

WDPA Bankruptcy Court Revamps Procedures to Accommodate Complex Large Chapter 11 Cases

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On October 15, 2018, the U.S. Bankruptcy Court for the Western District of Pennsylvania (“WDPA”) entered a Standing Order implementing complex Chapter 11 procedures. Under the standing order, a Complex Chapter 11 Case is defined as, in summary, a case requiring special procedures due to factors such as: the size of the case with a large number of parties involved and/or whether the debtor is a publicly traded company. The procedures are designed to “promote judicial economy . . . enhance [] procedural predictability for Chapter 11 Debtors, creditors and all interested parties . . .” In layman’s terms, the procedures streamline the Chapter 11 process and aim to make the WDPA a desirable venue for large corporations seeking reorganization through Chapter 11 bankruptcy. The procedures give parties a level of comfort and assure predictability as to how a Complex Case will proceed in the WDPA. The Court also sought to make the process easily accessible by placing links on the WDPA website to the dockets and claims agents for each pending Complex Case. See <http://www.pawb.uscourts.gov/complex-ch-11-procedures-cases>.

The procedures were developed by a sub-committee of the WDPA Local Rules Committee comprised of members of the Bankruptcy Bench, Clerk’s Office and local practitioners with experience representing parties in Complex Cases nationwide. The sub-committee focused on the initial steps taken to get a Complex Case off the ground.

For example, to address the monumental task of service for large publicly traded corporate debtors, the procedures establish a process for the appointment of a claims agent to maintain a registry of claims filed against a debtor and, if necessary, to act as a noticing agent. Similarly, the procedures provide a clear process for motions filed at the threshold of a Complex Case (i.e., First Day Motions) to allow the debtor to continue operations. Typical First Day Motions include requests for authorization to use bank accounts and cash reserves subject to secured creditors’ liens, authorization to pay employee wages and approval of additional financing.

Recently filed WDPA Complex Cases include *In re rue21, inc. et al*, No. 17-22045-GLT and *In re R.E. Gas Development, LLC, et al (Rex Energy)*, No. 18-22032-JAD. In both cases, the Court entered administrative orders that mirrored the procedures. These processes allowed Rue21 to continue operations, quickly obtain additional financing, and have a claims agent appointed to act as the noticing agent and maintain the claims of nearly 3,000 creditors. The Court confirmed Rue21’s Chapter 11 plan within four months. Comparably, Rex Energy obtained interim relief on its First Day Motions within five days of the filing, concluded the sale of its assets in nearly four months and the Court confirmed its plan within five months of the filing.

In light of the Court’s implementation of the procedures, parties can expect a transparent and smooth administrative process for a Complex Case in the WDPA, making it easily accessible for Chapter 11 debtors, creditors and other interested parties. The procedures remove many of the unknowns of the Chapter 11 process for entities contemplating filing in the WDPA.

If you have additional questions, or need assistance with determining best practices please feel free to contact us.

Matthew J. Burne is an attorney in Tucker Arensberg’s Bankruptcy and Creditors’ Rights Department. He holds an LL.M. in Bankruptcy and is licensed in New Jersey, New York and Pennsylvania. Matt can be reached via email: mburne@tuckerlaw.com, or telephone: 412-594-5621.

Sloane B. O'Donnell is an attorney in Tucker Arensberg's Bankruptcy and Creditors' Rights Department. She is licensed in Pennsylvania. Sloane can be reached via email: sodonnell@tuckerlaw.com, or telephone: 412-594-3946.