)(5)(C). Rather than await those events to close the case, which may take several years, the Court will close such a case upon plan confirmation and resolution of all post-confirmation litigation. To request the entry of a discharge upon the completion of plan payments, the debtor must file a motion to reopen for that purpose. The Court will waive any applicable reopening fee for such a motion. The motion should request the findings required by § 1141(d)(5)(C) and should be filed under LBR 9014-1 with notice to all parties in interest.

Guideline 8 Procedure for Lien Strip of a Junior Mortgage in Chapter 13

This guideline applies to any Chapter 13 case in which a debtor proposes to strip a junior lien on real property under §§ 1322(b)(2) and 506(a) of the Bankruptcy Code. If the lien strip is agreed upon by the debtor and the lien holder, the debtor and the lien holder may file a stipulation in the bankruptcy case and submit a proposed order accomplishing the lien strip. If the debtor does not have the agreement of the lien holder to the lien strip, the debtor must file an adversary proceeding contemporaneous with the debtor's Chapter 13 plan. In such case, the plan must contain a provision informing the lien holder that an adversary proceeding to strip the lien has been filed under §§ 1322(b)(2) and 506(a) of the Bankruptcy Code. A Chapter 13 debtor filing such adversary proceeding is exempt from payment of the adversary proceeding filing fee. Any lien strip default judgment entered in such adversary proceeding must include the following language:

IT IS ORDERED that upon completion of the debtor's Chapter 13 plan and the entry of a Chapter 13 discharge order in bankruptcy case number _____, the mortgage ("Mortgage") dated _____, covering the following described property ("Property") situated in the City of _____, County of _____, State of _____, and further described as follows:

[legal description]

recorded in the _____ County Register of Deeds on _____, Liber _____, Page _____, will be stripped from the Property and discharged.

IT IS FURTHER ORDERED that upon completion of the debtor's Chapter 13 plan and the entry of a Chapter 13 discharge order in bankruptcy case number _____, the debtor may record a certified copy of this order, with a copy of the debtor's Chapter 13 discharge order attached, with the _____ County Register of Deeds, which will constitute and effectuate the discharge of the Mortgage.

IT IS FURTHER ORDERED that if the debtor fails to complete the debtor's Chapter 13 plan and obtain a Chapter 13 discharge order in bankruptcy case number _____, this order does not affect the validity or enforceability of the Mortgage and may not be used in any subsequent bankruptcy case of the debtor either to compel the holder of the Mortgage to execute a discharge of the Mortgage, or to otherwise act as a discharge of the Mortgage.

Guideline 9 Responsibilities of Debtor's Counsel Relating to a Reaffirmation Agreement

As a matter of fulfilling the obligations of counsel for a debtor in a Chapter 7 case, counsel may not exclude from representation services relating to a reaffirmation agreement.

Guideline 10 New Chapter 13 Model Plan

All Chapter 13 plans filed in the Eastern District of Michigan must be in the form and contain the content of the model plan that is available on the Court's website, www.mieb.uscourts.gov, and on www.13edm.com.