



GUIDELINES AND
REQUIREMENTS FOR
CHAPTER 11
DEBTORS IN POSSESSION
(FOR LOS ANGELES DIVISION CASES ONLY)

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TO: CHAPTER 11 DEBTORS, ATTORNEYS AND TRUSTEES

The United States Trustee Program is a component of the United States Department of Justice responsible for overseeing the administration of bankruptcy cases.

Pursuant to 28 U.S.C. §586(a)(3), the United States Trustee has extensive monitoring and oversight responsibilities with respect to Chapter 11 estates. In order to fulfill these responsibilities, the United States Trustee has delineated certain duties, responsibilities and reporting requirements for Chapter 11 debtors in possession. The Office of the United States Trustee in Los Angeles, California has developed these Chapter 11 Guidelines to assist debtors in meeting their obligations while in Chapter 11.

Some of these requirements must be performed immediately upon (1) the filing of the Chapter 11 petition, (2) entry of the order of conversion; or (3) the entry of the order of relief in an involuntary proceeding. Other requirements are not due until several weeks after the petition is filed, and still others are required on an ongoing basis throughout the pendency of the bankruptcy. However, ***all requirements must be met in a complete and timely fashion unless waived in writing by the U.S. Trustee attorney or analyst assigned to the case.***

These guidelines and requirements make reference to the Local Rules of Bankruptcy Procedure (Local Rules) for the Central District of California. A copy of the Local Rules may be downloaded from the United States Bankruptcy Court's website at <http://www.cacb.uscourts.gov/>.

In addition to the following requirements, all applicable provisions of the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, Local Bankruptcy rules, General Orders, and other orders of the Court, must be observed in Chapter 11 cases. Failure to comply with any requirement may result in a motion by the United States Trustee, or another party, to dismiss or convert your case, or to request other relief.

The United States Trustee reserves the right to revise, modify or amend these guidelines and requirements from time-to-time and, as is appropriate, in an individual case.

A Chapter 11 Debtor-in-Possession serves as a fiduciary for the benefit of the creditors and owners in the case. Providing complete and accurate financial information regarding the estate is part of the debtor's fiduciary duties.

I. Day-One Requirements

- A. **Close out all existing books and records.** All books and records of the Chapter 11 debtor must be closed out as of the date the petition is filed, or an order is entered converting the case to one under Chapter 11.
- B. **Open a new set of books and records.** These are the debtor in possession books and records, which must be maintained throughout the pendency of the bankruptcy.
- C. **Close all existing bank accounts.** All accounts that the debtor owns, has access to, or over which the debtor exercises possession, custody or control must be closed immediately upon filing.
- D. **Open New General, Payroll and Tax Bank Accounts**
 1. In business cases, a minimum of three new debtor in possession bank accounts (general, payroll and tax) must be opened in a bank appearing on the U.S. Trustee list of approved depositories (See http://www.justice.gov/ust/r16/reg_faqs.htm).

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All estate funds must be kept in these accounts. (*See* 11 U.S.C. §§541 and 1115)

2. In some cases, such as those involving individual non-business debtors, the debtor may obtain written permission from the U.S. Trustee attorney or analyst assigned to the case to maintain fewer debtor in possession accounts.
3. If the debtor is required to segregate cash collateral, additional separate accounts must be established and maintained.
4. *See* also Debtor in Possession Accounts, Section III.D. below.

E. Obtain Insurance Coverage

1. The debtor must maintain appropriate insurance coverage for all estate property, including vacant land. Listed below are the types of insurance coverage that are normally required for most bankruptcy estates.
 - (a) General comprehensive public liability insurance;
 - (b) Fire and theft coverage;
 - (c) Worker's compensation insurance;
 - (d) Motor vehicle insurance;
 - (e) Product liability insurance; and/or
 - (f) Any other insurance coverage customary in debtor's business.
2. The debtor must name the United States Trustee as an ***additional interest party*** on each and every insurance policy. As such, the United States Trustee will receive notification of any non-payment of premium or cancellation of policy.
3. If the debtor does not have the required insurance coverage at the time of filing, it must be obtained immediately.
4. **It is an on-going requirement that the debtor provide updated proof of insurance during the pendency of the case.** If insurance coverage lapses at any time during the pendency of the bankruptcy, the U.S. Trustee must be advised and proof of new or renewed insurance must be presented at once.
5. *See* also Proof of Insurance Coverage, Section III.E. below.

II. Declaration Regarding Compliance With United States Trustee Guidelines and Requirements for Chapter 11 Debtors in Possession

- A. All Chapter 11 Debtors in Possession are required to file the Declaration of Debtor Regarding Compliance with United States Trustee Guidelines and Requirements for Chapter 11 Debtors in Possession (Form USTLA-3) (“Declaration Regarding Compliance”). A copy of this Form is attached as Exhibit 2.
- B. The Declaration Regarding Compliance must be signed under declaration of penalty of perjury by a person who is authorized to sign such documents on behalf of the debtor, and may not be signed by the debtor’s attorney.

III. 7 Day Package

Within seven days of the date the petition is filed, the case is converted, or an order for relief is entered, the debtor must submit a package of required documents (the “Attorney’s 7 Day Package”) to the United States Trustee.

- A. **Cover Sheet (Form USTLA-4):** The Attorney’s 7 Day Package Checklist contains a list of the documents required to be included in the 7 Day Package. For each document required, and each subcategory identified on the USTLA-4 form, the debtor must select at least one category to indicate whether the document is attached, has been previously submitted, or an explanation is attached.
- B. If any document is not attached, an explanation must be provided. Inadequate explanations may result in the filing of a motion to dismiss or convert the case.
- C. If any required document is not included in the Attorney’s 7 Day Package, but is later submitted, the submission must include an additional Cover Sheet indicating which document is being submitted at that time.
 - 1. **Real Property Questionnaire (USTLA-5)**
 - (a) If the debtor leases, owns, has an interest in or is in the process of purchasing a total of four (4) real properties or less, the debtor must submit a separate Real Property Questionnaire (Form USTLA-5) for EACH parcel of real property.
 - (b) If the debtor owns a personal residence, the debtor must complete the Real Property Questionnaire For Principal Residence (USTLA 5.1). (See http://www.justice.gov/ust/r16/reg_info.htm).
 - (c) If the debtor owns or has an interest in five (5) or more real properties, the debtor should not complete the Real Property Questionnaire, unless otherwise instructed by the United States Trustee. Instead, the debtor must complete the Owned Property Summary Sheet (USTLA 5.2) and list all properties owned by the debtor.
 - (d) If the debtor leases five (5) or more real properties, the debtor should not complete the Real Property Questionnaire unless otherwise instructed by the United States Trustee. Instead, the debtor must complete the Leased Property Summary Sheet (USTLA 5.3) and list all properties the debtor

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leases.

2. **Pre-Petition Bank Accounts**

- (a) All pre-petition bank accounts must be closed.
- (b) The name of the depository, the account name and number, the closing balance and the date of closure must be set forth in the Declaration Regarding Compliance.
- (c) In cases where the pre-petition accounts have not been closed, the Declaration Regarding Compliance must provide a justifiable reason why this requirement has not been met.

D. **Debtor In Possession Bank Accounts**

1. Debtor must establish the required number of new debtor in possession accounts. Each account must clearly indicate that the account is a “debtor in possession account” and must include the Chapter 11 case number in the account name. This information must also be included on the face of the checks for each account.
2. The name of the depository, the account name and number, and the initial deposit amount for each such account must be set forth in the Declaration Regarding Compliance.
3. It is the debtor’s responsibility to maintain all cash of the estate in debtor in possession bank accounts in an approved depository throughout the pendency of the case. See Current List of Approved Depositories, located at http://www.justice.gov/ust/r16/reg_info.htm

E. **Proof of Insurance Coverage**

1. Proof of insurance shall consist of ***ONLY*** the ***declaration page or pages*** containing the following information :
 - (a) Name of insured party;
 - (b) Name of additional interest parties, including the UST;
 - (c) The type and extent of coverage;
 - (d) Policy expiration date; and
 - (e) The account or policy number (or other identifying information).
2. Binders and identification cards are not accepted as proof of insurance.
3. ***COPIES OF THE ENTIRE INSURANCE POLICY SHOULD NOT BE SUBMITTED, UNLESS SEPARATELY REQUESTED BY THE OVERSIGHT TEAM OF A SPECIFIC CASE.***

F. **Proof of Required Certificates and Licenses**

1. The debtor must submit proof that the debtor holds all certificates and licenses required by federal, state and local law for the lawful operation of the debtor's business. The following is a non-exclusive list of licenses and certificates that are typically required:
 - *City business license*
 - *Health Department permit*
 - *Municipal tax or police permits*
 - *Liquor/tobacco licenses*
 - *Fictitious Business Name ("DBA") Statement filed with the county recorder*

G. **Projected Cash Flow Statement**

1. The debtor must submit a projected cash flow statement, covering the first ninety (90) days of operation under Chapter 11. This statement must contain:
 - (a) A detailed income and expense statement (*Note: inclusion of bankruptcy schedules "I" and "J" in lieu of a cash flow projection is NOT acceptable*).

H. **Statement of Major Issues and Timetable Report (prepared and submitted by Debtor's attorney or pro se debtor ONLY)**

1. A thorough statement of major issues and a timetable report which must provide a brief description of:
 - (a) The structure of the corporation, partnership or business;
 - (b) Identification of its officers and shareholders (if a corporation), principals and/or owners and managers, if applicable, with full names, addresses and telephone numbers (if a sole proprietorship);
 - (c) The nature of the debtor's business;
 - (d) The major events or circumstances that led to the filing, including environmental problems and pending foreclosures;
 - (e) The major issues, problems and/or disputes to be resolved, and with whom, including environmental problems, PACA claims, the presence of live animals and perishable goods;
 - (f) A proposed timetable to resolve each of the problems described in such report, setting out on a single timetable the date of beginning each task, the date of completion of each step in the task resolution, and expected date of sufficient resolution of each task; and
 - (g) The expected date for filing the disclosure statement and plan.

I. **Employee Benefit Plan Questionnaire (Form USTLA-8)**

1. All debtors **must** submit an Employee Benefit Plan Questionnaire (Form USTLA-8) which identifies whether or not it is a public corporation, and whether it sponsors a group health, dental and/or a pension plan.

J. **Declaration Regarding Compliance With United States Trustee Guidelines and Requirements for Chapter 11 Debtors in Possession**

1. The debtor must submit the Declaration Regarding Compliance (USTLA 3), signed under penalty of perjury by an officer of the debtor, or by the individual debtor (not debtor's attorney).

IV. **Additional and Ongoing Requirements**

In addition to all requirements set forth above, the debtor is required to comply with the following ongoing requirements:

A. **Attendance at the Initial Debtor Interview, first meeting of creditors and other necessary meetings**

1. Debtors are required to attend the Initial Debtor Interview, the first meeting of creditors held pursuant to 11 U.S.C. §341(a), as well as any other meetings required by the United States Trustee.

B. **Insider Compensation**

1. Before any insiders (as defined in 11 U.S.C. §101(31)), including the owners, partners, officers, directors or shareholders of the debtor and relatives of insiders, may receive compensation from a Chapter 11 estate, the debtor must submit a Notice of Setting/Increasing Insider Compensation. Said Notice must be served on the creditors' committee or the twenty largest unsecured creditors if no committee has been appointed, as well as on any secured creditors that claim an interest in cash collateral. Proof of service of said notice **must** be submitted to the United States Trustee **by both mail and email to the two Trial Attorneys assigned to the case as reflected on the docket.**
2. No compensation may be paid out to any insiders until 15 days after service of such notice, and no objection to the Notice of Setting/Increasing Insider Compensation has been received or filed with the court. Compensation may accrue during this period.
3. If, at any later time, the debtor proposes to increase the compensation of any insider, the debtor must submit and serve a new Notice of Setting/Increasing Insider Compensation in the manner and under the terms as set forth above, and in compliance with the Local Bankruptcy Rules.
4. In either case, if an objection is filed, debtor shall refrain from paying any portion of the disputed compensation or increase until the objection has been resolved.

C. **Financial Reports**

The debtor must timely file the Monthly Operating Reports (“MOR”) with the court **and** provide timely service thereof to the United States Trustee. Service of the MORs must be effectuated on the United States Trustee by **mail**. Electronic service of MORs will not be accepted at this time. The MOR Disbursement Summary, a copy of which is attached hereto as Appendix B, **must be attached to the front of all MORs** that are served on the United States Trustee. Do not file the MOR Disbursement Summary with the Bankruptcy Court. This form is only for use by the United States Trustee. The current *Guidelines and Instructions for Preparation and Submission of Monthly Operating Reports* (USTLA-14) are available at the U.S. Trustee Region 16 website. (See http://www.justice.gov/ust/r16/reg_faqs.htm).

1. **Quarterly Fees**

- (a) Chapter 11 debtors are required to pay a quarterly fee to the United States Trustee every calendar quarter (including any fraction thereof). The amount of the quarterly fee varies, depending upon the dollar amount of disbursements made during the calendar quarter, with the minimum fee required regardless of the amount disbursed.
- (b) The current *Guide to Quarterly Fees*, including the address to which checks should be mailed is available at the U.S. Trustee Region 16 website. (See http://www.justice.gov/ust/r16/reg_faqs.htm). A copy of the *Guide to Quarterly Fees* is also attached hereto as Appendix C.

2. **On-site Audits and Inspections**

- (a) The United States Trustee may conduct on-site audits and inspections of the debtor’s books, records, and facilities to verify the information provided and to ensure that the estate assets are appropriately safeguarded.
- (b) On-site audits and inspections may be unannounced.
- (c) Under 18 U.S.C. §152, concealment of books, records or assets of a bankruptcy estate is a felony, punishable by a maximum sentence of 5 years imprisonment and a fine.

3. **Use, Sale or Lease of Estate Property**

- (a) Where the court has authorized the use, sale, or lease of property of the estate outside the ordinary course of business of the debtor and an escrow is contemplated relating thereto, a copy of the escrow instructions must be submitted to the United States Trustee.
- (b) Within ten days after the close of escrow or completion of the sale, a certified copy of the escrow closing statement, or, where no escrow was utilized, a sworn declaration showing the distribution of the proceeds of any sale of estate property, must be submitted to the United States Trustee.

4. **Notice of Address Change**

- (a) The debtor must notify the United States Trustee and the bankruptcy court of any change of address or telephone number within seven days after the change occurs.

APPENDIX A

Electronic Service Instructions

THE FOLLOWING PROCEDURES ARE TO BE USED ONLY TO SERVE COMPLIANCE ITEMS UPON THE UNITED STATES TRUSTEE. THE UNITED STATES TRUSTEE WILL NOT ACCEPT SERVICE OF LEGAL PLEADINGS PURSUANT TO THESE PROCEDURES. LEGAL PLEADINGS MUST BE SERVED UPON THE UNITED STATES TRUSTEE IN ACCORDANCE WITH THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND LOCAL BANKRUPTCY RULES. THESE PROCEDURES DO NOT, IN ANY MANNER, CONSTITUTE A WAIVER OF THE REQUIREMENTS OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND LOCAL BANKRUPTCY RULES REGARDING SERVICE OF LEGAL PLEADINGS UPON THE UNITED STATES TRUSTEE.

- I. Mandatory electronic service of the Attorney's 7 Day Package and Declaration Regarding Compliance is required for all debtors represented by counsel. *If service is not completed in the manner set forth herein, the submission will be rejected and returned to the submitting party via email. Service will not be successful until a compliance package is served that fully complies with these procedures.*
- A. **Pro Se Exception:** A person who is not represented by an attorney may file and serve papers non-electronically.
1. Limited Exception for Attorneys. An attorney who serves papers in *fewer than five (5)* filed bankruptcy cases or adversary proceedings in a single calendar year **may** file papers non-electronically. However, we encourage **all** attorneys to utilize these electronic service procedures.
- The USTP reserves the right in its sole discretion to revoke this limited exception at any time upon notice to the attorney.
- B. **Email Address:** Documentation required to be filed electronically must be submitted to the *United States Trustee via the following email address ONLY:*
- USTP.REGION16@USDOJ.GOV (not case sensitive)
- DO NOT send the documentation to the UST attorney, analyst, paralegal, etc. Documents must be sent to the above email address ONLY. The individual email boxes of UST employees are limited in size and can only handle a small amount of data.***
- C. **Signatures:** Documents that require the signature of a party shall be electronically imaged using scanning technology and electronically filed in portable document format (.pdf).
- D. **Document Size:** Document files shall not be larger than 5 megabytes (MB) in size. Approximately 100 pages of text, converted from a standard word processing format to a PDF image, should not exceed 5 MB. However, a PDF file created through scanning a document or by inserting additional pages that have been scanned may result in a file exceeding 5 MB. In particular, scanning a document with graphics or dark areas will significantly affect file size. A file exceeding the 5 MB limit must be broken into smaller sections and uploaded as consecutively numbered attachments to the main document. If scanning technology is to be used, scanning should be done in black and white only and at a minimum of 200 dpi.

- E. **Font Size:** The font size (typeface) must not be smaller than 12 point. Required typefaces are Arial, Courier, Times New Roman, Helvetica, Geneva or Letter Gothic. Font sizes smaller than 12 point may not be legible after imaging and **must not** be used.
- F. **Image Size:** Individual pages of documents shall not exceed 8.5 x 11 inches. PDF files with pages exceeding the 8.5 x 11 inch limit must be modified before uploading.
- G. **Grouping of Documents:** Multiple compliance items should **not** be sent in a single email. Rather, compliance items should be served on the U.S. Trustee in separate emails utilizing the naming protocol below. An exception to this rule is that the *Declaration of Debtor Regarding Compliance with United States Trustee Guidelines and Requirements for Chapter 11 Debtors in Possession* and any attachments thereto must be served on the U.S. Trustee **in one email** and **preferably in one (1) pdf file**.
- H. **Subject Line of Email Submissions:** The subject line for each submittal must clearly state the name of the debtor, the full case number (**including Judge's initials**), and begin with the standardized email name set forth below. As an example:
- Corporate Debtor: CH 11 COMPLIANCE 2:11-bk-12345-TD; A Happy Family, Inc.; USTLA3
- Individual Debtor: CH 11 COMPLIANCE 2:11-bk-12345-TD; Last Name, First Name; USTLA3
- When serving the *Declaration of Debtor Regarding Compliance with United States Trustee Guidelines and Requirements for Chapter 11 Debtors in Possession* and attachments thereto upon the United States Trustee, only include USTLA3 in the subject line of the email submission. Do **not** include in the subject line of the email the document codes for the attachments to the declaration.
- I. **Submissions in Parts:** If a submittal must be sent in parts due to file size, each part must be clearly identified in the email subject line. As an example:
- CH 11 COMPLIANCE 2:11-bk-12345-TD; A Happy Family, Inc. USTLA3 **PART 1 OF 2**
- J. **Naming Protocol:** The standardized naming protocol for all documents submitted via these electronic service instructions is as follows. All fillable forms are available at http://www.justice.gov/ust/r16/reg_info.htm.

Form No.	Document Title	Standardized Email Name
USTLA-3	Declaration of Debtor Regarding Compliance with United States Trustee Guidelines and Requirements for Chapter 11 Debtors in Possession	USTLA3
USTLA-4	Attorney's 7 Day Package Checklist	USTLA4
USTLA-5	Real Property Questionnaire	USTLA5
USTLA-5.1	Real Property Questionnaire for Principal Residence	USTLA5.1
USTLA-5.2	Owned Property Summary Sheet	USTLA5.2

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USTLA-5.3	Leased Property Summary Sheet	USTLA5.3
USTLA-6	Professional Fee Statement	USTLA6
USTLA-7	Post-Confirmation Status Report	USTLA7
USTLA-8	Employee Benefit Plan Questionnaire	USTLA8
USTLA-12	Insider Compensation	USTLA12