UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLUMBIA

IN RE CLERK'S OFFICE OPERATIONS:

STANDING ORDER (EFFECTIVE JULY 1, 2002)

This standing order replaces all prior standing orders and administrative orders, effective July 1, 2002.

§ 1. Definition. As used in this order, the term "clerk" includes members of the clerk's office who have been delegated from the clerk of court authority to handle the matter involved.

Example: In the case of a reference to a form prescribed by the clerk, this means a form prescribed by the Clerk of Court or by a Deputy Clerk who has been delegated the authority to prescribe the form to be used: it does not include every Deputy Clerk who utilizes that form in the course of the Deputy Clerk's work.

§ 2. Verification and Recordation of Identity of Entity Presenting Petition for Filing. Upon the filing of a bankruptcy petition by a debtor not represented by an attorney, the clerk is authorized to request, from the individual presenting the petition for filing, production of:

(a) a picture identification (preferably a driver's license) of the individual; and

(b) in the case of a messenger service, a copy of the messenger log showing for whom the messenger is acting,

and, based on examination of the materials produced and the clerk’s other inquiries, the clerk is authorized to make a notation on the petition regarding who presented the petition for filing and on whose behalf the individual was acting. The clerk shall notify the court in the event that it appears that the petition was filed without the debtor’s authorization or that the petition was prepared by a petition preparer (as defined in 11 U.S.C. § 110) who has failed to note such capacity on the petition.

§ 3. Granting and Denying Applications to Pay Filing Fee in Installments.

(a) The clerk is authorized to prepare, sign, and enter an order granting an application filed by an individual debtor (or joint individual debtors) under F.R. Bankr. P. 1006(b) to pay the filing fee (in such installments as the clerk prescribes shall be routinely utilized in cases under the applicable chapter) provided that:

(i) the application complies with Rule 1006(b) and with the form of application prescribed by the clerk (see definition of clerk in § 1 (Example)),

(ii) the order requires payment at filing of:

(A) the miscellaneous administrative fee imposed by § 8 of the Bankruptcy Court Fee Schedule that is an Appendix to 28 U.S.C. § 1930, and

(B) regardless of the chapter of the case, an amount equal to the fee imposed in a chapter 7 case by § 8.1 of the Bankruptcy Court Fee Schedule that is an Appendix to 28 U.S.C. § 1930 for payment "to the clerk of the court for payment to the trustee serving in the case as provided in 11 U.S.C. § 330(b)(2);"

(C) an additional amount prescribed by the clerk, provided that:

(1) in a chapter 7 or 13 case, the prescribed additional amount is the same amount in both a chapter 7 and a chapter 13 case, and

(2) in a chapter 11 case, the prescribed amount is at least as much as the additional amount required in a chapter 7 or 13 case;

(iii) the application is accompanied by the fee that must be paid at filing under the preceding paragraph; and

(iv) the clerk is unaware of any prior case in which the debtor failed fully to pay the filing fee, and is unaware of any bar against the debtor filing a new bankruptcy case.

(b) Denying Application. The clerk is authorized to deny any application that the clerk is not authorized to grant pursuant to paragraph (a).

(c) Order to Show Cause Based on Denial of Application and Non-Payment of Fee. Upon denying the application, the clerk shall promptly issue an order to:

(i) the debtor,

(ii) the debtor's attorney,

(iii) any trustee, and

(iv) in a chapter 7 or 11 case, the U.S. Trustee,

directing the debtor and any other party in interest to show cause, by the specified calendar date that is 7 days after the date the order is entered, why the case ought not be dismissed with prejudice for 180 days for failure to pay the filing fee.

(d) Order Dismissing Case After Issuance of Order Under Paragraph (c). If no one files a response to an order to show cause under paragraph (c), and if the filing fee has not been paid in full, the clerk is authorized to prepare, sign, and issue an order dismissing the case with prejudice for 180 days and providing that the debtor will not be allowed in any future case to pay the filing fee in installments unless the filing fee in the dismissed case has been paid in full.

§ 4. Rejecting or Accepting Petition for Filing; Acceptance of Other Papers for Filing Despite Absence of Filing Fee.

(a) Lack of Filing Fee and an Application to Pay the Filing Fee in Installments. If a petition submitted for filing is unaccompanied by the filing fee in an acceptable form and by an application to pay the filing fee in installments, the clerk may not mark a petition as filed, and must reject the petition as set forth in paragraph (e).

(b) Acceptable Forms of Payment of Filing Fee. The filing fee may be paid only by:

(i) U.S. currency; or

(ii) a cashier's check (or certified check) or money order made payable to "Clerk, U.S. Bankruptcy Court"; or

(iii) if an attorney has not been given notice under paragraph (c) below, a check drawn on the account of the attorney for the debtor or on the account of a law firm of which the attorney for the debtor is a member, partner or associate.

(c) Notification of an Attorney Whose Checks Will no Longer Be Accepted. The clerk, in the exercise of the clerk's discretion, is authorized to notify an attorney (and is authorized to do so by letter, or by a notice or order prepared, signed, and entered by the clerk in a particular bankruptcy case) that the clerk will not accept for payment of filing fees (and other fees) in any bankruptcy case:

(i) a check drawn on the account of the attorney; and

(ii) a check drawn on the account of the law firm of which the attorney is a member, partner or associate.

At the clerk's office's intake counter, the clerk will maintain a log, available for public inspection, of all notifications issued under this paragraph.

(d) Rejection of Petition Based on Unacceptable Application to Pay the Filing Fee in Installments. The clerk must reject a petition submitted for filing (without the full filing fee in an acceptable form), and an accompanying application to pay the filing fee in installments, if:

(i) the debtor is not an individual;

(ii) the petition is not a voluntary petition;

(iii) the application was not signed; or

(iv) the application did not state that the debtor is unable to pay the filing fee except in installments.

(e) Marking and Retaining Rejected Petition. When the clerk rejects a petition for filing, the clerk shall:

(i) mark on the rejected petition and any rejected application to pay the filing fee in installments the date and time the petition was submitted for filing;

(ii) mark the petition and any accompanying installment payment application as rejected;

(iii) retain but not file or docket the petition and any accompanying installment payment application; and

(iv) deliver by hand or by mail a photocopy of the pages of the petition and any accompanying installment payment application bearing the foregoing marks regarding submission and rejection to the person who tendered the petition and application.

(f) Accepting Petition for Filing; Marking Time of Filing of Petition Accepted for Filing. Unless the clerk is required to reject the petition for filing under paragraph (a) or paragraph (d), the clerk must accept the petition for filing even if it is defective for:

(i) if the debtor is not an individual, lack of a signature by an attorney who is a member of the bar of the United States District Court for the District of Columbia;

(ii) lack of a list of creditors signed under

penalty of perjury (or notarized);

(iii) lack of a mailing matrix or a mailing matrix in proper form;

(iv) lack of a list under F.R. Bankr. P. 1007(d) in a chapter 11 case of the 20 largest unsecured creditors;

(v) an order of dismissal of a prior case with prejudice;

(vi) lack of the debtor's signature;

(vii) lack of any of the details required by the petition (for example, the debtor's tax identification number); or

(viii) any other defect.

The clerk shall mark the accepted petition as filed as of the time it was submitted for filing with the filing fee or with an application to pay the filing fee in installments in a form that could not be rejected. But the clerk shall promptly address any defect in the petition or in the application to pay the filing fee in installments.

(g) Accepting Other Papers for Filing. Except for a paper authorized to be rejected under paragraph (a) or (d), the clerk shall not reject any other paper submitted for filing in the clerk's office (as opposed to the courtroom) for lack of an associated fee, including:

(i) a notice of conversion;

(ii) an adversary proceeding complaint;

(iii) a notice of appeal; and

(iv) an amended schedule, mailing matrix, or list of creditors that adds creditors.

§ 5. Order Upon Commencement of Case To File Unfiled Chapter 13 Plan or Rule 1007 Papers Not Yet Filed; Follow-Up Order When Debtor Fails Timely to Comply. The clerk is authorized to prepare, sign, and enter:

(a) an order (including an order using Bankruptcy Noticing Center-issued notice of the order) issued to:

(i) the debtor,

(ii) the debtor's attorney,

(iii) any trustee, and

(iv) in a chapter 7 or 11 case, the U.S. Trustee,

directing the debtor to file:

(A) any unfiled chapter 13 plan (including a certificate of service of the plan); or

(B) unfiled papers required by F.R. Bankr. P. 1007,

within 15 days after the filing of the petition, and warning that the case may be dismissed with prejudice if the debtor does not comply; and

(b) an order issued to:

(i) the debtor,

(ii) the debtor's attorney,

(iii) any trustee, and

(iv) in a chapter 7 or 11 case, the U.S. Trustee,

to show cause, within 14 days after entry of the order to show cause, why the case ought not be dismissed with prejudice for 180 days for any failure timely to file any paper as required by an order issued under paragraph (a).

§ 6. Orders Striking Appearances. The clerk is authorized to enter an order striking the attempted appearance of an attorney in any case or proceeding (by filing of a paper bearing that attorney's name and signature) unless:

(a) the attorney is a member in good standing of the bar of the district court,

(b) the attorney is employed or retained by the United States or one of its agencies to represent the United States or the agency as a party,

(c) the attorney is a State Attorney General or that official's designee representing the State or any agency of the State,

(d) the attorney has filed a certificate that the attorney is providing representation without compensation,

(e) the attorney has joined of record a member in good standing of the bar of the district court who has signed the paper in question on behalf of the client (in which event, the clerk shall treat the attorney who is a member of the bar of the district court as the attorney entering an appearance),

(f) the paper is a notice of appeal (in which event, the clerk shall notify the district court of any improper attempted appearance when the clerk transmits the notice of appeal to the district court), or

(g) the paper is one of the following types of paper (whose signing shall not be treated as an attempt to enter an appearance):

(i) a proof of claim,

(ii) an assignment of a claim,

(iii) a request under F.R. Bankr. P. 2002(g) to receive notices in the case, or

(iv) a notice to perfect, or to maintain or continue the perfection of, any interest in property pursuant to 11 U.S.C. § 362(b)(4) and § 546(b)(1),

and if the clerk prepares and enters such an order, and determines that the entry was in error, the clerk is authorized to enter an order vacating the erroneous order.

§ 7. Notices of Deficient Filings.

(a) The clerk is authorized to prepare, sign, and enter a notice directing an entity filing a paper to cure, within a stated time, any specified deficiency regarding that filing.

(b) The notice may include a warning, if appropriate, that failure to cure the deficiency will result in the paper being stricken. (When the deficiency is a failure of an attorney who has entered an appearance for the debtor timely to file a Rule 2016(b) statement, the warning should be that failure to file the statement may result in a hearing at which the attorney must appear to explain the failure and to show cause why fees ought not be disgorged).

(c) Upon failure of the entity timely to cure the deficiency, the clerk shall submit the matter to the court for appropriate action.

§ 8. Bar Date for Filing Proofs of Claims in Chapter 11 Cases. In chapter 11 cases, the clerk shall set the deadline for the filing of claims as (1) l00 days after the date first set for the meeting of creditors in the case of creditors who are not governmental units, and (2) 180 days after the date of the order for relief in the case of creditors who are governmental units. The clerk shall give notice of such bar dates with the notice of the first meeting of creditors.

§ 9. Order Setting Disclosure Statement Hearing. The clerk is authorized to prepare, sign, and enter an order setting the date and time for hearing on a disclosure statement, including the time for objections to the disclosure statement.

§ 10. Enforcing Payment of Filing Fees. For failure of the debtor to make timely payment of an installment of the filing fee (or, if the case has already been dismissed, why that dismissal ought not be made with prejudice), the clerk may prepare, sign, and enter the following orders:

(a) an order (mailed to the debtor, the debtor's attorney, the U.S. Trustee, and any trustee in the case) directing any party in interest to show cause within 14 days after entry of the order why the case ought not be dismissed with prejudice for 180 days, and warning that the debtor will not be allowed in any future case to pay the filing fee in installments if the debtor fails to pay the filing fee in this case;

(b) an order of dismissal (dismissing the case with prejudice for 180 days, and providing that the debtor may not pay the filing fee in any future case in installments if the filing fee in the instant case has not been paid in full), if

(i) the debtor (or any other party in interest):

(A) fails to make even partial payment of the filing fee installment that was the subject of an order to show cause under paragraph (a), and

(B) fails timely to respond in writing to that order to show cause (including making a partial payment of the missing installment or requesting more time to make the payment), and

(ii) the clerk is unaware of sufficient payments held by the standing chapter 13 trustee under a chapter 13 plan to be a source for making payment within 180 days after the filing of the petition.

The clerk may transmit to the court any case in which the debtor makes only a partial payment of the delinquent installment of the filing fee and the clerk does not believe that is sufficient cause to justify not dismissing the case.

(c) at the outset of a chapter 13 case (or upon conversion of a case to chapter 13), an order directing the standing chapter 13 trustee in due course to pay to

the clerk, from funds paid to the trustee under the debtor’s plan, the unpaid balance of the filing fee required by F.R. Bankr. P. 1006(a) (even if the debtor is not in default in making timely payment of an installment); and

(d) an order partially or fully vacating an order under paragraph (c) above to the extent that the debtor makes payment of the filing fee.

§ 11. Certain Orders re Dismissal or Conversion. The clerk is authorized to prepare, sign, and enter **immediately upon filing of the paper prompting the order**:

(a) with respect to a chapter 13 case:

(i) an order granting a debtor's motion to dismiss a chapter 13 case that was not converted to chapter 13 from another chapter, **except when the motion seeks to condition the dismissal (for example, by requesting that the dismissal be without prejudice)**, and the order may direct that if the debtor fails to pay any unpaid filing fee in full, the debtor will not be allowed in any future case to pay the filing fee in installments, and

(ii) an order vacating any order entered under paragraph (i) if the clerk determines that the order was entered in administrative error,

(b) the following orders relating to conversion, including directives to the debtor regarding filing papers necessitated by the conversion:

(i) an order reflecting the conversion of a case from chapter 13 to chapter 7 effective as of the date of a debtor's filing the notice of conversion to chapter 7 (or of a debtor's filing a motion for conversion (which shall be treated as a notice of conversion)),

(ii) an order granting a debtor's motion to convert from chapter 11 to chapter 7, with the conversion being effective as of the entry of the order,

(iii) an order granting a debtor's motion to convert to chapter 13 a chapter 7 case that was not converted to chapter 7 from another chapter, with the conversion being effective as of the entry of the order, and

(iv) an order vacating any of the foregoing orders if the clerk determines that the order was issued in administrative error.

§ 12. Miscellaneous Orders of Discharge or Closing Case. The clerk is authorized to prepare, sign, and enter:

(a) an order closing a chapter 13 case and discharging the trustee upon the trustee's filing a final report after the completion of plan payments or the dismissal of the case,

(b) in a case pending in chapter 7 in which the trustee has filed a report that insufficient assets are available to make a distribution to creditors, an order closing the case and discharging the trustee,

(c) an order granting the debtor a discharge upon the debtor becoming entitled to a discharge, and

(d) an order vacating any order entered under the paragraphs above if the clerk determines that the order was entered in administrative error (e.g., vacating a discharge that was entered before the time for objections had expired or before a ruling on a pending objection to discharge).

§ 13. Returned Mail. Any mail returned to the clerk shall be maintained in a sleeve in the file for the case or adversary proceeding in which the paper was issued and mailed.

Dated: June 20, 2002.

S. Martin Teel, Jr.
United States Bankruptcy Judge