

GENERAL PROVISIONS

9029-1 Local Rules - General (new number)

1.01	<u>Effective Date</u> (old number)
1.02	<u>Scope and Construction of Rules</u> (old number)

By Order entered on the 27th day of December, 1990, these rules were adopted by the Judges of this District and became effective February 1, 1991. This revision, dated July 1, 1994, incorporates revisions dated January 16, 1992, and August 15, 1993.

These rules govern the practice and procedure in the United States Bankruptcy Court for the Southern District of West Virginia ("the Court"). The rules shall govern all proceedings in Bankruptcy Court for all cases filed after the effective date and in all further proceedings in cases pending as of the effective date, unless otherwise ordered by the Court. The judges of the District Court may amend and supplement the rules from time to time.

These rules are intended to supplement and complement the Federal Bankruptcy Rules. They shall be applied, construed and enforced so as to avoid inconsistency with the United States "Bankruptcy Rules and Official Forms", effective August 11, 1983, as amended.

The "Rules of Practice and Procedure" of the United States District Court for the Southern District of West Virginia are intended to supplement and complement these rules, where applicable. Appendix I to these rules sets forth with particularity those District Court Local Rules which are relevant and which shall be applied to the practice of bankruptcy before this Court.

In their application and administration, the rules shall be construed and employed so as to provide fairness and simplicity in procedure, to avoid technical and unjustifiable delay, to secure just, expeditious and inexpensive determination of all matters pending before the Court, and to otherwise promote the efficient administration of justice.

Cross Reference

See "Rules of Practice and Procedure",
U.S. District Court, S.D.W.V.
Appendix I

9029-2 Local Rules - General Orders (new number)

1.03 Rescission of Prior General Orders (old number)

Subsequent to the adoption of the Local Rules, effective August 1, 1985, and prior to the effective date of these rules, various General Orders were entered by the Court. These General Orders, except those regarding internal office practice and duties or bond matters concerning the panel of trustees, have been incorporated in these rules. Therefore, General Orders 86-2, 87-02, 87-04, 88-05, 88-06, 89-01 and 89-02 are rescinded. Further General Orders 92-01, 92-03 and 93-02 are rescinded.

COURT ADMINISTRATION

5001-2 Clerk - Office Location/Hours (new number)

2.01 Sessions of Court (old number)

The Court shall be deemed to be open and in continuous session in accordance with the provisions of Rule 5001 of the Bankruptcy Rules.

Cross Reference
Bankruptcy Rule 5001
See also, Rule 77, F.R.Civ.Proc.

1072-1 Places of Holding Court (new number)

2.02 Division of Business; Change of Venue (old number)

The United States Bankruptcy Court for the Southern District of West Virginia is the proper venue for cases in which the debtor's residence or place of business is in one of the twenty-three (23) counties listed in Rule 2.03.

The Southern District of West Virginia includes five (5) divisional offices located in Bluefield (division 1), Charleston (division 2), Huntington (division 3), Parkersburg (division 4), and Beckley (division 5).

The Court will, in the interests of the parties, conduct hearings and other proceedings at each of the divisional locations, except where the Court determines hearings should be held elsewhere for the convenience of the Court or the parties in interest.

1014-2 Venue - Change of (new number)

Divisional venue of a bankruptcy case within the Southern District ordinarily will be in the division of the district where the debtor maintains his/her residence or place of business. A change of venue within the district may be granted upon motion to the Court, upon a showing of good cause. The Clerk will mail the order granting the change of venue to all parties listed on the debtor's mailing matrix.

Cross reference

Local Rule 2.03

U.S. District Court, S.D.W.V. Local Rule 1.02(b)

1071-1 Divisions - Bankruptcy Court (new number)

2.03 Divisions(old number)

For the purposes of determining divisional venue, the Bankruptcy Court will observe the divisions established by the "Rules of Practice and Procedure" of the United States District Court for the Southern District of West Virginia. A list of the divisions and counties currently contained therein is located in Appendix J of these rules. If the District Court alters these divisions, this Court will revise Appendix J to reflect the change.

Cross reference

U.S. District Court, S.D.W.V. Local Rule 1.02(b)

Appendix J (Divisions)

5001-2 Clerk - Office Location/Hours (new number)

2.04 Place of Filing (old number)

All petitions, pleadings, other papers, and fees, if applicable, shall be filed by mail or in person with the Clerk of the Bankruptcy Court in Charleston only, at the following address:

United States Bankruptcy Court
Southern District of West Virginia
300 Virginia Street E., Room 2400
Charleston, WV 25301

or

United States Bankruptcy Court
Southern District of West Virginia
P. O. Box 3924
Charleston, WV 25339

5081-1 Fees - Form of Payment (new number)

2.05 Payment of Fees (old number)

Checks will be accepted by the Clerk from counsel of record, Chapter 11 debtors, and Chapter 13 debtors subject to collection. Fees paid by Chapter 7 debtors will be accepted only if payment is made by cash, cashier's check or money order.

2090-1 Attorneys - Admission to Practice (new number)

2.06 Admission to Practice Before Bankruptcy Court (old number)

Attorneys admitted to practice in the United States District Court for the Southern District of West Virginia are automatically admitted to practice before this Court.

Any visiting attorney, not admitted to practice before the U. S. District Court, S.D.W.V., who is a member in good standing of the bar of the Supreme Court of the United States, or of the bar of the highest court of any state in the United States, or of the bar of the District of Columbia, may file a motion pro hac vice with the Bankruptcy Court. Such motion shall contain a statement identifying by exact name and address the bar of which the visiting attorney is a member in good standing and will ordinarily be granted in matters of disputed claims litigation and enforcement of Bankruptcy Court judgments, but, otherwise, it shall be granted only on a case-by-case basis for cause. If no order is entered admitting an attorney pro hac vice, a visiting attorney must associate with local counsel admitted to practice before the Court, who shall endorse all pleadings filed with the Court and accompany the visiting attorney upon the visiting attorney's initial appearance before the Court. thereafter, the local counsel may, by and with the consent of the Court, be excused from further attendance during the proceedings, and the visiting attorney may be permitted to continue to appear for the purpose of the particular case. If a pleading is filed by a visiting attorney who has not been admitted pro hac vice and which is not endorsed by local counsel, the Court shall mail a notice to the visiting attorney that unless there is compliance with this rule within fifteen (15) days, the Court may strike the pleading from the docket.

1073-1 Assignment of Cases (new number)

2.07 Assignment of Case and/or Adversary Proceeding (old number)

The Judicial Conference of the United States at its March 16-17, 1983, meeting authorized concurrent State-wide jurisdiction for the bankruptcy judges of the Northern and Southern Districts of West Virginia.

Pursuant to 28 U.S.C. § 154(a), by agreement between the bankruptcy judges of the Northern and Southern Districts of West Virginia, each judge may assign cases filed within his own district to the judge of the other district as the press of business, workload or the interest of justice dictates.

Unless otherwise ordered by the Court, pleadings will be filed and the case file maintained in the district where the case originated.

Cross reference
Bankruptcy Rule 1014 (Change of Venue)

7004 - 1 Service of Process (new number)

2.08 Service on Counsel for Debtor(s) Required (old number)

Whenever these rules or the Bankruptcy Rules require service on the debtor(s), service on counsel for the debtor(s) is also required.

4002-1 Debtor - Duties (new number)

2.09 Duties of Pro Se Debtor (old number)

A debtor appearing pro se in a bankruptcy case has the same duty to comply with these rules as does an attorney employed to represent a debtor.

4002-2 Address of Debtor (new number)

2.10 Notice of Change of Debtor's Address (old number)

If the debtor's address listed on the petition should change during the pendency of the case, the debtor's counsel shall immediately notify the Court of the new address.

9072-1 Orders - Proposed (new number)

2.11 Proposed Orders and Stipulations (old number)

Counsel who presents a motion for order shall submit a proposed order for entry by the Court. The Clerk may, in his discretion, refuse to accept any motion not accompanied by a proposed order. All proposed orders and any orders drafted at the direction of the Court shall bear a

caption which adequately summarizes the substance of the order. The order should not be on paper which bears the engraved or printed name of the firm submitting the order. All orders shall contain the signature of the party submitting the order for entry by the Court. The order should not contain language directing the Clerk to send certified copies to all parties in interest. Certified copies will be sent upon individual request and the payment of a fee as prescribed by 28 U.S.C. § 1930 (See Appendix A for current fee).

9071-1 Stipulations (new number)

The Court will accept Stipulations entered into by the parties in interest in those matters where the parties have reached a voluntary agreement between themselves, the terms of which do not require approval by the Court. Such matters would include, for example, a stipulation extending the time to answer a complaint, providing for the taking of a deposition, or modifying procedures pertaining to discovery.

2.12 Summary of Orders (old number)

Orders approving a compromise, settling a controversy, or setting forth terms of a sale tend to be voluminous in nature. Because these lengthy orders must be served on the creditor body, the Clerk may direct counsel to prepare a concise summary of the terms of the compromise, ordinarily no longer than one page, to be mailed to parties in interest.

5005-1 Filing Papers - Requirements (new number)

2.13 Rejection of Pleadings (old number)

(a) The Clerk of the Bankruptcy Court shall present to the Bankruptcy Judge any petitions, lists, schedules, pleadings, claims or other papers that contain the following deficiencies:

1. Petitions:
 - A. Where not accompanied by the proper filing fee or an application to pay in installments.
 - B. Where not accompanied by a properly completed mailing matrix.

- C. Where not verified by signature of the attorney or not containing an unsworn declaration with signature of all debtors.
 - D. Where two or more individuals are listed, or two or more entities listed, except where 11 U.S.C. § 302 permits the filing of a joint petition.
 - E. Where it is a Chapter 11 case and the petition is not accompanied by the list of twenty (20) largest creditors.
 - F. Where filed by a corporation, except in a Chapter 7 case, and the debtor-corporation is not represented by an attorney.
2. Adversary Proceedings:
- A. Where not accompanied by the proper filing fee.
 - B. Where not accompanied by a properly completed Adversary Proceeding Cover Sheet [B104].
 - C. Where offered for filing by an attorney not admitted to practice before this Court.
3. Proofs of Claim
- A. Where the claim does not contain the caption of the case or the case number.
 - B. Where not properly signed by the claimant or an authorized agent.
4. Motions and Other Pleadings:
- A. Where offered for filing by an attorney not admitted to practice before this Court pursuant to Local Rule 2090-1.
 - B. Where offered for filing by a corporation or its agent or employee, other than an attorney for the corporation who is admitted to practice before the Court.
 - C. Where not accompanied by a proposed order for entry by the Court.

The Bankruptcy Judge will review any deficient document which has been submitted by the Clerk and issue either an order rejecting the filing of the document or an

order which instructs the party who submitted the document to correct the deficiency within a certain period of time.

5003-2 Court Papers - Removal Of (new number)

2.14 Removal of Papers from Custody of Clerk (old number)

Original documents on file in the office of the Clerk of the Bankruptcy Court shall not be produced pursuant to a subpoena from a state court unless the Clerk is ordered to produce the documents by a District Judge, a United States Magistrate, or a Bankruptcy Judge having jurisdiction in this district. Certified copies of documents may be produced for evidentiary purposes in a state court action upon payment to the Clerk of the proper fee.

Cross reference
Appendix A (Fees)

5005-4 Electronic Filing (new number)

2.15 Facsimile Practice (old number)

Pleadings or other papers are not to be transmitted for filing to the Clerk's office via a facsimile machine, except when, and as, authorized by the Court or the Clerk. Signed originals or pleadings transmitted by facsimile must be filed with the Clerk within three (3) business days.

5003-3 Court Records - Automation Of (new number)

2.16 BANCAP System (old number)

COMMENT

Effective December 1, 1988, the Clerk's office converted to a computer-based on-line notice and docketing system known as BANCAP. In conjunction with this system, individuals now have access to case information by calling the Voice Case Information System (VCIS). With the use of any standard touch-tone telephone, an individual may dial 347-5337, punch in the exact spelling of the debtor's name using the alphabet letters on the number buttons, and the computer will read the most current information available about that debtor's case.

PROCEEDINGS IN BANKRUPTCY

1002-1 Commencement of Case (new number)

3.01 Commencement of Case (old number)

A voluntary or involuntary case is commenced by filing a petition with the Clerk of the Bankruptcy Court together with the required filing fee. A voluntary petition shall conform substantially with Official Form 1 of the Bankruptcy Rules and the involuntary petition shall conform substantially with Official Form 5. A separate voluntary petition must be filed by each entity seeking an order for relief, except where the filers are individual debtors filing a joint petition.

Cross reference

**Bankruptcy Rules 1002; 1006
Official Bankruptcy Forms 1 and 5**

1007-1 Lists, Schedules and Statements (new number)

3.02 Filing of Petition and Required Forms (old number)

(a) Number of Copies

In a case under CHAPTER 7, there shall be filed:

an original and two copies of the petition and all required forms, except for the mailing matrix, of which the original only shall be filed, and, for corporate debtors, the certificate of corporate resolution, of which the original only shall be filed.

In a case under CHAPTER 11, there shall be filed:

an original and five copies of all required forms, except the mailing matrix, of which the original only shall be filed, and, for corporate debtors, the certificate of corporate resolution, of which the original only shall be filed.

In a case under CHAPTER 13, there shall be filed:

an original and four copies of all required forms, except the mailing matrix, of which the original only shall be filed.

(b) Sequential Order of Filing Required Forms

The sequential order of filing the required forms does not vary from chapter to chapter. However, not all of the forms listed below may be applicable to your specific filing under the Bankruptcy Code.

- Form 1 - Voluntary Petition
- Form 2 - Declaration Under Penalty of Perjury on Behalf of a Corporation or Partnership
- Form 3 - Application and Order to Pay Filing Fee in Installments
- Form 4 - List of Creditors Holding 20 Largest Unsecured Claims
- Form 6 - Summary of Schedules; Schedules A through J; Unsworn Declaration under Penalty of Perjury
- Form 7 - Statement of Financial Affairs
- Form 8 - Chapter 7 Individual Debtor's Statement of Intention

Cross reference
Bankruptcy Rule 1007

1007-4 Lists, Schedules and Statements - Extensions of Time (new number)

3.03 Extensions of Time to File Statements and Schedules (old number)

Motions for an extension of time for filing schedules and statements shall state the grounds therefore with specificity. Such motions shall be served on the United States Trustee in addition to the parties specified in Bankruptcy Rule 1007(c). The proposed order accompanying said motion shall provide that all schedules and statements shall be filed and served on the case trustee and the United States Trustee no later than five (5) days before the scheduled § 341 meeting.

1007-5 Lists, Schedules and Statements - Cost of Preparation by Person Other Than Debtor (new number)

3.04 Cost of Preparation of Lists, Schedules, or Statement of Affairs by Person Other Than Debtor (old number)

If any list, schedule, or statement required to be prepared and filed under Bankruptcy Rule 1007 is not timely prepared and filed, and if the Court orders the trustee, petitioning creditors, creditors' committee, or other party to file the list, schedule, or statement, such party who prepares it may make application to be reimbursed by the debtor's estate as an administrative expense.

Cross reference
Bankruptcy Rule 1007(k)

1007-6 Lists, Schedules and Statements - Deficiencies In (new number)

3.05 Deficiencies in Filing Petitions, Schedules, and
Statement of Affairs (old number)

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

1007-2 Mailing - List or Matrix (new number)

3.06 The Mailing Matrix (old number)

The petition must be accompanied by the mailing matrix. The BANCAP system has the capability to scan read into computer memory the list of creditors through the use of an optical scanner. The list of creditors must be presented as shown by Appendix B to these rules to be properly read by the optical scanner.

The mailing matrix for all voluntary petitions in Chapter 7, 11, 12 and 13 cases shall include the full names and addresses of all creditors and interested parties. For a case filed under Chapter 11, the matrix shall also include the names and addresses of all shareholders. In Chapter 7 and 11 cases the matrix shall list any general and/or limited partners, if applicable. In Chapter 13 cases the matrix shall list the debtor's employer. The following names and addresses need not be included on a debtor's matrix as this information will be scanned into the BANCAP system by the Clerk's office in all cases:

1. Debtor(s)
2. Debtor's counsel
3. Trustee (if applicable)
4. United States Trustee
300 Virginia Street E., Room 2025
Charleston, WV 25301

5. United States Attorney's Office
P. O. Box 3234
Charleston, WV 25332-3234
6. Chief, Special Procedures Staff
Internal Revenue Service
P. O. Box 1040
Parkersburg, WV 26102
7. West Virginia State Department of
Tax and Revenue
P. O. Box 299
Charleston, WV 25321-0229
8. Branch of Reorganization, Atlanta Regional Office
U. S. Securities and Exchange Commission
Suite 1000, 3475 Lenox Road, NE
Atlanta, GA 30326-1323

Cross reference
Appendix B (Mailing Matrix Format)

1010-1 Petition - Involuntary (new number)

3.07 Involuntary Petition (old number)

An involuntary petition, upon filing, must be accompanied by a mailing matrix in the format set forth in Appendix B. The mailing matrix shall include the full name and addresses of the petitioning creditor(s) and counsel for petitioning creditor(s). The petition must also be accompanied by a summons to Debtor (Form BK 13).

For involuntary cases, after entry of an order for relief, the debtor shall file in matrix form:

- (1) within fifteen (15) days: Name and address of all equity security holders (shareholders); and
- (2) Within fifteen (15) days: Name and address of all other creditors.

Cross reference
Bankruptcy Rules 1003; 1010; 1011; and 1013
(Involuntary petitions, generally)
Bankruptcy Rule 1007(a)(2)

5080-1 Fees - General (new number)

3.08 Filing Fee (old number)

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

Cross reference
28 U.S.C. § 1930
Bankruptcy Rule 1006
Official Bankruptcy Form 3
Appendix A (Fees)

2002-1 Notice to Debtors' Employers (new number)

3.09 Instructions to Employers Regarding Wages (old number)

Vacated by General Order 98-02.

Cross reference
Appendix C (Debtor's Request for Order and Notice of
Instruction to Employer and Order and Notice of
Instruction to Employer(s) Regarding Wages)

1015-1 Joint Administration/Consolidation (new number)

3.10 Procedural and Substantive Consolidation (old number)

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

(a) Procedural consolidation

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

A pleading, order, or notice which concerns a matter in only one of the procedurally consolidated cases shall be docketed and filed in that case only, but shall reflect the consolidation by stating, in parentheses below the style of the case, "(Procedurally consolidated with Case No.(s) _____)".

A pleading, order, or notice which concerns a matter in all of the procedurally consolidated cases shall contain the style of the cases and shall reflect the consolidation by stating, in parentheses below the style of the cases, "(Procedurally consolidated)". Any such pleading, order, or notice shall be accompanied by a sufficient number of copies to be docketed and filed in all of the case files.

(b) Substantive consolidation

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

(c) Modification of Procedure

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

1009-1 Amendments to Lists and Schedules (new number)

3.11 Amendment Practice (old number)

(a) Fee Required

An amendment fee is required as prescribed by the Judicial Conference in 28 U.S.C. § 1930 (See Appendix A for current fee) if the amendment affects Official Form 6, Schedules D, E or F, or the mailing matrix.

(b) Verification

The amendment shall be verified by the debtor.

(c) Certificate of Service

Amendments to Official Bankruptcy Form 6, Schedules A, B, C, D, E or F must be accompanied by a certificate of service indicating that a copy of the amendment has been served on each party named therein or affected thereby, the trustee, and the examiner, if any.

(d) Copies

The same number of copies shall be filed as required by Local Rule 1007-1(a).

(e) Non-Conforming Amendments

Amendments which do not conform to these criteria may be refused for filing or returned.

Cross reference
Bankruptcy Rule 1009
Appendix A (Fees)

1019-1 Conversion - Procedure Following (new number)

3.12 Conversion of a Chapter 11 or 13 Case to a Chapter 7 Case (old number)

[RESERVED]

Cross reference
Bankruptcy Rules 1017(d) and 1019
Local Rule 2083-5

5071-1 Continuance (new number)

3.13 Continuances (old number)

Continuances of hearings and other proceedings, except Section 341 meetings, may be had only upon written motion served upon those parties served with the original pleading or order setting the matter for hearing and on any party who filed a responsive pleading. The motion shall set forth with particularity the grounds for the continuance and shall be accompanied by an order granting the relief requested. Absent extraordinary circumstances, the motion must be filed as soon as possible, but not less than five (5) working days before the scheduled proceeding. Requests for continuance made less than five (5) working days before the scheduled proceeding must be by telephone to the Clerk who will instruct the parties as to further pleadings and notice required.

2004-1 Depositions and Examinations (new number)

3.14 Rule 2004 Examinations (old number)

Bankruptcy Rule 2004 provides for discovery within a bankruptcy case. Upon proper motion, the Court may order that a person appear and be examined.

The proponent of a motion for examination shall attempt to arrange a mutually agreeable time, place and date for the examination and the motion shall reflect the agreement of the parties; if there is such an agreement, an order shall be tendered with the motion which likewise sets the agreed time, place and date of the examination.

In the event the parties cannot agree on the terms of the examination, the motion shall state that no agreement could be reached. The Court may then grant the motion ex parte or may schedule a hearing on the motion.

The Clerk's office will issue a subpoena to appear at the 2004 exam only upon written request in the motion or otherwise.

Cross reference
Bankruptcy Rule 2004

9016-1 Subpoena (new number)

3.15 Subpoena Practice (old number)

A subpoena in a main bankruptcy case, in an adversary proceeding, or for a Rule 2004 Examination shall be issued in the manner and form as prescribed by Rule 45 of the Federal Rules of Civil Procedure as made applicable by Bankruptcy Rule 9016.

Cross reference
Rule 45, F.R.Civ.Pro.
Appendix K

1007-3 Statement of Intention (new number)

3.16 Surrender of Secured Property (old number)

Chapter 7 Case

If a Chapter 7 debtor fails to perform his intentions as set forth on Official Form 8, Statement of Intention, within the time specified in 11 U.S.C. § 521(2)(B), or if the debtor fails to file a Statement of Intention, creditors holding security for a consumer debt may file a motion with the Court asking that the debtor be required to comply with 11 U.S.C. § 521(2) and for relief appropriate under the circumstances.

Cross reference
11 U.S.C. § 521
Official Bankruptcy Form 8

2016-1 Compensation of Professionals (new number)

3.17 Fee Applications (old number)

The debtor's attorney must file Bankruptcy Form BK 92 "Disclosure of Compensation Under 11 U.S.C. § 329 and Bankruptcy Rule 2016(b)" at the time of filing the debtor's petition. The United States Trustee reviews initial retainers for propriety.

In a case under Chapter 11, fee applications after the initial disclosure should not be filed earlier than every 120 days, unless the Court allows consideration of applications at an earlier time. Any professional seeking early consideration of fee applications shall

file a motion to shorten the filing period which states the grounds for such early consideration.

All fee applications shall conform with the Bankruptcy Code and Rules. A fee application shall contain, at a minimum, the following:

- (1) description of services rendered sufficient to inform parties in interest of the work performed;
- (2) time expended for each task;
- (3) hourly rate for each partner, associate and paralegal rendering services for which compensation is requested;
- (4) an itemization of expenses incurred; and
- (5) a statement as to the amount of retainers or other payments made or promised to the applicant for services, together with applicable information as to the source of compensation paid or promised, whether any compensation previously received has been shared, and a disclosure of any understanding which exists regarding the requested compensation.

Fee applications for attorneys' fees and expenses incurred up to the date of conversion or the effective date of a plan shall be filed with the Court within sixty (60) days after entry of a conversion order or order approving plan of reorganization.

Cross reference
11 U.S.C. §§ 329 and 330

4004-1 Discharge Hearings (new number)

3.18 Discharge Hearing (old number)

Unless otherwise ordered, debtors shall not be required to attend a discharge hearing.

Cross reference
11 U.S.C. § 524

5010-1 Reopening Cases (new number)

3.19 Reopening Practice (old number)

A motion to reopen a closed Chapter 7 or 13 bankruptcy case shall state with particularity the grounds for the relief sought. The U.S. Trustee and any party affected by a reopening of the case shall be served with a copy of the motion and any supporting documents.

The Court shall schedule a hearing on the motion to reopen. The movant has the burden of showing proper grounds for the reopening of a case. Whether or not a case is reopened is within the sole discretion of the Bankruptcy Judge. If the motion to reopen is granted, the Court will determine if a fee is required.

If the case is reopened to add a debt for some other reason not requiring further administration of the case by a trustee, the movant has the duty to prepare a proposed order closing the case.

Cross reference
11 U.S.C. § 350(b)
Appendix A (Fees)

UNITED STATES TRUSTEE

2003-1 Meeting of Creditors and Equity Security Holders (new number)

4.01 Section 341 Meeting of Creditors (old number)

The United States Trustee shall be responsible for scheduling the date, time and place of the Section 341 meeting of creditors.

(a) Motion to proceed with case absent debtor's attendance at Section 341 meeting.

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

filing of a motion to excuse and proper service of such motion upon the trustee and United States Trustee, the Court shall schedule a hearing to consider such motion and the Clerk shall give notice of such hearing to all parties in interest.

The Bankruptcy Clerk shall have the authority to enter a form order which denies a motion to excuse debtor from attendance at the Section 341 meeting of creditors and instructs the debtor and his counsel of the requirements of local Rule 4.01(a).

(b) Counsel for the debtor(s) to mail notice of continued Section 341 meeting.

In the event a debtor fails to appear for a Section 341 meeting of creditors or requests continuance of such a meeting after the initial notice of the meeting has been mailed by the Clerk, counsel for the debtor shall obtain a notice of the continued meeting from the Office of the United States Trustee and shall mail such notice of the continued meeting to all creditors, the trustee, and the United States Trustee within the time specified by the United States Trustee. Counsel for the debtor shall file with the Court a certificate of such service, within three (3) days of such mailing.

Cross reference
Bankruptcy Rule 2003
11 U.S.C. § 341

9034-1 United States Trustees - Service of Pleadings Upon (new number)

4.02 Service of Pleadings Upon United States Trustee (old number)

All pleadings (including, but not limited to, motions, applications, and monthly operating reports) and any other papers filed with the Clerk shall be served upon the U. S. Trustee at P. O. Box 3740, Charleston, West Virginia, 25336. The following documents need not be served on the U. S. Trustee:

1. Petition (copy transmitted by Clerk)
2. List of creditors (copy transmitted by Clerk)
3. Official Bankruptcy Form 6, Schedules A-F, I and J (copy transmitted by Clerk)
4. Proofs of Claim
5. Pleadings in Adversary Proceedings (unless a Notice of Appearance is filed by the United States Trustee)

Cross reference
Bankruptcy Rule 9034
Local Rule 1007-1

CHAPTER 11 CASES

3017-1 Disclosure Statement - Approval (new number)

**5.01 Notice of Hearing on Disclosure Statement and Plan
to be Sent by Counsel for Proponent (old number)**

Unless otherwise ordered by the Court, counsel for the proponent of a disclosure statement and plan shall mail copies of the orders setting hearings on the disclosure statement and confirmation of the plan, along with copies of the necessary related documents, to all parties in interest and shall certify such mailing to the Court within (3) days of such mailing. Counsel for the proponent shall mail the notice of hearing by using copies of the mailing matrix provided by the Clerk of the Bankruptcy Court.

**Cross reference
Bankruptcy Rule 3017**

3018-1 Ballots - Voting On Plans (new number)

5.02 Ballots on Plans (old number)

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

(b) Unless otherwise ordered by the Court, counsel for the proponent of the plan shall tabulate the ballots, by class, and shall file the original ballots and tabulation with the Clerk of the Bankruptcy Court not less than three (3) working days prior to the hearing on confirmation.

(c) Counsel for the proponent of the plan shall certify to the Court that Local Rule 5.02(b) has been complied with and that all ballots received by the proponent have not been modified and have been properly accounted for in the tabulation.

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

**Cross reference
Bankruptcy Rules 3017(d), 3018
Official Bankruptcy Form 14**

2015-2 Debtor-In-Possession Duties (new number)

- 5.03 Operating Order (old number)
- 5.04 Closing of Case (old number)
- 5.05 Post-Confirmation Quarterly Reports May be Required (old number)

(a) Operating Order

[RESERVED]

Cross reference
Appendix D (Operating Order)

(b) Closing of Case

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

(c) Post-Confirmation Quarterly Reports May be Required

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

CHAPTER 13 CASES

2083-1 Chapter 13 - Wage Withholding (new number)

- 6.01 Wage Withholding (old number)

When the Chapter 13 plan is filed, the Court will issue an order to the debtor's employer to withhold from the debtor's wages an amount equal to the proposed payments under the debtor's plan. If the debtor does not wish to be subjected to wage withholding, a motion must be submitted with the petition that sets forth why wage withholding would not be in the best interest of the debtor, the creditors or the Trustee. Absent filing of such

a motion, withholding will commence the first pay period following the filing of the plan and service of the Withholding Order on the debtor's employer.

Cross reference
Appendix E, Form No. 1
(Order to Commence Withholding)

2083-2 Chapter 13 - Filing of Plan; Commencing of Payments and Payments to Secured Creditors (new number)

6.02 Filing of Plan; Commencing of Payments and Payments to Secured Creditors (old number)

(a) The debtor must file his/her Chapter 13 plan within fifteen (15) days from the date the Chapter 13 petition is filed with the Court. An "Order of Conditional Dismissal for Failure to File Chapter 13 Plan" will be issued in cases where plans are not filed within fifteen (15) days of the petition.

(b) The debtor shall commence making the payments proposed by the plan to the Chapter 13 Trustee within thirty (30) days after the plan is filed.

(c) The Chapter 13 Trustee shall, within thirty (30) days of the filing of the plan and commencement of payment, begin payments to secured claimants and taxing authorities designated by the debtor to receive monthly payments under the plan. Each payment disbursed shall be in an amount equal to that so specified within the plan narrative and shall continue until such time as the plan is confirmed, the payment is otherwise modified and/or the value of collateral securing said claim is determined. The Chapter 13 Trustee may include, in calculating the trustee's expenses, payments to secured creditors and taxing authorities made pursuant to this rule only upon confirmation of the debtor's plan.

(d) Counsel for a Chapter 13 debtor should be prepared to offer evidence at the confirmation hearing on the actions taken by the debtor to accomplish the surrender in accordance with the terms of the debtor's plan.

Cross reference
Bankruptcy Rule 3015
11 U.S.C. § 1326(a)(1)

Chapter 13 - Notice of 341(a) Meeting of Creditors; Objections to Plan; Valuation of Property; and Trustee's Recommendation on Confirmation (new number)

6.03 Notice of 341 (a) Meeting of Creditors; Objections to Plan; Valuation of Property; and Trustee's Recommendation on Confirmation (old number)

(a) Notice

Notice of the initial 341(a) meeting will be sent by the Chapter 13 Trustee. A copy of the Chapter 13 plan or a summary of the plan will accompany the notice. This notice will set forth the date, time and location of the 341(a) meeting, the time for filing objections to confirmation of the Chapter 13 plan, the time for filing objections to valuation of secured property, the date, time and location of the Trustee's settlement conference to resolve plan objections and the date, time and location of the confirmation hearing.

(b) All chapter 13 plans, including amended plans, must be filed using Local Form E-2 and will be served upon all creditors and parties in interest by the Chapter 13 Trustee.

Cross Reference

Appendix E, Form No. 2
Appendix E, Forms No. 3 and 4 with
Instructions to Debtor's Attorney

(c) Objection to Confirmation of the Chapter 13
Plan and/or Valuation of Secured Property

All objections to the plan must be filed by the date set forth in the initial 341(a) meeting notice. A copy of all objections must be served on the debtor and Trustee.

(d) Trustee's Settlement Conference

The Trustee will conduct a settlement conference prior to each confirmation hearing where there are objections to confirmation or valuation of secured property. The debtor and parties who have pending objections to confirmation or valuation of secured property are required to attend this conference to attempt to resolve the objections with the Trustee prior to the confirmation hearing. The settlement conference will be scheduled immediately prior to the confirmation

whenever possible. Plans that have all objections resolved at the settlement conference will be heard pursuant to the confirmation procedure under subpart (f) below. Plans with unresolved legal or factual objections will be given a full hearing. Objections not resolved at the settlement conference will be heard at the confirmation hearing.

(e) Trustee's Recommendation on Confirmation and Valuation of Secured Property

The Trustee will review all plans and schedules and will promptly raise all objections necessary to require amendments necessary to bring plans into compliance with the Code, including requiring all disposable income to be committed to the plan. Recommendation on confirmation of the plan and valuation of all secured property will be presented the earlier of three (3) working days following the Trustee's settlement conference or the confirmation hearing in a format prescribed by the Court.

(f) Confirmation Hearing Day

All plans which have no outstanding objections may be confirmed at the scheduled confirmation hearing without further comment from the parties. Plans with outstanding objections will be heard in turn. Those cases which have objections that cannot be timely heard on confirmation day will be continued pursuant to the suggestion of the Chapter 13 Trustee or as the Court finds necessary.

Comment

The 341(a) meeting notice will set a confirmation hearing with each Chapter 13 filed and will set forth the provisions of sections b, c, and d above.

2083-4 Chapter 13 - Distributions (new number)

6.04 Distributions (old number)

The trustee shall not make any distribution of funds prior to ten (10) days after the entry of the confirmation order except on order of the Court.

2083-5 Chapter 13 - Dismissal or Conversion (new number)

6.05 Dismissal or Conversion (old number)

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

a. if the plan has been confirmed at hearing, the funds shall be distributed to creditors in accordance with the confirmed plan without the necessity of the creditor filing a motion to lift stay in the Chapter 7 case;

b. if the plan has not been confirmed, the Chapter 13 Trustee shall prepare notice to all creditors of monies to be returned to the debtor. The Bankruptcy Clerk shall mail the notice to the Chapter 13 creditor body. Unless a written objection is filed within ten (10) days, the Trustee shall pay all funds collected to the debtor through his/her attorney.

Cross reference
Bankruptcy Rule 1019
11 U.S.C. § 1326

PROOFS OF CLAIM

3001-1 Claims and Equity Security Interests - General (new number)

7.01 Filing and Serving (old number)

In Chapter 7, 9, 11 and 12 cases the original proof of claim shall be filed with the Clerk's office in accordance with Bankruptcy Rules 3002 - 3005 and 5005. In Chapter 13 cases, the creditor must file an original and one duplicate.

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

3007-1 Claims - Objections (new number)

7.02 Filing and Serving of Objections (old number)

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

(a) Chapter 7, 12, and 13 cases - Debtor and Trustee

(b) Chapter 11 cases - Debtor in possession and, if applicable, Chapter 11 Trustee, and counsel or chairman of any creditors' committee.

MOTION AND NOTICE PRACTICE

9013-1 Motion Practice (new number)

8.01 Motion and Notice Practice Generally (old number)

(a) Main bankruptcy case

Motions in main bankruptcy cases are governed by Part IX of the Bankruptcy Rules, as supplemented by these Local Rules.

(b) Adversary proceedings

Motions in adversary proceedings are governed by the Federal Rules of Civil Procedure to the extent made applicable by Parts VII and IX of the Bankruptcy Rules.

(c) Papers to accompany motions

Each motion filed with the Clerk shall be accompanied, where applicable, by the following papers:

1. A proposed order which, if entered by the Court, would grant the relief sought by the motion;
2. A notice, [See LR9013(d)];
3. A certificate of service required by these Rules or the Bankruptcy Rules which states the name and address of every party served and the method by which service was obtained, provided that if the entire creditor body is served, the certificate of service may recite service on "all creditors listed on the mailing matrix on file in the Bankruptcy Clerk's Office as of (date)."

(d) Notices

There are generally two types of notices in a bankruptcy case. First is a hearing notice which states with particularity the nature of the pleading and relief sought and which sets forth a date on which a hearing will be held, and, if applicable, a date on which to file any objections thereto. The other type of notice is a "negative notice." A negative notice sets forth with particularity the nature of the pleading and relief sought and provides that an order may be entered granting the relief requested unless a written objection is filed within _____ days of the date of the mailing of the notice.

The BANCAP system generates most notices of hearing on routine motions and applications. However, a movant must prepare a notice for the following:

1. Notice of Motion to Compromise - The movant is required to prepare a twenty (20) day negative notice and file it with the Clerk who shall serve it in accordance with Bankruptcy Rule 2002(a).

2. Notice of Proposed Use, Sale, or Lease of Property -The seller is required to prepare a twenty (20) day negative notice which contains the terms as set forth in Bankruptcy Rule 2002(c) and file it with the Clerk who shall serve it in accordance with Bankruptcy Rule 2002(a). The notice shall be single spaced and ordinarily no longer than one page in length.

3. Notice of Motion to Sell Free and Clear of Liens and Other Interests Pursuant to Bankruptcy Rule 6004(c) - the movant has the discretion to either file a motion to sell free and clear of liens which requests that a hearing on the motion be scheduled, or file a motion and negative notice (see below).

-If the movant selects the latter option, he is required to prepare a twenty (20) day negative notice which contains the terms as set forth in Bankruptcy Rule 2002(c) and which contains blanks for the hearing date, time, and place, if an objection or request for hearing is filed. Such notice shall be filed with the Clerk, along with the motion to sell free and clear of liens or other interests.

4. Notice of Motion for Relief from Automatic Stay (Chapter 7) - The movant shall prepare a fifteen (15) day negative notice and serve it on the parties as set forth in Local Rule 4001-1(a).

5. Notice of Motion for Relief from Automatic Stay; Notice of Preliminary Hearing (Chapter 11) - Movant shall prepare a hearing notice in

conformance with Local Rule 4001-1(c) and file it with the Clerk who shall serve it on all parties listed on the debtor's mailing matrix.

6. Notice of Motion for Redemption - Counsel for the debtor shall prepare a twenty (20) day negative notice and serve it on the affected creditor(s) in accordance with Local Rule 6008-1.

7. Notice of Motion to Avoid Lien - Counsel for the debtor shall prepare a twenty (20) day negative notice and serve it on parties set forth in Local Rule 4003-2.

(e) Withdrawal of motion by notice.

When a motion has been filed with the Court, but the relief requested is no longer necessary or desired and the Court has not acted on it, the movant shall file and serve on affected parties a notice of withdrawal of motion. If a hearing on the motion has been scheduled, the movant shall notify the Clerk by telephone of the filing of the notice to withdraw, whereupon the hearing can be removed from the Court's docket and the movant is excused from its obligation to appear.

(f) Construction

For the purpose of these local rules, a party is not deemed to be "affected" by the relief sought or the action sought to be taken solely because such party is the holder of an unsecured claim against or equity interest in the debtor.

Cross reference

Appendix F, Form No. 1 - Notice of Hearing; Form No. 2 - Negative Notice; and Form No. 3 - Notice of Proposed Compromise
General Order 98-01, Forms 20A and 20B

4001-1 Automatic Stay - Relief From (new number)

8.02 Motion to Modify Automatic Stay (old number)

All motions for relief from the automatic stay must be accompanied by a filing fee or an agreed order (See Appendix A).

(a) Chapter 7 cases:

A motion for relief from the automatic stay pursuant to 11 U.S.C. § 362(a), along with a notice in substantially the form set forth in Appendix F, Form No. 4, shall be served by the movant on the debtor, the debtor's attorney, the trustee, and any other party affected by the relief sought. The motion shall state the amount owed on the obligation, the estimated value of the property, if applicable, and shall contain any necessary attachment which shows proof of perfection. If no response to the motion is filed within fifteen (15) days, the Court may grant the motion without hearing if it presents adequate grounds for the relief requested. If an objection is filed, the Clerk will give notice of the date, time, and place of hearing. An objection shall contain specific language regarding what is being objected to.

A motion for relief from the automatic stay on a residence will be set for hearing before the Court, unless the Statement of Intention indicated the home would be surrendered or the moving party alleges cause that merits immediate consideration by the Court and the debtor does not respond or object.

(b) Chapter 13 cases:

A motion for relief from the automatic stay in a Chapter 13 case shall be served on the debtor, debtor's counsel, the Chapter 13 Trustee, and any other affected party. A hearing will be held on the motion, unless an agreed order is submitted which contains the signature of all parties affected by the agreement.

(c) Chapter 11 cases:

A motion for relief from the automatic stay in a Chapter 11 case shall be served by the movant on the trustee and/or debtor, the trustee and/or debtor's attorney, the U.S. Trustee, the chairman and counsel of any creditors' committee, and any other party affected by the relief sought. The motion shall include proof of perfection, a statement of value, and a statement of amount owed on the obligation.

The movant shall also prepare a notice in substantial conformance with Form No. 5, Appendix F, which identifies the collateral, the amount of secured debt, and which leaves a blank for a date, time, and place for the preliminary hearing. (Preliminary hearings will always be set in Chapter 11 cases unless otherwise ordered by the Court.) The notice shall require movant's counsel and any other party with an objection or response to the motion to appear at the preliminary hearing and be prepared to make their representations and legal argument to the Court. Parties will not be required to produce fact or expert evidence and testimony at the preliminary hearing unless the Court otherwise orders upon the request of a party. Failure of the debtor or debtor's counsel to

appear at the preliminary hearing may result in the Court entering an order granting the relief requested without further hearing. The Clerk's office shall mail the notice to all parties listed on the mailing matrix.

The movant will prepare and submit no later than three (3) days after the preliminary hearing an order which reflects appearances at the hearing, whether or not the objections were resolved, and when the final hearing will be held, if one is necessary. This order will be mailed only to parties who appeared at the preliminary hearing.

Cross reference

11 U.S.C. § 362

Bankruptcy Rules 4001(a) and (d); 9014

Appendix A (Fees)

Appendix F, Forms No. 4 and 5

Local Rule 9013-1(d)(4) and (d)(5)

4001-2 Cash Collateral (new number)

8.03 Motion to Use Case Collateral (old number)

[RESERVED]

Cross reference

11 U.S.C. § 363(c)(2)

Bankruptcy Rules 4001(b) and (d); 9014

4001-3 Obtaining Credit (new number)

8.04 Motion to Obtain Credit (old number)

[RESERVED]

Cross reference

11 U.S.C. § 364

Bankruptcy Rules 4001(c) and (d); 9014

4008-1 Reaffirmation (new number)

8.05 Reaffirmation Agreements (old number)

A reaffirmation agreement filed by a debtor represented by counsel shall include, at a minimum, the following:

1. the amount of the debt reaffirmed;
2. the annual rate of interest to be paid (variable rate home mortgage must state the initial rate and terms governing rate changes);
3. the amount of periodic payment;
4. the number of payments remaining; and
5. a statement that the debtor understands the agreement may be rescinded prior to entry of the discharge order or within sixty (60) days of filing the agreement, whichever occurs later.

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

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

Cross reference

11 U.S.C. § 524(c) and (d)
Bankruptcy Rule 4008
Appendix F. Form No. 6

6004-1 Sale of Estate Property (new number)

8.06 Use, Sale, or Lease of Property Other than
in the Ordinary Court of Business (old number)

- (a) Sale of Unencumbered Property

The seller is required to prepare and file a twenty (20) day negative notice which contains terms in compliance with Bankruptcy Rule 2002(c)(1). The Clerk shall serve the notice in accordance with Bankruptcy Rule 2002(a)(2).

(b) Sale Free and Clear of Liens and Other Interests

A sale free and clear of liens and other interests requires the filing of a motion by the movant. The movant shall serve the motion on parties who have liens or other interests in the property to be sold. The movant may either file a twenty (20) day negative notice with the motion or request in the motion that the matter be set for hearing. If the movant selects the former option, he must prepare a twenty (20) day negative notice which contains the terms required by Bankruptcy Rule 2002(c)(1) and contains blanks for a hearing date, time, and place if an objection or request for hearing is filed. The Clerk shall serve the notice in accordance with Bankruptcy Rule 2002(a)(2).

Cross reference
11 U.S.C. §363(b)
Bankruptcy Rule 6004
Bankruptcy Rules 2002(a), (c) and (i); 9014
Local Rules 9013(d)(2) and (3)

6006-1 Executory Contracts (new number)

8.07 Assumption, Rejection and Assignment of
 Executory Contracts (old number)

A motion to extend the time within which to assume, reject, or assign an executory contract or unexpired lease may be granted by the Court, in the first instance, without a hearing if good cause has been shown for the extension. The movant shall submit a proposed order (See Appendix F, Form No. 7) with the motion. The order shall give notice that the motion is granted unless a written objection to the extension is filed within twenty (20) days of the entry of the order and after hearing on the objection the Court determines relief from the order is warranted. The movant shall serve the order on all nondebtor parties to the contract or lease.

Comment

The provisions of 11 U.S.C. § 365(d)(4) require the Court to act on orders extending the time to assume or reject unexpired leases on non- residential real property within the 60-day period following the order for relief.

Motions for such relief must be filed in sufficient time to permit the Court to act.

Cross reference
11 U.S.C. § 365
Bankruptcy Rules 6006; 9014
Appendix F, Form No. 7

6007-1 Abandonment (new number)

8.08 Abandonment of Estate Property in Chapter 7 Cases (old number)

A party in interest may file and serve a motion to compel the Trustee to abandon property of the estate pursuant to Bankruptcy Rule 6007(b). The motion to compel abandonment must be accompanied by the required filing fee (See Appendix A). The party filing the motion shall serve it on the U. S. Trustee.

A secured creditor may expedite the abandonment of estate property by obtaining a "Trustee's Proposed Intent to Abandon Property" form (See Appendix F, Form No. 8) from the Clerk's office and by completing it and forwarding it to the appropriate Chapter 7 Trustee. The form must be accompanied with a copy of evidence of a properly recorded security interest, in a manner satisfactory to the trustee. The creditor is responsible for the filing and service of the completed form, by either mailing the abandonment or by having the Clerk's office mail it, in compliance with the instructions set forth in the back of the form. No filing fee is required to be paid to the Bankruptcy Court by the creditor when obtaining an abandonment by this procedure.

Cross reference
11 U.S.C. §§ 554 and 725
Bankruptcy Rules 6007; 9014
Appendix A (Fees)
Appendix F, Form No. 8

6008-1 Redemption (new number)

8.09 Redemption (old number)

A motion to redeem tangible personal property shall set forth the debtor's estimated value of the property and the amount to be paid. The motion and notice shall be filed with the Court along with a proposed order.

Counsel for the debtor(s) shall serve the verified motion for redemption and notice of motion on the affected creditor(s). The notice shall provide that the named creditor shall serve upon the Clerk and upon counsel for the debtor a written request for hearing within twenty (20) days from the date of service. In the event that no written request for hearing is filed by any creditor, the Court may enter the submitted order granting the motion to redeem. In the event a creditor does request a hearing, the motion for redemption shall be set for hearing.

No action will be taken on the motion for redemption if averments regarding value and amount to be paid are not contained in the motion for redemption.

Cross reference
11 U.S.C. § 722
Bankruptcy Rules 6008; 9014
Appendix F, Form No. 11
Local Rule 9013(d)(6)

4003-2 Lien Avoidance (new number)

8.10 Lien Avoidance (old number)

A motion to avoid a lien under 11 U.S.C. § 522(f) shall be filed with the Clerk and served on the lienholder, the Trustee, and the U.S. Trustee along with a notice which states that if no response is filed within twenty (20) days, the Court may grant the motion without hearing, but if an objection is filed, a hearing will be held at a date, time, and place to be determined by the Court. A proposed order shall be filed along with the notice and motion

Cross reference
11 U.S.C. § 522(f)
Bankruptcy Rules 4003(d); 9014
Appendix F, Forms No. 9 and 10
Local Rule 9013(d)(7)

3012-1 Valuation of Collateral (new number)

8.11 Motion to Value (old number)

A motion to value secured claims pursuant to 11 U.S.C. § 506(a) should contain a statement of the movant's estimated value of the collateral or it may be found not to state a claim of relief.

Cross reference
11 U.S.C. § 506(a)
Bankruptcy Rule 3012

2083-6 Chapter 13 - Motion and Notice Practice (new number)

8.12 Chapter 13 Motion and Notice Practice (old number)

(a) All motions and applications in a Chapter 13 case shall be served in compliance with these local rules and the Rules of Bankruptcy Procedure. Where notice of a motion is required under Bankruptcy Rule of Procedure 2002, the movant shall file a proposed negative notice with the motion.

(b) An original proposed order shall be provided with motions for relief of matters identified in subpart (c) below. A copy of said motion and the original order must be submitted to the Chapter 13 Trustee at the time the motion is served. Within ten (10) days, the Trustee will submit the proposed order to the Court indicating the Trustee's acceptance or rejection of the motion. All motions to which the trustee objects will be set for hearing.

(c) The following relief may be granted without hearing upon the Chapter 13 Trustee's endorsement of the proposed order granting the requested relief:

Motions to Modify a Confirmed Plan that does not affect payout to unsecured creditors and where affected creditors have endorsed the proposed order;

Motion to pay Trustee directly;

Motion to vacate wage withholding orders;

Application to employ professionals;

Motion to Change Division Venue;

Moratoriums on monthly payments that do not change the length of the plan;

Motion to extend the time to file a plan;

Any other matters where the rules do not require notice and hearing where the payout to creditors is not affected.

4070-1 Insurance (new number)

8.13 Maintenance of Insurance on Secured Property (old number)

In a case under Chapter 7 or Chapter 13 where the debtor has possession and/or use of secured property and is obligated to keep it insured, the debtor must provide proof of insurance to the creditor holding security in the property within seventy-two (72) hours of a written request to the debtor or to counsel.

ADVERSARY PROCEEDINGS

7001-1 Adversary Proceedings - General (new number)

9.01 Scope (old number)

Adversary proceedings are governed by Parts VII and IX of the Bankruptcy Rules. The Federal Rules of Civil Procedure and the District Court Local Rules shall apply to all adversary proceedings unless expressly modified by Part VII of the Bankruptcy Rules or supplemented by these Local Rules. (See Appendix I for the applicability of District Court Local Rules to these rules).

Cross reference
Bankruptcy Rule 7001
Appendix I

7003-1 Cover Sheet/Complaint (new number)

9.02 Complaint and Cover Sheet (old number)

All complaints initiating adversary proceedings shall be accompanied by a fully completed Adversary Proceeding Cover Sheet (Form B104). The plaintiff must file two (2) copies of the complaint along with the original.

7001-2 Adversary Proceedings - Filing Fee (new number)

9.03 Filing Fee (old number)

A filing fee (See Appendix A for current fee) shall accompany the complaint unless the plaintiff is the United States of America, an agency thereof, or Chapter 7 debtor. A Chapter 7 Trustee may obtain a waiver of the filing fee until final distribution of the estate by completing a fee waiver form and filing it along with the complaint. The required filing fee must be paid in full and may not be paid in installments.

Cross reference
28 U.S.C. § 1930
Appendix A (Fees)
Appendix G-5

7004-2 Summons/Service of Process (new number)

9.04 Summons and Service of Process (old number)

Persons filing complaints to initiate adversary proceedings shall complete, at or before the time of filing, a sufficient number of summons (Form BOF26) for service on all defendants by inserting the following:

- (1) "Southern District of West Virginia"
- (2) Style of case and adversary proceeding
- (3) Name and address of counsel for the plaintiff

Cross reference
See generally, Part VII, Bankruptcy Rules
Appendix G-1 and G-2

The summons is issued by the Clerk and transmitted to counsel for the plaintiff for service on the defendant(s). The summons and complaint must be served within ten (10) days after the date of issuance by the Clerk.

Upon service of the summons and complaint, counsel shall file a certificate of service with the Court reflecting service on all parties to the action.

Cross reference
Bankruptcy Rule 7004
Local Rule 2.08

(To be Deleted - See LR 7003-1)

9.05 Copies Required (old number)

The plaintiff must file two (2) copies of the complaint along with the original.

7008-1 Core/Non-Core Designation (Complaint) (new number)

9.06 Statement of Core or Non-Core (old number)

The complaint, counterclaim, cross-claim, or third-party complaint shall contain a statement that the proceeding is core or non-core. If non-core, a statement that the pleader does not consent to the entry of a final order or judgment by the Bankruptcy Judge.

Cross reference
Bankruptcy Rule 7008(a)
28 U.S.C. § 157(c)

7012-1 Core/Non-Core Designation (Responsive Pleading) (new number)

A responsive pleading shall admit or deny an allegation that the proceeding is core or non-core. If the response is that the proceeding is non-core, it shall include a statement that the party does or does not consent to the entry of a final order or judgment by the Bankruptcy Judge.

Cross reference
Bankruptcy Rule 7012(b)
28 U.S.C. § 157(c)

7016-1 Pre-Trial Procedures (new number)

9.07 Time Frame Order (old number)

A Time Frame Order shall be issued by the Court when all responsive pleadings have been filed. The Time Frame Order shall set forth dates for filing dispositive motions, completing discovery, filing witness and exhibit lists, the settlement conference, and trial.

Cross reference
Appendix G-3

9019-1 Settlements and Agreed Orders (new number)

9.08 Compromise and Settlement (old number)

In the event the parties compromise their positions and settle the matter in controversy, a motion to compromise shall be filed with the Court which sets forth the terms and conditions of the proposed settlement. The terms of the settlement shall be sent out on twenty (20) day negative notice to all creditors and other parties in interest when the agreement involves the trustee or debtor-in-possession and has an effect on the assets of the debtor's estate, or if the Court, on its own discretion, requires such notice.

The parties shall submit an agreed order which has been signed by counsel for all parties for consideration by the Court. If the terms of the compromise have been sent out on notice, the Court may approve the compromise by entry of the agreed order at the end of the twenty (20) day period if no objections have been filed. If an objection has been filed, the Court will set it for hearing.

Cross reference
Bankruptcy Rules 2002(a); 9019
Appendix G-4

7065-1 Injunctions (new number)

9.09 Injunctive Relief (old number)

An adversary proceeding must be commenced in order to request the issuance of a temporary restraining order or to seek a preliminary injunction. The requirements for seeking such relief are the same as those contained within Rule 65 of the Federal Rules of Civil Procedure.

Cross reference
Bankruptcy Rules 7001; 7065
Rule 65, F.R.Civ.Pro.

9027-1 Removal/Remand (new number)

9.10 Removals and Remand (old number)

(a) Removal

The removal of a civil action to a Bankruptcy Court requires the filing of a "Notice of Removal" with the Bankruptcy Clerk's office for the district within

which the civil action is pending. The notice shall be signed pursuant to Rule 9011 and contain a short statement of the facts which entitle the party to remove the cause of action, contain a statement that upon removal the proceeding is core or non-core and, if non-core, that the party filing the notice does or does not consent to entry of final orders or judgment by the Bankruptcy Judge, and be accompanied by a copy of all process and pleadings. Removal of a claim or cause of action is effected upon the filing of a copy of the notice with the clerk of the court from which the action was removed.

The removed action is treated as an adversary proceeding and requires a filing fee (See Appendix A), unless the party removing the action is a Chapter 7 debtor. The notice shall be accompanied by a completed Adversary Proceeding Cover Sheet (Form B104).

The party filing the notice shall serve a copy of it on all parties to the removed cause of action. Any party who has filed a pleading in connection with the removed cause of action, other than the party filing the notice, shall file a statement admitting or denying any allegation in the notice regarding whether the proceeding is core or non-core. If the statement alleges that the proceeding is non-core, it shall state that the party does or does not consent to entry of final orders or judgment by the Bankruptcy Judge. This statement shall be signed pursuant to Rule 9011 and shall be filed and served not later than ten (10) days after the filing of the notice of removal.

(b) Remand

A motion for remand of the removed claim or cause of action shall be governed by Rule 9014 and served on the parties to the removed claim or cause of action.

Cross reference
Bankruptcy Rules 9014; 9027
Appendix A (Fees)

7041-1 Dismissal (new number)

9.11 Dismissal (old number)

When it appears to the Court that the principal issues have become moot or the parties have shown no manifest interest to further prosecute a pending adversary proceeding, the court may direct the Clerk to prepare a "Notice of Dismissal." The notice, served on counsel of record, states that the action may be dismissed after thirty

(30) days from the date of issuance unless good cause can be shown why the proceeding should not be dismissed.

Cross reference
Bankruptcy Rule 7041
District Court Local Rules
Rule 41, F.R.Civ.Proc.

APPEALS

8001-1 **Notice of Appeal** (new number)

10.01 Notice of Appeal (old number)

The Bankruptcy Clerk shall serve notice of the filing of a Notice of Appeal by mailing copies to counsel of record. Sufficient copies of the notice must be provided by the appellant to the Clerk for that purpose. The notice of appeal shall be accompanied by the required filing and docketing fees.

Cross reference
Bankruptcy Rules 8001; 8002; and 8004
Official Bankruptcy Form 35
Appendix A (Fees)

To Be Deleted

10.02 Filing and Docketing Fees (old number)

The Notice of Appeal shall be accompanied with the required filing and docketing fees.

Cross reference
Appendix A (Fees)

8006-1 **Designation of Record** (new number)

10.03 Designation of Record (old number)

The designation of record shall give the docket number and an abbreviated description of the docket entry for each item being designated. Any party filing a

designation of items to be included in the record shall provide to the Clerk a copy of the items designated or, if the party fails to provide the copy, the Clerk shall prepare the copy at the expense of the party. A copy of a designation of record and statement of issues shall be served by the appellant and appellee, if applicable, on the United States Trustee.

5077-1 Transcripts (new number)

10.04 Transcripts (old number)

[RESERVED]

Cross reference
Bankruptcy Rule 8006; 8007

POST-JUDGMENT REMEDIES

7069-1 Praecipe (new number)

11.01 PRAECIPE (old number)

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

7069-2 Writ of Execution (new number)

11.02 Writ of Execution (old number)

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

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

7069-3 Abstract of Execution (new number)

11.03 Abstract of Execution (old number)

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

7071-1 Suggestion (new number)

11.04 Suggestion (old number)

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

7071-2 Suggestee Execution (new number)

11.05 Suggestee Execution (old number)

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

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

7069-4 Abstract of Judgment (new number)

11.06 Abstract of Judgment (old number)

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

7070-1 Writ of Possession (new number)

11.07 Writ of Possession (old number)

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

5003-1 Certification of Judgment for Registration in Another District (new number)

11.08 Certification of Judgment for Registration in Another District (old number)

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

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

7054-1 Interest on Judgments (new number)

11.09 Interest on Judgments (old number)

The judgment creditor is entitled to interest from the date of the entry of the judgment. The interest shall be calculated at a rate equal to the coupon issue yield equivalent of the average accepted auction price for the last auction of fifty-two week United States Treasury bills settled immediately prior to the date of the judgment.

5080-1 Fees (new number)

11.10 Fees (old number)

The current fee for filing a certification of judgment is contained in Appendix A.

Cross reference
28 U.S.C. §§ 1930 and 1961
Appendix A (Fees)
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APPENDIX A

FEES

BANKRUPTCY COURT FEES *EFF. 02/01/01

Chapter 7 Voluntary Case	\$200.00
Chapter 7 Involuntary Case	\$200.00
Chapter 9 Case	\$830.00
Chapter 11 Case	\$830.00
Chapter 12 Case	\$230.00
Chapter 13 Case	\$185.00
Adversary Proceeding (unless Plaintiff is the debtor or a child support creditor or their representative)	\$150.00
Notice of Removal	\$150.00
Motion to Withdraw Reference	\$75.00
Quarterly Fees in Chapter 11 Case	<u>See</u> 28 U.S.C. § 1930(6)
Fee for Amendment of Schedules D, E and F or list of creditors	\$20.00
Motion or Notice to Convert to Chapter 7	\$15.00
Motion to Convert to Chapter 11	\$645.00
Motion to Vacate or Modify Automatic Stay (unless accompanied with an Agreed Order)	\$75.00
Motion to Compel Abandonment of Property of Estate	\$75.00
De-consolidation of joint petition at debtor's request:	
Chapter 7 Case	\$77.50
Chapter 11 Case	400.00
Chapter 12 Case	100.00
Chapter 13 Case	77.50
Fee to Reopen a Case (unless to correct an administrative error or for actions related to debtor's discharge)	
Chapter 7 Case	\$155.00
Chapter 11 Case	800.00
Chapter 12 Case	200.00
Chapter 13 Case	155.00
Notice of Appeal (\$5.00 Filing Fee & \$100 Docketing Fee)	\$105.00
Docketing of Cross-Appeal	\$100.00
Fee for filing a Certification of Judgment for Registration in Another District	\$30.00
Fee for reproducing any record or paper (per page)	\$.50
Fee for reproducing magnetic tape recordings	\$20.00
Fee for certifying any document or paper	\$ 7.00
Fee for Exemplification	\$14.00
Fee for search of records (per name or item searched, whether automated or hard copy)	\$20.00
Fee for returned check for lack of funds	\$25.00
Fee for retrieval of a record from the FRC	\$25.00
Fee for each microfiche sheet of film	\$4.00

*The Judicial Conference of the United States prescribes all fees to be paid under Title 11 of the United States Code. The Judicial Conference may modify existing fees or prescribe additional fees. As a result, Appendix A may be modified, from time to time, to reflect this change without a notice period for comment by the bar.

APPENDIX B

FORMAT FOR MAILING MATRIX

FORMAT FOR MAILING MATRIX

1. Lists must be typed in one of the following standard typefaces or print styles:
 - * Courier 10 Pitch
 - * Prestige Elite
 - * Letter Gothic
2. Lists should be typed on a single page in a single column rather than in three columns.

The reason the addresses must be in a single column is because the optical character reader scans the material automatically from left to right, line by line. If on the current matrices being submitted to the court, the first column has an address with three lines, the second column has an address with four lines and the third column has an address with five lines, the optical character reader will see the blank line after the first address and not read any further. Thus, we will feed into the OCR single column addresses that will be read automatically and completely.
3. Lists must be typed so that no letters are closer than 1/2 inch from any edge of the paper.
4. Each name/address must consist of no more than 5 (five) total lines, with at least one blank line between each of the name/address blocks.
5. Each line must be 40 characters or less in length.
6. DO NOT include the following people as they will be automatically retrieved by the computer for noticing:
 - * Debtor
 - * Joint Debtor
 - * Attorney for the Debtor(s)

The following problems could prevent the list from being read by the optical scanner and should be avoided:

1. Extra marks on the list - such as letterhead, dates, debtor name, coffee stains, and handwritten marks.
2. Non-standard paper such as onion silk, half-sized paper, or colored (such as yellow) paper.

3. Poor quality type caused by submitting a photocopy or carbon, using an exhausted typewriter, or using a typewriter with a fabric ribbon.
4. Unreadable type faces or print styles such as proportionally spaced fonts, dot-matrix printing, or exotic fonts (such as Olde English or script).
5. Misaligned lists caused by removing the paper from the typewriter before completing the list, or inserting the paper into the typewriter crooked.
6. Incorrect typewriter settings will cause unreadable lists. Make certain that your typewriter is set for 10 pitch if you are using a 10 pitch type style.
7. Stray marks should be avoided. Do not type lines, debtor name, page numbers, or anything else on the front of the creditor list. Any identifying marks you choose to add can be typed on the back of the list.
8. All upper case letters should be avoided.
9. Zip code must be on the last line. Nine digit zip codes should be typed with a hyphen separating the two groups of digits. DO NOT type attention lines or account numbers on the last line; put these on the second line of the name/address if needed. (The zip code must be at the end for the zip code sorting equipment to find it.)
10. Fabric ribbons should be avoided. They produce letters which are too fuzzy to be properly scanned.

ADDITIONAL INFORMATION MAY BE OBTAINED FROM THE CLERK'S OFFICE

APPENDIX C

**FORMS FOR INSTRUCTIONS
TO EMPLOYER(S) REGARDING WAGES**

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case Number

(SS#: _____)

(SS#: _____)

Chapter _____

Debtor(s).

DEBTOR'S REQUEST FOR ORDER AND NOTICE OF
INSTRUCTION TO EMPLOYER

The debtor named-above, pursuant to General Order 98-02, hereby requests the Clerk to enter an Order and Notice of Instruction to Employer(s) Regarding Wages.

The name and address of the debtor's employer is:

Respectfully Requested,

Counsel for Debtor(s)

Address

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case No.

_____ (SS# _____)
_____ (SS# _____)

Chapter ____

Debtor(s).

ORDER AND NOTICE OF INSTRUCTION TO EMPLOYER(S) REGARDING WAGES

IT IS ORDERED AND NOTICE IS HEREBY GIVEN that the above-named person(s) have filed a petition for bankruptcy in the United States Bankruptcy Court for the Southern District of West Virginia and have disclosed that you are the employer. If you have received a Suggestee Execution against this employee's wages, you should not honor it. If you have already withheld money from the employee's wages for a Suggestee Execution previously served upon you and you have not transmitted these funds to the creditor or to the Court, you should give those funds back to your employee as soon as possible. Do not mail these funds to the creditor in whose favor the Suggestee Execution was filed.

You should not withhold any money from the wages of this employee if you should be served with a Suggestee Execution against this employee's wages within 45 days from the date of this Order.

You should continue payroll deductions for taxes, union dues, hospitalization, and retirement unless otherwise ordered by the Court. All voluntary deductions should continue unless you are notified otherwise, in writing, by the employee or the Trustee.

If this case was filed under Chapter 13, you may receive an order directing you to withhold money from the employee's wages for payment to the Trustee. Upon receipt of such an order, you should immediately commence withholding the amount indicated and forward the payments as directed.

ENTERED:

Ronald G. Pearson, Judge

APPENDIX D
OPERATING ORDER

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case Number

Chapter 11

Debtor in Possession.

Reorganization

OPERATING ORDER
AMENDED AS OF MARCH 1, 1994

The above-named Debtor(s) having filed a voluntary Chapter 11 petition in this District on _____, and the Debtor(s) being authorized to continue to operate the Debtor(s)' business under the provisions of 11 U.S.C. § 1108 as the Debtor(s) in Possession and to retain the authority to make all necessary business decisions to facilitate reorganization, including the right to decide on insurance coverage and limits not contrary to enforceable commercial agreements, it is hereby

ORDERED as follows:

I. **INITIAL OPERATING REPORT**

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

II. **MONTHLY OPERATING REPORT**

The Debtor(s) in Possession shall file with the Court, within forty-five (45) days after the date of the entry of this Order and not later than the fifteenth (15th) day of each month thereafter,

a sworn written report of the operations and financial condition of the Debtor(s)' estate. This report will differ from the Initial Operating Report and conform to the format outlined in the following paragraphs of this Order. The Debtor(s) in Possession shall provide a copy of each report to the Assistant United States Trustee and to the designated representative of the Creditors' Committee. All reports shall be filed on a calendar-month basis unless otherwise approved by the Court.

A. SELECTION OF REPORTING FORMAT

The Debtor(s) in Possession must file Monthly Operating Reports in a timely fashion. Proposed forms for filing Monthly Operating Reports will be sent to the Debtor(s) in Possession directly by the Assistant United States Trustee. The Debtor(s) in Possession may propose alternative financial reporting which accurately reflects the operations and finances of the Debtor(s)'s estate if the alternative reporting is more cost effective to generate. If reports are currently being generated by electronic data processing (EDP) methods that provide substantially the same information as the information requested by the Assistant United States Trustee, such reports may be filed in lieu of the forms provided by the Assistant United States Trustee. Handwritten Monthly Operating Reports will be accepted from the Debtor(s) in Possession if acquiring outside accounting or typing services would unduly burden the estate. Once a format is selected and approved, the Monthly Operating Reports should follow this format unless Court approval is obtained to change such format.

B. CONTENTS OF OPERATING REPORT

The Operating Report, if submitted in a format other than that requested by the Assistant United States Trustee, shall include: (1) a statement of total cash receipts and disbursements; (2) an income statement that reflects net operating income or loss for the monthly period; (3) a statement of the increase or decrease in cash for the reporting period, which may be stated in conjunction with the income, receipts and disbursements statements or separately; (4) an aging of accounts receivable; (5) an aging of post-petition accounts payable; (6) a statement of the tax withholding account, including the amounts placed in the accounts during the reporting period, the amounts paid over to each taxing authority, and a statement that discloses whether the taxes are being paid timely; (7) a statement of post-petition payments to secured creditors, including the amounts paid and any arrearage accrued since the filing of the petition; (8) statements as to the general condition of the Debtor(s) in Possession's business, assets, inventory, insurance coverage, and any unusual occurrences that might affect the estate; and (9) a copy of the most recent bank statement for each post-petition bank account. The Operating Report shall be dated and signed under oath by the reporting officer, owner or partner.

III. NEW BOOKS OF ACCOUNT

The Debtor(s) in Possession shall close out its books of account as of the close of business on the date of the filing of the petition, and shall open new books of account as of the opening of business on the next business day. In the new books of account, the Debtor(s) in Possession shall cause to be kept proper accounts of its earnings, expenses, receipts, disbursements and all obligations incurred and transactions had in the operation of the business and the management, preservation and protection of the property of the within estate. The Debtor(s) in Possession shall preserve proper vouchers for all payments made on account of such disbursement. The Debtor(s) in Possession shall request a statement for all bank accounts from the banking institution where each account is located to reflect the cash balances in the accounts as of the date of the petition. Upon the filing of the petition, the Debtor(s) in Possession shall, after reconciling existing bank accounts to determine the correct balance thereof, close these accounts and transfer all available funds on deposit to new post-petition bank accounts, unless such funds constitute cash collateral, in which event Court approval to make the transfer may be necessary (see Paragraph VI). The Debtor(s) in Possession is hereby authorized to make payments and to draw all checks incidental to the ordinary conduct of its business, and to open and maintain bank accounts in compliance with the provisions of 11 U.S.C. § 345. The Debtor(s) in Possession is not required to place on its bank accounts or checks any identification, such as "DIP", or other designation to indicate its bankruptcy filing status.

IV. SEPARATE TAX ACCOUNTS

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

V. EMPLOYMENT OF PRINCIPALS AND PROFESSIONALS

The Debtor(s) in Possession shall not, prior to confirmation of a plan of reorganization, compensate or remunerate itself, or any of its partners, officers, directors or shareholders, in any manner without prior written approval of this Court. The application should set forth the name and proposed position of the individual sought to be employed, along with a detailed description of the duties the individual is to perform, the number of hours each week the individual will

devote to those duties, and the reasons why employment of the individual is necessary to the successful reorganization of the Debtor(s). The application should also set forth the amount of compensation sought on a weekly or monthly basis and disclose all perquisites, benefits, and consideration of any kind the individual is to receive, for example, use of company vehicles, payment of life or health insurance premiums, or reimbursement for expenses. The application should disclose the individual's salary history for the year immediately preceding the filing of the Chapter 11 petition, and shall be under oath. The Debtor(s) in Possession is also advised that professional persons, such as accountants, attorneys, appraisers and auctioneers, may be employed and compensated only upon application to, and approval by, this Court. All applications for employment of principals and professionals must be served on the Assistant United States Trustee.

VI. RESTRICTIONS ON THE ACTIVITIES OF THE DEBTOR(S) IN POSSESSION

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

VII. DUTY TO FILE REPORT UPON FAILURE TO FILE A PLAN

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

ORDERED that copies of this Order shall be served by United States Mail on the Debtor(s) in Possession, counsel for the Debtor(s) in Possession, and the Assistant United States Trustee. Counsel for the Debtor(s) in Possession shall review the requirements of this Order with the principal officer of the Debtor(s) in Possession and with the accountant for the Debtor(s) in Possession.

ENTERED:

Judge

APPENDIX E
CHAPTER 13 FORMS

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case No.
Chapter 13
Adjustment of Debts

Debtor(s)

ORDER TO COMMENCE WITHHOLDING

Pursuant to Local Bankruptcy Rule 6.01, an amount equal to the proposed payments under the debtor's Chapter 13 Plan shall be withheld from the Debtor's wages from time to time. Accordingly, it is

ORDERED that the employer, _____, which from time to time may owe wages to the Debtor, shall withhold therefrom, to the exclusion of all other deductions and legal processes, except lawful taxes and labor union dues, the sum of \$_____, and shall remit same, at least monthly, to the Trustee, Helen M. Morris, Post Office Box 8531, South Charleston, West Virginia, 25303, (304) 744-6730, and shall continue to do so each month until further order of this Court.

ENTERED:

Judge

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case No. _____
Chapter 13
Adjustments of Debts

Debtor(s)

CHAPTER 13 PLAN AND IF CHECKED,
 MOTION TO AVOID LIENS; MOTION TO VALUE SECURED PROPERTY

THIS PLAN CONTAINS EVIDENTIARY MATTER WHICH, IF NOT CONTROVERTED, MAY BE ACCEPTED BY THE COURT AS TRUE. THIS PLAN MAY BE CONFIRMED BASED ON THE INFORMATION AND VALUATIONS IT CONTAINS IF THERE IS NO OBJECTION FROM CREDITORS. CREDITORS MAY OBJECT TO ITS CONFIRMATION PURSUANT TO BANKRUPTCY CODE § 1324. ANY OBJECTIONS MUST BE IN WRITING AND MUST BE FILED NO LATER THAN TEN DAYS FOLLOWING THE FIRST DATE SET FOR THE § 341(a) MEETING OF CREDITORS. (THE DATE OF THE § 341 (a) MEETING OF CREDITORS CAN BE FOUND IN THE NOTICE OF FILING.) SECURED CREDITORS TAKE NOTE THAT YOUR COLLATERAL IS VALUED UNDER THE CLASS THREE CLAIMS PROVISION OF THIS PLAN. THE TRUSTEE WILL PAY HOLDERS OF SECURED CLAIMS ACCORDING TO THIS PLAN UNLESS AND UNTIL AN OBJECTION IS TIMELY FILED BY THE SECURED CLAIM HOLDER.

The Debtor proposes the following Chapter 13 Plan and makes the following declarations:

I. PROPERTIES AND FUTURE EARNINGS OR INCOME SUBJECT TO THE SUPERVISION AND CONTROL OF THE TRUSTEE:

The Debtor submits the following to the supervision and control of the Trustee:

1. Payments by the Debtor of \$ _____ for _____ months.
Pursuant to Local Rule 6.01:
 a Wage Withholding Order will be issued to the Debtor's employer.
 a motion to permit direct payment by the Debtor was filed with the petition.
2. Other Property: _____
(Specify property or indicate none)
3. Amounts necessary for the payment of post-petition claims allowed under Bankruptcy Code § 1305.

II. PLAN ANALYSIS - TOTAL PAYMENT PROVIDED FOR UNDER THE PLAN

(a) CLASS ONE		
(1) Unpaid attorney's fees.....		\$ _____
(2) Taxes.....		\$ _____
(3) Educational Benefit Overpayments or Loans.....		\$ _____
(4) Other.....		\$ _____
(b) CLASS TWO.....		\$ _____
(c) CLASS THREE.....		\$ _____
(d) CLASS FOUR.....		\$ _____
(e) CLASS FIVE.....		\$ _____
(f) SUB-TOTAL.....		\$ _____
(g) TRUSTEE'S FEES..(Estimated at 10% or the Court established rate of ____%).....		\$ _____

III. CLASSIFICATION AND TREATMENT OF CLAIMS; AND VALUATION OF SECURED PROPERTY

1. CLASS ONE - Allowed Unsecured Claims entitled to priority under Bankruptcy Code § 507. Debtor will pay Class One Claims in full in deferred payments, provided a proof of claim has been filed, as follows:

	PREPETITION PAYMENT TO ATTORNEY	AMOUNT OF PRIORITY CLAIM	MONTHLY PAYMENT	NUMBER OF PAYMENTS	TOTAL PAYMENT
a. Administrative Expenses					
(1) Trustee's Compensation			Not to exceed 10% of amounts disbursed		
(2) Attorney's Fees.....	\$ _____		Plus 4% of amounts disbursed		
b. Internal Revenue Service.....		\$ _____	\$ _____	# _____	\$ _____
c. West Virginia Dept. of Revenue		\$ _____	\$ _____	# _____	\$ _____
d. Educational Benefit Overpayment or Loan guaranteed by a governmental unit.....		\$ _____	\$ _____	# _____	\$ _____
e. Other: _____		\$ _____	\$ _____	# _____	\$ _____

2. CLASS TWO - Payments on Real Property that is the Debtor's PRINCIPAL RESIDENCE.

- There are no CLASS TWO payments treated under this plan. Treatment of CLASS TWO claims are depicted on Page 3, attached to this plan.
- Debtor's mortgage is treated outside the plan.

3. CLASS THREE and MOTION TO VALUE SECURED PROPERTY- Secured claims not secured solely by a security interest in the Debtor's principal residence which are paid in full under the plan.

- There are no CLASS THREE payments treated under this plan. A motion to value secured property and treatment of CLASS THREE claims are depicted on Page 4, attached to this plan.

4. CLASS FOUR - Secured and Unsecured Claims for which the last payment is due after the final payment under the Plan is due.

- There are no CLASS FOUR payments treated under this plan. Treatment of CLASS FOUR claims are depicted on Page 5, attached to this plan.

5. CLASS FIVE - Non-Priority Unsecured Claims. The Debtor estimates that non-priority general unsecured claims total the sum of \$ _____ . Class Five shall be paid as follows:

(Check one box only)

- Class Five Claims (including allowed unsecured amounts from Class Three) are of one class and shall be paid (pro rata) at _____ % of such claims.
- Class Five Claims are divided into subclasses as depicted on the attached Exhibit and paid pro rata in each subclass as indicated therein. The Plan provides the same treatment for each claim within each subclass of Class Five. The claims of each subclass are substantially similar and the division into subclasses does not discriminate unfairly.

6. CLASS SIX - Post-Petition claims under Bankruptcy Code § 1305. Post-petition claims allowed under Bankruptcy Code §1305 shall be paid in full in equal monthly installments commencing no more than 30 days after entry of an order allowing such claims and concluding on the date of the last payment under the Plan, provided sufficient funds are available under this plan or an amended plan.

IV. COMPARISON TO CHAPTER 7 - The value as of the effective date of the Plan of property to be distributed under the Plan on account of each allowed unsecured claim is not less than the amount that would be paid on such claim if the Estate of the Debtor were liquidated under Bankruptcy Code Chapter 7 on such date. The percentage distribution to general unsecured creditors under Chapter 7 is estimated at _____ %.

V. ENLARGEMENT OF TIME FOR PAYMENTS

The Plan provides for payment over a period of more than 36 months; cause exists as follows:

- 1. The Plan proposes to pay at least _____ % of unsecured claims.
- 2. Other: _____

VI. DEBTOR'S ABILITY TO MAKE PAYMENTS AND COMPLY WITH THE BANKRUPTCY CODE:

Debtor will be able to make all payments and comply with all provisions of the Plan, based upon the availability to the Debtor of the income and property the Debtor proposes to use to complete the Plan.

This Plan complies with the provisions of Chapter 13 and all other applicable provisions of the Bankruptcy Code. Any fee, charge, or amount required to be paid under the United States Code or required by the Plan to be paid before confirmation has been paid or will be paid prior to confirmation. The Plan has been proposed in good faith and is not by any means forbidden by law.

VII. MOTION TO AVOID LIENS ON EXEMPT PROPERTY - There are no motions to avoid liens filed under this plan. Motions to avoid liens are attached to this plan on Page 6.

VIII. OTHER PROVISIONS- There are no other provisions to this plan. Other provisions are attached to this plan as page 7.

Dated: _____

Attorney for Debtor

I declare under penalty of perjury that the foregoing is true and correct.

Debtor

Joint Debtor

SECURED CREDITORS PLEASE NOTE IF MOTIONS ARE ATTACHED TO THIS PLAN.

THIS PLAN CONTAINS A TOTAL OF _____ PAGES WHICH INCLUDE THE FOLLOWING PAGES AND CONTINUATION SHEETS (check if attached):

- MOTION TO AVOID LIENS - (attached page 6)
- MOTION TO VALUE SECURED PROPERTY - (attached page 4)

2. CLASS TWO - Payments on Real Property that is the Debtor's PRINCIPAL RESIDENCE.

Payments to the lienholder(s) on the Debtor's principal residence are not in default. Future payments under the mortgage contract will be made outside the plan.

Payments to the lienholder(s) on the Debtor's principal residence are not in default. Future payments under the mortgage contract will be made under the plan.

Payments to the lienholder(s) on the Debtor's principal residence are in default. The arrearage will be cured as indicated below. Future payments under the mortgage contract will be made outside the plan.

Payments to the lienholder(s) on the Debtor's principal residence are in default. The arrearage will be cured as indicated below. Future payments under the mortgage contract will be made under the plan.

Claims Against the Debtor's Principal Residence - (If room to list more creditors is needed attach continuation sheet)

a.

Name of Lienholder		Account No.
Amount of monthly mortgage payment to lienholder	\$ _____ MONTHLY PAYMENT	
<input type="checkbox"/> Number and total amount of mortgage payments to be made under the plan <small>(Check this box and complete this line only if contract mortgage payments are to be made under the plan.)</small>		NUMBER OF PAYMENTS
		\$ _____ TOTAL CLASS TWO PAYMENTS
<input type="checkbox"/> The default will be cured by monthly payments under the plan. The monthly payments reflect the present value of the arrearage computed at a discount rate of _____ % per annum. <small>(Check this box and complete this line only if the mortgage is in default.)</small>	\$ _____ AMOUNT IN IN DEFAULT	\$ _____ MONTHLY PAYMENT TO CURE DEFAULT
		NUMBER OF PAYMENTS
		\$ _____ TOTAL CLASS TWO PAYMENTS

b.

Name of Lienholder		Account No.
Amount of monthly mortgage payment to lienholder	\$ _____ MONTHLY PAYMENT	
<input type="checkbox"/> Number and total amount of mortgage payments to be made under the plan <small>(Check this box and complete this line only if contract mortgage payments are to be made under the plan.)</small>		NUMBER OF PAYMENTS
		\$ _____ TOTAL CLASS TWO PAYMENTS
<input type="checkbox"/> The default will be cured by monthly payments under the plan. The monthly payments reflect the present value of the arrearage computed at a discount rate of _____ % per annum. <small>(Check this box and complete this line only if the mortgage is in default.)</small>	\$ _____ AMOUNT IN IN DEFAULT	\$ _____ MONTHLY PAYMENT TO CURE DEFAULT
		NUMBER OF PAYMENTS
		\$ _____ TOTAL CLASS TWO PAYMENTS

c.

Name of Lienholder		Account No.
Amount of monthly mortgage payment to lienholder	\$ _____ MONTHLY PAYMENT	
<input type="checkbox"/> Number and total amount of mortgage payments to be made under the plan <small>(Check this box and complete this line only if contract mortgage payments are to be made under the plan.)</small>		NUMBER OF PAYMENTS
		\$ _____ TOTAL CLASS TWO PAYMENTS
<input type="checkbox"/> The default will be cured by monthly payments under the plan. The monthly payments reflect the present value of the arrearage computed at a discount rate of _____ % per annum. <small>(Check this box and complete this line only if the mortgage is in default.)</small>	\$ _____ AMOUNT IN IN DEFAULT	\$ _____ MONTHLY PAYMENT TO CURE DEFAULT
		NUMBER OF PAYMENTS
		\$ _____ TOTAL CLASS TWO PAYMENTS

2. CLASS TWO - Payments on Real Property that is the Debtor's PRINCIPAL RESIDENCE.

d.

Name of Lienholder		Account No.
Amount of monthly mortgage payment to lienholder	\$ _____ MONTHLY PAYMENT	
<input type="checkbox"/> Number and total amount of mortgage payments to be made under the plan <small>(Check this box and complete this line only if contract mortgage payments are to be made under the plan.)</small>		NUMBER OF PAYMENTS
<input type="checkbox"/> The default will be cured by monthly payments under the plan. The monthly payments reflect the present value of the arrearage computed at a discount rate		\$ _____ TOTAL CLASS TWO PAYMENTS
of _____ % per annum. <small>(Check this box and complete this line only if the mortgage is in default.)</small>	\$ _____ AMOUNT IN IN DEFAULT	\$ _____ MONTHLY PAYMENT TO CURE DEFAULT
		NUMBER OF PAYMENTS
		\$ _____ TOTAL CLASS TWO PAYMENTS

e.

Name of Lienholder		Account No.
Amount of monthly mortgage payment to lienholder	\$ _____ MONTHLY PAYMENT	
<input type="checkbox"/> Number and total amount of mortgage payments to be made under the plan <small>(Check this box and complete this line only if contract mortgage payments are to be made under the plan.)</small>		NUMBER OF PAYMENTS
<input type="checkbox"/> The default will be cured by monthly payments under the plan. The monthly payments reflect the present value of the arrearage computed at a discount rate		\$ _____ TOTAL CLASS TWO PAYMENTS
of _____ % per annum. <small>(Check this box and complete this line only if the mortgage is in default.)</small>	\$ _____ AMOUNT IN IN DEFAULT	\$ _____ MONTHLY PAYMENT TO
		NUMBER OF PAYMENTS
		\$ _____ TOTAL CLASS TWO PAYMENTS

f.

Name of Lienholder		Account No.
Amount of monthly mortgage payment to lienholder	\$ _____ MONTHLY PAYMENT	
<input type="checkbox"/> Number and total amount of mortgage payments to be made under the plan <small>(Check this box and complete this line only if contract mortgage payments are to be made under the plan.)</small>		NUMBER OF PAYMENTS
<input type="checkbox"/> The default will be cured by monthly payments under the plan. The monthly payments reflect the present value of the arrearage computed at a discount rate		\$ _____ TOTAL CLASS TWO PAYMENTS
of _____ % per annum. <small>(Check this box and complete this line only if the mortgage is in default.)</small>	\$ _____ AMOUNT IN IN DEFAULT	\$ _____ MONTHLY PAYMENT TO
		NUMBER OF PAYMENTS
		\$ _____ TOTAL CLASS TWO PAYMENTS

g.

Name of Lienholder		Account No.
Amount of monthly mortgage payment to lienholder	\$ _____ MONTHLY PAYMENT	
<input type="checkbox"/> Number and total amount of mortgage payments to be made under the plan <small>(Check this box and complete this line only if contract mortgage payments are to be made under the plan.)</small>		NUMBER OF PAYMENTS
<input type="checkbox"/> The default will be cured by monthly payments under the plan. The monthly payments reflect the present value of the arrearage computed at a discount rate		\$ _____ TOTAL CLASS TWO PAYMENTS
of _____ % per annum. <small>(Check this box and complete this line only if the mortgage is in default.)</small>	\$ _____ AMOUNT IN IN DEFAULT	\$ _____ MONTHLY PAYMENT TO
		NUMBER OF PAYMENTS
		\$ _____ TOTAL CLASS TWO PAYMENTS

MOTION TO VALUE SECURED PROPERTY and Treatment of CLASS THREE Secured Claims

3. CLASS THREE - Secured claims not secured solely by a security interest in the Debtor's principal residence which are paid in full under the plan. Class Three claims shall be paid in monthly payments as set forth below. Each creditor shall retain its lien until the plan is completed. Where the Secured Claim exceeds the amount of the total claim, the payments reflect a present value computation using a discount rate of _____% per annum not to exceed the amount of the Secured Claim. Payment under this class is on the Secured Claim only. See Class Five for treatment of the unsecured portion of the claim. (If room to list more creditors is needed attach continuation sheet)

NOTICE OF HEARING TO VALUE SECURED PROPERTY

Notice is hereby given that pursuant to Bankruptcy Code § 506(a) the Debtor moves to value the Secured Property listed under Class Three of this plan. The Debtor is the owner of the property serving as collateral, is aware of its condition and believes its value is as set forth below under the heading "Secured Claim." If you object to the motion, you must file your objections within 10 days following the date first set for the § 341(a) Meeting of Creditors. A § 506(a) hearing to value secured property shall be held on the date and at the time set for confirmation of the plan.

a.

Name of Lienholder	Account No.				
Description of Property Secured by Lien The amount in the "SECURED CLAIM" column reflects the value the debtor places on this property.	\$ TOTAL CLAIM	\$ SECURED CLAIM (Debtor's Value)	\$ UNSECURED CLAIM	NUMBER OF PAYMENTS	\$ TOTAL CLASS THREE PAYMENTS

b.

Name of Lienholder	Account No.				
Description of Property Secured by Lien The amount in the "SECURED CLAIM" column reflects the value the debtor places on this property.	\$ TOTAL CLAIM	\$ SECURED CLAIM (Debtor's Value)	\$ UNSECURED CLAIM	NUMBER OF PAYMENTS	\$ TOTAL CLASS THREE PAYMENTS

c.

Name of Lienholder	Account No.				
Description of Property Secured by Lien The amount in the "SECURED CLAIM" column reflects the value the debtor places on this property.	\$ TOTAL CLAIM	\$ SECURED CLAIM (Debtor's Value)	\$ UNSECURED CLAIM	NUMBER OF PAYMENTS	\$ TOTAL CLASS THREE PAYMENTS

d.

Name of Lienholder	Account No.				
Description of Property Secured by Lien The amount in the "SECURED CLAIM" column reflects the value the debtor places on this property.	\$ TOTAL CLAIM	\$ SECURED CLAIM (Debtor's Value)	\$ UNSECURED CLAIM	NUMBER OF PAYMENTS	\$ TOTAL CLASS THREE PAYMENTS

e.

Name of Lienholder	Account No.				
Description of Property Secured by Lien The amount in the "SECURED CLAIM" column reflects the value the debtor places on this property.	\$ TOTAL CLAIM	\$ SECURED CLAIM (Debtor's Value)	\$ UNSECURED CLAIM	NUMBER OF PAYMENTS	\$ TOTAL CLASS THREE PAYMENTS

3. CLASS THREE - Secured claims not secured solely by a security interest in the Debtor's principal residence which are paid in full under the plan.

f.

Name of Lienholder		Account No.			
Description of Property Secured by Lien	\$	\$	\$		\$
The amount in the "SECURED CLAIM" column reflects the value the debtor places on this property.	TOTAL CLAIM	SECURED CLAIM (Debtor's Value)	UNSECURED CLAIM	NUMBER OF PAYMENTS	TOTAL CLASS THREE PAYMENTS

g.

Name of Lienholder		Account No.			
Description of Property Secured by Lien	\$	\$	\$		\$
The amount in the "SECURED CLAIM" column reflects the value the debtor places on this property.	TOTAL CLAIM	SECURED CLAIM (Debtor's Value)	UNSECURED CLAIM	NUMBER OF PAYMENTS	TOTAL CLASS THREE PAYMENTS

h.

Name of Lienholder		Account No.			
Description of Property Secured by Lien	\$	\$	\$		\$
The amount in the "SECURED CLAIM" column reflects the value the debtor places on this property.	TOTAL CLAIM	SECURED CLAIM (Debtor's Value)	UNSECURED CLAIM	NUMBER OF PAYMENTS	TOTAL CLASS THREE PAYMENTS

i.

Name of Lienholder		Account No.			
Description of Property Secured by Lien	\$	\$	\$		\$
The amount in the "SECURED CLAIM" column reflects the value the debtor places on this property.	TOTAL CLAIM	SECURED CLAIM (Debtor's Value)	UNSECURED CLAIM	NUMBER OF PAYMENTS	TOTAL CLASS THREE PAYMENTS

j.

Name of Lienholder		Account No.			
Description of Property Secured by Lien	\$	\$	\$		\$
The amount in the "SECURED CLAIM" column reflects the value the debtor places on this property.	TOTAL CLAIM	SECURED CLAIM (Debtor's Value)	UNSECURED CLAIM	NUMBER OF PAYMENTS	TOTAL CLASS THREE PAYMENTS

k.

Name of Lienholder		Account No.			
Description of Property Secured by Lien	\$	\$	\$		\$
The amount in the "SECURED CLAIM" column reflects the value the debtor places on this property.	TOTAL CLAIM	SECURED CLAIM (Debtor's Value)	UNSECURED CLAIM	NUMBER OF PAYMENTS	TOTAL CLASS THREE PAYMENTS

4. CLASS FOUR - Secured and Unsecured Claims for which the last payment is due after the final payment under the Plan is due. (If room to list more creditors is needed attach continuation sheet)

a.

Name of Creditor or Lienholder if Secured	Account No.		
Description of Property if Secured Claim			
<input type="checkbox"/> Number and total amount of CLASS FOUR payments to be made under the plan <small>(Check this box and complete this line only if this payment is to be made under the plan.)</small>	\$ _____ MONTHLY PAYMENTS	NUMBER OF PAYMENTS	\$ _____ TOTAL CLASS FOUR PAYMENTS
<input type="checkbox"/> The default will be cured by monthly payments under the plan. The monthly payments reflect the present value of the arrearage computed at a discount rate			
of _____ % per annum. <small>(Check this box and complete this line only if this claim is in default.)</small>	\$ _____ AMOUNT IN IN DEFAULT	\$ _____ MONTHLY PAYMENT TO CURE DEFAULT	\$ _____ NUMBER OF PAYMENTS

b.

Name of Creditor or Lienholder if Secured	Account No.		
Description of Property if Secured Claim			
<input type="checkbox"/> Number and total amount of CLASS FOUR payments to be made under the plan <small>(Check this box and complete this line only if this payment is to be made under the plan.)</small>	\$ _____ MONTHLY PAYMENTS	NUMBER OF PAYMENTS	\$ _____ TOTAL CLASS FOUR PAYMENTS
<input type="checkbox"/> The default will be cured by monthly payments under the plan. The monthly payments reflect the present value of the arrearage computed at a discount rate			
of _____ % per annum. <small>(Check this box and complete this line only if this claim is in default.)</small>	\$ _____ AMOUNT IN IN DEFAULT	\$ _____ MONTHLY PAYMENT TO CURE DEFAULT	\$ _____ NUMBER OF PAYMENTS

c.

Name of Creditor or Lienholder if Secured	Account No.		
Description of Property if Secured Claim			
<input type="checkbox"/> Number and total amount of CLASS FOUR payments to be made under the plan <small>(Check this box and complete this line only if this payment is to be made under the plan.)</small>	\$ _____ MONTHLY PAYMENTS	NUMBER OF PAYMENTS	\$ _____ TOTAL CLASS FOUR PAYMENTS
<input type="checkbox"/> The default will be cured by monthly payments under the plan. The monthly payments reflect the present value of the arrearage computed at a discount rate			
of _____ % per annum. <small>(Check this box and complete this line only if this claim is in default.)</small>	\$ _____ AMOUNT IN IN DEFAULT	\$ _____ MONTHLY PAYMENT TO CURE DEFAULT	\$ _____ NUMBER OF PAYMENTS

d.

Name of Creditor or Lienholder if Secured	Account No.		
Description of Property if Secured Claim			
<input type="checkbox"/> Number and total amount of CLASS FOUR payments to be made under the plan <small>(Check this box and complete this line only if this payment is to be made under the plan.)</small>	\$ _____ MONTHLY PAYMENTS	NUMBER OF PAYMENTS	\$ _____ TOTAL CLASS FOUR PAYMENTS
<input type="checkbox"/> The default will be cured by monthly payments under the plan. The monthly payments reflect the present value of the arrearage computed at a discount rate			
of _____ % per annum. <small>(Check this box and complete this line only if this claim is in default.)</small>	\$ _____ AMOUNT IN IN DEFAULT	\$ _____ MONTHLY PAYMENT TO CURE DEFAULT	\$ _____ NUMBER OF PAYMENTS

4. CLASS FOUR - Secured and Unsecured Claims for which the last payment is due after the final payment under the Plan is due.

e.

Name of Creditor or Lienholder if Secured		Account No.			
Description of Property if Secured Claim					
<input type="checkbox"/> Number and total amount of CLASS FOUR payments to be made under the plan <small>(Check this box and complete this line only if this payment is to be made under the plan.)</small>		\$ _____ MONTHLY PAYMENTS	_____ NUMBER OF PAYMENTS	\$ _____ TOTAL CLASS FOUR PAYMENTS	
<input type="checkbox"/> The default will be cured by monthly payments under the plan. The monthly payments reflect the present value of the arrearage computed at a discount rate					
of _____ % per annum. <small>(Check this box and complete this line only if this claim is in default.)</small>		\$ _____ AMOUNT IN IN DEFAULT	\$ _____ MONTHLY PAYMENT TO CURE DEFAULT	_____ NUMBER OF PAYMENTS	\$ _____ TOTAL CLASS FOUR PAYMENTS

f.

Name of Creditor or Lienholder if Secured		Account No.			
Description of Property if Secured Claim					
<input type="checkbox"/> Number and total amount of CLASS FOUR payments to be made under the plan <small>(Check this box and complete this line only if this payment is to be made under the plan.)</small>		\$ _____ MONTHLY PAYMENTS	_____ NUMBER OF PAYMENTS	\$ _____ TOTAL CLASS FOUR PAYMENTS	
<input type="checkbox"/> The default will be cured by monthly payments under the plan. The monthly payments reflect the present value of the arrearage computed at a discount rate					
of _____ % per annum. <small>(Check this box and complete this line only if this claim is in default.)</small>		\$ _____ AMOUNT IN IN DEFAULT	\$ _____ MONTHLY PAYMENT TO CURE DEFAULT	_____ NUMBER OF PAYMENTS	\$ _____ TOTAL CLASS FOUR PAYMENTS

g.

Name of Creditor or Lienholder if Secured		Account No.			
Description of Property if Secured Claim					
<input type="checkbox"/> Number and total amount of CLASS FOUR payments to be made under the plan <small>(Check this box and complete this line only if this payment is to be made under the plan.)</small>		\$ _____ MONTHLY PAYMENTS	_____ NUMBER OF PAYMENTS	\$ _____ TOTAL CLASS FOUR PAYMENTS	
<input type="checkbox"/> The default will be cured by monthly payments under the plan. The monthly payments reflect the present value of the arrearage computed at a discount rate					
of _____ % per annum. <small>(Check this box and complete this line only if this claim is in default.)</small>		\$ _____ AMOUNT IN IN DEFAULT	\$ _____ MONTHLY PAYMENT TO CURE DEFAULT	_____ NUMBER OF PAYMENTS	\$ _____ TOTAL CLASS FOUR PAYMENTS

h.

Name of Creditor or Lienholder if Secured		Account No.			
Description of Property if Secured Claim					
<input type="checkbox"/> Number and total amount of CLASS FOUR payments to be made under the plan <small>(Check this box and complete this line only if this payment is to be made under the plan.)</small>		\$ _____ MONTHLY PAYMENTS	_____ NUMBER OF PAYMENTS	\$ _____ TOTAL CLASS FOUR PAYMENTS	
<input type="checkbox"/> The default will be cured by monthly payments under the plan. The monthly payments reflect the present value of the arrearage computed at a discount rate					
of _____ % per annum. <small>(Check this box and complete this line only if this claim is in default.)</small>		\$ _____ AMOUNT IN IN DEFAULT	\$ _____ MONTHLY PAYMENT TO CURE DEFAULT	_____ NUMBER OF PAYMENTS	\$ _____ TOTAL CLASS FOUR PAYMENTS

VII. MOTION TO AVOID LIENS ON EXEMPT PROPERTY

Notice is hereby given that the Debtor moves to avoid the following liens on exempt property pursuant to Bankruptcy Code § 522(f), and to treat such creditors as unsecured creditors only. The Debtor represents that the security interest held by the creditors in the property listed below impairs an exemption to which the Debtor would be entitled under West Virginia Code § 38-10-4 and that the property is the type described under Bankruptcy Code § 522(f). If you object to the motion, you must file your objections within 10 days following the first date set for the § 341(a) Meeting of Creditors. Any objection to the motion will be heard on the date and at the time set for confirmation of the plan.

a.

Name of Creditor: _____

Description of Property: _____

Amount claimed as exempt on Schedule C: \$ _____

Estimated market value of Property: \$ _____

Amount of Lien: \$ _____ Date Recorded: _____ County _____

Type of Lien: Judicial Lien Nonpossessory, Nonpurchase-money Security Interest

b.

Name of Creditor: _____

Description of Property: _____

Amount claimed as exempt on Schedule C: \$ _____

Estimated market value of Property: \$ _____

Amount of Lien: \$ _____ Date Recorded: _____ County _____

Type of Lien: Judicial Lien Nonpossessory, Nonpurchase-money Security Interest

c.

Name of Creditor: _____

Description of Property: _____

Amount claimed as exempt on Schedule C: \$ _____

Estimated market value of Property: \$ _____

Amount of Lien: \$ _____ Date Recorded: _____ County _____

Type of Lien: Judicial Lien Nonpossessory, Nonpurchase-money Security Interest

d.

Name of Creditor: _____

Description of Property: _____

Amount claimed as exempt on Schedule C: \$ _____

Estimated market value of Property: \$ _____

Amount of Lien: \$ _____ Date Recorded: _____ County _____

Type of Lien: Judicial Lien Nonpossessory, Nonpurchase-money Security Interest

e.

Name of Creditor: _____

Description of Property: _____

Amount claimed as exempt on Schedule C: \$ _____

Estimated market value of Property: \$ _____

Amount of Lien: \$ _____ Date Recorded: _____ County _____

Type of Lien: Judicial Lien Nonpossessory, Nonpurchase-money Security Interest

VII. MOTION TO AVOID LIENS ON EXEMPT PROPERTY

f.
 Name of Creditor: _____
 Description of Property: _____
 Amount claimed as exempt on Schedule C: \$ _____
 Estimated market value of Property: \$ _____
 Amount of Lien: \$ _____ Date Recorded: _____ County _____
 Type of Lien: Judicial Lien Nonpossessory, Nonpurchase-money Security Interest

g.
 Name of Creditor: _____
 Description of Property: _____
 Amount claimed as exempt on Schedule C: \$ _____
 Estimated market value of Property: \$ _____
 Amount of Lien: \$ _____ Date Recorded: _____ County _____
 Type of Lien: Judicial Lien Nonpossessory, Nonpurchase-money Security Interest

h.
 Name of Creditor: _____
 Description of Property: _____
 Amount claimed as exempt on Schedule C: \$ _____
 Estimated market value of Property: \$ _____
 Amount of Lien: \$ _____ Date Recorded: _____ County _____
 Type of Lien: Judicial Lien Nonpossessory, Nonpurchase-money Security Interest

i.
 Name of Creditor: _____
 Description of Property: _____
 Amount claimed as exempt on Schedule C: \$ _____
 Estimated market value of Property: \$ _____
 Amount of Lien: \$ _____ Date Recorded: _____ County _____
 Type of Lien: Judicial Lien Nonpossessory, Nonpurchase-money Security Interest

j.
 Name of Creditor: _____
 Description of Property: _____
 Amount claimed as exempt on Schedule C: \$ _____
 Estimated market value of Property: \$ _____
 Amount of Lien: \$ _____ Date Recorded: _____ County _____
 Type of Lien: Judicial Lien Nonpossessory, Nonpurchase-money Security Interest

VIII. OTHER PROVISIONS

- 1. **The following executory contracts and unexpired leases are rejected:**

- 2. **Debtor assumes the following executory contracts and unexpired leases:**

- 3. **Debtor shall make regular monthly payments directly to the following:**

- 4. **Debtor hereby abandons the following personal or real property:**

- 5. **Miscellaneous Provisions (specify):**

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Debtor(s)

Case Number
Chapter 13
Adjustment of Debts

ORDER OF CONDITIONAL DISMISSAL FOR FAILURE TO FILE PLAN

The above-captioned Debtor(s) has failed to file a Chapter 13 plan within fifteen (15) days of the filing of the Chapter 13 petition, as required by Bankruptcy Rule 3015, or within the time extended by the Court. Therefore it is accordingly

ORDERED that the Chapter 13 petition of the above-captioned Debtor(s) will be dismissed without further order at 5:00 pm on _____ unless a Chapter 13 plan is filed and served in accordance with the local rules of this Court prior to that time.

IMPORTANT NOTICE TO DEBTORS

You have failed to file a plan within the time allowed by the rules of this Court. If you are represented by counsel, contact your attorney immediately. To prevent dismissal of your case you must do the following before 5:00 pm on the date above:

1. File your Chapter 13 plan with the Clerk of the Bankruptcy Court along with a certificate of service indicating that you have served the Trustee and creditors with a copy of your plan. See items 2 and 3 below. The Clerk's address is:

Clerk, U. S. Bankruptcy Court
P.O. Box 3924
(2400 Robert C. Byrd U.S. Courthouse,
300 Virginia Street East)
Charleston, WV 25339-3924
Phone: (304) 347-3000

2. Serve a copy of the plan on the Trustee, Helen M. Morris. Ms. Morris's address is:

Helen M. Morris, Chapter 13 Trustee
P. O. Box 8531
South Charleston, WV 25330

3. Serve a copy of the plan on all of the creditors that you listed in your bankruptcy petition. You can obtain a copy of your creditor list from the Clerk of the Bankruptcy Court.

The Chapter 13 plan must be filed in the Clerk's office by 5:00 pm on the date given in this notice. Failure to comply with these instructions may require you to refile your petition and pay the filing fee again.

ENTERED:

RONALD G. PEARSON, JUDGE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case No.
Chapter 13
Adjustment of Debts

Debtor(s)

ORDER OF CONDITIONAL DISMISSAL FOR FAILURE TO FILE AMENDED PLAN

The above-captioned Debtor(s) has failed to file an amended Chapter 13 plan, as directed by the Court's Order entered _____. Therefore it is accordingly

ORDERED that the Chapter 13 petition of the above-captioned Debtor(s) will be dismissed without further order at 5:00 pm on _____ unless an amended Chapter 13 plan is filed and served in accordance with the local rules of this Court prior to that time.

IMPORTANT NOTICE TO DEBTORS

You have failed to file an amended plan within the time allowed by the rules of this Court. If you are represented by counsel, contact your attorney immediately. To prevent dismissal of your case you must do the following before 5:00 pm on the date above:

1. File your amended Chapter 13 plan with the Clerk of the Bankruptcy Court along with a certificate of service indicating that you have served the Trustee and creditors with a copy of your amended plan. See items 2 and 3 below. The Clerk's address is:

Clerk, U. S. Bankruptcy Court
P.O. Box 3924
(2400 Robert C. Byrd U. S. Courthouse
300 Virginia Street East)
Charleston, WV 25339-3924
Phone: (304) 347-3000
2. Serve a copy of the amended plan on the Trustee, Helen M. Morris. Ms. Morris's address is:

Helen M. Morris, Chapter 13 Trustee
P. O. Box 8531
South Charleston, WV 25330
3. Serve a copy of the amended plan on all of the creditors that you listed in your bankruptcy petition. You can obtain a copy of your creditor list from the Clerk of the Bankruptcy Court.

The amended Chapter 13 plan must be filed in the Clerk's office by 5:00 pm on the date given in this notice. Failure to comply with these instructions may require you to refile your petition and pay the filing fee again.

ENTERED:

RONALD G. PEARSON, JUDGE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case Number

Chapter 13

Adjustment of Debts

Debtor(s).

ORDER OF CONDITIONAL DISMISSAL
FOR FAILURE TO MAKE PAYMENTS TO TRUSTEE

Upon the motion of Helen M. Morris, Trustee, praying for dismissal of the above-styled case for the failure of the Debtor(s) to make the payments to the Trustee required by their Chapter 13 plan, it is now

ORDERED that the Chapter 13 case of the above-named Debtor(s) will be dismissed without further order at 5:00 p.m. on _____ unless prior to that date: (1) all delinquent payments are made to the Trustee; (2) a payment plan that will cure all defaults is accepted by the Trustee; or (3) the Debtor(s): (a) voluntarily convert this case to a case under Chapter 7; (b) file a motion for hardship discharge; or (c) move for other appropriate relief.

IMPORTANT NOTICE TO DEBTORS

You have failed to make the payments to the Trustee required by your Chapter 13 plan. If you are represented by counsel, contact your attorney immediately. To prevent dismissal of your case you must do one of the following before 5:00 p.m. on the above date:

1. Submit all delinquent payments to the Trustee, Helen M. Morris, who shall notify the Court that such payment has been made; or
2. Obtain approval of the Chapter 13 Trustee of a payment schedule that cures all payment arrearage that have occurred since your Chapter 13 Plan was filed or confirmed and file a written statement with the Clerk that such approval has been obtained; or
3. File: (a) notice of voluntary conversion of this case to a liquidation case under Chapter 7 of the Bankruptcy Code; (b) motion for hardship discharge; or (c) motion for other relief appropriate to you circumstances. Such pleadings must be filed by your attorney; if you are not represented by an attorney, contact the Trustee.

ENTERED:

RONALD G. PEARSON, JUDGE

APPENDIX F

NOTICE AND MOTION PRACTICE FORMS

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
Robert C. Byrd United States Courthouse
300 Virginia Street East
Charleston, West Virginia 25301

Adversary Proceeding No.
Judge: Ronald G. Pearson

PLEASE TAKE NOTICE that a hearing will be held

at Charleston, Rm 6406
300 Virginia Street East
Charleston, WV

on (date) at (time)

to consider and act upon the following:

Complaint (AP #) vs.
(type of complaint)

Dated:

SAMUEL L. KAY
Clerk, U. S. Bankruptcy Court

By: _____
Deputy Clerk

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case No.

Debtor(s)

NOTICE OF MOTION TO _____

NOTICE IS HEREBY GIVEN of the attached motion to
_____ in the above-styled case.

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

If a response is filed in writing within _____ () days, hearing on the motion and response thereto will be held at a time, date and place to be set by order of this Court.

DATE:

(Movant's Name and Address)

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case No.

Debtor(s)

NOTICE OF TIME TO REQUEST HEARING ON COMPROMISE
TO THE DEBTOR, CREDITORS, AND OTHER PARTIES IN INTEREST:

NOTICE IS HEREBY GIVEN that in the above-styled case the Trustee/Debtor(s) and _____ have proposed to compromise _____ (matter in controversy) on the following terms:

A copy of said proposal is available for examination in the office of the Clerk of the Bankruptcy Court, 2400 Robert C. Byrd United States Courthouse, 300 Virginia Street East, Charleston, West Virginia. Parties may file a request for hearing on or before _____. In the event that no request for hearing is filed on or before the above date, the Court may enter an agreed order compromising the matter. If a request for hearing is filed, the Court will set a hearing and give notice to parties in interest.

DATED:

SAMUEL L. KAY, Clerk
U. S. Bankruptcy Court

By: _____
Deputy Clerk

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case No.

Debtor(s).

NOTICE OF MOTION TO MODIFY AUTOMATIC STAY

NOTICE IS HEREBY GIVEN of the attached motion to modify the automatic stay on _____ by _____ in the above-styled case.

Failure to respond in writing to the Court within fifteen (15) days from the date of this notice may result in the requested relief being granted by the Court without a hearing or further notice; but

If a response is filed in writing within fifteen (15) days, a hearing on the motion and response will be held at a time, date, and place to be determined by the Court.

DATE:

(Movant's Name and Address)

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case No.

Debtor(s)

NOTICE OF MOTION TO MODIFY AUTOMATIC STAY
NOTICE OF PRELIMINARY HEARING

NOTICE IS HEREBY GIVEN that _____ has filed a motion to modify the automatic stay on _____ on which the movant claims to hold a secured debt in the amount of \$ _____. A copy of the motion and attached proof of perfection are on file in the Bankruptcy Clerk's office.

NOTICE IS FURTHER GIVEN that a preliminary hearing on the motion to modify automatic stay will be held at _____ o'clock __.m, on _____ (date) _____, in _____ (location) _____. Counsel for the movant and any party with an objection or response to the motion must appear at the preliminary hearing prepared to make their representations and legal argument to the Court. Parties will not be required to produce fact or expert evidence and testimony unless the Court otherwise orders upon the request of a party.

NOTICE IS FURTHER GIVEN that failure of the debtor's counsel or debtor (if pro se) to appear at the preliminary hearing may result in the Court granting the relief requested without further hearing.

DATE:

SAMUEL L. KAY, Clerk
U. S. Bankruptcy Court

By: _____
Deputy Clerk

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case No.

Debtor(s).

REAFFIRMATION AGREEMENT

The undersigned debtor(s) hereby reaffirm that a debt dated the _____ day of _____, 20____, owing to _____ in the principal amount of \$_____, which debt is secured by collateral described as: _____, and on which monthly payments are \$_____. The annual rate of interest to be paid is _____%, and the number of payments remaining are _____.

The undersigned debtor(s) do hereby assert that they understand that monthly payments must be paid on time and that failure to do so may result in default and repossession as the same is set forth in the agreement of the parties.

Debtor(s) further assert that they have been advised that the agreement may be rescinded by Debtor(s) at any time prior to discharge or within sixty (60) days after it is filed with the Court, whichever occurs later, by giving notice of rescission to Creditor.

Execution on this _____ day of _____, 20____.

Witness the following signatures and seals:

Debtor (Seal)

Debtor (Seal)

Creditor (Seal)

(SEE NEXT PAGE)

DECLARATION OF ATTORNEY

I hereby declare that I represented the Debtor(s) during the negotiation of this Agreement, and it represents a fully informed and voluntary agreement by the Debtor(s) and does not impose an undue hardship on Debtor(s) or a dependent of Debtor(s).

Date:

Counsel for Debtor(s)

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case No.

Debtor(s).

ORDER AND NOTICE GRANTING MOTION TO EXTEND TIME
TO ASSUME OR REJECT _____

On this day the Court considered the motion to extend the time within which _____ must be assumed or rejected. It appearing to the Court that good cause is shown for such extension, it is now

ORDERED AND NOTICE IS HEREBY GIVEN that the motion to extend the time within which to assume or reject _____ is hereby granted and such time is extended to _____ unless a written objection is filed within twenty (20) days of the entry of this order and after hearing on the objection the Court determines relief from the order is warranted. It is further

ORDERED that counsel for the debtor shall serve, within five (5) days of the entry of this order, a copy of said order upon all lessors of non-residential real property. (Note: This language is to be used in a motion to extend time to assume or reject an unexpired lease.)

ENTERED:

Judge

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Debtor(s).

Case No.
Chapter 7
Liquidation

TRUSTEE'S PROPOSED INTENT TO ABANDON PROPERTY

The undersigned Trustee reports that the above debtor's estate includes the below listed property. The property is encumbered by a valid security interest which renders the property as being of insignificant equity value to the estate, and/or burdensome to the estate, and/or not encumbered by any valid security interest but of insignificant equity value to the estate.

The Trustee hereby intends to abandon any interest the estate may have in the property described below. The property shall be deemed abandoned pursuant to § 554(a) of the Bankruptcy Code and Bankruptcy Rule 6007(a) as of the date the "Trustee's Proposed Intent to Abandon Property" is mailed, unless a written objection is filed within fifteen (15) days from the date of mailing.

Description of Property: _____

Estimate Value: \$ _____ Amount Secured: \$ _____

This abandonment is not in lieu of filing a proof of claim and does not give the creditor relief from the automatic stay imposed by § 362 of the Bankruptcy Code. Creditors desiring such relief should contact an attorney about bankruptcy practice.

DATE MAILED:

Trustee

CERTIFICATE OF SERVICE

I hereby certify that on the above date a true copy of the Trustee's Proposed Intent to Abandon Property was served by mail upon the Trustee, Debtor, Debtor's Attorney (if not pro se), and the current mailing matrix in the case.

Secured Creditor

(SEE NEXT PAGE FOR PROCESSING INSTRUCTIONS)

THE TRUSTEE IS UNDER NO OBLIGATION TO ABANDON FULLY SECURED PROPERTY AT THIS TIME AND CAN WAIT UNTIL THE CLOSING OF THE CASE WHEN PROPERTY SCHEDULED UNDER SECTION 521(L) IS DEEMED ABANDONED PURSUANT TO SECTION 554(c) OF THE BANKRUPTCY CODE.

THE TRUSTEE, BY AGREEING TO SIGN THE PROPOSED INTENT, IS ACTING ONLY TO ACCOMMODATE SECURED CREDITORS.

THE USE OF THIS FORM IS NOT MANDATORY OR SUGGESTED. CREDITORS MAY PROCEED UNDER ANY REMEDY PROVIDED IN THE BANKRUPTCY CODE OR RULES.

1. The form is to be completed by the Creditor and forwarded to the Trustee with evidence of security attached.
2. A copy of the document evidencing the recording of the security is required.
3. If the Trustee agrees to sign the Proposed Intent to Abandon, it will be signed and returned to the Creditor in a stamped, addressed envelope provided by the Creditor.
4. Upon receipt from the Trustee, the Creditor is responsible for mailing the Proposed Intent to Abandon by one of the following two methods:

a. Bankruptcy Clerk: The Creditor shall file the signed Proposed Intent to Abandon with the Clerk's Office, which will be responsible for dating and mailing the abandonment to the Trustee, Debtor, Debtor's Attorney (if not pro se) and the current mailing matrix in the case.

b. Secured Creditor: The secured creditor shall obtain a copy of the mailing matrix from the Clerk's Office, date the Proposed Intent to Abandon, mail copies on the same day to the Trustee, Debtor, Debtor's Attorney (if not pro se), and the current mailing matrix, and file the original Proposed Intent to Abandon with the Clerk along with the signed certificate of service.

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case No.

Debtor(s)

MOTION TO AVOID JUDICIAL LIEN

This day come the Debtor(s), by their attorney, and move the Court, pursuant to 11 U.S.C. § 522(f) to avoid a certain judicial lien recorded at Book Number _____, Page Number _____ in ___(City)_, ___(County)_, (State), and further represent as follows:

1. That the Debtor(s) are the owners of certain real property which is more fully described in Schedule B-1 of their petition, which property they are entitled to exempt under 11 U.S.C. § 522(b) and § 38-10-4 W. Va. Code Ann.; (or, "the Debtor(s) own real estate, but allege that the judgment will interfere with their ability to obtain a fresh start subsequent to bankruptcy");

2. That the Debtor(s) have exempted the property as set forth in Schedule B-4 of their petition;

3. That the Creditor (Name, Street or P. O. Box, City, State, Zip Code) holds a perfected judicial lien which impairs an exemption to which the debtor(s) are entitled;

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

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

(Signature of Debtor's Attorney)

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case No.

Debtor(s)

MOTION TO AVOID NONPOSSESSORY,
NONPURCHASE MONEY SECURITY INTEREST

This day come the Debtor(s), by counsel, pursuant to 11 U.S.C. § 522(f) and Bankruptcy Rule 4003(d), and move the Court for an order permitting avoidance of a nonpossessory, nonpurchase money security interest in household goods and furnishings maintained by the Debtor(s) for personal and family use.

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

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

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

The lien attached after the ____ day of _____, 20__.

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

(Signature of Debtor's Attorney)

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case No.

Debtor(s)

MOTION FOR REDEMPTION

This day come the Debtor(s), by their attorney, and represent to the Court as follows:

1. This motion is brought pursuant to 11 U.S.C. § 722 and Bankruptcy Rule 6008, to redeem collateral;

2. The Trustee, by notice dated _____ has abandoned the collateral which is the subject of this motion;

3. The name and address of the secured party and the description, balance owed, and value of the subject collateral are as follows:

CREDITOR:
ADDRESS:

COLLATERAL:

BALANCE OWED:

VALUE OF COLLATERAL:

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

5. The Creditor may inspect the above-described property after arrangement with counsel for the debtor.

Wherefore, the Debtor(s) respectfully move the Court for an order requiring the Creditor to release its security interest in the collateral upon payment of the value as set forth herein.

(Signature of Debtor's Attorney)

APPENDIX G
ADVERSARY PROCEEDINGS

B104 (Rev. 2/92)	ADVERSARY PROCEEDING COVER SHEET (Instructions on Next Page)	ADVERSARY PROCEEDING NUMBER (Court Use Only)	
PLAINTIFFS		DEFENDANTS	
ATTORNEYS (Firm Name, Address, and Telephone No.)		ATTORNEYS (If Known)	
PARTY (Check one box only) <input type="checkbox"/> 1 U.S. PLAINTIFF <input type="checkbox"/> 2 U.S. DEFENDANT <input type="checkbox"/> 3 U.S. NOT A PARTY			
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)			
NATURE OF SUIT (Check the one most appropriate box only.)			
<input type="checkbox"/> 454 To Recover Money or Property <input type="checkbox"/> 435 To Determine Validity, Priority, or Extent of a Lien or Other Interest in Property <input type="checkbox"/> 458 To obtain approval for the sale of both the interest of the estate and of a co-owner in property <input type="checkbox"/> 424 To object or to revoke a discharge 11 U.S.C. § 727	<input type="checkbox"/> 455 To revoke an order of confirmation of a Chap. 11, Chap. 12, or Chap. 13 Plan <input type="checkbox"/> 426 To determine the dischargeability of a debt 11 U.S.C. § 523 <input type="checkbox"/> 434 To obtain an injunction or other equitable relief <input type="checkbox"/> 457 To subordinate any allowed claim or interest except where such subordination is provided in a plan	<input type="checkbox"/> 456 To obtain a declaratory judgment relating to any of foregoing causes of action <input type="checkbox"/> 459 To determine a claim or cause of action removed to a bankruptcy Court <input type="checkbox"/> 498 Other (specify)	
ORIGIN OF PROCEEDINGS (Check one box only)	<input type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed Proceeding	<input type="checkbox"/> 4 Reinstated or Reopened
			<input type="checkbox"/> 5 Transferred from Another Bankruptcy Court
			<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND	NEAREST THOUSAND \$	OTHER RELIEF SOUGHT	<input type="checkbox"/> JURY DEMAND
BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES			
NAME OF DEBTOR		BANKRUPTCY CASE NO.	
DISTRICT IN WHICH CASE IS PENDING	DIVISIONAL OFFICE	NAME OF JUDGE	
RELATED ADVERSARY PROCEEDING (IF ANY)			
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.	
DISTRICT	DIVISIONAL OFFICE	NAME OF JUDGE	
FILING FEE (Check one box only)	<input type="checkbox"/> FEE ATTACHED	<input type="checkbox"/> FEE NOT REQUIRED	<input type="checkbox"/> FEE IS DEFERRED
DATE	PRINT NAME	SIGNATURE OF ATTORNEY (OR PLAINTIFF)	

SEE NEXT PAGE FOR INSTRUCTIONS

ADVERSARY PROCEEDING COVER SHEET INSTRUCTIONS

This cover sheet must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney) and submitted to the Clerk of the court upon the filing of a complaint initiating an adversary proceeding.

The cover sheet and the information contained on it *do not* replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. This form is required for the use of the clerk of the court to initiate the docket sheet and to prepare necessary indices and statistical records. A separate cover sheet must be submitted to the clerk of the court for each complaint filed. The form is largely self explanatory.

Parties. The names of the parties to the adversary proceeding *exactly* as they appear on the complaint. Give the names and addresses of the attorneys if known. Following the heading "Party," check the appropriate box indicating whether the United States is a party named in the complaint.

Cause of Action. Give a brief description of the cause of action including all federal statutes involved. For example, "Complaint seeking damages for failure to disclose information, Consumer Credit Protection Act, 15 U.S.C. §1601 et seq.," or "Complaint by trustee to avoid a transfer of property by the debtor, 11 U.S.C. §544."

Nature of Suit. Place an "X" in the appropriate box. Only one box should be checked. If the cause fits more than one category of suit, select the most definitive.

Origin of Proceedings. Check the appropriate box to indicate the origin of the case:

1. Original Proceeding.
2. Removed from State or District Court.
3. Reinstated or Reopened.
4. Transferred from Another Bankruptcy Court.

Demand. On the next line, state the dollar amount demanded in the complaint in thousands of dollars. For \$1,000 enter "1," for \$10,000 enter "10", for \$100,000 enter "100," if \$1,000,000 enter "1000." If \$10,000,000 or more, enter "9999." If the amount is less than \$1,000, enter "0001." If no monetary demand is made, enter "XXXX." If the plaintiff is seeking non-monetary relief, state the relief sought, such as injunction or foreclosure of a mortgage.

Bankruptcy Case In Which This Adversary Proceeding Arises. Enter the name of the debtor and the docket number of the bankruptcy case from which the proceeding now being filed arose. Beneath, enter the district and divisional office where the case was filed, and the name of the presiding judge.

Related Adversary Proceedings. State the names of the parties and the six digit adversary proceeding number from any adversary proceeding concerning the same two parties or the same property currently pending in any bankruptcy court. On the next line, enter the district where the related case is pending, and the name of the presiding judge.

Filing Fee. Check one box. The fee must be paid upon filing unless the plaintiff meets one of the following exceptions. The fee is not required if the plaintiff is the United States government or the debtor. If the plaintiff is the trustee or a debtor in possession, and there are not liquid funds in the estate, the filing fee may be deferred until there are funds in the estate. (In the event no funds are ever recovered for the estate, there will be no fee). There is no fee for adding a party after the adversary proceeding has been commenced.

Signature. This cover sheet must be signed by the attorney of record in the box on the right of the last line of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is *pro se*, that is, not represented by an attorney, the plaintiff must sign.

The name of the signatory must be printed in the box to the left of the signature. The date of the signing must be indicated in the box on the far left of the last line.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF _____

In re

Bankruptcy Case No.

Debtor

Plaintiff,

Adversary Proceeding No.

Defendant

SUMMONS IN AN ADVERSARY PROCEEDING

YOU ARE SUMMONED and required to submit a motion or answer to the complaint which is attached to this summons to the Clerk of the Bankruptcy Court within 30 days after the date of issuance of this summons, except that the United States and its offices and agencies shall submit a motion or answer to the complaint within 35 days.

Address of Clerk

At the same time, you must also serve a copy of the motion or answer upon the plaintiff's attorney.

Name and Address of Plaintiff's Attorney

If you make a motion, your time to answer is governed by Bankruptcy Rule 7012.

IF YOU FAIL TO RESPOND TO THIS SUMMONS, YOUR FAILURE WILL BE DEEMED TO BE YOUR CONSENT TO ENTRY OF A JUDGMENT BY THE BANKRUPTCY COURT AND JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.

Clerk of the Bankruptcy Court

Date

By: _____
Deputy Clerk

(SEE NEXT PAGE - CERTIFICATE OF SERVICE)

CERTIFICATE OF SERVICE

I, _____, certify that I am, and at all times during the service of process was, not less than 18 years of age and not a party to the matter concerning which service of process was made. I further certify that the service of this summons and a copy of the complaint was made _____ by:
(date)

- Mail Service: Regular, first class United States mail, postage fully pre-paid, addressed to:

- Personal Service: By leaving the process with defendant or with an officer or agent of defendant at:

- Residence Service: By leaving the process with the following adult at:

- Publication: The defendant was served as follows: [Describe briefly]

- State Law: The defendant was served pursuant to the laws of the State of _____, as follows: [Describe briefly] (Name of state)

Under penalty of perjury, I declare that the foregoing is true and correct.

Date

Signature

Print Name		
Business Address		
City	State	Zip

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re

TIME FRAME ORDER

Hearings on any motions and the trial in the above-styled adversary proceeding shall be held by the Court in the (courtroom location) West Virginia. The settlement conference shall be conducted by telephone by the Court.

Pursuant to Bankruptcy Rule 7016(b), it is ORDERED as follows:

1. Discovery: All discovery requests shall be completed by _____. "Completed" means that all discovery, objections, motions to compel and all other motions and replies relating to discovery in the action must be filed and/or noticed in time for the party objecting or responding to have opportunity under the Rules to make responses.

2. Summary Judgment and Other Dispositive Motions: All dispositive motions, including those under Bankruptcy Rule 7012(b), together with depositions, admissions, documents, affidavits or other such matter in support thereof, shall be filed by _____, with a response due within fourteen days from the date of service of the motion. Any motion and response must be supported by a memorandum at the time filed or submitted.

3. Filing of Witness List and Copy of Pre-Numbered Exhibits: Ten days prior to the scheduled trial date, counsel for each party shall file with the Court and exchange with opposing counsel its list of the names and addresses of all witnesses anticipated to be called at trial. Further, ten days before trial, counsel for each party shall file its pre-numbered copies of exhibits to be offered as evidence at trial, along with a statement that copies of exhibits have been exchanged by counsel or that counsel have examined the exhibits. Failure to comply with either of the above-mentioned requirements may result in the imposition of sanctions or the continuance of the scheduled trial.

4. Telephonic Settlement Conference: A telephonic settlement conference shall be held at _____ at which lead trial counsel shall meet and conduct negotiations looking toward the settlement of the action.

5. Trial: Trial of this action shall be held at _____
_____.

6. Failure to Appear or Negotiate: Should lead trial counsel fail to confer in good faith with opposing counsel or otherwise fail to appear as required in paragraphs 4 and 5 above, appropriate sanctions may be imposed, including but not limited to, sanctions by way of imposition of attorney's fees against the attorney and/or the attorney's client, pursuant to Rule 16(f), F.R.Civ.P.

7. Changes in Above Times: Should counsel for any party desire any change in the time limitations set forth herein, such party may move for modifications thereof within 21 days after the date this Order is entered. Absent any such motion, the time limitations set forth above shall not be altered except upon showing of good cause and by Order of this Court.

If any party to the above-styled proceeding has a question regarding any matter set forth herein, they may direct their inquiry to the Adversary Clerk.

ENTERED:

JUDGE

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re

NOTICE OF TIME TO REQUEST HEARING ON COMPROMISE

TO THE DEBTOR, CREDITORS, AND OTHER PARTIES IN INTEREST:

NOTICE IS HEREBY GIVEN that in the above-styled adversary proceeding the parties have proposed to compromise a controversy in this matter on the following terms:

A copy of said proposal is available for examination in the office of the Clerk of the Bankruptcy Court, 2201 United States Courthouse, Charleston, West Virginia. Parties may file a request for hearing on or before _____ . In the event that no request for hearing is filed on or before the above date, the Court may enter the agreed order. If a request for hearing is filed, the Court will set a hearing and give notice to parties in interest.

DATED:

SAMUEL L. KAY, Clerk
U. S. Bankruptcy Court

By: _____
Deputy Clerk

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re Case No.
Debtor(s). Chapter 7
Liquidation

Plaintiff(s),

v. A. P. No.

Defendant(s).

APPLICATION TO DEFER FEE
UNTIL DISBURSEMENT OF ESTATE

The undersigned Trustee herein requests that the filing fee in the above-styled Adversary Proceeding be deferred until the estate is disbursed. I certify that no funds are currently held by me on behalf of the estate from which to pay this fee.

DATE:

Trustee

APPROVED:

\$ _____ is deferred until distribution.

DATE:

Clerk

(File in Duplicate)

APPENDIX H
POST-JUDGMENT REMEDIES

UNITED STATES BANKRUPTCY COURT

District of _____

In re

Bankruptcy Case No. _____

Debtor

Plaintiff

v.

Adversary Proceeding No. _____

Defendant

WRIT OF EXECUTION TO THE UNITED STATES MARSHAL

Name and Address of Judgment Creditor

Amount of Judgment:
\$ _____

Clerk's Fee:
\$ _____

Other Costs:
\$ _____

vs

Name and Address of Judgment Debtor

Interest From: _____
\$ _____

Costs of this writ:
\$ _____

TO THE UNITED STATES MARSHAL FOR THE _____ DISTRICT OF _____:

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

TO THE JUDGMENT DEBTOR:

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

Date

Clerk of the Bankruptcy Court

UNITED STATES MARSHAL'S RETURN

I received this writ on _____, and executed the same on _____.
(date) (date)

United States Marshal

By: _____
Deputy Marshal

UNITED STATES DISTRICT COURT
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

Case No.

A.P. No.

SUGGESTION

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

Counsel for Plaintiff(s)

+++++

SUMMONS

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

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

DATE:

UNITED STATES BANKRUPTCY CLERK
by:

Deputy Clerk

(SEAL OF THE COURT)

UNITED STATES DISTRICT COURT
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case No.
Chapter

Debtor(s),

Plaintiff(s),

v.

A.P.

Defendant(s),

v.

Suggestee.

NOTICE OF POSSIBILITY OF EXEMPTIONS TO SUGGESTION

To:

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

(suggestee)

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

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

You may consult an attorney for more specific information on the nature and kind of these exemptions to see whether or not you are eligible to claim any of these exemptions. If you are eligible for such exemptions, your attorney (or you, if you have no attorney) may file a Request for Exemption with the United States Marshal, Robert C. Byrd United States Courthouse, 300 Virginia Street East, Charleston, West Virginia, stating specifically your reason for an exemption and requesting a hearing to determine your exemption rights. This Request for Exemption should be filed within twenty (20) days of receiving this notice. A copy of your Request for Exemption should also be sent to plaintiff's attorney, whose name and address are listed below:

Date:

UNITED STATES BANKRUPTCY CLERK
by

(Seal of the Court)

Deputy Clerk

UNITED STATES DISTRICT COURT
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case No.
Chapter

Debtor(s),

Plaintiff(s),

v.

A.P.

Defendant(s),

v.

Employer.

AFFIDAVIT FOR SUGGESTEE EXECUTION

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

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

(Continued on Next Page)

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

Affiant

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

United States Bankruptcy Clerk

or

Notary Public

My commission expires:

UNITED STATES DISTRICT COURT
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

In re Case No.
Chapter

Debtor(s),

Plaintiff(s),
v. A.P.

Defendant(s),

v.

Employer.

NOTICE OF POSSIBILITY OF EXEMPTIONS TO SUGGESTEE EXECUTION

To:

NOTICE IS HEREBY GIVEN that in the above-styled case, a suggestee execution (garnishee) has been filed by the plaintiff for salary, wages, or commission owed to you by

(name of employer)

Please refer to the attached document for details of the suggestee execution requested by the plaintiff.

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

You may consult an attorney for more specific information on the nature and kind of these exemptions to see whether or not you are eligible to claim any of these exemptions. If you are eligible for such exemptions, your attorney (or you, if you have no attorney) may file a Request for Exemption with the United States Marshal, Robert C. Byrd United States Courthouse, 300 Virginia Street East, Charleston, West Virginia, stating specifically your reason for an exemption and requesting a hearing to determine your exemption rights. This Request for Exemption should be filed within twenty (20) days of receiving this notice. A copy of your Request for Exemption should also be sent to plaintiff's attorney, whose name and address are listed below:

Date:

UNITED STATES BANKRUPTCY CLERK
by

(Seal of the Court)

Deputy Clerk

UNITED STATES DISTRICT COURT
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

Case No.

A.P. No.

SUGGESTEE EXECUTION

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

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

AND WHEREAS it appears that a writ of execution against the said Defendant has been issued on the ____ day of _____, 20____;

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

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

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

(Continued on Next Page)

WITNESS, the UNITED STATES BANKRUPTCY CLERK for the Southern
District of West Virginia, this _____ day of _____, 20____, at _____ o'clock ____ .M.

UNITED STATES BANKRUPTCY CLERK
by

Deputy Clerk

(SEAL OF THE COURT)

TABULATION OF JUDGMENT AND PAYMENTS

RECEIVED ON ACCOUNT THEREOF:

Amount of Judgment: \$ _____

Payment Received \$ _____

Make Remittance To: _____

Mail To: _____

UNITED STATES DISTRICT COURT
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case No.
Chapter

Debtor(s),

Plaintiff(s),

v.

A.P.

Defendant(s),

ABSTRACT OF EXECUTION

Execution was issued on the ____ day of _____, 20____, in favor of Plaintiff _____ against the Defendant _____, for the sum of \$ _____, with legal interest thereon at the rate of ____% per annum from the ____ day of _____, 20____, until paid, and costs of \$ _____; which execution was forwarded to the United States Marshal for the Southern District of West Virginia on the ____ day of _____, 20____, and is returnable on the ____ day of _____, 19____.

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

Date:

UNITED STATES BANKRUPTCY COURT
by

Deputy Clerk

(SEAL OF THE COURT)

UNITED STATES DISTRICT COURT
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case No.
Chapter

Debtor(s),

Plaintiff(s),

v.

A.P.

Defendant(s),

ABSTRACT OF JUDGMENT

Judgment was rendered by the United States Bankruptcy Court for the Southern District of West Virginia on the ____ day of _____, 19____, in the above-styled adversary proceeding, in favor of Plaintiff against the Defendant, for the sum of _____ Dollars, with legal interest thereon at the rate of _____% per annum from said date the judgment was entered, until paid.

Date:

UNITED STATES BANKRUPTCY CLERK
by

Deputy Clerk

(SEAL OF THE COURT)

UNITED STATES DISTRICT COURT
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case No.
Chapter

Debtor(s),

Plaintiff(s),

v.

A.P.

Defendant(s),

CERTIFICATION OF JUDGMENT FOR
REGISTRATION IN ANOTHER DISTRICT

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

- No notice of appeal from this judgment has been filed, and no motion of the kind set forth in Federal Rule of Civil Procedure 60, as made applicable by Bankruptcy Rule 9024, has been filed.
- No notice of appeal from this judgment has been filed, and any motions of the kind set forth in Federal Rule of Civil Procedure 60, as made applicable by Bankruptcy Rule 9024, have been disposed of, the latest order disposing of such a motion having been entered on _____.
- An appeal was taken from this judgment, and the judgment was affirmed by mandate of the _____ (name of court) issued on _____.
- An appeal was taken from this judgment, and the appeal was dismissed by order entered on _____.

Date:

Clerk of the Bankruptcy Court

By: _____
Deputy Clerk

APPENDIX I

**APPLICABILITY OF DISTRICT COURT LOCAL
RULES TO PRACTICE IN BANKRUPTCY**

APPLICATION BY THE BANKRUPTCY COURT OF THE "RULES OF PRACTICE AND PROCEDURE" OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

1.01	Adoption, Scope & Construction	Will not be applied.
1.02	Business, Conduct and Operation	Only (b) and (c) are applicable.
1.03	Attorneys	(a) and (d)-(h) are applicable; (b) and (c) will not be applied. <u>See</u> Local Bankruptcy Rule 2.06.
1.04	Legal Assistance by Law Students.	Applicable.
1.05	Contempt	(a), (b) & (d) are applicable; (c) is applicable only to the extent of adjudication of civil contempt and any criminal contempt found must be on written findings of fact and conclusions of law to District Court.
1.06	Photographing and Broadcasting	Applicable.
1.07	Approval of Bonds by the Clerk	Applicable, except that it is the Clerk of the Bankruptcy Court who approves bonds in bankruptcy cases. The Bankruptcy Clerk does not have the authority to approve Trustee surety bonds.
1.08	Removal of Cases from State Court	Will not be applied. <u>See</u> Local Bankruptcy Rule 9.10.

1.09	Payment of Costs and Security for Costs in Actions by Indigent Persons	Applicable, except for filing bankruptcy petitions.
1.10	Filing of Papers	Not applicable. <u>See</u> Local Bankruptcy Rule 2.04.
1.11	Complaints Filed Pursuant to the Social Security Act.	Not applicable.
1.12	Land Condemnation Actions: Manner of Filing, Docketing, Recording and Reporting Same	Not applicable.
1.13	Removal of Papers from Custody of Clerk	Will not be applied. <u>See</u> Local Bankruptcy Rule 2.13
1.14	Court Library	Applicable.
1.15	Judgment or Orders for Court's Signature	Applicable only to Part VII of the Bankruptcy Rules
1.16	Dismissal of Actions	Applicable to motions and adversary proceedings
2.01	Time Frame Orders; Exemptions	Will not be applied. <u>See</u> Local Bankruptcy Rule 9.07.
2.02	Joinder of Amendments	Not applicable.
2.03	Motions and Responses in Civil Actions	Applicable to motions to dismiss and motions for summary judgment in adversary proceedings.
2.04	Discovery	Applicable in contested matters and adversary proceedings.
2.05	Videotape Depositions	Applicable

2.06	Pretrial Conferences	Not applicable.
2.07	Pretrial Orders	Not applicable except where ordered by Bankruptcy Court.
2.08	Proposed Charges to Jury	Applicable only if jury trial.
2.09	Suggested Findings of Fact and Conclusions of Law	Not applicable except where ordered by Bankruptcy Court.
2.10	Final Settlement Conference	Not applicable except where ordered by Bankruptcy Court.
2.11	Failure to Appear or Negotiate	Will be applied.
3.01	Trial Juries	Applicable only if jury trial.
3.02	Contacts with Jurors	Applicable only if jury trial.
3.03	Opening Statements in Civil Actions	Applicable only if jury trial.
3.04	Arguments to Jury	Applicable only if jury trial.
3.05	Fees and Costs	Applicable.
3.06	Clerk's Custody and Disposition of Exhibits	Applicable.

APPENDIX J
BANKRUPTCY DIVISIONS

DIVISIONS*Bluefield

Mercer
Monroe
McDowell

Charleston

Boone
Clay
Kanawha
Logan
Nicholas
Putnam

Huntington

Cabell
Lincoln
Mingo
Wayne

Parkersburg

Jackson
Mason
Roane
Wirt
Wood

Beckley

Fayette
Greenbrier
Raleigh
Summers
Wyoming

*SEE GENERAL ORDER 98-03 providing for scheduling of meeting of creditors and contested matters in Bankruptcy Cases in accordance with the divisional boundaries that existed prior to the realignment of divisional boundaries on May 1, 1998, in the United States District Court.

APPENDIX K
SUBPOENA FORMS

=====

UNITED STATES BANKRUPTCY COURT
DISTRICT OF _____

In re

**SUBPOENA IN A CASE UNDER
THE BANKRUPTCY CODE**

Debtor

Case No. _____

To:

Chapter _____

YOU ARE COMMANDED to appear in the United States Bankruptcy Court at the place, date, and time specified below to testify in the above case.

PLACE	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear in the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE	DATE AND TIME
-------	---------------

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE	DATE AND TIME
-------	---------------

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below:

PREMISES	DATE AND TIME
----------	---------------

Any subpoenaed organization not a party to this proceeding shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify, Fed.R.Civ.P. 30(b)(6) made applicable to this proceeding by Rule 7030, Fed.R.Bankr.P. See Rules 1018 and 9014, Fed.R.Bankr.P.

ISSUING OFFICER SIGNATURE AND TITLE	DATE
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER	

SEE NEXT PAGE

PROOF OF SERVICE

SERVED	DATE	PLACE
SERVED ON (PRINT NAME)		MANNER OF SERVICE
SERVED BY (PRINT NAME)		TITLE
DECLARATION OF SERVER		

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

Signature of Server

Address of Server

Rule 45, Fed.R.Civ.P., Parts (c) & (d) made applicable in cases under the Bankruptcy Code by Rule 9016, Fed.R.Bankr.P.

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 15 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to

travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF _____

In re **SUBPOENA FOR RULE 2004 EXAMINATION**

Debtor

Case No. _____

To: Chapter _____

YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Fed.R.Bankr.P., at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE	DATE AND TIME
-------	---------------

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE	DATE AND TIME
-------	---------------

ISSUING OFFICER SIGNATURE AND TITLE	DATE
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER	

SEE NEXT PAGE

PROOF OF SERVICE

SERVED	DATE	PLACE
SERVED ON (PRINT NAME)		MANNER OF SERVICE
SERVED BY (PRINT NAME)		TITLE
DECLARATION OF SERVER		

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

Signature of Server

Address of Server

Rule 45, Fed.R.Civ.P., Parts (c) & (d) made applicable in cases under the Bankruptcy Code by Rule 9016, Fed.R.Bankr.P.

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 15 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to

- travel from any such place within the state in which the trial is held, or
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF _____

In re **SUBPOENA IN AN**
ADVERSARY PROCEEDING

Debtor

Case No. _____

Plaintiff

Chapter _____

vs.

Adversary Proceeding No. _____

Defendant

TO:

YOU ARE COMMANDED to appear in the United States Bankruptcy Court at the place, date, and time specified below to testify in the above adversary proceeding.

PLACE	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear in the place, date, and time specified below to testify at the taking of a deposition in the above adversary proceeding.

PLACE	DATE AND TIME
-------	---------------

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE	DATE AND TIME
-------	---------------

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below:

PREMISES	DATE AND TIME
----------	---------------

Any subpoenaed organization not a party to this adversary proceeding shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify, Fed.R.Civ.P. 30(b)(6) made applicable in adversary proceedings by Rule 7030, Fed.R.Bankr.P.

ISSUING OFFICER SIGNATURE AND TITLE	DATE
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER	

SEE NEXT PAGE

PROOF OF SERVICE

SERVED	DATE	PLACE
SERVED ON (PRINT NAME)		MANNER OF SERVICE
SERVED BY (PRINT NAME)		TITLE
DECLARATION OF SERVER		

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

Signature of Server

Address of Server

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(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 15 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

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- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to

travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

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