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To:

Cc:
Subject: [Jackson](#)
Applications for Employment of Special Counsel, Applications for Compensation and Reimbursement of Expenses by Special Counsel and Motions to Approve Compromises and Settlements in Cases Assigned to Judge Olack
Date: Thursday, July 30, 2009 4:53:00 PM
Importance: High

Please adhere to the following in cases assigned to Judge Olack:

Applications for Employment of Special Counsel

If multiple attorneys are involved in representing the estate, the Application for Employment of Special Counsel must include an affidavit of disinterestedness from each attorney. The application must also disclose how the compensation will be shared by the attorneys.

Applications for Compensation and Reimbursement of Expenses by Special Counsel

If compensation is based on a contingency fee, a hearing is generally not required where fees and expenses do not exceed 50% of the total recovery absent objection by a party in interest. A hearing is required on reasonableness whenever fees and expenses exceed 50% of the total recovery.

Where multiple attorneys are involved the application must set forth the compensation due to each attorney and their respective expenses. Expenses must be itemized and the application should explain why the expenses are reasonable and necessary.

Motions to Approve Compromises and Settlements

A Motion to Approve Compromise and Settlement should disclose the full terms of the compromise and settlement and explain why the settlement is in the best interest of the estate. The order should provide a date certain by which the gross settlement proceeds will be remitted to the trustee. **YOU MAY NOT ACCEPT ONLY THE NET PROCEEDS. THE CASE TRUSTEE, NOT SPECIAL COUNSEL, MUST BE THE DISBURSING AGENT FOR ALL PROCEEDS.** It is imperative for the trustee to monitor the receipt of the gross settlement proceeds and take appropriate action when the gross settlement proceeds are not remitted to the trustee in accordance with the order. Judge Olack will not approve a motion for compromise and settlement unless the case trustee is the disbursing agent for the gross settlement proceeds.

Confidentiality Provisions

Judge Olack requires a hearing whenever a settlement includes a confidentiality agreement and will generally follow the holding in *In re Hemple*, 295 B.R. 200 (Bankr. D. Vt. 2003).

Failure to adhere to the foregoing may result in the imposition of sanctions.

Please advise if you have any questions.

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