

## Town Hall Questions and Discussion Points

Q1. Judge Hopkins, I understand that the Court has been busy trying to unify its practices. Can you give us an update?

- **District Wide Docketing**
- **Reduced staff in clerk's office**
- **Uniformity enables staff to administer cases in different court locations**
- **Benefits lawyers and litigants by providing greater uniformity of procedures among judges in the district**

Q2. Judge Buchanan, can you tell us about some of the recent changes that will affect the bar?

- **We recently implemented a new procedure regarding overdue installment payments**
- **A case will now be dismissed for a single overdue installment**
- **There will be no second chance orders issued by a judge**
- **If a debtor fails to pay any installment by the deadline in the notice of overdue installment, the case may be dismissed without further notice**
- **If an interested party does not want the case dismissed, the burden is on that party to file a timely response to the notice of overdue installment**
- **The bar will see additional changes shortly**
- **Any time a change affects the bar, the court will provide a notice to the bar through a blast email**

Q3. I have heard that the judges in the district have taken a unified approach to service of lien avoidance motions. Can you explain?

- **All lien avoidance motions must be served in accordance with Fed. R. Bankr. P. 7004**
- **This is a significant change for Cincinnati**
- **FDIC institutions must be served by certified mail (unless counsel for the institution has entered an appearance) addressed to the attention of an officer**
  - **See FDIC website to determine if creditor is an FDIC institution (<https://research.fdic.gov/bankfind/>)**
- **Other lienholders may be served by first class mail, addressed to the attention of an officer or statutory agent**
  - **See Ohio Secretary of State website to identify statutory agent (<https://www5.sos.state.oh.us/ords/f?p=100:1:0::NO>)**

Q4. Is it true that debtors can now sign up for electronic service?

- **Yes, the program is called Debtor Electronic Bankruptcy Noticing**
- **However, it only applies to notices and orders issued by the court**

- Interested parties cannot serve pleadings upon the debtor electronically
- Therefore, the recent elimination of the three-day rule for electronic notice (Fed. R. Bankr. P. 9006(f)) does not apply to service upon a debtor
- If a debtor is interested in the program, the debtor must complete a form located on the court's website (<https://www.ohsb.uscourts.gov/debn-debtor-electronic-bankruptcy-noticing>)
- Pro se debtors must file the form with the Clerk, either in person or by mail
- Attorneys can file the form electronically using the CM/ECF filing event "Debtor Electronic Noticing Request" (Bankruptcy > Other > Debtor Electronic Noticing Request)
- Joint debtors must complete separate forms

Q5. Aside from some of these recent changes, are there other practices that could benefit from a refresher?

#### A. Motions to Reduce the Response Time

- These are always challenging
- Always include a 21-day notice with your substantive motion
  - Required by the local rules until an order reduces the response time
  - Also preserves effective service if the court denies your request to reduce the response time
- At the same time, qualify your 21-day notice with the statement that the response time may be reduced by court order due to a pending request to reduce the response time
- If you seek a reduction of the response time below ten days, please include a provision in the procedural order (i.e., the order reducing the response time) that movant will serve the procedural order on affected parties within one business day and certify service of the same
  - This expedites service of the procedural order
  - The court serves its orders through the Bankruptcy Noticing Center located in Virginia
  - It is a slower process than service by the movant (it takes a day or two to transmit the order to the BNC; another day or two for the BNC to serve the order; and then service by the BNC begins in Virginia-not Ohio)

#### B. Motions to Continue Hearings

- It is very helpful if these motions are filed more than one business day in advance of the hearing
  - There are many steps involved in processing these motions that are not easily accomplished in a very short window (the court must: run a report to find the motion, run another report to find the proposed order, edit the proposed order to add the new

hearing date, update the court's calendar, the judge must review and sign the order, and the clerk must docket the order)

- On non-consensual motions, it also gives opposing parties an opportunity to respond
- A best practice is to obtain the approval of opposing parties before filing the motion and submit an agreed order granting the motion

#### **C. Consistency Between Motions and Proposed Orders**

- Please do not include relief in the proposed order that is not requested in the motion
- Common examples include: waiver of the fourteen-day stay on orders granting relief from stay, an award of attorney's fees on motions to redeem

#### **D. Uploading Orders Before Expiration of the Applicable Response Time**

- If any affected party must be served by mail, continue to add three extra days to the applicable response time (i.e., elimination of the three-day rule for electronic notice, per Fed. R. Bankr. P. 9006(f), does not apply)
- The response time runs from the date of service, not filing
  - For example, if a chapter 7 trustee's final report is filed on the 1st and the notice of the final report is not served until the 5<sup>th</sup>, the notice period does not start until the 5<sup>th</sup>

#### **E. Docketing Issues**

- Using the correct event code when filing (i.e., using the motion to redact event code versus motion to restrict access).

#### **F. New Event Codes**

- How will the Court disseminate information about new event codes when they come online?
- Is there an event code that the Bar would find useful that isn't already available?

#### **G. Supplementing service**

- Example: A motion is filed that doesn't explicitly list service was made upon the debtor.
- Is it appropriate to file a supplemental certificate of service (assuming counsel did actually serve the debtor) or is an amended motion necessary?
- An amended motion is not necessary. Counsel should simply file a supplemental certificate of service.

- **It is also fine to file a supplemental certificate of service if a necessary party is later served with the motion. However, please note that the motion would not be ripe for consideration until the expiration of the applicable notice period following the last date of service.**

Q6. What about courtroom practices? Any helpful reminders?

- **Read the scheduling order carefully**
- **File exhibit and witness lists in a timely manner (don't wait until the last minute, thinking that the case will settle)**
- **Bring multiple copies of exhibits to the hearing (one for the record, one for the judge, one for the law clerk, one for every attorney appearing at the hearing)**
- **If an evidentiary hearing is scheduled, be prepared to present evidence even if no response is filed**
  - **For example, an unopposed contempt motion for violation of the automatic stay or the discharge order (be prepared to present evidence of actual damages and attorney's fees)**

Q7. Do you typically prefer to start your hearings at the designated time? Or do you prefer to give the parties a little time to negotiate before taking the bench?

- **We want to be respectful of counsel's time, but also want to afford an opportunity for the parties to talk, if desired**
- **Any thoughts or feedback from the audience? Your preference?**

Q8. Comments on the new plan.

- What does the Bar like or dislike?