

**REVISED PROTOCOL FOR COMPROMISES OF 727
COMPLAINTS AND OTHER PROPOSED COMPROMISES
WITH DEBTORS**

In an effort to address recent concerns raised both formally and informally regarding perceived improprieties or overreaching in the context of compromises and settlements between chapter 7 trustees and debtors, OUST-Detroit is mandating that this protocol be observed by chapter 7 trustees. Based upon feedback from the committee appointed by Mr. Simon (Wendy Turner Lewis, Michael Stevenson, Charles Taunt, and Charles Wells), Basil Simon himself, and members of the trustee panel in attendance at the meeting on December 7, 2012, the revised protocol is as follows:

All compromises or settlements must be presented to the court via "Motion", not "Application", pursuant to Fed. R. Bankr. P. 9019. Any contemplated action which will result in the payment of money FROM A DEBTOR to the estate which is not otherwise traceable from Form 1 to Form 2, including, but not limited to, compromises of exemptions, undisclosed assets, and voidable transfers must be styled as a "Motion" and filed in ECF under the "*Approve Compromise Under Rule 9019*" event under the "*Motions/Applications*" category. The Motion should comport, substantially, with the template attached hereto and incorporated herein by reference. While the template refers, specifically, to a proposed compromise of a 727 complaint, the information in all caps contained in the template is the same type of detail that should be incorporated into any other proposed compromise WITH A DEBTOR.

Due to concerns regarding proposed settlements in amounts only sufficient to cover administrative expenses, there will not be a \$15,000 threshold for this protocol. All proposed settlements WITH DEBTORS are subject to the protocol.

Contemporaneously with the filing of a motion proposing a compromise WITH A DEBTOR, the chapter 7 trustee, not counsel, must send an email to

her/his supervising UST Attorney. The email should be captioned "*Deliberative Process Communication*". The email should advise the UST Attorney of any and all pertinent details regarding the proposed settlement that are not incorporated into the motion. The email shall include information that the UST Attorney should know in conducting a thorough review of the proposed settlement but, for strategic reasons, may not have been incorporated into the motion. Additionally, the email shall include:

- the nature and extent of discovery conducted by both sides;
- whether the case was referred to UST for civil/criminal action;
- whether a written agreement has been executed; if so, attach copy;
- an estimate of professional fees incurred by the estate, to date;
- current funds on hand in the estate without the proposed payment; and
- whether and/or how many extensions of objection deadlines have been entered by the Court; reason(s) for extensions; and current deadline.

This protocol is being mandated to improve the UST's monitoring and supervisory role with respect to proposed compromises between chapter 7 trustees and DEBTORS. The effective date for the protocol is January 2, 2013. Compliance is not optional. As with all other UST directives, cooperation is expected and very much appreciated.