



**The Honorable Tiiara N.A. Patton
United States Bankruptcy Court
Northern District of Ohio, Eastern Division**

Nathaniel R. Jones Federal Building & U.S. Courthouse
10 East Commerce Street
Youngstown, Ohio 44503-1621 Phone: (330) 742-0950

Memorandum

To: All Practitioners and Unrepresented/*Pro Se* Parties
From: Judge Tiiara N.A. Patton
Date: February 8, 2022
Re: General Practices and Procedures for Matters Before Judge Patton

I. Applicable Rules

Practice in this Court will be governed by the Federal Rules of Bankruptcy Procedure, the Local Rules of the United States Bankruptcy Court for the Northern District of Ohio (“Local Rules”), and these General Practices and Procedures. All parties appearing before Judge Patton are charged with the responsibility for compliance with all applicable laws, rules, and these procedures.

II. Preliminary General Matters

A. Correspondence with the Court

Judge Patton generally discourages unsolicited correspondence from counsel and will not consider correspondence that should be the subject of motion practice. Communication to the Court should be in the form of pleadings filed with the Clerk of the Court. Judge Patton will, however, occasionally invite and/or direct counsel to report on the status of matters via letters. Otherwise, all correspondence that relates to Judge Patton’s calendar must be directed to her courtroom deputy, Brandon Pasvanis.

B. Communication with Chambers

Parties may contact Brandon Pasvanis (brandon_pasvanis@ohnb.uscourts.gov or (330) 742-0950), Judge Patton’s courtroom deputy, for all matters concerning scheduling. Court staff is prohibited from giving legal advice or answering questions regarding the merits of a particular matter.

C. **Video Conference Hearings and Use of Facsimile Machines**

Please see Judge Patton's [*Telephonic Appearance Instructions Self-Calendaring Hearing Docket Dates*](#) memorandum for her procedures for telephonic hearings.

Effective March 15, 2021, unless otherwise ordered, participation in all non-evidentiary hearings before Judge Patton (either scheduled by the Court or through self-calendaring) will be conducted via video conference using the Zoom® Video Communications application. Please see Judge Patton's [*Procedures for Video Conference Hearings via Zoom® Video Communications*](#) memorandum for her procedures for video conference hearings.

Judge Patton does not accept facsimile correspondence or pleadings from counsel unless requested or approved in advance.

D. **CM/ECF**

Neither the courtroom deputy nor the law clerks can answer CM/ECF filing questions. Please contact the Court's Help Desk at (330) 742-0920 for assistance.

III. **Court Calendaring and Scheduling**

A. **Obtaining Hearing Dates**

1. **Self-Calendaring Hearing Dates**

Hearings will be set either by parties self-calendaring a date from the options listed on Judge Patton's [*Self-Calendaring Hearing Docket Dates*](#) memorandum, or at the direction of the Court.

2. **Motions for Relief From Stay**

Motions for relief from stay may be set by parties self-calendaring through CM/ECF. When a motion is filed through CM/ECF, the system will prompt the selection of a date for a hearing. Only a date that is listed as an available date on Judge Patton's [*Self-Calendaring Hearing Docket Dates*](#) memorandum should be selected. It is the movant's responsibility to select a hearing date in such a way that the timing deadlines set forth in 11 U.S.C. § 362(e) will be met. However, if the movant selects a calendar date that is more than 30 days from the date the motion is filed, the motion shall include a statement that the movant waives the 30-day period described in 11 U.S.C. § 362(e), and consents to the automatic stay remaining in effect until the Court orders otherwise.

3. **Hearing Dates Set by the Court**

If a pleading is filed for which self-calendaring is not available, or if an eligible motion is not self-calendared, the Court will review the pleading

and either rule on the motion or direct the Clerk of the Court to set the matter for hearing.

B. Continuances and Extensions

1. General Policy Where Parties are in Agreement

Judge Patton is generally liberal with requests for continuances where all parties are in agreement. The request shall be made through Judge Patton's courtroom deputy by email (brandon_pasvanis@ohnb.uscourts.gov) and copying parties on the email (except for a request for an extension of the dates in a pretrial order which shall be made by stipulation with the consent of all parties or upon motion to the Court).

2. When a Request for a Continuance is Opposed

If a request for a continuance is opposed or the matter has been specially listed, Judge Patton expects counsel to raise the issue via a written motion sufficiently in advance of the hearing to allow the same to be disposed of prior to the originally scheduled date.

3. Extensions of Deadlines

If the parties wish to modify deadlines that do not impact the Court's calendar, such as extensions of discovery deadlines or the date for filing an answer in an adversary proceeding prior to an initial pretrial conference, the parties may agree among themselves to such extensions without the necessity of a court order so long as the agreement is embodied in a writing (such as a stipulation) filed with the Court. All other extensions, such as a party's deadline to respond to a motion, or a request to change a hearing date, must comply with the "Continuance" guidelines contained herein.

C. Matters Initiated by the Court

The Court routinely enters orders to show cause when it appears that documents ordered to be filed have not been filed, counsel has failed to appear for hearings, parties have failed to prosecute contested matters or adversary proceedings, or trustees have failed to file final reports. In addition, the Court may raise issues in a case *sua sponte* by order to show cause.

IV. Motions/Applications/Other Pleadings and Proposed Orders

A. Motions/Applications/Other Pleadings

1. Notice of Motion

Motions, applications, or other pleadings seeking relief from the Court shall be filed and accompanied by: (1) a notice to all parties in interest entitled

to notice as specified by applicable Federal Rules of Bankruptcy Procedures, statute, Local Rules, and/or as the Court may order; (2) a certificate of service in accordance with all applicable rules and Local Rule 9013-3; and (3) a proposed form of order attached as an exhibit to the motion, application, or other pleadings.

2. Objection/Response Deadlines

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, and shall be at least seven (7) days prior to hearing date included in the notice of motion.

3. Service of Motions/Applications/Other Pleadings

A movant's service of a motion, an application, or other pleadings must comply with all applicable laws and rules.

B. Expedited Motions

Expedited motions must be filed using the CM/ECF event code for the requested relief. If an expedited hearing is requested, counsel shall contact Judge Patton's courtroom deputy, and notify the Court that a motion for expedited hearing has been filed. The Court will review the motion and, if granted, the courtroom deputy will notify counsel of the date and the time of the expedited hearing. Counsel will then submit to the Court a form of order containing the hearing date and time.

When filing an expedited motion, the moving party shall identify the date by which the expedited relief is needed and include an explanation in the body of the motion setting forth why expedited consideration is required, and the harm that will be suffered if expedited relief is not obtained.

Motions for expedited hearing must promptly comply with the method of service prescribed in all applicable rules, and also must be promptly served by email, facsimile, or overnight mail upon all parties affected by the relief requested and shall be accompanied by a certificate of service evidencing such service. Likewise, any order granting a motion for an expedited hearing must be served promptly by email, facsimile, or overnight mail. Counsel for the movant shall file a certificate of service evidencing compliance.

C. 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. Motions seeking the avoidance of a lien on any

other collateral under 11 U.S.C. § 522(f) must be in writing and state/include the following:

1. The subsection of 11 U.S.C. § 522(f) under which the relief is requested;
2. Name and address of lienholders whose liens are to be avoided;
3. A statement describing the nature of the lien;
4. A statement as to the priority and balance of each lien, including an explanation of the basis for the statement as to the balance;
5. The date upon which the lien was perfected;
6. The lien number or recording reference, and agency where lien was filed;
7. The legal description of the collateral 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 collateral, and the basis for the valuation;
9. A description of nature and amount of exemptions impaired; and
10. Any other facts which would be relevant in determining whether the motion should be granted.

D. Temporary Procedures to Obtain a Moratorium or Suspension of Chapter 13 Plan Payments

Effective immediately and until further notice, those negatively impacted by the COVID-19 pandemic may seek relief by requesting a moratorium or suspension on chapter 13 plan payments as follows:

1. The Court will continue to accept and consider motions filed seeking moratorium or suspension of chapter 13 plan payments.
2. The Court will also consider stipulations between a debtor and the standing chapter 13 trustee for moratorium or suspension of the debtor's chapter 13 plan payments not to exceed sixty-days. The stipulation must state with specificity the basis for the request and the impact on a class or classes of creditors. The stipulation must also state when the debtor will resume payments and how the missed payment(s) will be cured. Debtors are encouraged to contact their attorney for assistance.

Any party adversely affected by a moratorium or suspension of chapter 13 plan payments order entered by the Court may seek reconsideration by filing the appropriate pleading(s) within fourteen (14) days of service of notice of the entry of the order.

E. **Chapter 13 – Amendments to Plan and Modifications to Plan**

1. Pre-confirmation Amendments

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

If a timely objection to confirmation of the amended 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.

2. Post-confirmation Modifications

11 U.S.C. § 1329 addresses post-confirmation plan modification. A plan modification proposed after confirmation shall be made by motion, must be filed with the Court, and served in accordance with Federal Rules of Bankruptcy Procedure. The motion seeking modification of the plan shall include:

- (a) 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;
- (b) The extent to which the proposed modification affects the rights of creditors or other parties in interest;
- (c) 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; and
- (d) If the motion to modify proposes to change the amount of each periodic payment to the plan, an amended *Schedule I: Your Income* and *Schedule J: Your Expenses*.

When creditors are not adversely affected, a party may move to excuse service and notice of a post-confirmation modification and the objection deadline. Federal Rule of Bankruptcy Procedure 3015(h).

F. Proposed Orders

1. Required Format of Proposed Orders

Consistent with the Court's *ECF Attorney Manual*, all proposed form of orders must be submitted to the Court using the following format: (i) create a 4-inch margin (i.e., 4-inches of white space) at the top of the first page of the order; (ii) after the final text on the last page of the order, type "# # #" centered on next line after the end of the body of proposed Order to signify the end of the document; (iii) reference must be made to who submitted the proposed order; (iv) order must include a service list with complete names and addresses of each party to be served; (v) the service list must state the method of service (electronic, postal mail, etc.) for each party served; (vi) do not include a signature line/block at the end of the document for the judge's written signature (the judge's electronic signature will be applied to the top of the document in the 4-inch space you provided); and (vii) submit the proposed order as a PDF document.

2. Submission of Proposed Orders

All proposed orders shall be submitted electronically using the CM/ECF E-Orders module. All proposed orders shall be submitted electronically at the time of filing of the motion, application, or other pleading seeking relief from the Court. All proposed orders must be attached as an exhibit to the motion, application, or other pleading seeking relief from the Court.

3. Chapter 13 Cases – Proposed Confirmation Orders

All proposed orders confirming a chapter 13 plan shall attach as an exhibit the version of the chapter 13 plan the party is seeking the Court to confirm.

G. Motions to Approve a Compromise and/or Settlement Agreement

Settlements are always encouraged. If a case is settled, the parties should promptly contact Judge Patton's courtroom deputy.

A compromise or settlement agreement often arises when the parties agree to settle an adversary proceeding or contested matter. Parties must obtain court approval for these settlements. A motion to approve a compromise or a settlement agreement should be filed in the lead bankruptcy case except for settlements solely based on 11 U.S.C. § 523 (dischargeability). Motions to approve compromise solely based on section 523 must be filed in the relevant adversary proceeding. Parties shall

comply with the Federal Rules of Bankruptcy Procedure regarding notice and service of a motion to approve a compromise or a settlement agreement.

When a compromise or settlement agreement is approved that resolves an entire adversary proceeding, parties shall also submit an order that closes the adversary proceeding and indicates that the adversary proceeding may be reopened to address any issues that arise in implementing the compromise or settlement agreement.

V. **Discovery and Exhibits**

A. **Discovery**

1. **Cooperation and Consultation**

Discovery proceedings shall be promptly commenced. All counsel and any party appearing unrepresented are required to cooperate and consult with each other in a courteous manner in all matters related to discovery, and shall freely exchange discoverable information and documents upon informal written request, whether or not a pretrial conference has been scheduled or held in a proceeding. No objections, motions, applications, or requests related to discovery disputes shall be filed pursuant to the provisions of Federal Rules of Bankruptcy Procedure 7026 – 7037 unless extrajudicial means for the resolution of the discovery dispute have been exhausted. Without other compelling factors, discovery should not be delayed as a result of a dispute involving the payment or allocation of the costs of discovery.

2. **Discovery Disputes**

Judge Patton will hold conference calls for the purpose of resolving discovery disputes. However, before the Court will consider hearing the dispute, parties must first comply with Local Rule 7026-1.

To the extent that extrajudicial means have not resolved a discovery dispute, a party seeking discovery or protective order may proceed with filing a motion to compel discovery or a motion for protective order. However, if a dispute arises during an oral deposition, a party may contact Judge Patton's courtroom deputy and request a hearing with the Court. Such motion shall be accompanied by supporting memorandum and affidavit setting forth what extrajudicial means have been attempted to resolve the discovery dispute, including a statement that the movant has met, or has offered in writing to meet, in person or by telephone with opposing counsel on one or more specific dates, and the offer has been refused, or that the movant has not received a written response to the offer. Only those specific portions of the discovery requests, or materials reasonably necessary for the Court to resolve the discovery dispute, shall be included with the motion.

Opposition to any motion filed pursuant to these procedures shall be filed within seven (7) days of the filing of any discovery dispute motion. The Court intends to enforce Federal Rule of Civil Procedure 37, as made applicable to proceedings in this Court by Federal Rule of Bankruptcy Procedure 7037.

B. Exhibits

Parties shall refer to the scheduling order entered by the Court in connection with their contested matter, which will include details regarding exhibit submission to the Court and other parties.

VI. Adversary Proceedings

A. Discovery Matters

1. Length of Discovery Period and Extension

A pretrial order will be entered in all adversary proceedings and certain contested matters establishing a discovery deadline. Parties may request extensions of the discovery deadlines by filing a motion and submitting an agreed order, consented to by all parties, or for cause shown.

2. Expert Witnesses

Judge Patton requires the advance identification of expert witness in the joint pretrial statement to be prepared in conformity with her standard pretrial order.

3. eDiscovery

The pretrial order entered by Judge Patton requires that all electronic discovery issues be addressed by the parties pursuant to Federal of Civil Procedure 26, as made applicable to proceedings in this Court by Federal Rule of Bankruptcy Procedure 7026.

B. Pretrial Conferences

Final pretrial/settlement conferences will typically be scheduled in the pretrial order. However, Judge Patton may enter a form of pretrial order which schedules an initial pretrial conference or status hearing.

C. Mediation

The pretrial order will ask counsel to consider participation in the mediation program. If all parties agree, a mediator will be assigned.

VII. **Chapter 11 Matters**

A. **Initial Status Conference**

An initial status conference in chapter 11 cases will occur shortly after the commencement of the case. The Court will issue an order (“Chapter 11 Status Conference Order”) scheduling an initial status conference and requiring the debtor-in-possession to prepare and file a status conference statement (“Status Conference Statement”) no fewer than seven (7) days prior to the status conference

The purpose of the chapter 11 status conference is to: (1) review the financial business and issues that prompted the filing of the petition for relief; (2) understand the debtor’s assets and liabilities; and (3) understand the debtor’s strategy for exiting chapter 11.

The debtor-in-possession’s Status Conference Statement should include, but is not limited to, the following: (i) the business, finances, and issues that prompted the filing of the case; (ii) unique issues concerning secured debt, employees, cash collateral, executory contracts, and existing management; (iii) post-petition operations and revenue; (iv) status of any litigation pending in or outside this Court; (v) compliance with requests for information from the United States Trustee and adequacy of insurance coverage; (vi) a proposed schedule for filing and confirming the proposed plan; (vii) whether the debtor is a “single asset real estate case,” a “small business debtor,” or a “health care business” as defined in title 11 of the United States Code; and (ix) any other matters that might materially affect the administration of the case.

VIII. **Motions for Summary Judgment**

A. **Moving Party**

Unless otherwise directed by the Court, with a motion for summary judgment filed pursuant to Federal Rule of Civil Procedure 56, as made applicable to proceedings in this Court by Federal Rule of Bankruptcy Procedure 7056, the moving party must serve and file—

1. any affidavits and other materials referred to in Federal Rule of Civil Procedure 56(e);
2. a supporting memorandum of law; and
3. a statement of material facts to which the moving party contends there is no genuine issue and that entitles the moving party to a judgment as a matter of law, and that also includes:
 1. a description of the parties; and
 2. all facts supporting venue and jurisdiction of the Court.

4. The statement referred to in subsection VII(A)(3) above must consist of short numbered paragraphs, including within each paragraph specific references to the affidavits, parts of the record, and supporting materials relied upon to support the facts set forth in that paragraph. Failure to submit such a statement constitutes grounds for denial of the motion.
5. If additional material facts are submitted by the opposing party pursuant to section VIII(B) below, the moving party may submit a concise reply in the form prescribed in that subsection. All material facts set forth in a statement filed pursuant to section VIII(B)(3)(c), reflected below, will be deemed admitted unless controverted by the moving party's statement.

B. Opposing Party

Unless otherwise directed by the Court, each party opposing a motion filed pursuant to Federal Rule of Civil Procedure 56, as made applicable to proceedings in this Court by Federal Rule of Bankruptcy Procedure 7056, must serve and file—

1. any opposing affidavits and other materials referred to in Federal Rule of Civil Procedure 56(e);
2. a supporting memorandum of law; and
3. a concise response to the movant's statement that contain:
 1. numbered paragraphs, each corresponding to and stating a concise summary of the paragraph to which it is directed;
 2. a response to each numbered paragraph in the moving party's statement, including, in the case of any disagreement, specific references to affidavits, parts of the record, and other supporting materials relied upon; and
 3. a statement, consisting of short numbered paragraphs, of any additional facts that require the denial of summary judgment, including references to the affidavits, parts of the record, and other supporting materials relied upon. All material facts set forth in the statement required of the moving party will be deemed admitted unless controverted by the opposing party's statement.