

RULES
of the
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

Prepared and formulated by the Judges of the United States District Court, Southern District of Ohio, Court Committees and the Federal Court Committees of the Bar Associations of the District. Approved by the Court and filed in the District Court Clerk's Offices in Cincinnati, Dayton, and Columbus. The Rules are effective September 1, 1969.

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PREAMBLE

These rules govern the procedure in the United States District Court for the Southern District of Ohio and supersede all previous rules promulgated by this Court or any Judge thereof.

RULE 1

CONSTRUCTION OF RULES

These rules shall be construed to achieve an orderly administration of the business of this Court; to govern the practice of attorneys before this Court; and to secure the just, speedy and inexpensive determination of every civil action. References to statutes, regulations or rules shall be interpreted to include all revisions and amendments thereto. References to the Clerk shall be interpreted to include the Clerk of this Court and any Deputy Clerk.

RULE 2

LOCATIONS OF THE COURT AND DATES OF SESSIONS

The Court shall be in continuous session for transacting judicial business on all business days throughout the year at Cincinnati, Dayton and Columbus, and at Steubenville at such time as the Chief Judge shall order.

RULE 3

LOCATIONS OF THE CLERK AND PLACE TO FILE ACTION

This rule is subject to the jurisdictional and venue requirements of all statutes, both general and specific. It is not intended to preclude the filing of any action wherein the status of the parties may vary from that set forth hereinafter and would otherwise be properly brought in this District, nor shall the rights of any party under 28 U.S.C.A. §1441 through §1450 (removal of action) and 28 U.S.C.A. §1404 (change of venue) be affected hereby.

- (a) **RESIDENT DEFENDANT.** Actions brought against residents of the following counties shall be filed at the indicated locations:

LOCATION	COUNTY OF DEFENDANT'S RESIDENCE
EASTERN DIVISION	
Columbus	Athens, Belmont, Coshocton, Delaware, Fairfield, Fayette, Franklin, Gallia, Guernsey, Harrison, Hocking, Jackson, Jefferson, Knox, Licking, Logan, Madison, Meigs, Monroe, Morgan, Morrow, Muskingum, Noble, Perry, Pickaway, Pike, Ross, Union, Vinton and Washington
WESTERN DIVISION	
Cincinnati	Adams, Brown, Butler, Clermont, Clinton, Hamilton, Highland, Lawrence, Scioto and Warren
Dayton	Champaign, Clark, Darke, Greene, Miami, Montgomery, Preble and Shelby

- (b) **NONRESIDENT DEFENDANT.** If the cause of action arose or the event complained of occurred in this District and no defendant is a resident of this District, the action shall be filed at the location of the Court in the area containing the county in which the cause of action arose or the event complained of occurred, the locations and areas being those described in paragraph (a) of this rule.
- (c) **CORPORATIONS.** For the purposes of this rule, a corporation shall be deemed to be a resident of that county in which it has its principal place of business in this District. If a corporation does business throughout this District and has no operation that can properly be deemed to be a principal place of business, the action shall be filed in accordance with paragraph (b) of this rule, if the cause of action arose or the event complained of occurred in this District.
- (d) **RAILROAD COMPANIES.** Actions brought against railroad companies involving claims for damage to property, personal injuries or wrongful death shall be filed in accordance with paragraph (b) of this rule, if the cause of action arose or the event complained of occurred in this District.
- (e) **OTHER CASES.** If the defendant is a nonresident of this District or is a corporation having no principal place of business in this District, and the cause of action arose or the event complained of occurred outside this District, the action shall be filed at the location of the Court in the area containing the county of plaintiff's residence, the locations and areas being those described in paragraph (a) of this rule.

RULE 4

LOCATIONS OF TRIAL

Unless otherwise ordered, actions will be tried in the Divisions and at the locations where they are filed, except that actions filed at Columbus in which the cause of action arose or the event complained of occurred in Jefferson, Harrison, Guernsey, Belmont, Noble or Monroe counties will be tried at Steubenville.

RULE 5

CALENDARS AND NOTICES FOR TRIAL

Each Judge of the District shall be responsible for the preparation of any court calendars, naturalization schedules or assignments of matters for hearings, conferences, pre-trials, trials or other disposition of court business pertaining to actions filed at the respective locations in which each Judge customarily holds court. Such calendars, schedules and assignments shall be prepared by the Clerk, at the direction of the respective Judges, and notices thereof shall be sent to all interested parties by the Clerk.

RULE 6

ADMISSION TO THE BAR

- (a) **ROLL OF ATTORNEYS.** The Bar of this Court shall consist of those attorneys heretofore and those hereafter admitted to practice in this Court.
- (b) **ELIGIBILITY.** Any member in good standing of the Bar of the Supreme Court of Ohio, who resides in or maintains an office for the practice of law in this District, is eligible for admission to the Bar of this Court.
- (c) **APPLICATION FOR ADMISSION.** All candidates for admission to the Bar of this Court shall file with the Clerk, at least ten (10) days prior to the examination, an application on the form provided by the Clerk. Said application shall contain a certificate of two (2) members of the Bar of this Court, vouching for the good moral character and professional reputation of the applicant. Each candidate shall present himself for examination at the next examination after the filing of his application. If he fails to do so, it will be necessary for him to file a new application.
- (d) **EXAMINATION FOR ADMISSION.**
 - (1) Unless otherwise ordered by a Judge of this Court, no applicant shall be admitted except upon successful completion of a written examination.
 - (2) Under the direction of the Chief Judge, or his designee, the Bar Committees at Cincinnati,

Dayton, Columbus and Steubenville shall each prepare a written examination which they shall administer in each of the above named cities on the first Tuesdays in June and December, or at such other time as may be ordered.

(e) FEES.

- (1) Any attorney hereafter admitted to the Bar of this Court, upon admission, shall pay to the Clerk the fees required by law.
- (2) In addition to the foregoing fees, every attorney hereafter admitted to the Bar of this Court, at Columbus, shall pay to the Librarian, upon an Order to that effect entered in writing by the Judge then presiding in the Court at Columbus, the sum of Ten Dollars (\$10.00) which shall be used exclusively for the maintenance of the library at Columbus, and all persons admitted at Columbus shall be permitted to use said library for all proper purposes. The Librarian shall serve without compensation and at the will of the appointing Judge. The Librarian shall give bond by a surety company in the sum of One Thousand Dollars (\$1,000.00) and the premium for the bond shall be paid from the library funds. For each fiscal year ended June 30, the Librarian shall promptly file with the Clerk at Columbus a report of his receipts and disbursements.

(f) SUSPENSION OR DISBARMENT FROM PRACTICE.

When it is brought to the attention of this Court that any member of its Bar has been suspended or disbarred from practice in any other court of record, or has been adjudged to be mentally incompetent by any court of record, or has violated the standards of conduct established for attorneys of this Court in Rule 7 of these rules, the Court shall refer the matter to a Bar Committee or to a Special Master for hearing and report. The Court may make any necessary orders regarding assessment or prepayment of costs. This rule does not apply to a proceeding under Rule 42 of the Federal Rules of Criminal Procedure.

RULE 7
CANONS OF ETHICS

The Canons of Ethics of the American Bar Association as now existing, and as hereafter modified, are the standard of conduct for attorneys of this Court.

RULE 8
TRIAL ATTORNEY

- (a) **DESIGNATION AND RESPONSIBILITY.** Unless otherwise ordered, in all actions filed in or removed to this Court, all parties not appearing *in propria persona* shall be represented of record by a trial attorney who is a member of the Bar of this Court and who maintains an office for the private practice of law within this District. Thereafter, until such designation is changed by order of the Court, upon motion, said trial attorney shall be responsible for the action and shall attend all hearings and conferences and the trial.
- (b) **SIGNING OF PLEADINGS.** All pleadings filed on behalf of any party represented by counsel shall be signed by one attorney in his individual name as the trial attorney referred to in paragraph (a) of this rule, followed by the designation "Trial Attorney" together with his typed name, his office address, zip code, telephone number and the area code. Firm names and the names of co-counsel or associate counsel may appear on the pleadings for information as "of counsel."
- (c) **NOTICES.** All notices and communications from the Court with respect to an action will be sent to the trial attorney. He shall be responsible for notifying his co-counsel or associate counsel of all matters affecting the action.
- (d) **PARTICIPATION BY CO-COUNSEL.** Any member in good standing of the Bar of any United States Court or the highest court of any state, who is not otherwise eligible to become a member of the Bar of this Court, may be permitted to appear and participate as co-counsel or associate counsel, upon motion of the trial attorney for any party. Such permission may be withdrawn at any time. Such motion is not required for

the purpose of having counsel's name appear on the pleadings as set forth in paragraph (a) of this rule.

- (e) **WITHDRAWAL OF TRIAL ATTORNEY.** No trial attorney shall be permitted to withdraw from an action at any time later than twenty (20) days in advance of trial or of the setting of a hearing on any motion for judgment or dismissal. An earlier withdrawal shall be permitted only (1) upon his request with the written consent of his client and the entry of appearance of a substitute trial attorney, or (2) upon his request and showing of good cause with the consent of the Court and upon such terms as the Court shall impose.

RULE 9
**COMMENCEMENT OF ACTION AND
DEPOSITS FOR COSTS**

- (a) **DEPOSITS.** Upon the commencement in this Court of any action, whether by original process, removal or otherwise, except when not required by law, deposits for costs shall be made with the Clerk and the Marshal as follows:
 - (1) **WITH THE CLERK:** The fees provided by 28 U.S.C.A. §1914, or any amendment thereto, shall be paid to the Clerk.
 - (2) **WITH THE MARSHAL:** A deposit, in a sum deemed sufficient by him to cover his fees for the service to be performed, shall be made with the Marshal in every instance in which he is required to perform service.
- (b) **CERTIFIED CHECKS.** The Clerk or the Marshal may require that any check tendered for any payment whatsoever be certified before accepting the same.

RULE 10
BOND ON REMOVAL FROM STATE COURT

The bond accompanying a petition for removal of an action brought in a state court to this Court shall be in a sum not less than Two Hundred and Fifty Dollars (\$250.00), with good and sufficient surety to the satisfaction of the Clerk.

RULE 11

BOND REQUIREMENTS IN GENERAL

In all civil actions, criminal proceedings and bankruptcy proceedings, the Clerk shall accept as surety upon bonds and other undertakings a surety company approved by the Treasury Department, cash or an individual personal surety residing within this District. Any personal surety must qualify as the owner of real estate within this District of the full net value of twice the face amount of the bond. Attorneys or other officers of this Court shall not serve as sureties.

RULE 12

PLEADINGS AND OTHER PAPERS

- (a) **FORM.** Pleadings and other papers shall be typewritten or printed on legal cap size bond paper. They shall be offered for filing without folding suitable for a flat filing system. Original documents attached or offered as exhibits thereto are exempted from this requirement.
- (b) **IDENTIFICATION.** Except for the original complaint, all pleadings and other papers shall be identified by a title which shall contain the name and party designation of the person filing it and the nature of the pleading or paper, for example:
 - (1) Defendant John Smith's Answer to the Amended Complaint.
 - (2) Third Party Plaintiff Richard Roe's Answer to Defendant Sam Brown's Interrogatories.
- (c) **STATUTORY THREE JUDGE ACTIONS.** In statutory three judge actions, an original and three (3) copies of each pleading shall be furnished for the use of the Court.
- (d) **PROOF OF SERVICE AND NOTIFICATION OF FILING.** Proof of service of all pleadings and other papers required or permitted to be served, other than those for which a method or proof of service is described in the Federal Rules of Civil Procedure, may be by written acknowledgment of service, by affidavit of the person making the service or by written representation

of counsel. Parties filing pleadings and other papers shall notify opposing counsel or parties of the date of filing.

- (e) **WITHDRAWAL FROM FILES.** Originals of papers or pleadings in this Court shall not be withdrawn from the files, except upon order of the Court.
- (f) **ANSWERS TO INTERROGATORIES AND REQUESTS FOR ADMISSION.** Answers to interrogatories and requests for admission in each instance shall be preceded by the interrogatory or the request.

RULE 13

EXTENSIONS OF TIME TO MOVE OR PLEAD

Parties may obtain an extension of time, not to exceed sixty (60) days, in which to answer, plead or otherwise move, when no such prior extension has been granted, by filing with the Clerk a written stipulation providing for such extension. The stipulation shall affirmatively state that no prior extension has been granted. Neither the stipulation nor any entry to that effect need be submitted to the Court for the initial extension. If no such stipulation is obtained, or if an additional extension beyond the initial stipulated period is requested, the party desiring an extension must obtain the approval of the Court.

RULE 14

MOTIONS

- (a) **SUPPORTING MEMORANDUM AND CERTIFICATE OF SERVICE.** The Clerk shall accept for filing only those motions which are accompanied by a memorandum in support of the motion which shall be a brief statement of the grounds for the same, with citations of authorities relied upon, and (except in the case of an *ex parte* motion) a certificate of the service thereof upon all other parties to the action.
- (b) **PROCEDURE.** Upon the filing of the motion, memorandum and certificate, any memorandum *contra* shall be filed within twenty (20) days from the date of filing. Failure to file a memorandum *contra* may be cause for the Court to grant the motion as filed. A reply memorandum may be filed within five (5) days

after the filing of the memorandum *contra*. All motions shall be submitted without oral argument on the memoranda filed with the Clerk, unless otherwise ordered by the Court. Upon the filing of any motion which requires a noticed hearing under the Federal Rules of Civil Procedure or any provision of law, the movant shall, upon filing said motion, obtain a date for such hearing and promptly notify the other parties in writing of the date and time of the hearing and file proof of said notice with the Clerk prior to the hearing.

- (c) **VARIATION OF PROCEDURES.** To expedite its business, any Judge of this Court, within any Division, may make any provision by order for the submission of motions, pursuant to Rule 78 of the Federal Rules of Civil Procedure.

RULE 15

REFERENCES AND CITATIONS

- (a) **STATUTES AND REGULATIONS.** All pleadings and briefs containing references to statutes or regulations shall specifically cite the applicable statutes or regulations or have copies of the same attached thereto. United States Statutes will be cited by the United States Code Annotated Title and Section Number, *e.g.*, 1 U.S.C.A. §1. Citations such as to Section so and so of "The Act" are discouraged, even cumulatively.
- (b) **PREFERENTIAL AUTHORITIES.** In citing authorities, the Court prefers that counsel rely upon cases decided by the Supreme Court of the United States, the United States Court of Appeals for the Sixth Circuit and the Supreme Court of Ohio.
- (c) **UNREPORTED OPINIONS.** If unreported opinions are cited, copies thereof shall be attached to the briefs and furnished to opposing counsel.

RULE 16

DEPOSITIONS

- (a) **FEES AND COSTS.** The fees of officers taking and certifying depositions shall be paid by the party on whose

behalf such depositions are taken. Upon the filing and allowance of a verified bill of costs as provided in 28 U.S.C.A. § §1920, *et seq.*, such costs may be taxed in favor of the prevailing party and shall then become part of the judgment in the action.

- (b) **OPENING OF DEPOSITIONS.** When a deposition has been filed in any action, except in actions in which the law prescribes a different procedure, it shall be opened only by the Clerk at the direction of the Court or at the direction of any counsel of record. The fact and date of opening and the name of the person making such request shall be endorsed by the Clerk on the envelope containing the deposition, which envelope shall be preserved with the deposition.
- (c) **WITHDRAWAL OF DEPOSITIONS.** Depositions on file shall not be withdrawn during the pendency of the action without leave of Court. After final termination of the action, at the instance of counsel for the party on whose behalf the depositions were filed, they shall be withdrawn or otherwise disposed of as provided in Rule 21 of these rules.
- (d) **DEPOSITIONS TAKEN OUT OF THE SOUTHERN DISTRICT OF OHIO.** Any motion under Rule 30(d) of the Federal Rules of Civil Procedure and any proceeding under Rule 30(b) of the Federal Rules of Civil Procedure initiated or arising during the process of taking depositions out of the Southern District of Ohio will be initiated or filed in this District and disposed of by the Judge thereof on whose calendar the action appears. This rule applies to proceedings initiated by a party to the action involved and does not apply to such proceedings initiated by a deponent (not a party or officer or employee of a party or member of a partnership party). While it is recognized that Rule 30 of the Federal Rules of Civil Procedure extends the option to apply to the District Court in the District where the deposition is being taken and that option may not be denied by this rule (d), application in such other Districts generally tends to unduly increase the business of such other Districts and tends to result in delaying the dispatch of its calendar by this Court. Proceedings initiated in other Districts in violation of this rule may be subject to 28 U.S.C.A. §1927.

RULE 17

OBJECTIONS AND MOTIONS RELATED TO DISCOVERY PROCEDURES

- (a) **CONSULTATION AMONG COUNSEL.** Counsel are encouraged to participate in pretrial discovery conferences to reduce, in every way possible, the filing of unnecessary discovery procedures. No interrogatories, request, motion or application will be filed under Rules 26 through 37 of the Federal Rules of Civil Procedure until counsel shall have explored the objective or objectives with opposing counsel in an effort to informally handle the matter or matters and/or reduce the area of controversy. It shall be the responsibility of the party seeking discovery to initiate such personal consultation.
- (b) **PROHIBITION ON FILING OF UNNECESSARY DISCOVERY MOTIONS OR OBJECTIONS.** The presentation to the Court of unnecessary discovery motions, applications, interrogatories and requests, as well as any unwarranted opposition to proper discovery proceedings, will subject the offender to appropriate remedies, including the imposition of costs and counsel fees.
- (c) **DISCOVERY MOTION, APPLICATION, INTERROGATORIES, ETC.** To the extent such personal consultation does not dispose of the matter, the party seeking the discovery may then proceed with the filing of a formal motion, application, interrogatories or request under any of Rules 26 through 37 of the Federal Rules of Civil Procedure. The initial filing should not be accompanied by any supporting brief or memorandum (and is excepted from that requirement as contained in Rule 14 of these rules). Within ten (10) days after such a formal filing, at the initiative of counsel for the party seeking discovery, counsel for the parties shall meet for personal consultation and sincere attempts to resolve differences.
- (d) **OBJECTIONS TO DISCOVERY MOTION, ETC.** Objections to any discovery motion, application, interrogatories or request under Rules 26 through 37 of the Federal Rules of Civil Procedure shall be filed within

twenty (20) days after service of the formal motion, application, interrogatories or request, and shall be accompanied by a memorandum or brief, and, in addition, a statement of counsel for the objecting or resisting party describing the consultations between counsel previously held in accord with this rule (dates, times, places of conferences and names of individuals participating therein).

- (e) **ANSWER MEMORANDUM OR BRIEF.** The party initiating discovery to which objections are filed, may file an answer memorandum or brief within ten (10) days after service of the objections. This time will be extended only in the most unusual situations. Upon the filing of such answer memorandum or brief, or at the end of the ten (10) day period, the matter will be automatically submitted.
- (f) **ENTRIES IN ABSENCE OF OBJECTIONS TO DISCOVERY MOTION, ETC.** Motions, applications and requests, to which objections are not seasonably filed, may be granted as a matter of course (as will orders directing answers to interrogatories) upon the informal presentation of an appropriate proposed and endorsed order by counsel for the party initiating discovery.
- (g) **EXTENSIONS.** Requests for the extensions of the prescribed periods must be in writing and state the grounds therefor and, in general, will be looked on with disfavor.
- (h) **DEPOSITIONS TAKEN OUT OF THE SOUTHERN DISTRICT OF OHIO.** See Rule 16(d) of these rules requiring motions under Rule 30(h) of the Federal Rules of Civil Procedure to be filed in this District and disposed of by the Judge on whose calendar the action appears.

RULE 18

PRETRIAL PROCEDURES AND WITNESSES

- (a) **PRETRIAL PROCEDURES.** Each Judge of the District shall be responsible for determining the procedure and content of pretrial conferences under Rule 16 of the Federal Rules of Civil Procedure.

- (b) **DISCLOSURE OF WITNESSES.** Any Judge of the District may require counsel, before, at, or after any pretrial conference, to provide opposing counsel with a list of names, identities and whereabouts of each witness expected to be called at the trial, together with a brief statement of what counsel proposes to establish by the testimony of each such witness. Only such material points which counsel proposes to establish by the testimony of such witness need be disclosed, but the refusal or willful failure of any counsel to disclose a material point may render evidence on that point inadmissible at the trial. If such disclosure is made and counsel discovers the name of an additional witness or names of additional witnesses on that point which were not known at the time of the previous disclosure, the same information required to be disclosed previously shall be furnished opposing counsel forthwith by a copy of the original of such disclosure, which shall be filed with the Clerk.

- (c) **WITNESS FEES.** The fees and mileage of witnesses shall be paid by the party on whose behalf the witness is subpoenaed. Upon the filing and allowance of a verified bill of costs as provided in 28 U.S.C.A. § § 1920, *et seq.*, such costs may be taxed in favor of the prevailing party and shall then become part of the judgment in the action.

RULE 19

TRIAL PROCEDURES

- (a) **ATTORNEY TESTIFYING AS A WITNESS.** If an attorney for any party becomes a witness on behalf of his client and gives evidence upon the merits of the case, he shall withdraw as an attorney at the trial, unless, upon motion, he is permitted by the Court to continue.
- (b) **EXAMINATION OF WITNESSES.** On the trial of an issue of fact, only one attorney for each party shall examine or cross-examine any witness, unless otherwise permitted by the Court.

RULE 20

QUESTIONING PETIT JURORS

No attorney connected with the trial of an action shall himself, or through any investigator or other person acting for him, interview, examine or question any juror with respect to the verdict or deliberations of the jury in the action except on leave of Court granted upon good cause shown.

RULE 21

DISPOSITION OF EXHIBITS, MODELS, DIAGRAMS, DEPOSITIONS, ETC.

- (a) **WITHDRAWAL BY COUNSEL.** All models, diagrams, depositions, photographs, x-rays and other exhibits filed in an action or offered in evidence shall not be considered part of the pleadings in the action and, unless otherwise ordered by the Court, shall be withdrawn by counsel without further order within six (6) months after final termination of the action.
- (b) **DISPOSAL BY CLERK.** All models, diagrams, depositions, photographs, x-rays and other exhibits not withdrawn shall be disposed of by the Clerk as waste at the expiration of the withdrawal period.

RULE 22

DISMISSALS FOR WANT OF PROSECUTION

Actions which have been on the docket for one year without any proceedings taken therein, except actions awaiting trial assignment, shall be dismissed as a matter of course, without prejudice, for want of prosecution, unless good cause be shown to the contrary.

RULE 23

IMPARTIAL MEDICAL EXPERTS

- (a) **PROCEDURE PRIOR TO TRIAL.** In any action involving the physical or mental condition of a party or of a person in the custody or under the legal control of a party in which, prior to the trial thereof, the

Court determines that an examination of such party or person by an impartial medical expert or experts will be in the interest of justice and will materially aid in the just determination of the action, after consultation with all counsel and after a hearing if requested by any counsel, the Court may order such examination. The examination shall be made by a physician or physicians designated by the Court. The report of the examination shall be made to the Court and copies shall be given to all parties.

- (b) **PROCEDURE AT TRIAL.** If the action proceeds to trial after such examination and report, the Court may call the medical expert or experts as a witness or witnesses for the Court, subject to questioning by any party. Likewise, any party may call the medical expert or experts as a witness or witnesses. If, at trial, it appears to the Court that such an examination should be made for the reasons stated in paragraph (a) hereof, the Court may forthwith order such an examination and the examining physician or physicians may be called to testify subject to all provisions of this paragraph (b) and said paragraph (a).
- (c) **COMPENSATION OF EXPERTS.** At the termination of the trial or disposition otherwise, the Court shall fix the compensation of the expert or experts and unless otherwise directed, such compensation shall be taxed as costs and paid by order of the Court. The Court, in its discretion, may direct that the parties, or any of them, deposit with the Clerk security in a specified amount which may be used for payment of such compensation.

RULE 24

EFFECTIVE DATE

These rules shall apply beginning September 1, 1969.

BANKRUPTCY RULES

OF THE

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

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PREAMBLE

These rules of bankruptcy practice are promulgated to supplement the Federal Rules of Civil Procedure and the Rules of Practice of the United States District Court for the Southern District of Ohio, which also apply in bankruptcy practice, including the requirements of Rule 6 of the Rules of Practice as to Admission to the District Court bar.

BR-1

DEFINITIONS

The words "Judge," "Court," and "Referee," as used in these rules, shall have the meaning ascribed to them in Section 1 of the Bankruptcy Act.

BR-2

PLEADINGS AND FORMS

(a) FORMS.

All petitions, schedules, pleadings and motions filed in any bankruptcy proceedings shall be submitted upon legal cap size paper. Every petition, schedule, summary and statement of affairs shall be filed upon official forms, or in form of, and supply all the information required by such official forms. All pleadings, petitions, schedules, statements of affairs and motions shall be typewritten and without interlineation.

(b) AFFIDAVIT.

Every petition initiating a proceeding under the Act, schedule and statement of affairs shall be signed by the petitioner and supported by the petitioner's affidavit.

(c) SIGNATURE OF COUNSEL.

Every pleading filed in a bankruptcy proceeding shall be signed by the attorney representing the party upon whose behalf the pleading is filed, and the name and address of such attorney shall be either typewritten or printed upon said pleading or on the cover thereof.

If a party be without counsel, then the pleading shall be signed by the party and his name and address shall be either typewritten or printed upon such pleading or the cover thereof.

(d) PARTIES, SEPARATE FILING.

Except in the case of partners and partnerships specifically provided for in Section 5 of the Bankruptcy Act, a separate petition, statement of affairs and schedules shall be filed for each bankrupt. Husbands and wives shall not file jointly, unless they are business partners and file as a partnership.

(e) VOLUNTARY PETITIONS.

Petitions to be acceptable for filing with the Clerk shall state the full name, occupation, Social Security Number (if an individual), Employer's Identification Number (if petitioner is an employer), complete current residence address, place of business address, if any, including ZIP Code, and names by which the petitioner has been known other than that in which the petition is filed. Such petitions shall be filed in triplicate, each copy fully executed.

(f) SCHEDULES OF DEBTS AND ASSETS.

Columnar headings and marginal classifications shall be followed and observed, and all information thereby required shall be supplied in concise form. Schedules of Debts (A-1 through A-5) shall state the names of all creditors alphabetically arranged, with complete residence or place of business address, including accurate ZIP Code. Such lists of creditors may be typed in single spacing, but the name and address of each creditor shall be separated by double spacing from the next following creditor on the list. The date upon which each debt was incurred is deemed essential information, and any omission or misstatement thereof shall be sufficient basis for the Court to find schedules defective. Schedules of Assets (B-1 through B-6) shall set forth all the bankrupt's assets and property, real and personal, tangible and intangible, and shall state the location thereof. The full present fair value of the bankrupt's ownership interest in such property items shall be stated, without reduction to equity value because of liens or encumbrances. Schedules shall be typed on one side only and not on the reverse thereof; if additional space is required extra pages shall be prepared and inserted with appropriate page numbers in their proper sequence.

(g) STATEMENT OF AFFAIRS.

Information required by the statement of affairs is deemed essential, and any omission or misstatement of dates or other details required by the statement of affairs shall be sufficient basis for the Court to find the statement of affairs defective. "Transfer of property" referred to in the statement of affairs means "transfer" as defined by Section 1(30) of the Bankruptcy Act; and all such transfers should be set forth with the details required.

(h) AMENDMENTS.

Applications by petitioners to amend petitions, schedules and statements of affairs may be allowed by the Court upon compliance with G.O. 11 of the General Orders in Bankruptcy. If not amended voluntarily, defective petitions, schedules and statements of affairs shall be amended as ordered by the Court.

(i) RESPONSIVE PLEADINGS.

(1) Any respondent who desires to contest a proceeding against him shall file within ten days, unless extended by

the Court, a written response conformable to the requirements of the Federal Rules of Civil Procedure whenever not otherwise specified by provisions of the Bankruptcy Act or the General Orders of the United States Supreme Court. If a written response is not so filed, the Court may enter the default of the respondent, upon application of the petitioner in the proceedings.

(2) In a controversy arising in any proceeding under the Bankruptcy Act, objection to the summary jurisdiction of the bankruptcy court shall be interposed by answer or by written motion. If the objection is by written motion, such motion shall be made, served upon the adverse party or parties, and filed in conformance to subsection (1) of this rule. Any party who fails to comply with this rule shall be deemed to have consented to the summary jurisdiction of the bankruptcy court even if he has not previously consented expressly or by operation of law.

(j) PROCEDURE FOR WITHDRAWAL OF OBJECTIONS TO DISCHARGE—APPLICATIONS FOR LEAVE TO WITHDRAW.

An objector who proposes to withdraw his objections to the discharge of a bankrupt or does not intend to appear to prosecute same in good faith must file an application with the Court asking leave to withdraw. The application must be supported by the affidavits of the objector and of the bankrupt which set forth either that no consideration was received directly or indirectly from, or given to, another by either party, or if there was consideration given, the nature, kind and value thereof and the parties involved. If leave is granted to withdraw objections, notice shall be given by mail to the bankrupt, the trustee, and to the creditors stating the substance of the objections and that any qualified party in interest may adopt and prosecute the objections within a period of 30 days from the date of the notice.

BR-3

PLACE TO FILE

(a) Petitions initiating proceedings under the Bankruptcy Act by or against persons, including corporations, who at the time of filing have had their principal place of business, resided, or had their domicile for the preceding six months

or the longer portion thereof in any county of this District shall be filed in the office of the Clerk, as follows:

AT CINCINNATI - If in the county of Adams, Brown, Clermont, Hamilton, Highland, Lawrence or Scioto.

AT DAYTON - If in the county of Butler, Champaign, Clark, Clinton, Darke, Fayette, Greene, Logan, Madison, Miami, Montgomery, Preble, Shelby, Union or Warren.

AT COLUMBUS - If in the county of Athens, Belmont, Coshocton, Delaware, Fairfield, Franklin, Gallia, Guernsey, Harrison, Hocking, Jackson, Jefferson, Knox, Licking, Meigs, Monroe, Morgan, Morrow, Muskingum, Noble, Perry, Pickaway, Pike, Ross, Vinton or Washington.

(b) A voluntary proceeding commenced by petition filed improperly under paragraph (a) may be dismissed by the Court on its own motion, or on motion of any party in interest. Such dismissal shall be without prejudice to a proper subsequent filing, if the filing fees required by the Bankruptcy Act have been paid or are paid within the time fixed by the Court. If the filing fees are not paid as hereby required, such dismissal shall be with prejudice and the Court's order shall so state.

BR-4

CHECKS OF TRUSTEES AND RECEIVERS

(a) COUNTERSIGNATURE REQUIRED.

All checks drawn by trustees and receivers in their official capacity, against their official accounts and required to be countersigned by the General Orders in Bankruptcy, shall be countersigned by a Referee.

(b) STALE CHECKS.

All checks drawn by trustees following the declaration of a final dividend, in payment of such final dividend or for any other purpose, shall be clearly marked "Check Invalid 60 Days After Date." Funds represented by checks not cashed within the 60-day period shall be treated as unclaimed moneys and the Referee shall cause the same to be deposited with the Clerk as provided in Section 66 of the Bankruptcy Act.

BR-5

STAYS AND INJUNCTIONS

When in any bankruptcy case an application is made for a stay order or injunction which a Referee has jurisdiction to grant, such application shall be filed with, and heard and determined by, the Referee, or one of the Referees in charge of the case, unless otherwise ordered by a Judge. Applications beyond the jurisdiction of a Referee shall be heard and determined by a Judge, unless a Judge shall order a Referee to conduct the hearing and report thereon. Upon final action by a Judge in any such case, a copy of his order shall forthwith be filed by the prevailing party with the Referee or Referees in charge of the case.

BR-6

REVIEW PROCEEDINGS

(a) TIME WITHIN WHICH REVIEW MAY BE SOUGHT.

A Petition for Review of an order by a Referee, under Section 39c of the Bankruptcy Act, shall be filed with the Referee by whom the order was made within ten days after the entry of the order, and if not filed within such time, the person aggrieved by the order shall be deemed to acquiesce therein, and to have waived all right to file a Petition for Review. For good cause shown by written application filed within ten days after the entry of any order by him, the Referee may extend the time within which Petition for Review may be filed.

(b) CONTENTS OF PETITION FOR REVIEW.

(1) A Petition for Review shall be signed by the person seeking review or his attorney and a copy of such petition shall be served upon the adverse parties.

(2) The Petition for Review shall contain the following:

(a) The order complained of.

(b) An assignment of error stating with particularity, and separate numbering, each alleged error; and if an assignment of error relates to a finding of fact, such assignment shall indicate by specific references to the evidence and the transcript, if any, the manner in which such evidence fails to support the finding of fact.

(c) APPENDIX AND DESIGNATION OF RECORD.

(1) Within ten days after filing the Petition for Review the party seeking review shall supply an appendix to said petition which shall contain in the order here stated:

(a) A Designation of Record which shall set forth in detail the portions of the record, and the books, exhibits and documents the petitioner desires to be included in the review proceeding. Said Designation of Record shall be served upon all adverse parties.

(b) A transcript of the evidence involved, or if no transcript is available, a summary of the evidence agreed upon by the parties, together with a copy of all documentary exhibits relied upon.

(2) Within ten days after filing the appendix, parties who desire to appear in opposition to the petitioner on review may file with the Referee as a second appendix an Additional Designation of Record, and additional portions of the transcript and copies of documents.

(d) DISMISSALS FOR NONCOMPLIANCE.

For noncompliance with subsections (a), (b) or (c) of this rule, the Referee may upon notice dismiss the Petition for Review.

(e) CERTIFICATE ON REVIEW.

Upon completion of the steps outlined in (a), (b) and (c) above, the Referee shall prepare and transmit his Certificate on Petition for Review to the Clerk in accordance with Section 39a (8) of the Bankruptcy Act. In such Certificate, the Referee may make such corrections of and additions to the transcripts or summary as he may deem essential to an accurate presentation of the evidence adduced before him. The Clerk shall give notice of the filing of the Certificate on Petition for Review to all parties designated by the Referee.

(f) PROCEEDINGS BEFORE DISTRICT JUDGE.

(1) Unless otherwise extended by order of the Court, the parties petitioning for the review shall file with the Clerk for the Reviewing Judge within twenty (20) days from the date of the Certificate on Review by the Referee, two copies of a written brief, and the opposing party or parties to the review shall file with the Clerk for the Reviewing Judge, within fifteen (15) days from receipt of service of

the petitioner's brief, two copies of his or their brief. Each party shall serve a copy of his brief on the opposing party at the time of filing the same with the Clerk. The date and the manner of service thereof shall be certified on the original brief.

(2) The briefs shall contain, in the order here stated:

(a) A concise abstract or statement of the case, presenting succinctly the questions involved and the manner in which they are raised. The facts set forth therein shall be facts as certified by the Referee under subsection (e) of this rule.

(b) A specification of the errors relied upon which shall correspond precisely with those alleged errors set forth in the Petition for Review filed under subsection (b) (2) (a) of this rule.

(c) A brief of the argument, exhibiting a clear statement of the points of law or fact to be discussed, with reference to the pages of the record and the authorities relied upon in support of each point.

(3) After the time for filing briefs has expired, the matter will be considered as submitted.

BR-7

TRUSTEES

(a) WHEN NO TRUSTEE APPOINTED.

If neither the schedules nor the examination of a voluntary bankrupt discloses any assets to be reached for the benefit of general creditors, and no request is made for the appointment of a trustee or such appointment is waived by the creditors present at the first meeting of creditors, appointment of a trustee may be dispensed with by order of the Referee.

(b) HOW TRUSTEE OR RECEIVER QUALIFIES -- BOND.

A person appointed as trustee or receiver shall qualify by giving bond in the sum fixed by the Court, and in form satisfactory to the Court. The Referee, in his discretion, may approve the individual bond of a receiver or trustee without surety up to \$500.00.

Said appointee shall also file with the Court when required an affidavit to the effect: That he has not made any promise, nor entered into any understanding or agreement of any kind

or character, with any person or entity which would in any manner control, influence, hamper, or tend to control, influence or hamper his administration of said estate, or his conduct of said administration; that he is free to perform the duties of said office as required by law and the orders of the Court; further, that he is not employed by, or connected with the bankrupt, any secured creditor therein, or with any person having any interest adverse to the bankrupt estate; and that no understanding or agreement exists for a division of fees or compensation between the appointee and any attorney, or other person or entity. If any agreement for the sharing of fees or compensation does exist, it shall be disclosed in the affidavit. Law partnership or similar arrangement providing for the pooling or sharing of legal fees shall not bar the approval of the trustee's appointment, but such shall be disclosed in the affidavit.

BR-8

ATTORNEYS FOR RECEIVERS AND TRUSTEES

(a) AUTHORITY TO EMPLOY.

No trustee or receiver shall employ any attorney or law firm in his official capacity without prior approval by the Court. If an attorney approved for employment intends to use partners or associates to assist him in his work, this shall be revealed in writing to the court at the time of the attorney's appointment or prior to utilizing the services of such partners or associates.

(b) LIMITATION ON SELECTION OF COUNSEL.

Trustees and receivers shall not employ as their attorney the attorney for the bankrupt except as a special counsel for limited purposes on good cause shown; nor shall a trustee employ as his attorney any person who has obtained proxies empowering him to vote upon the election of a trustee, whether or not such proxies are voted by the attorney securing them; nor shall a trustee employ as attorney an office associate or law partner with whom legal fees are pooled or shared.

(c) ATTORNEY'S QUALIFYING AFFIDAVIT.

A trustee seeking authority to employ an attorney or law firm for general purposes shall file with his application the proposed attorney's or law firm partner's affidavit to

the effect that he or they are not employed by or in connection with the bankrupt, or with any person having any interest adverse to the trustee or to the bankrupt estate. Such affidavit must further state that no understanding or agreement exists for a division of fees or compensation between the affiant and the trustee or any person or entity, except such as is fully revealed in such affidavit.

BR-9

REFERENCES AND REREFERENCES

(a) REFERENCES GENERALLY.

Unless otherwise ordered by a Judge, the Clerk of this Court shall forthwith refer all cases filed under Chapters I to VII, Chapter XI, and Chapter XIII of the Bankruptcy Act, to the Referees having charge of the territory from which the petition was filed.

(b) INVOLUNTARY CASES.

In involuntary cases wherein an answer is filed with a jury demand, the Referee shall return the case to the Clerk who shall forthwith call the matter to the attention of a resident Judge for further proceedings. If no answer is filed, or if an answer without a jury demand is filed, the matter of dismissal or adjudication and subsequent proceedings shall be conducted before the Referee pursuant to the reference under paragraph (a) of this rule.

(c) REFERENCE TO REFEREES.

The Clerk, unless otherwise ordered by this Court, shall make references jointly to all Referees serving in the designated territories and not to individual Referees.

(d) REOPENINGS AND REREFERENCES FOR FURTHER PROCEEDINGS.

All proceedings brought, issues presented, or questions raised in any bankruptcy case in this District, whether or not said case has been closed, and returned by a Referee or Referees of this Court, shall in all circumstances be referred by the Clerk as a matter of course to the appropriate Referee or Referees. Upon such reference the Referee shall determine all issues arising thereafter, including the question of reopening or reinstatement of any case, and/or rereferral for further administration. If the rereferral or

reinstatement is by request of the Referee, the Clerk shall be relieved from collecting a filing fee until further order of the Court.

(e) SPECIAL REFERENCE IN CHAPTER X AND
CHAPTER XII PROCEEDINGS.

Proceedings brought under Chapter X or Chapter XII of the Bankruptcy Act shall not be referred to the Referees by the Clerk except by order of a resident Judge, provided, however, that in the event of the disability or absence from the District of the resident Judge or Judges, such proceeding shall be referred to a Referee who shall act as Special Master to hear and report upon matters that must be determined by a Judge under Chapter X or Chapter XII of the Act and who shall hear and determine as Referee all matters not reserved to a Judge by the Act.

BR-10

COSTS - INDEMNITY

(a) IN PAUPER CASES.

The petition in a voluntary proceeding under Chapters I to VII or Chapter XIII of the Bankruptcy Act may be accepted for filing by the Clerk if accompanied by a verified petition of the bankrupt or debtor stating that the petitioner is without and cannot obtain the money with which to pay the filing fees in full at the time of filing. Such petition shall state the facts showing the necessity for the payment of the filing fees in installments and shall set forth the terms upon which the petitioner proposes to pay the filing fees. Such petition shall set forth the amount paid as fees to the attorney for the bankrupt or debtor, and shall certify that no additional payment will be made on attorney fees until the filing fees are paid in full or the proceeding dismissed. Such petition shall be executed by the petitioner and endorsed by his attorney.

(b) MINIMUM PAYMENTS.

Orders for payment of costs in installments shall be made at the first meeting of creditors. Such orders may provide for a single installment of the entire balance to be paid on or before a given date.

(c) OBJECTION TO DISCHARGE—REPORTER'S
COMPENSATION.

Upon the filing of specifications of objection to discharge, a Referee may order a deposit to be made within ten days for the purpose of securing payment of the expense of perpetuating testimony, which deposit shall be in addition to the fee required by law for filing such specifications. Failure to comply with such order shall be grounds for dismissal of the specifications without hearing or notice.

(d) PERPETUATING TESTIMONY GENERALLY.

These rules shall not be considered as limiting the right of a Referee to incur necessary expenses in perpetuating testimony, and a Referee may require a deposit to be made for such expenses. Whenever a transcript of the testimony and evidence is requested by any party, the request must be made in writing at least seven days before the hearing date so that a qualified court reporter can be in attendance for such purpose.

(e) WITNESS FEES, SERVICE, AND OTHER COSTS.

Before incurring any expense in procuring the attendance of witnesses or in perpetuating testimony, the Clerk, Marshall or Referee may require from the bankrupt, debtor, or other persons in whose behalf the duty is to be performed, indemnity for such expense. Money advanced for this purpose by the bankrupt, debtor, or other person shall be repaid to him out of the estate as a part of the cost of administering the same, if approved by the Court.

BR-11

COSTS AND CHARGES—PAYMENT

All costs and charges payable in bankruptcy cases to either the Clerk or a Referee shall be paid to the Clerk, to be by him deposited as required by law. No such costs or charges shall be paid to a Referee or clerks in his office.

BR-12

RECEIVERS AND CUSTODIANS

(a) APPLICATION FOR APPOINTMENT BEFORE
REFERENCE.

Unless otherwise ordered by a Judge, applications for

appointment of receivers and custodians filed with the Clerk before the reference of a bankruptcy case shall be referred generally by the Clerk to the Referee or Referees to whom the principal proceeding will normally be referred.

(b) APPLICATION FOR APPOINTMENT AFTER REFERENCE.

Unless otherwise ordered by a Judge, applications for appointment of receivers and custodians filed after reference shall be made to, and heard and determined by, one of the Referees in charge of the case.

(c) CAPACITY OF SERVICE.

Receivers shall be deemed mere custodians within the meaning of Section 48 of the Bankruptcy Act, as amended, and compensated as such, unless their duties shall be enlarged by order of the Court, upon good cause shown, either at the time of appointment or later.

BR-13

AUCTIONEERS

(a) EMPLOYMENT.

A receiver or trustee may, upon presentation of an Application reciting the necessity therefor, and a proposed order thereon, be authorized by the Court to employ an auctioneer. Likewise, upon the motion of any interested party, or upon the Court's own motion, if the best interests of the estate require it, the Court may enter an order reciting the necessity therefor, and requiring the receiver or trustee to employ an auctioneer.

(b) RECORD OF SALES.

Each auctioneer shall forthwith turn over to the receiver or trustee, for deposit, the proceeds of sales conducted by him. He shall keep a record of each and every sale conducted by him, showing whether public or private, the name of the bankrupt estate, the name of the receiver or trustee, the place and date of sale, a description of the amount and kind of advertising done, the arrangement of the property in lots or parcels, a detailed account of the highest bids and bidders, both in bulk and by parcels, the costs of conducting the sale by items, and such other information as the Court may require. Such record shall be made in duplicate,

one copy to be retained by the auctioneer and the other to be filed in the office of the Referee. No compensation shall be allowed to the auctioneer in any case until such copy of said record is filed.

(c) AUCTIONEER NOT TO PURCHASE.

No auctioneer conducting a sale of any property of a bankrupt estate shall under any circumstances, directly or indirectly, purchase or acquire any interest in any such property. The Court may deny compensation to any auctioneer for violation of this provision and may in addition thereto instruct the trustee or receiver to take such other measures as may appear necessary for the complete protection of the estate and protection of the public.

(d) COMPENSATION.

The rate of compensation of auctioneers shall be fixed on the order appointing them as provided in General Order 45.

(e) SHARING COMPENSATION.

The sharing of compensation by auctioneers with any other person, unless made a matter of record and approved by the Court, is prohibited; and in the event of the violation of this rule, the offending auctioneer may be deprived of all compensation in the case.

(f) ALLOWANCES.

Each auctioneer shall file with the Referee, as a basis for the allowance of compensation and expenses, a detailed statement under oath, showing separately the amount of commission or compensation claimed, and the items of expense incurred. No payments shall be made to the auctioneer until such statement has been filed.

BR-14

APPLICATIONS FOR FEES

A receiver or trustee or the attorney for any one of them, or any other attorney, seeking compensation for services rendered by him in a proceeding under the Bankruptcy Act or in connection with said proceeding, shall file with the Court an application. Any attorney shall set forth in his application for compensation for professional services the following:

- (1) The value and extent of services rendered, itemization of time consumed, and benefit to the estate.

(2) The amount requested.

(3) The allowances, if any, that have theretofore been made to him.

(4) In cases where an attorney has previously revealed to the Court his intention of using associates or law partners to assist him, as provided in BR-8(a), there shall be set forth in the application for compensation an itemization of the time spent by each attorney, partner or associate and a statement that each attorney's work did not unnecessarily duplicate that of another attorney.

Said application shall be accompanied by the attorney's or in the case of a law firm, a partner's affidavit, stating whether an agreement or understanding exists between the applicant and any other person for a division of compensation and, if so, the nature and particulars thereof.

BR-15

EFFECTIVE DATE

These rules shall apply and take effect on the 1st day of September, 1969, and thereafter.

CARL A. WEINMAN,
Chief Judge, United States District Court,
Southern District of Ohio.

JOSEPH P. KINNEARY,
Judge, United States District Court,
Southern District of Ohio.

TIMOTHY S. HOGAN,
Judge, United States District Court,
Southern District of Ohio.

DAVID S. PORTER,
Judge, United States District Court,
Southern District of Ohio.

DUANE J. KELLEHER
JOHN J. DILENSCHNEIDER
CHARLES A. ANDERSON
ELLIS W. KERR
RAYMOND J. PELLMAN
LEONARD C. GARTNER

Referees in Bankruptcy,
Southern District of Ohio.

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