UNITED STATES BANKRUPTCY COURT

Northern District of Ohio, Eastern Division
Howard M. Metzenbaum United States Courthouse
201 Superior Avenue, Suite 248, Cleveland, Ohio 44114

The Honorable Suzana Krstevski Koch
United States Bankruptcy Judge

(216) 615-4422
JudgeKochChambers@ohnb.uscourts.gov

"As an officer of the court, a lawyer not only represents clients but has a special responsibility for the quality of justice."
Preamble, Ohio Rules of Professional Conduct

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General Practices and Procedures for Appearing before Judge Koch
effective June 1, 2026*

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*Revised to include and/or clarify: 1(B) and (C); 6(C), (I), and (J); and 13(C) and (O).

1. General

All parties must comply with the Bankruptcy Code, Bankruptcy Rules, Local Bankruptcy Rules for this Court ("LBR") and the District Court (as applicable), and the Ohio Rules of Professional Conduct.

Parties should be familiar with Judge Koch's Administrative Order 23-04, filed on October 18, 2023, as well as all applicable General Orders and other Administrative Orders, including the Administrative Procedures Manual, as well as Memoranda issued by the Court.

All General Orders, Administrative Orders, and Memoranda can be found on the Court's website under the "Judges' Info" tab. There are separate tabs for "General Orders," "Administrative Orders," and "Memoranda." Judge Koch also has a link to the Cleveland Administrative Orders on her Chamber's website, and the Cleveland Memoranda are attached as Appendix A.

The ECF Administrative Procedures Manual can be found on the Court's website under the "Rules and Procedures" tab. The ECF Administrative Procedures Manual provides guidance to individuals and entities authorized to use the court Electronic Case Filing (ECF) system, which is the court's electronic case management system. The manual includes instructions on ECF registration, case filing, service, document access, maintenance, and verification.

The Attorney ECF Manual can be found on the Court's website under the "ECF and Case Info" tab. The Attorney ECF Manual includes step-by-step instructions regarding ECF.

A. Courtroom Decorum and Courthouse Security

Courtroom Decorum

Courtroom Decorum is governed by Local Civil Rule 83.3 of the United States District Court for this district pursuant to Local Rule 5072-1. No food, drink, cards, signs, or banners are permitted in any courtroom, except as permitted by the Court.

Judge Koch allows counsel and parties to bring drinks with a lid into the Courtroom. Small snacks are also permitted, provided they are not eaten inside the Courtroom.

Judge Koch expects counsel to wear business attire.

Courthouse Security

Court Security is governed by Local Civil Rule 83.4 of the United States District Court for this district pursuant to Local Rule 5072-2. All persons entering the Howard M. Metzenbaum U.S. Courthouse are required to pass through an electronic metal detector before gaining access to the building.

B. Filing without an Attorney

Filing a bankruptcy case can be difficult, and debtors are strongly encouraged to seek the advice of a licensed attorney. If you can not afford an attorney, please consider reaching out to Legal Aid for consultation with an attorney (if you qualify) or to find out when and where the next Legal Aid Clinic will be. You can also consider reaching out to the Cleveland Metropolitan Bar Association to see if there are lower cost options available for you. In Chapter 13, a debtor can sometimes pay most or all of their counsel's fees over time through the Chapter 13 plan.

Individuals may represent themselves (called "pro se" parties). Pro se parties must be familiar with and adhere to all bankruptcy rules and procedures. Failure to follow the appropriate rules or procedures could result in the dismissal of the bankruptcy case, significant time addressing improper filings, or other problems. Court employees cannot provide legal advice.

If you are filing without an attorney, on its website, the Court has some bankruptcy basic videos, information about filing requirements, and instructions for forms that may need to be filed.

Every individual filing a bankruptcy petition without an attorney is required, at the time the petition is filed, to complete the form attached as Exhibit A to Amended Administrative Order No. 07-1, which can be found on the Court's website under "Judges' Info/Administrative Orders."

Use Caution – Generative Artificial Intelligence ("GenAI")

GenAI, like ChatGPT, is not a lawyer. It is a text generator, and it works by statistically predicting what the next word in a sentence should be. GenAI does not understand legal principles and how those legal principles apply to your specific case, or even if the response to your prompt is right or wrong.

A pleading created by GenAI may use perfect grammar and sound good, but GenAI is known to create cases and rules that do not exist (called "hallucinations"). If your pleading has hallucinations, or unwarranted claims, defenses, objections, or causes of action, then sanctions are appropriate.

By filing a pleading, or making an argument in court, Bankruptcy Rule 9011 applies to you. That means you are certifying to the court a number of things, including that what you are filing or arguing is warranted by existing law and has facts and evidence to support it. If it does not, the relief you are requesting may be denied, your case may be dismissed, you may be required to pay the fees of opposing counsel or other fees, your ability to file may be limited or revoked, or the court may impose other appropriate sanctions. *See Whiting City of Athens Tennessee*, No. 24-5918, 2026 WL 710568, at *4 (6th Cir. Mar. 13, 2026); *United States v. Farris*, No. 25-5623, 2026 WL 915082, at *3 (6th Cir. Apr. 3, 2026).

C. Young or New Bankruptcy Lawyers; Law Students

Newer Attorneys

Judge Koch encourages the active participation of newer attorneys (those with less than 7 years of bankruptcy experience) in her courtroom, particularly as to oral argument on motions where the newer attorney drafted, or contributed significantly to the drafting of, the memorandum in support or memorandum in opposition. Counsel should advise the Court and opposing counsel in advance of the hearing if a newer attorney will be participating. In her discretion, Judge Koch may allot additional argument time and/or permit more experienced counsel of record the ability to provide limited assistance to the newer attorney. Participation of new attorneys in all aspects of court proceedings is strongly encouraged.

The Court emphasizes it will draw no inference from a party's decision not to have a newer attorney argue a motion or participate during in-court proceedings. Additionally, the Court will draw no inference about the importance of a particular motion, or the merits of a party's argument regarding the motion, from the party's decision to have (or not to have) a newer attorney argue the motion.

All attorneys, including newer attorneys, will be held to the highest professional standards concerning oral argument or other in-court participation. Relatedly, all attorneys appearing before the Court are expected to be adequately prepared and thoroughly familiar with the factual record and the applicable law and to have a degree of decision-making authority commensurate with the proceeding.

Appearance and Practice by Law Students

Bankruptcy Local Rule 2090-1(d) states: Appearance by Law Students. The procedures applicable to appearance by law students are set forth in Local Civil Rule 83.6.

For a student qualified under Local Civil Rule 83.6, the supervising attorney licensed to practice before this Court may file a motion asking for the Court's consent to allow the student to appear as though she or he were a duly-licensed attorney and indicating that the supervising attorney will be present in Court during the student's participation.

The motion should include the student's declaration pursuant to 28 USC § 1746 (or an affidavit) indicating compliance with Local Civil Rule 83.6 that the student (1) is enrolled in a school of law accredited by the American Bar Association or holding membership in the Association of American Law Schools, (2) has completed one-half of the credit hours required for graduation, and (3) is not receiving compensation, directly or indirectly, for participation, other than the award of academic credit by the student's law school.

Parties to the litigation shall advise the Court that they agree to the student's participation and that full explanation has been made of the student's status either by filing a notice on the docket or orally addressing the Court at the hearing.

2. In-Person Attendance at Hearings; Personal Laptops, Cell Phones, and Other Technology and Items in the Courtroom

Unless otherwise ordered, attorneys and *pro se* parties must attend all hearings in-person.

Telephone Appearances

The Court will allow appearance by telephone in limited circumstances for good cause. Any party or counsel who wishes to appear by telephone must file a motion requesting leave to attend by telephone explaining the reason for the request *no later than 3:00 p.m. two business days before the scheduled hearing*. Please note that the general press of business is not good cause. Should the Court grant a request to appear by telephone, Chambers will issue a unique passcode to the moving party.

Failure to appear may result in denial of the relief requested or other appropriate sanctions. In emergency or unforeseen circumstances, as soon as is reasonably practicable, counsel or *pro se* parties should contact Chambers to explain the emergency.

Personal Laptops, Cell Phones, and Other Technology and Items in the Courtroom

Local Bankruptcy Rule 5073-1 regarding photography, recording devices, and broadcasting is applicable and incorporates Local Civil Rule 83.1 of the United States District Court for this district. Judge Koch's Courtroom is governed by Local Civil Rule 83.1. Counsel and parties who wish to bring any personal devices into Judge Koch's Courtroom must be familiar with this Rule because the Howard M. Metzenbaum U.S. Courthouse is a "Federal Court facility" as defined therein. *Any person bringing an electronic device into a Federal Court facility shall be determined to have consented to the provisions of Local Civil Rule 83.1, including the enforcement provisions regarding confiscation, dismissal, arrest, and contempt of Court.* Please note that a violation that disrupts a judicial proceeding may be punished by summary proceedings.

Counsel of record may use laptops at counsel table provided they are following the rules prohibiting photography, recording and broadcasting. Judge Koch allows all counsel to use personal devices in the Courtroom when not at counsel table, provided they are silenced, not disruptive, and Local Civil Rule 83.1 is not violated in any way. This privilege may be revoked at any time.

Cell phones belonging to parties must be turned off in the Courtroom, unless there is express permission from Judge Koch that the cell phone may be turned on. Taking photographs, making audio/video recordings, and radio, television and internet broadcasting are prohibited in the Courthouse.

Court staff, court security officers, and deputy marshals are authorized to seize and inspect devices suspected of being used in violation of these rules. Seized devices will not be returned until the conclusion of all proceedings at the direction of the presiding judicial officer. Violators will be subject to sanctions for contempt of court. *See* Order to Appear and Show Cause, *United States v. Rivers*, No. 25-dj-00026 (N.D. Ohio Jul. 18, 2025), Dkt. No. 1.

Judge Koch has several attorney and witness rooms that are available if counsel or parties need to confer or require a room from which to make a short phone call.

There is wi-fi available in Judge Koch's Courtroom. Counsel tables have power. Counsel may plug in their laptops at counsel table or at the podium. To connect to the Courtroom monitors, each have an HDMI connection (both video and audio) and a VGA connection for video with a 3.5mm audio jack. There is also a document camera at the podium. The document camera is connected to the Courtroom monitors.

3. Communication with Chambers

Rule 9003 prohibits *ex parte* communications with the Court concerning matters affecting a particular case or proceeding.

Ohio Rule of Professional Conduct 3.5 prohibits *ex parte* communications with a judicial officer or other official as to the merits of the case during the proceeding unless authorized to do so by law or court order.

Judge Koch does not permit telephone calls to Chambers, absent specific circumstances detailed in these procedures. Contact with Chambers is only allowed for the express purposes set out in these procedures.

Emails to Chambers are not pleadings, and do not constitute a request for relief, other than for the limited purposes of administrative items and in compliance with the emergency hearings or expedited relief procedures. Any other form of relief may only be sought in accordance with all applicable laws and rules. Any other communication with Chambers may be considered an impermissible *ex parte* communication.

Please note that communications sent to Chambers should be sent by attorneys admitted to practice before this Court. To the extent communications are sent by paraprofessionals, such communications should be limited to such communications as are appropriate under applicable rules governing the practice of law. The attorney of record for the matter must be copied on the email. The Court may enter communications sent to Chambers on the Docket for the case that is the subject of the communication and may include the content of the communication on the Docket Calendar.

4. Scheduling Hearings; Requesting Adjournment

Court staff will schedule hearings, unless instructed otherwise by Judge Koch. Judge Koch's motion docket dates are posted on her website.

Adjournments require advance Court approval. Parties may request an adjournment by motion *filed no later than 3:00 p.m. two business days before the scheduled hearing.*

If all interested parties are in agreement, instead of filing a motion, the parties may email a request for an adjournment to Chambers at JudgeKochChambers@ohnb.uscourts.gov. The email to Chambers must copy all interested parties known to the requesting party, and it must be received by Chambers *no later than 3:00 p.m. two business days before the scheduled hearing*.

Any request for an adjournment, whether by motion or email, must state:

i. whether or not the adjournment is agreed to by all parties seeking and opposing the relief in question;

ii. the basis for the request;

iii. how many previous adjournments have been sought; and

iv. the period of time requested until the next hearing.

Late adjournment requests will not be considered unless good cause exists for the untimely request.

Whether requested by motion or email, a hearing is not adjourned until the Court orders an adjournment. If a hearing is adjourned from the current Docket Calendar, a Docket entry will issue to parties registered on the ECF system. Additionally, Judge Koch's "Docket Calendar for the Current Week" on her website is updated every 15 minutes and includes the most current Docket Calendar information.

Please note: a third adjournment will generally be a final adjournment, particularly for Chapter 13 plan confirmations, unless good cause is shown why any further adjournments are necessary. This is similar to the March 10, 2006 Memorandum issued by Judge Harris regarding Changes in Chapter 13 motion dockets.

Telephone calls to Chambers to request an adjournment are not permitted.

5. Settlements; Withdrawals

A hearing may no longer be necessary if (1) all interested parties timely settle a matter or if a withdrawal is timely filed, and (2) the Court has no questions regarding the matter.

Settlement/ Proposed Agreed Order. If there is clear agreement between all interested parties that all objections to the matter set for hearing have been resolved and a proposed agreed order *has already been submitted to the Court no later than 3:00 p.m. two business days before the scheduled hearing*, and the Court has approved and entered the agreed order, then there may be no need to hold a hearing. The hearing may be removed from the Docket Calendar. A lack of any filed objections to a motion or application does not necessarily mean there is a clear agreement between all interested parties.

Withdrawal. A withdrawal must be *filed no later than 3:00 p.m. two business days before the scheduled hearing*, otherwise the hearing will remain on the Docket Calendar, and counsel shall be present in-person.

If a hearing is removed from the Docket Calendar, a Docket entry will issue to parties registered on the ECF system. Additionally, Judge Koch's "Docket Calendar for the next Two Weeks" on her website is updated every 15 minutes and includes the most current Docket Calendar information.

Telephone calls or emails to Chambers to report a settlement or withdrawal to excuse appearance at a hearing are not permitted.

6. Motions Practice

A. Generally

Motions are typically governed by Bankruptcy Rules 9013 and 9014. These rules require pleadings state with particularity the relief requested and the grounds therefore, and require the pleadings be served in the same manner as a summons and complaint under Bankruptcy Rule 7004. Most applications (e.g., to sell or use property of the estate, professional employment, Rule 9019 settlement or compromise, compensation) must be served in accordance with Bankruptcy Rule 2002.

Any motion or application filed with the Court should address:

- the legal issue(s);
- all pertinent facts;
- the statutory framework or other legal authority;
- all legal arguments; and
- the specific relief requested.

A matter may not be properly before the Court if the motion or application does not include these requirements.

B. Local Bankruptcy Rule 9013-1; No Notice List

LBR 9013-1 requires that motions, applications, or other pleadings seeking relief from the Court shall be accompanied by:

(a) **a notice** to all parties in interest entitled to notice as specified by applicable Federal Rules of Bankruptcy Procedure, statute, Local Rules, and/or as the Court may order

The notice of motion, application, or other pleadings seeking relief from the Court shall include a deadline by which parties in interest shall file a response or objection to the relief requested. The objection deadline shall comply with the Federal Rules of Bankruptcy Procedure, all applicable laws, Local Rules, and/or as the Court may order.

No Notice List. Judge Koch published a Memorandum to the Court's website that includes a list of motions and applications for which she does not require a LBR 9013-1 Notice. That Memorandum is also included in Appendix A.

(b) **a certificate of service** in accordance with all applicable rules and Local Rule 9013-3

LBR 9013-3 requires that a certificate of service be signed and identify, with specificity, the document served; state the date and method of service; identify, by name and address, each entity served; and contain or refer to an accompanying notice as required by LBR 9013-1(a).

The Judges of the United States Bankruptcy Court, Northern District of Ohio issued a Memorandum on October 12, 2012 which approved a standardized form of certificate of service. Judge Koch adopts that Memorandum. It can be found on the Court's website under "Judges' Info/Memoranda," and it is also included in Appendix A.

(c) **a proposed form of order**

All proposed orders shall be submitted electronically using the ECF E-Orders module and must be submitted electronically at the time of filing of the motion, application or other document seeking relief from the Court.

Please review the Court's Order Submission Guidelines under the "Judges' Info" tab on the Court's website. For Judge Koch, court staff will schedule hearings and docket the corresponding Notice of Hearing, unless instructed otherwise by Judge Koch. Judge Koch posts her motion docket dates on her Chamber's website.

Please note: If cause is not provided in a motion (because it may not be necessary for the relief requested), then a proposed order should not include a proposed finding that good cause was shown.

C. Expedited Relief

Should a party believe that shortened notice, with or without an expedited hearing, is required under Fed. R. Bankr. P. 9006(c), a party may request that relief by filing a motion (the "9006(c) Motion"). The Court may rule on a 9006(c) Motion without a hearing.

Required Content for a 9006(c) Motion

1. a description of the relief requested;

2. the reasons why shortened notice, with or without an expedited hearing, is requested;

3. the identity of all parties who may be affected by the relief requested in the underlying filing or paper;

4. the method of notification of all interested parties; and

5. the proposed shortened notice or response period being sought and any proposed date or dates and time for any expedited hearing being sought.

How To File a 9006(c) Motion

1. To file a 9006(c) Motion, please use the ECF event code "Expediting Hearing," which is found in the "Motions/Applications" heading, even if the request is only to shorten notice without an expedited hearing.

   - If the 9006(c) Motion requests both a shortened notice period and an expedited hearing, no further explanatory text is required in the filing submission.

   - If the 9006(c) Motion requests only a shortened notice, please include text at the Docket Text Screen that will appear on the docket explaining that the request is only for a shortened notice.

2. In addition to being filed on the Docket, a 9006(c) Motion should also be e-mailed to Chambers at JudgeKochChambers@ohnb.uscourts.gov, copying opposing counsel and/or parties in interest.

3. A 9006(c) Motion does not require its own notice. See Judge Koch's September 17, 2024 Memorandum that includes a list of motions and applications for which she does not require a LBR 9013-1 Notice. That Memorandum is also included in Appendix A.

4. A 9006(c) Motion should be filed contemporaneously with the motion seeking the substantive relief in question (the "Underlying Motion"). The Underlying Motion does not require its own notice at the time the 9006(c) Motion is filed.

5. When the 9006(c) Motion is filed, the movant must upload a proposed form of order that grants the 9006(c) Motion and includes notice language to notify parties of the Underlying Motion. Please leave blanks for the hearing date and time (if applicable), as well as response and reply deadlines, which Chambers will complete. As with any other proposed form of order, please use the ECF E-Orders module to upload the proposed form of order.

Movant Is Responsible for Service

The movant shall serve, by fax, e-mail, hand, or overnight delivery, the (i) 9006(c) Motion, (ii) the Underlying Motion, and (iii) the order as entered by the Court. Service shall be to all parties required to receive notice under the applicable Federal Rule of Bankruptcy Procedure and other parties as directed by the Court. The order, as entered by the Court and served by the movant, provides notice of the Underlying Motion.

Certificate of Service

Prior to the hearing on, or the deadline for filing objections to, the Underlying Motion, the movant shall file a certificate of service that complies with this Court's local rules and this Court's October 12, 2012 Memorandum, which is found on the Court's website under "Judges' Info/Memoranda" and separately included in Appendix A. The certificate of service should certify when, how, and to whom copies of the 9006(c) Motion, Underlying Motion, and order were served in a manner(s) reasonably calculated, under all the circumstances, to apprise interested parties of the Underlying Motion.

Motion to Limit Notice

If expedited service on the parties required to receive a motion or notice under the Federal Rules of Bankruptcy Procedure is impractical or cost-prohibitive, the movant may also seek to limit notice by filing a separate motion to limit notice. Unless otherwise directed, notice may be limited to the UST, the debtor, the Unsecured Creditors Committee or its counsel if applicable, or if there is no Committee, the list of 20 largest unsecured creditors, any trustee serving in the case, any party that has or claims to have an interest in the property to be affected by the Underlying Motion, and all other counsel of record.

Contacting Chambers

Counsel seeking emergency relief may contact Judge Koch's Chambers to notify the Court of a matter that requires urgent attention, including the scheduling of a hearing on shortened notice.

D. Motions for Extension of Time

Motions for the enlargement of time should cite the appropriate authority for the relief requested, including rules specific to the type of extension requested. Requesting additional time on the last day of a time period, and/or not allowing enough time for notice may result in not receiving the requested relief.

For certain kinds of motions for the enlargement of time, you may wish to review Judge Koch's Memorandum that includes a list of motions and applications for which she does not require a LBR 9013-1 Notice. That Memorandum is also included in Appendix A.

For requests for additional time within which to file a complaint objecting to the discharge of a debtor, the moving party should address the factors in *McDermott v. St. George (In re St. George)*, 2017 WL 1379321, 2017 Bankr. LEXIS 1065 (B.A.P. 6th Cir. Apr. 17, 2017). These motions will generally be set for hearing. Such requests should be timely made, allowing for the appropriate notice period, but if the elements of Bankruptcy Rule 4004(b)(2) are met, then those circumstances should be clearly stated.

E. Motions for Lien Avoidance and Valuation of Security

All requests for relief involving lien avoidance or valuation of security shall comply with all applicable laws and rules. A motion to avoid a lien must state a *prima facie* case for relief, regardless of whether it is ultimately opposed. A motion to avoid a lien is a contested matter and must be served accordingly.

Motions seeking the avoidance of a lien on any other collateral under 11 U.S.C. § 522(f) must include the following:

1. The subsection of 11 U.S.C. § 522(f) under which the relief is requested;

2. The name and address of the lienholders whose lien(s) are to be avoided;

3. A statement describing the nature of the lien(s);

4. The amount owed by the debtor with respect to each lien, including upon what debtor relies for that amount (proof of claim, most recent billing statement, other evidence of balance owed to lienholder);

5. The date upon which each lien was perfected and its relative priority to other lien(s);

6. The lien number or recording reference, and agency where lien was filed;

7. The legal description of the property sufficient for identification, including, but not limited to, the full street address including city and state, permanent parcel numbers, and the county auditor's property information printout attached as an exhibit to the motion;

8. A statement of value of the property, and the basis for the valuation;

9. What exemptions are impaired, and in what amount;

10. The calculation in *In re Brinley*, 403 F.3d 415, 421 (6th Cir. 2005); and

11. Any other facts which would be relevant in determining whether the motion should be granted.

The United States Bankruptcy Court, Northern District of Ohio, located in Cleveland published Memoranda dated August 5, 2013 and December 1, 2016 on this topic. The August 5, 2013 Memorandum includes form orders for avoiding totally unsecured mortgage liens and judicial liens in Chapter 13 cases. Any deviation from those forms of order should be included in bold face print. Please also review section 13(M) herein for Chapter 13 matters.

Judge Koch adopts those Memoranda. They can be found on the Court's website under "Judges' Info/Memoranda," and they are also included in Appendix A.

F. Motions for Relief from the Automatic Stay

Parties must be familiar with Local Rule 4001-1. Parties seeking relief from stay must use the local forms, which are available from the Clerk and also on the Court's website. Any deviation from the standardized forms shall be explained in bold-faced type within the body of the submitted document. Any inapplicable paragraphs may not be removed, but should be marked as such. A party may deviate entirely from these revised forms for good cause, examples of which include (but are not limited to) ongoing (non-foreclosure) litigation, domestic relations matters, administrative proceedings, or to effect an offset of prepetition debt.

G. Affidavits of Default Lifting the Automatic Stay

The long-standing practice in this Court has been to permit the parties to enter into agreements, following debtor's failure to maintain payments to secured creditors and the filing of a motion to lift the automatic stay, to keep the stay in place so long as payments are brought current and maintained. If the debtor defaults, the creditor then has the right to lift the stay by filing an affidavit of default. All such affidavits should (a) identify the dates of the missing payments, rather than simply stating that the debtor is in default, and (b) be signed by the creditor who has reviewed the records and made the default determination based on personal knowledge.

H. Motion to Reopen To File a Reaffirmation Agreement

A reaffirmation agreement must be "made before the granting of the discharge[.]" 11 U.S.C. § 524(c)(1). If the discharge may be entered before the parties have completed a reaffirmation agreement, the parties may consider filing a motion to delay the discharge for a specific period of days that suits the particular situation. A notice pursuant to Local Bankruptcy Rule 9013-1 is not required. You may wish to review Bankruptcy Rules 4004 and 4008, as well as Judge Koch's Memorandum that includes a list of motions and applications for which she does not require a LBR 9013-1 Notice. That Memorandum is also included in Appendix A.

Judge Koch will not reopen a case to allow the parties to file a reaffirmation agreement that was made after the discharge was entered. In that case, reopening the case would not provide any relief to the debtor because the proposed reaffirmation agreement is ineffective.

I. Chapter 7 Trustee Fee Deferral To Sell Property of the Estate Free and Clear of Liens under 11 U.S.C. § 363(f)

The United States Bankruptcy Court, Northern District of Ohio, located in Cleveland published a Memorandum dated November 26, 2013 that permits a Chapter 7 Trustee, upon application to the Court, to request deferment of payment of the filing fee for a motion to sell property of the estate free and clear of liens until such time as the sale is completed. Judge Koch adopts this Memorandum. It can be found on the Court's website under "Judges' Info/Memoranda," and it is also included in Appendix A.

J. Paying Filing Fees by Installment under Rule 1006(b)

Upon application to pay filing fees in installments, the Court may order payment of the entire filing fee or may order the debtor to pay in installments, the amount of each installment, and the payment dates. Rule 1006(b) provides that all payments must be made within 120 days after the petition is filed.

Given the Court's discretion to order payment of filing fees in installments, it is Judge Koch's general practice to order that all payments be made within 90 days after the petition is filed.

7. Adversary Proceedings

A. Initial Pretrial Conference

An Initial Pretrial Conference shall be scheduled after an answer or other responsive pleading is filed. The parties must confer as soon as practicable to discuss the case and prepare the proposed discovery plan pursuant to Federal Rule of Civil Procedure 26(f). A Report of the Parties' Planning Meeting shall be filed with the Court promptly after the Parties' Planning Meeting and at least 3 business days before the Initial Pretrial Conference. The Report of the Parties' Planning Meeting shall also include a statement addressing consent to entry of a final judgment or order by this Court.

B. Initial Disclosures

The Court strongly prefers that the parties exchange initial disclosures at least 7 days before the Parties' Planning Meeting to facilitate discussions. The parties shall provide initial disclosures to the other parties specified by Federal Rule of Civil Procedure 26(a)(1) without awaiting a discovery request, unless (i) one of the Rule 26(a)(1)(B) exceptions applies, or (ii) a party objects during the Parties' Planning Meeting and states that objection in the Report of the Parties' Planning Meeting.

C. Stipulations Due at Close of Discovery

At the end of discovery, the Court requires counsel to file jointly a list of all facts and legal conclusions that are not in dispute that can be the subject of stipulations, including identifying all documents either party intends to introduce as an exhibit and to which the parties agree are authentic. These stipulations are due 14 days after the close of discovery.

D. Dispositive Motions

Unless otherwise ordered, dispositive motions may be filed at any time until 30 days after the close of all discovery, any responses in opposition to dispositive motions shall be filed within 21 days, and any replies to responses in opposition shall be filed within 7 days. Dispositive motions shall be decided without oral argument unless a hearing is scheduled by this Court.

E. Motions in Limine

Motions in Limine and other motions relating to the conduct of the trial must be filed and served not later than 7 days before trial.

F. Trial Brief

At least 7 business days before trial, the parties shall file and serve a trial brief. The brief shall contain:

i. a general statement of the case;

ii. Proposed Findings of Fact: a list of the fact issues to be determined at trial with reference to the burden of proof and a short discussion of evidence to be offered, and *proposed findings of fact shall cite the particular witness(es) or exhibit(s) upon which each suggested finding is based*;

iii. Proposed Conclusions of Law: a list of the issues of law to be determined with citations to authority referencing the legal standard and the elements of any claims or affirmative defenses, and *proposed conclusions of law shall cite legal authority;*

iv. a summary of any non-monetary or monetary relief sought, including injunctive relief, determination of dischargeability, allowance of a claim, secured status, costs, fees, etc. and the basis of any relief sought;

v. an itemized statement of damages, in cases in which damages are relevant (if the parties agree on damages, they shall submit a stipulated statement of the damages; if the parties do not agree on damages, each party shall submit an itemized statement of damages); and

vi. a statement of any evidentiary or procedural problem expected to arise, with citations to authority.

G. Adversary Proceedings To Deny or Revoke a Debtor's Discharge

Prior to filing an adversary proceeding to deny or revoke a Debtor's discharge for failure to comply with Trustee requests (i.e., turnover of estate property or compliance with requests for information), a Chapter 7 Trustee must file a motion for an order to show cause in the main bankruptcy case. This motion should clearly explain to the Court how the Debtor has failed to comply with a prior Court Order. These motions will be set for hearing. If the compliance issue is not resolved during the contempt process, the Trustee may then file an adversary proceeding to deny or revoke the Debtor's discharge.

This procedure is the same as Administrative Order 22-03, issued by Judge Price Smith, which can be found on the Court's website under "Judges' Info/Administrative Orders."

8. Discovery Disputes

In the event there is a discovery dispute, parties must personally consult with one another and sincerely attempt to resolve any discovery dispute. It shall be the responsibility of counsel for the party seeking discovery to initiate such personal consultation.

If the parties are unable to reach an accord, pursuant to Local Rule 7026-1, any motion to compel discovery, a motion for protective order, or another motion relating to disclosure or discovery, shall be accompanied by a supporting memorandum and affidavit reciting those matters which remain in dispute, and, the date, time, and place of the personal consultation, as well as the names of all parties participating therein.

In the case of a failure to answer a question at a deposition (including a claimed evasive or incomplete answer), the required personal consultation may take place at the deposition at which the alleged failure to answer occurs.

Responses in opposition to any motion filed pursuant to these procedures shall be filed within 7 days of the filing of any discovery dispute motion.

Unless otherwise ordered by the Court, no discovery dispute shall be brought to the attention of the Court, and no motion to compel may be filed, more than 14 days after the discovery cut-off. Federal Rule of Civil Procedure 37 is made applicable to proceedings in this Court by Federal Rule of Bankruptcy Procedure 7037.

9. Applications for Compensation

A. Guidelines for Compensation and Expense Reimbursement of Professionals

The Court has published Guidelines on its website under the "Attorney Info" tab that govern applications for compensation and expense reimbursement. The Guidelines cover the narrative portions of applications, time records, and expenses. Except as otherwise provided, the Guidelines apply to professionals generally including lawyers, accountants, appraisers, auctioneers, financial advisors and consultants unless, for cause shown, modifications are made at the time a professional is employed.

B. Notice Provision Required for Applications To Employ Professionals and Applications for Compensation; Applications To Retain Counsel in Chapter 7 Cases for Relief from the Automatic Stay

The United States Bankruptcy Court, Northern District of Ohio, Cleveland, published Memoranda dated November 30, 2011 and November 10, 2014, and Judge Koch adopted these Memoranda. They can be found on the Court's website under "Judges' Info/Memoranda," and they are also included in Appendix A.

Judge Koch requires the Notice as provided in the November 30, 2011 Memorandum.

In Chapter 7 Trustees' applications to retain counsel to recover money for the estate should include:

1. the legal action that the trustee anticipates taking, linked to a specific asset;
2. the value of the asset that the trustee anticipates recovering, estimated if necessary;
3. the manner in which the trustee arrived at the valuation; and
4. an estimate of the amount of legal fees to be incurred in recovering the asset, including the hourly rate for each professional who will be working on the matter.

10. [reserved]

11. Chapter 11

This section does not apply to cases under the Small Business Reorganization Act of 2019 (new Subchapter V of Ch. 11), eff. February 19, 2020.

Parties wishing to schedule first day hearings in Chapter 11 cases should contact Chambers on the date of filing to discuss scheduling of the hearing. Two copies of first day motions should be provided to Chambers in advance of the hearing, after the case is commenced.

It is expected that Debtor's counsel will have consulted with the United States Trustee regarding all relief to be requested at the First Day Hearing.

Shortly after the commencement of any case filed under Chapter 11 of the Code, the Court will issue an Order and Notice of Chapter 11 Status Conference. The debtor-in-possession will be required to prepare and file a Status Conference Statement no fewer than 7 days prior to the status conference.

The purposes of the Chapter 11 status conference are to:

i. review the financial, business or other problems that prompted the filing of a petition for relief;

ii. understand the debtor's assets and liabilities; and

iii. understand the debtor's strategy for exiting Chapter 11.

Counsel should expect that the Court will generally set deadlines at the Chapter 11 status conference, including deadlines for filing and confirming a plan.

At least 7 days prior to any subsequent status conference, the debtor-in-possession or any Chapter 11 trustee appointed in the case shall file an updated Status Conference Statement that simply advises the court of any material developments in the case.

Judge Koch expects strict compliance with the Code and Rules. In particular, failure to comply with the following requirements could lead to conversion or dismissal of the case:

i. Attendance at the meeting of creditors pursuant to Code section 341(a);

ii. Use of Cash Collateral. Code section 363(c)(2) prohibits the use of cash collateral unless the debtor has either the prior consent of each creditor having an interest in the cash collateral or an order from the Court;

iii. Transactions outside the ordinary course of business. Code section 363(b)(1) requires notice and a hearing prior to engaging in any such transactions;

iv. Postpetition taxes. The Court expects all postpetition taxes to be timely paid and all required tax returns timely filed;

v. File Monthly Operating Reports; and

vi. Quarterly United States Trustee fees. 28 U.S.C. § 1930(a)(6) requires a quarterly fee to be paid to the United States Trustee. The amount of the fee will depend upon the amount of disbursements made by the debtor during each quarter.

12. [reserved]

13. Chapter 13

A. Administrative Orders related to Chapter 13 in Cleveland

Judge Koch has issued Third Amended Administrative Order 25-01 – Order Governing Procedure for Allowance of Attorney's Fees in Chapter 13 Cases Filed on or after March 1, 2025.

Judge Koch's Administrative Order 23-04, entered on October 18, 2023, continued the following Administrative Orders:

1. Administrative Order 21-1 – PostPetition Vehicle Financing in Chapter 13 Cases in the Canton and Cleveland Court Locations;

2. Administrative Order 17-05 – Order Governing Adequate Protection Payments;

3. Administrative Order 17-04 – Order Governing Conduit Mortgage Payments in Chapter 13 Cases;

4. Administrative Order 17-03 – Order Generally Mandating Wage Orders in Chapter 13 Cases;

5. Administrative Order 17-02 – Order Adopting a Common Formula for a Presumptive Interest Rate in Chapter 13 Cases for Claims Secured by a Security Interest in Debtor's Personal Property;

6. Second Amended Administrative Order 07-02 – Order Governing Procedure for Allowance of Attorney's Fees in Chapter 13 Cases Filed on or after June 1, 2007 [and before March 1, 2025];

7. Amended Administrative Order 06-6 – Changing Procedure for Submission of Confirmation Orders in Chapter 13 Cases and Vacating Administrative Order No. 98-3; and

8. Second Amended Administrative Order 98-1 – Administration of Chapter 13 Cases Filed in Cleveland.

All of the Court's Administrative Orders can be found on the Court's website under "Judges' Info/Administrative Orders."

The Court has also issued various Memoranda related to Chapter 13 in Cleveland. Judge Koch adopts those Memoranda. They can be found on the Court's website under "Judges' Info/Memoranda," and they are also included in Appendix A.

B. Form Chapter 13 Plan in Cleveland

The United States Bankruptcy Court, Northern District of Ohio, located in Cleveland published Memoranda dated January 17, 2018 and February 8, 2019, adopting a form confirmation order for Chapter 13 cases filed in Cleveland. These Memoranda relate to Amended Administrative Order 06-6. Judge Koch adopts these Memoranda. They can be found on the Court's website under "Judges' Info/Memoranda," and they are also included in Appendix A.

The Chapter 13 Trustee has instructions on how to complete the form plan on the Chapter 13 Trustee's website that are specific to Cleveland. For example:

- In Cleveland, a proof of claim must be filed in order for a creditor to be paid under the plan. The Debtor may need to file the claim.
- In Cleveland, a wage order is still required for wage earners, therefore, a majority of cases will check the payroll deduction box in part 2.
- In Cleveland, tax refunds are addressed in the Confirmation Order, therefore, the Trustee requests that Part 2.3 reference the Confirmation Order.
- In Cleveland, only the first and second boxes in part 5 are to be checked and filled out (not a pot plan), any other boxes completed will be subject to objection by the Trustee.

The debtors are responsible for serving copies of the Chapter 13 plan on all creditors under Rule 3015(d) if the plan is not included with the Clerk's notice of the hearing on confirmation mailed under Rule 2002.

Regardless whether the clerk has served the Chapter 13 plan on some or all of the debtors' creditors by mail or by any other means, the debtors and their attorneys are responsible for ensuring that creditors whose claims are subject to valuation or lien avoidance under Rules 3012 and 4003 are served with the Chapter 13 plan in the manner provided by Rule 7004 for service of a summons and complaint.

Insured depository institutions must be served by certified mail addressed to an officer of the institution under Rule 7004(h), and corporations must be served by mailing a copy to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process under Rule 7004(b)(3).

Service of Chapter 13 plans in the manner provided by Rule 7004 for service of a summons and complaint is the responsibility of the debtors and their attorneys, and not the responsibility of the clerk. This responsibility extends to any proposed modified plan through which the debtors seek to value certain secured claims or avoid certain liens. The debtors shall append a certificate of service that includes the date and method of service and the identity by name and address of each entity served, consistent with Local Bankruptcy Rule 9013-3.

C. Pre-Confirmation Modifications

11 U.S.C. § 1323 addresses pre-confirmation plan modifications. A modified plan, filed prior to confirmation, shall clearly show any changes from the prior plan by highlighting the changes in a conspicuous manner. A pre-confirmation modified plan shall be served in accordance with Federal Rules of Bankruptcy Procedure 2002 and 3015. Copies of the modified plan, served on creditors and parties in interest, shall also include conspicuous highlighting of the changes.

If a timely objection to confirmation of the modified plan is filed by the objection deadline included in the notice pursuant to Federal Rule of Bankruptcy Procedure 3015(f), the confirmation hearing may be rescheduled.

If a plan is filed pursuant to 11 U.S.C. § 1323 in advance of a previously-scheduled confirmation hearing, counsel or parties may request an adjournment of that confirmation hearing due to the filing of the pre-confirmation modified plan. Please use Judge Koch's adjournment procedures.

Motions filed requesting that a pre-confirmation plan be modified shall be denied as moot.

A pre-confirmation modification of a proposed plan that does not materially and adversely affect any party in interest may be incorporated in the proposed order confirming the plan. The parties or counsel should be prepared to explain the modification at the confirmation hearing.

A pre-confirmation modification of a proposed plan that does materially and adversely affect any party in interest may be incorporated in the proposed order confirming the plan if the adversely affected party has executed the proposed order or the parties have filed a stipulation or agreed order; otherwise, the debtor must serve a copy of the modified plan on all creditors and parties in interest (Bankruptcy Rule 7004) and file a certificate of service (Local Bankruptcy Rule 9013-3).

Any required amended schedules necessary for confirmation must be filed prior to or contemporaneously with the modified plan.

D. Confirmation Hearings; Funding Delinquencies

Chapter 13 confirmation hearings will be called and held pursuant to 11 U.S.C. § 1324(a).

Funding Delinquencies
If a case is at least one month delinquent in funding at the confirmation hearing, the case will be dismissed for lack of funding, and no adjournment will be allowed. This is similar to the March 10, 2006 Memorandum issued by Judge Harris regarding Changes in Chapter 13 motion dockets.

E. Post-Confirmation Modifications

11 U.S.C. § 1329 addresses post-confirmation plan modifications. A plan modification proposed after confirmation (1) shall be made by motion, must be filed with the Court and served in accordance with Federal Rules of Bankruptcy Procedure; and (2) the modified plan shall be attached.

The motion seeking modification of the plan shall include:

i. A particular reference to the provisions of the confirmed plan that are being modified, including any proposed percentage to be paid to unsecured creditors and the approximate number of months required to complete the proposed modified plan;

ii. The extent to which the proposed modification affects the rights of creditors or other parties in interest;

iii. If a motion to modify the plan proposes to decrease the dividend to unsecured creditors or to extend the length of the plan, the reason for the modification, including any change in circumstances since confirmation;

iv. If the motion to modify proposes to change the amount of each periodic payment to the plan and income or expenses has changed, then an amended Schedule I: Your Income and Schedule J: Your Expenses should also be filed; and

v. The modified plan shall have the upper right-hand box checked on the first page and shall list the sections of the plan that have been changed.

Post-confirmation motions require, like every other motion or application, that the relief requested be stated with particularity and include the grounds therefore, including the pertinent facts, statutory framework, or other legal authority or argument. Please cite the statute, rule, or other legal authority for the requested relief.

A Notice is also required, but you may wish to review Judge Koch's Memorandum that includes a list of motions and applications for which she does not require a LBR 9013-1 Notice. That Memorandum is also included in Appendix A. Additionally, when creditors are not adversely affected, a party may move to excuse service and notice of a post-confirmation modification and the objection deadline pursuant to Federal Rule of Bankruptcy Procedure 3015(h).

Please also use the Court's standard form of Certificate of Service. You may refer to the Court's 2012 Memorandum for the Court's standardized form of Certificate of Service. A copy of the 2012 Memorandum is included in Appendix A and is also published on the Court's website under "Judges' Info/Memoranda."

F. Specific Post-Confirmation Motions: Motions To Sell Real Estate

Motions to Sell Real Estate are governed by the Second Amended Administrative Order 98-1 – Administration of Chapter 13 Cases Filed in Cleveland, as continued by Judge Koch's Administrative Order 23-04. A Motion To Sell Real Estate should include:

i. The proposed contract of sale;
ii. The reason for the proposed sale;
iii. If the real estate is debtor's residence, an explanation of where debtor intends to reside following the sale;
iv. A statement as to any connection between debtor and the proposed buyer, or an affirmative representation that there is no such connection;
v. A settlement statement or disbursement schedule detailing the proposed distribution of funds; and
vi. If the proposed sale is greater than the value of the real estate as listed in debtor's schedules, an explanation of the discrepancy.

Additionally, Judge Koch requires:

i. a comparison of the existing cost to the debtor compared to the new cost; and
ii. explanation of how any additional cost will be covered by the debtor.

G. Specific Post-Confirmation Motions: Motions To Incur New Debt To Buy Real Estate

Motions To Incur New Debt are governed by the Second Amended Administrative Order 98-1 – Administration of Chapter 13 Cases Filed in Cleveland, as continued by Judge Koch's Administrative Order 23-04.

Motions To Incur New Debt To Buy Real Estate should include:

i. The proposed purchase contract;
ii. The Truth-in-Lending Disclosure Statement;
iii. The Good Faith Estimate of Closing Costs;
iv. A statement of the basic terms: i.e., amount to be borrowed, number of years, down payment (including the source of the funds), interest rate, and points to be paid;
v. The reason for the proposed purchase;
vi. A comparison of debtor's existing housing costs to the anticipated new housing costs, including a utility and insurance analysis. If the proposed new housing cost is:
    (a) higher than debtor's existing housing cost: an explanation of how debtor intends to handle the additional cost;
    (b) lower than debtor's existing housing cost: an explanation of how debtor intends to apply the additional disposable income.
vii. A statement as to any connection between debtor and the proposed seller, or an affirmative representation that there is no such connection.

An Amended Budget (Amended Schedules I and J) should also be filed in support of Motion, if applicable.

The Chapter 13 Trustee has a form motion to purchase real estate, among others, published on the Chapter 13 Trustee's website under the "Library" tab.

H. Specific Post-Confirmation Motions: Motions To Incur New Debt To Refinance Real Estate

Motions To Incur New Debt are governed by the Second Amended Administrative Order 98-1 – Administration of Chapter 13 Cases Filed in Cleveland, as continued by Judge Koch's Administrative Order 23-04.

Motions To Incur New Debt To Refinance Real Estate should include:

i. The proposed contract;
ii. The Truth-in-Lending Disclosure Statement;
iii. The Good Faith Estimate of Closing Costs;
iv. A statement of the basic terms: i.e., amount to be borrowed, number of years, interest rate, and points to be paid;
v. The reason for the proposed refinancing;
vi. A Settlement Statement or Disbursement Schedule detailing how the funds sought to be borrowed will be distributed;
vii. A comparison of debtor's existing mortgage costs to the anticipated new costs. If the anticipated new cost is:
    (a) higher than debtor's existing cost: an explanation of how debtor intends to cover the additional cost;
    (b) lower than debtor's existing cost: an explanation of how debtor intends to apply the additional disposable income;
viii. A statement as to any connection between debtor and the lender, or an affirmative representation that there is no such connection;
ix. If the refinancing includes amounts for repair to the real estate, a detailed statement of each such repair and the estimated cost of the repair, including debtor's basis for arriving at that estimated cost.

An Amended Budget (Amended Schedules I and J) should also be filed in support of Motion, if applicable.

The Chapter 13 Trustee has a form motion for authority to modify a mortgage loan, among others, published on the Chapter 13 Trustee's website under the "Library" tab.

I. Specific Post-Confirmation Motions: Motions To Incur New Debt To Lease/Purchase Vehicle

Motions To Incur New Debt are governed by the Second Amended Administrative Order 98-1 – Administration of Chapter 13 Cases Filed in Cleveland, as continued by Judge Koch's Administrative Order 23-04.

Motions To Incur New Debt to Lease/Purchase Vehicle should include:

i. The proposed contract;
ii. A statement of the basic terms: i.e., amount to be borrowed, loan/lease term, down payment (including source of the funds), and interest rate;
iii. The reason for the proposed lease/purchase;
iv. A comparison of debtor's existing transportation costs to the anticipated new costs. If the anticipated new cost is:
    (a) higher than debtor's existing cost: an explanation of how debtor intends to cover the additional cost;
    (b) lower than debtor's existing cost: an explanation of how debtor intends to apply the additional disposable income;
v. A statement as to any connection between debtor and the lender/lessor, or an affirmative representation that there is no such connection.

An Amended Budget (Amended Schedules I and J) should also be filed in support of Motion, if applicable.

Motions to Lease/Purchase Vehicles are also governed by Administrative Order 21-1 – Administration of Chapter 13 Cases Filed in Cleveland, as continued by Judge Koch's Administrative Order 23-04.

The Chapter 13 Trustee has a form motion to incur debt to purchase a vehicle (including a request for approval letter and request for shopping letter), among others, published on the Chapter 13 Trustee's website under the "Library" tab.

J. Motion for Plan Payment Moratorium

A Motion for a Plan Payment Moratorium is a motion to modify a plan pursuant to 11 U.S.C. § 1329. As such, §§ 1322(a), 1322(b), 1323(c) and 1325(a) apply.

A motion to modify a plan may be approved if it reduces total distributions to creditors, provided it meets the requirements of the Bankruptcy Code. The motion should be accompanied by an amended plan and served appropriately.

In the case of, for example, reduced employment, health issues, or unexpected expenses, a debtor's request to suspend plan payments should explain:

i. The reason why the debtor needs to suspend plan payments;
ii. The duration of the time period requested for the suspension of plan payments;
iii. When the time period begins and when it ends;
iv. Whether the plan payment is
    (a) Suspended in its entirety; or
    (b) The amount to which the plan payment is lowered;
v. How the debtor plans to reconcile the difference to creditors by providing for an increase to future payments into the plan or, if the debtor cannot reconcile the difference, then including evidence of debtor's good faith and clearly stating that the difference to creditors will not be paid;
vi. Whether, in the case of a mortgage conduit plan, the Chapter 13 Trustee shall continue or discontinue making the conduit mortgage payment for the duration of the requested time period; and
vii. Whether the Chapter 13 Trustee is to return any funds received from or on behalf of the debtor during the requested time period.

While not required, attaching the debtor's current budget (Amended Schedules I and J) would provide support for the motion to suspend plan payments.

K. Motions To Absorb Plan Payments

Motions To Absorb Plan Payments are disfavored as not supported by Title 11. If plan payments have not been made, and the debtor's request is that those plan payments be forgiven such that creditors will be receiving less, then a motion to modify the plan should be filed along with a modified plan. Such motions should explain how many payments have been missed and the amount of each payment. The Chapter 13 Trustee also has sample delinquency language that may be used in Part 8.1 of the plan, depending on the nature of the delinquency, and that is published on the Chapter 13 Trustee's website under the "Library" tab.

L. Interlineations

Judge Koch disfavors interlineations in plans as difficult to read when handwritten or unclear as to what is being modified when typed. Please note - when creditors are not adversely affected, a party may move to excuse service and notice of a post-confirmation modification and the objection deadline pursuant to Federal Rule of Bankruptcy Procedure 3015(h).

M. Motions To Reinstate Chapter 13 Cases

By the time of the hearing on the motion, the debtor must establish that funds are on hand to cure payment defaults and that appropriate actions have been instituted to cure any other condition which led to dismissal. Any such motion failing to meet these criteria may be denied with prejudice.

Motions which meet the stated criteria and are filed within 30 days after entry of the dismissal order will ordinarily be granted absent an objection. Motions to reinstate for the purpose of conversion to Chapter 7 filed within such 30-day period and noticed with an appropriate objection clause and served as required by law will be granted without an actual hearing if no objection is filed. Such motions should include the debtor's notice of conversion under § 1307 of the Bankruptcy Code.

Generally, if more than 30 days after entry of the dismissal order has passed, the debtor must state specifically the grounds for modifying or revoking the dismissal order under Bankruptcy Rule 9024 (F.R. Civ. P. 60(b)) and move to reopen the case. This is similar to the March 10, 2006 Memorandum issued by Judge Harris regarding Changes in Chapter 13 motion dockets.

N. Motions To Avoid Liens in Chapter 13

The United States Bankruptcy Court, Northern District of Ohio, located in Cleveland published Memoranda dated August 5, 2013 and December 1, 2016 related to this topic. The August 5, 2013 Memorandum includes form orders for avoiding totally unsecured mortgage liens and judicial liens in Chapter 13 cases. Any deviation from those forms of order should be included in bold face print.

Judge Koch adopts those Memoranda. They can be found on the Court's website under "Judges' Info/Memoranda," and they are also included in Appendix A.

Please see section 6(D) above for additional information and Judge Koch's criteria for this kind of relief.

O. Special Counsel in Chapter 13

A Chapter 13 debtor may employ special counsel for a personal injury, workers' compensation, or other claim or reason so long as the following two requirements are met:

1. compensation paid or agreed to be paid is disclosed pursuant to 11 U.S.C. § 329 and Bankruptcy Rule 2016(b); and

2. post-petition payments from property of the estate are approved pursuant to 11 U.S.C. § 330(a)(4)(B), the factors in 11 U.S.C. § 330(a)(3), and Bankruptcy Rule 2016(a).

Please note that 11 U.S.C. § 504 and Bankruptcy Rules 2017 and 5002 also apply.

Bankruptcy Rule 9019: a Chapter 13 debtor is not required to file a motion to approve settlement or compromise under Bankruptcy Rule 9019. *In re Revels*, 616 B.R. 675, 682 (Bankr. E.D.N.C. 2020).

Settlements for personal injury, workers' compensation, or other claims is generally not in a Chapter 13 debtor's ordinary course of business, and 11 U.S.C. § 363(b) allows a debtor to use property of the estate other than in the ordinary course of business after notice and a hearing.

A Chapter 13 debtor may modify a plan before confirmation pursuant to 11 U.S.C. § 1323 and after confirmation pursuant to 11 U.S.C. § 1329.

Pursuant to the Cleveland form of confirmation order, a Chapter 13 debtor may not incur additional debt exceeding $1,000 without notice to the Chapter 13 Trustee and approval of the Court. Additionally, compensation for debtor's counsel is addressed in the form of confirmation order.

14. Common Deficiencies

i. *"Motion does not contain statutory citation/rule reference. Corrective action required by [date certain]."*

Please file an amended motion or application in compliance with Bankruptcy Rule 9013. Depending on the nature of the relief, you may wish to consider whether a supplement is appropriate.

For example, if a motion for additional time within which to file any items listed in Bankruptcy Rule 1007(b)(1) does not include the proper rule reference for that relief, a supplement citing to the proper rule may be appropriate.

ii. *"Notice of Motion not filed. Corrective action required by [date certain]."*
Please file an appropriate Notice.

iii. *"Improper response deadline. Corrective action required by [date certain]."*
Please file an Amended Notice with the appropriate response time period.

iv. *"Creditor(s) listed in section 3.2 and/or 3.4 of the Chapter 13 Plan must be served in compliance with Bankruptcy Rules 3012(b), 4003(d), and/or 7004."*
It appears to the Court as though creditors were not properly served. Please confirm what kind of service is required and file a Certificate of Service that clearly indicates which parties were served and how and when they were served.

v. *"Certificate of Service does not indicate email addresses of parties served" or "COS does not specify parties being served by email."*
Please refer to the Court's 2012 Memorandum for the Court's standardized form of Certificate of Service. A copy of the 2012 Memorandum is included in Appendix A and is also published on the Court's website under "Judges' Info/Memoranda."

vi. *"Please upload order" or "Proposed Order includes finding of good cause, but no cause is provided in the motion."*
Judge Koch requires a form of proposed order be uploaded at the time a motion or application is filed using the ECF E-Orders module. If cause is not needed in a request for relief, a proposed form of order should not include a finding of good cause shown.

vii. *"Schedules due on or before [date certain]."*
It appears to the Court that during an initial filing, not all documents were filed. To avoid this deficiency when filing an incomplete new case, you may indicate which documents are not being filed at that time so that due date may populate on the ECF docket entry.

viii. *"Official Form B423 must be filed by [date certain], or the case may be closed without the discharge order."*
Please timely file the Certification About a Financial Management Course.