

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS**

STANDING ORDER 2016-01

**NEW LOCAL RULE 1016-1 DEATH OF DEBTOR (CHAPTER 7, 11 AND 12) AND NEW
APPENDIX 1, RULE 13-23 DEATH OF DEBTOR**

IT IS ORDERED that effective January 6, 2016 pending final adoption, the Local Rules of this Court shall be deemed amended on an interim basis, by adding new Local Rule 1016-1 and new Appendix 1, Rule 13-23 as follows:

DEATH OF DEBTOR (CHAPTER 7, 11 AND 12)

- (a) *Counsel to the debtor, upon learning of the death of the debtor, shall file a Notice of Death and serve a copy on all creditors, parties in interest, including any trustee appointed in the case, all parties who have filed a request for service of pleadings and notices, and the United States trustee. The Notice of Death shall identify the date of the debtor's death, the last known address of the debtor, and, if known and if applicable, the name and address of any "Personal Representative" of the deceased debtor. "Personal Representative" shall mean (i) a personal representative appointed by order of the Probate Court under either Mass. Gen L. ch 190B, sections 3-301 or 3-402 et seq., (ii) in cases where assets of the debtor do not include real property and the personal property of the debtor has a value of less than \$25,000, a voluntary personal representative possessing a statement contemplated by Mass. Gen L. ch 190B, section 3-1201 attested by a Register of Probate, or (iii) any person having the authority to act on behalf of the deceased debtor having been duly appointed to so act under the laws of any jurisdiction other than Massachusetts. If no Personal Representative has been identified, the Notice of Death shall identify any spouse, parent, or adult child or other adult heir at law ("Identified Relative") of the deceased debtor known to counsel to the debtor after reasonable inquiry, which inquiry shall be detailed in the Notice of Death.*
- (b) *Without written authority granted by a Personal Representative, counsel to the deceased debtor may not represent the deceased debtor or sign the deceased debtor's name to any pleadings or documents. Within 30 days after the filing of the Notice of Death, counsel to the deceased debtor shall file either (i) a certification that he or she has been authorized by the Personal Representative to represent the estate of the deceased debtor, in which event counsel to the deceased debtor may continue to represent the estate of the deceased debtor in the case, or (ii) a statement that he or she*

has not been authorized to act on behalf of the estate of the deceased debtor and, if known, whether or not a probate filing has been made, and if so, the date of such filing and location of such court and docket number.

(c) Within 45 days of the filing of the Notice of Death, the Personal Representative of the deceased debtor, if any, shall file either a motion to continue administration of the case, a motion to suspend administration of the estate, or a motion to dismiss the case. Such motion ("Proceeding Motion") shall be served at the debtor's last known address and upon the United States trustee, any trustee appointed in the deceased debtor's case, all creditors, and parties requesting notice. If it is believed that no Proceeding Motion will be filed by a Personal Representative, a relative of the deceased debtor who asserts standing may file a Proceeding Motion within the period required for a Personal Representative. If no Proceeding Motion is filed by a Personal Representative or a relative of the deceased debtor, then a trustee appointed in the debtor's case or the United States trustee shall file a Proceeding Motion within 60 days of the filing of the Notice of Death. The motion shall be served at the debtor's last known address and upon all Identified Relatives, creditors, and parties requesting notice. Any Proceeding Motion shall include the following averments, as applicable and to the extent known:

(1) A statement as to whether the debtor attended and testified at the section 341(a) meeting of creditors and whether the meeting was concluded.

(2) A statement of circumstances, if any, that would impede the further administration of the estate, with or without the appointment of a Personal Representative.

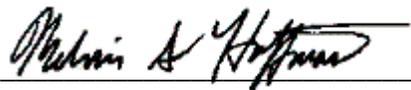
(3) A statement of reasons, if any, why further administration of the bankruptcy estate should be suspended, pending the appointment of a Personal Representative.

(4) A statement of reasons, if any, why dismissal is warranted.

APPENDIX 1, LOCAL RULE 13-23 DEATH OF DEBTOR

This Standing Order shall also apply in Chapter 13 cases. The standing chapter 13 trustee shall make any filings that may be required by a "trustee appointed in the debtor's case" pursuant to subsection (c) above.

IT IS SO ORDERED:



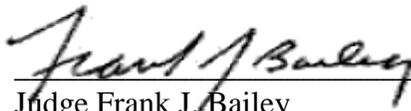
Chief Judge Melvin S. Hoffman



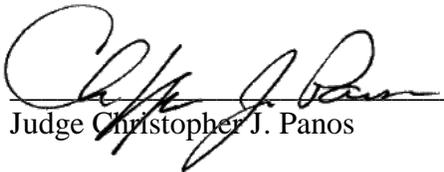
Judge Joan N. Feeney



Judge Henry J. Boroff



Judge Frank J. Bailey



Judge Christopher J. Panos

Dated: 1/6/2015