

INTERNAL
OPERATING PROCEDURES

Effective June 1, 2003

IOP1 SEAL OF THE COURT

The seal of this Court shall be circular, shall be two inches in diameter, and shall include the words “United States Bankruptcy Court for the Northern District of Illinois” in a circle surrounding a replica of the face or eagle side of the Great Seal of the United States.

Committee Note: This IOP was formerly Local Bankruptcy Rule 200.

IOP2 ACTING CHIEF JUDGE

If the chief judge is absent from the District or is unable to perform his or her duties, such duties shall be performed by the judge in active service, present in the Eastern Division of the District and able and qualified to act, who is next line of seniority based on the date of his or her first appointment. Such judge is designated as the acting chief judge on such occasions.

Committee Note: This IOP was formerly Local Bankruptcy Rule 201.

IOP3 RULE AMENDMENTS AND GENERAL ORDERS

A. Procedure For Proposing Amendments to Local Bankruptcy Rules

Amendments to the Local Bankruptcy Rules may be proposed to the District Court by majority vote of all the judges.

B. General Orders

Pursuant to 28 U.S.C. § 154(a) the judges shall by majority vote adopt general orders of the Court to determine the division of work among the judges. The judges may also by majority vote adopt general orders of the Court with respect to internal Court and clerical administrative matters, provided that no such general order of the Court shall conflict with applicable law, the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules, or the District Court Local Rules. All such general orders shall be assigned numbers and be made public by the clerk.

C. Standing Orders of Individual Judges

Nothing herein contained shall limit the authority of each judge to issue standing orders generally applicable to the administration or adjudication of cases and matters assigned to that judge without approval of the Court or the District Court, to the extent the same are not in conflict with applicable law, the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules, or the District Court Local Rules. Copies of all standing orders will be supplied at the time of issuance to the clerk, who will make them public.

Committee Note: This substance of this IOP was formerly contained in Local Bankruptcy Rule 203.

IOP4 RECORDS OF THE COURT

A. Place of Keeping Records

The records and files of the Court shall be kept at Chicago and Rockford, Illinois and maintained by the clerk. From time to time the clerk shall, pursuant to an order of the chief judge, transfer records in closed cases to the Federal Records Center. In the Western Division, the judge senior in length of service among the bankruptcy judges permanently assigned to that Division may issue such order in the absence of an order of the chief judge.

B. Copies of Records

The clerk or any person or entity designated by order of court, on request and upon prepayment of costs, shall make copies of any document in the clerk's custody unless prohibited by law, court order, or a Local Bankruptcy Rule.

Committee Note: This IOP was formerly Local Bankruptcy Rule 205. The Committee recommends that this IOP be deleted as unnecessary.

IOP5 PROTECTION OF COMPUTERS

A. Use of Licensed Software

Only software properly licensed to the Court may be installed on any computer owned or rented by the Court. Such software may be installed on personal computers, and/or network computing systems owned and/or used by the Court, only by duly authorized members of the Court's Systems Department, except for such software that any judge wishes to use within the chambers of that judge and on laptops.

B. Scanning for Computer Viruses

Any diskettes introduced into any Court-owned or operated computers or into network computing systems must first be scanned for computer "viruses" by the Systems Department, unless the computer or system has been loaded with an automatic virus scanning software.

Committee Note: This IOP was formerly Local Bankruptcy Rule 212. The Committee recommends that the IOP be deleted, as the subject matter is covered by the Computer User's Handbook.

IOP6 EMERGENCY JUDGE

A. Duties of Emergency Judge

The emergency judge will be responsible for hearing all emergency matters not previously assigned to a judge, and all emergency matters that arise at a time that the judge to whom the matter is assigned is absent. The emergency judge shall also act on matters in the absence of the assigned judge, unless the assigned judge has made arrangements to have matters in his or her cases heard by another judge, in which case that judge will hear the matters.

B. Designation of Emergency Judge

At all times there shall be at least one judge assigned to act as emergency judge. The judges shall serve as emergency judge for terms specified in paragraph C in order of seniority, unless they exchange or otherwise rearrange their duty periods by agreement. No judge shall serve as emergency judge within the ninety days immediately following taking the oath of office. The chief judge and any recall judge shall not be required to serve as emergency judge.

C. Terms of Service of Emergency Judge

The term of service of an emergency judge shall start at 12:01 A.M. on Monday and end at midnight on the Sunday immediately preceding the Monday starting the next term of emergency judge. The length of each term shall be set by general order of this Court.

D. Absence or Unavailability of Emergency Judge

Should any emergency judge be absent or unavailable during his or her term as emergency judge, that judge shall arrange with another judge to exercise the duties as emergency judge. The chief judge and the clerk shall be informed of the substitution.

E. Posting Notice Identifying Emergency Judge

A notice identifying the emergency judge shall be posted by the clerk.

Committee Note: The substance of this IOP was formerly contained in Local Bankruptcy Rules 304 and 305. It is subject to the flexible approach of Local Bankruptcy Rule 1073-3 and IOP 7, which permit individual judges to exchange or otherwise rearrange their matters and duties to accommodate personal needs and exigencies.

**IOP7 TEMPORARY ABSENCE OR UNAVAILABILITY OF THE
 ASSIGNED JUDGE**

Any judge who plans to be absent from the Court should arrange for another judge to hear his or her matters and proceedings. Any judge whose workload makes it difficult to hear a particular matter in a case may arrange for another judge to sit in the place of the unavailable judge in that matter. A notice shall be posted indicating the name of the judge who will hear matters and the room number of that judge's courtroom. Copies of that notice will be supplied to the clerk of the Court and chief judge.

Committee Note: The substance of this IOP was formerly contained in Local Bankruptcy Rule 307.

IOP8 CLASSES OF MATTERS

All cases and proceedings filed in this Court shall be assigned to one of the following two classes:

(1) ADVERSARY PROCEEDINGS (A), which includes all adversary proceedings and Security Investor Protection Act proceedings; and

(2) BANKRUPTCY(B), which includes all bankruptcy cases or ancillary proceedings other than Security Investor Protection Act proceedings.

Committee Note: This IOP was formerly Local Bankruptcy Rule 308.

IOP9 NUMBERING CASES AND PROCEEDINGS

Upon the filing of the initial paper in each case or proceeding, the clerk shall assign a permanent designation which shall indicate the year in which it was filed, the class to which it belongs, and the case or proceeding number, as follows:

- (1) The year of filing will be indicated by the use of the last two digits of the calendar year in which the initial paper is filed.
- (2) The class to which the matter belongs will be indicated by the use of the letter A for adversary or B for bankruptcy to indicate respectively the classes of proceedings or cases.
- (3) The case number will be the next number in the appropriate class. There shall be a separate number series for each class. Each series in the Eastern Division will start each year with the number 1 and each used in the Western Division with the number 70001.

Committee Note: The IOP is based on District Court IOP 10 (formerly local General Rule 2.12), and was formerly Local Bankruptcy Rule 309. The number in the last sentence of the IOP has been

changed from 50001 to 70001. The IOP provides for a separate set of start numbers to distinguish Eastern Division cases from Western Division cases. For many years the start number for the Western Division has been 50001. The number is increased to 70001 as filings in the Eastern Division approach 50,000.

This IOP was submitted to the District Court. It is presently designated IOP2.

IOP10 REASSIGNMENTS/RECUSALS AND TEMPORARY INCAPACITY OF A JUDGE

A. Recusals

Whenever a matter is transferred to the chief judge for reassignment following a recusal, the chief judge shall direct the clerk to reassign the matter by lot to a judge other than the judge who entered the recusal or a prior recusal in the matter.

B. Temporary Incapacity of a Judge

The chief judge may reassign a matter from any judge who, due to temporary incapacity, is unable to administer a full calendar. Such transfers may be made only after consultation with the affected judge unless circumstances make such consultation impractical. After the return of that judge, the chief judge may transfer all or some of the reassigned matters back to the original judge, after consultation with both judges involved and determination whether such transfer would adversely affect judicial economy.

Committee Note: The substance of this IOP was formerly contained in sections C and D of Local Bankruptcy Rule 311.

IOP11 REASSIGNMENT OF CHAPTER 13 CASES

Other than related cases, a chapter 13 case shall be reassigned to a judge who has the same standing trustee as the judge to whom the case was originally assigned.

Committee Note: Standing trustees are assigned at the commencement of a case. If a judge recuses herself or himself or the case is otherwise to be reassigned, it should go back on the wheel as an original case with the proviso that it be reassigned by lot solely to judges who have the same standing trustee.

This IOP was submitted to the District Court. It is presently designated IOP3.

IOP12 CLAIMS AND CLAIMS REGISTERS FOR CASES FILED BEFORE JANUARY 1, 2000

The duties placed on the chapter 13 standing trustees by this Internal Operating Procedure apply only to cases filed before January 1, 2000.

A. Proofs of Claim to be Filed with Clerk

Proofs of claims in cases under chapter 13 of the Bankruptcy Code shall be filed with the clerk. Such claims will be date and time stamped by the clerk as received, and made available by the clerk either on site or by delivery to the case standing trustee for copying. If delivered, the standing trustee shall promptly return the original claim to the clerk.

B. Standing Trustee to Maintain Claims Register

Standing trustees in all chapter 13 cases shall maintain a claims register of all claims filed in each case and may do so electronically. Each claim register shall include the name and address of each creditor; the amount claimed; whether the claim is secured or unsecured; whether the claim is administrative; and the sequence of payments provided under the debtor's plan or pursuant to any order of court.

C. Transfer of Claims: Recording, Notice of

The standing trustee shall record each transfer of a creditor's claims on the claims register, send notice of such transfer pursuant to Fed. R. Bankr. P. 3001(e)(2)(3) and (4), and promptly deliver all original filings with respect to such transfer to the clerk.

D. Trustee to Answer Inquiries re Claims Register

The standing trustees will promptly answer requests for information regarding claims registers, and will supply copies of such claim registers upon payment of any charges for actual costs of copying that are approved by the United States trustee.

E. Clerk to Establish Procedures; Report Deficiencies to Chief Judge

The clerk shall establish procedures and practices to inspect and verify the implementation of this Internal Operating Procedure, and shall promptly report any deficiencies in the compliance to the chief judge with copies to the United States trustee and to the standing trustee(s) affected. If the deficiencies affect the standing trustee in the Western Division, copies of the report shall be given promptly to the judge senior in length of service permanently assigned to that Division.

F. Standing Trustee and Employees Not Employees of Court

Nothing in this Internal Operating Procedure or the Local Bankruptcy Rules is intended to indicate that the standing trustees or persons employed by them are employees of the clerk or the United States of America, or that they have any right to compensation or benefits by reason of this rule.

Committee Note: This IOP was formerly Local Bankruptcy Rule 1302. It was submitted to the District Court and it is presently designated IOP1.

The Clerk's Office maintains claims registers in cases filed on or after January 1, 2000. Very little activity is expected in cases filed before January 1, 2000, but this IOP should remain until such time as there are no remaining cases subject to the IOP. The Committee recommends that paragraph F become a Local Bankruptcy Rule.

IOP13 CHAPTER 13 - NOTICES SENT BY CHAPTER 13 TRUSTEES

A. Standing Trustee to File Certificate of Service With Clerk

When the chapter 13 standing trustee provides notice not otherwise provided directly by the clerk, the standing trustee shall file with the clerk within two business days of mailing each notice a certificate of service to which is appended a copy of the applicable notice and a list of the names and addresses of parties on whom it was served.

Committee Note: This substance of this IOP was formerly contained in Local Bankruptcy Rule 1303.

IOP14 FILING OF MOTIONS FOR WITHDRAWAL OF REFERENCE

If a motion for withdrawal of reference is filed pursuant to 28 U.S.C. § 157(d) and Fed. R. Bankr. P. 5011, the clerk will transmit that motion to the clerk of the District Court for assignment to a judge of that court pursuant to its rules.

Committee Note: This IOP was formerly Local Bankruptcy Rule 1400.

Former Committee Note: This new rule specifies a procedure for the clerk to follow, a procedure not otherwise provided for by law or rule.

IOP15 RESTRICTED DOCUMENTS

A. Separate Filing Area for Restricted Documents.

The clerk shall maintain restricted documents, sealed documents, and documents awaiting expunction as defined by Rule 5005-4(a) separately from the files of documents to which access has not

been restricted. Any area used to store documents to which access has been restricted shall be secure from entry by any persons other than the clerk or those designated in writing by the clerk as authorized to have access.

The clerk shall designate in writing deputies authorized to accept restricted documents either from chambers or for filing pursuant to protective orders.

Materials accepted for filing as restricted shall be maintained in a secure area until collected by one of the designated deputies. Where the materials so accepted are being filed pursuant to a protective order, the deputy accepting them will stamp the cover of the document with a FILED stamp indicating the date of filing.

B. Handling Sealed Documents.

Where a document is ordered to be sealed, it is to be delivered for filing pursuant to Rule 5005-4 with the seal on the enclosure intact. If the document is sent from chambers or returned from another court with the seal broken, one of the deputies authorized to handle restricted materials pursuant to section (a) will forthwith deliver the document to the courtroom deputy assigned to the judge to whose calendar the proceedings in which the sealed document was filed is assigned. If that judge is no longer sitting, the deputy will forthwith deliver the document to the courtroom deputy assigned to the emergency judge. The courtroom deputy will promptly bring the document to the attention of the judge. The judge will either order that the document be re-sealed, or order that it continue to be handled as a restricted document, but not as a sealed document, or enter such other order as required to indicate the status of the document. Where the document is to be re-sealed, the judge or courtroom deputy will re-seal the document and transmit it to the appropriate deputy in the clerk's office.

Where under the terms of a protective order a party is permitted to inspect a sealed document and that party appears in the clerk's office and requests the document, one of the deputies authorized to handle restricted materials pursuant to section (a) will obtain the document and provide an area where the person may inspect the document other than in the public area of the clerk's office. The deputy will complete a form showing the date, description of the document, the name of the person requesting access to the document, a statement indicating the deputy has checked the protective order and it does indeed authorize the person to inspect the document, and a statement that the deputy requested of and was shown identification by the person requesting access to the document. Any person wishing to break the seal and inspect the document must sign the form completed by the deputy to indicate that they are authorized to inspect the document and have broken the seal. After the person has completed the inspection, the deputy will follow the procedures set out in the previous paragraph for handling the re-sealing of the document.

C. Sanctions.

Employees of the court are expressly forbidden to perform any of the following acts:

(1) entering an area designated for the storage of restricted documents without the appropriate written authorization required by sections (a) or (c);

(2) Assisting any person who is not authorized access pursuant to section (a) to an area designated for the storage of restricted documents to gain or to attempt to gain access to such an area;

(3) Accepting for filing any restricted document when not specifically authorized to do so pursuant to section (a);

(4) permitting any person who is not specifically authorized to have access to a restricted document to examine such a document, or to provide such a person with a copy of such a document; and

(5) leaving a restricted document unattended in an area other than one specified by this procedure such that persons not authorized access to the document could readily gain access to it.

Employees of the court who knowingly perform any of these acts shall be subject to disciplinary action, including dismissal. Persons who are not employees of the court who seek to coerce or induce any employee of the Court to perform any of these acts shall be punished by contempt of court.

Committee Note: This IOP is based on District Court IOP30, modified and adapted to bankruptcy procedures.

IOP16 CLERK - DELEGATED FUNCTIONS OF

The clerk of the court and such deputies as the clerk may designate are authorized to sign and enter without further direction the following orders and notices, which are deemed to be of a ministerial nature:

(1) Orders and notices that establish meeting and hearing dates required or requested by a party in interest under the Code, including orders which fix the last dates for the filing of pleadings by parties in interest as to various matters, including objections to discharge, disclosure statements, and confirmations of plans, complaints to determine dischargeability of debts, and proofs of claim;

(2) Final decrees closing cases and discharging the trustees in all cases for which the trustee has reported that there is no estate to administer or for which an order has been entered by the court approving the final report and account of the trustee;

(3) Form notices concerning: the entry of an order for relief, the dismissal of a case, the revocation of the discharge of a debtor, the filing of amended schedules, conversion of the case, asset determination and need to file proofs of claim, and form notice on the filing of the Trustee's Final Report, hearing on applications for fees, and the abandonment of property by the trustee;

(4) Orders permitting the payment of filing fees in installments and fixing the number, amount, and date of payment of each installment;

(5) Discharge orders and notices in Chapter 7 and Chapter 13 cases.

Committee Note: This IOP formalizes present procedure used by the Bankruptcy Court, usually to enter large volumes of routine orders. This IOP does not preclude a judge from delegating the entry of orders to chambers staff by Standing Order.

IOP17 UNCLAIMED FUNDS

A. Procedural Requirements for Payment of Funds

- (1) An application for payment of unclaimed funds must be in the form of a Motion to Withdraw Moneys under 28 U.S.C. Section 2042.
- (2) The motion must be filed either by an individual, acting pro se, or by a licensed attorney-at-law, acting on behalf of an individual or corporation. Motions may not be filed by non-attorney locators on behalf of their clients, even if the clients provide a power of attorney to the locator.
- (3) The motion must be submitted to the Chief Judge or such other Judge as the Chief Judge shall designate. The name of the Judge to whom the motion for payment is to be submitted shall be appropriately posted by the Clerk. The Procedural Requirements distributed will be modified to show the name of the Judge hearing motions respecting withdrawal of unclaimed funds.
- (4) The motion must be submitted in accordance with the motion practice adopted by the Court and these procedural requirements. The hearing on the motion shall be at least 10 business days from the date of mailing of the notice, motion and proposed order to the parties identified in Step 5.
- (5) Service of the notice of hearing and motion must be made to the Chief, Civil Division, U.S. Attorney's Office, 219 South Dearborn Street, Chicago, Illinois 60604, to Mr. Kenneth S. Gardner, Clerk of the U. S. Bankruptcy Court, Attention Fiscal Administrator, 219 South Dearborn Street, Chicago, Illinois 60604, to the trustee assigned to the case at issue, and to the United States Trustee, 227 West Monroe Street, Chicago, Illinois 60606.
- (6) The movant or counsel for the movant is to appear on the date the motion is to be heard to see whether funds are available and if any objections to the requests for withdrawal or hearing are presented. If the funds are available and if movant or counsel for the movant does not appear and no objections or requests for hearing are made, the Court may waive the movant's appearance and enter the appropriate order. If the fiscal officer reports that there are no funds available the motion will be denied. If an objection or request for hearing is made, the movant will be advised who made the objection or requested the hearing and the next Court date and time.

B. Forms

Suggested forms of notice, motion and order as well as the above procedures are available on the court's web site and in the clerk's office.

Committee Note: In 1988 the court adopted by General Order procedures for the payment of previously unclaimed funds. These funds were deposited with the court on the closing of a case when claimants' checks were returned to the case trustee as undeliverable. These procedures were in response to numerous requests from "funds locator" firms. Several firms had requested and received permission from the Clerk to

review the ledgers of the Court. Subsequent to these ledger reviews, the “locator” firms submitted requests for payment of previously unclaimed funds. As these requests took many forms, and as the law required a Court order for withdrawal of such funds, the matter was presented to the Bankruptcy Judges for adoption of a uniform procedure disposing of these requests. The Court has designated the Chief Judge to hear these motions or such Judge as the Chief Judge shall designate.