

FILED

JAN 16 2019

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

DOUGLAS E. WEDGE  
CLERK, U.S. BANKRUPTCY COURT  
WESTERN DISTRICT OF OKLAHOMA  
BY:  DEPUTY

IN RE: PLAN FOR LAPSE IN APPROPRIATIONS )  
FOR THE BANKRUPTCY COURT FOR THE )  
WESTERN DISTRICT OF OKLAHOMA )

MO - 19-01

**MISCELLANEOUS ORDER**

Pursuant to Volume 13, Chapter 2, §220.30 of the *Guide to Judiciary Policy*, the Court adopts the following plan for operating during a lapse in appropriations for the Judiciary.

1. **Declaration of Policy.** The United States Bankruptcy Court for the Western District of Oklahoma is constitutionally and statutorily required to continue to exercise judicial power regardless of the status of appropriations. The Court, however, is bound by the strictures of the Anti-Deficiency Act, 31 U.S.C. §§ 1341-1342, in the event of a lapse of appropriations.

- a. In accordance with the Act, the Court is required to limit its activities only to recognized exceptions to the Act, such as
  - i. activities necessary to support the exercise of the Article III judicial power, *i.e.*, the resolution of cases in which there is a constitutional or statutory grant of jurisdiction;
  - ii. emergency activities necessary for the safety of human life and the protection of property;
  - iii. activities otherwise authorized by law, either expressly or by necessary implication, including those guaranteed by the United States Constitution or activities funded with available no-year appropriations; and
  - iv. minimal activities needed for an orderly shutdown of other official functions.
- b. In accordance with these limitations the Court will continue to:

- i. hear and decide cases without interruption;
  - ii. timely file and process all filings, motions, orders, emergency applications, warrants, and other litigation documents;
  - iii. collect and deposit fees into the Treasury;
  - iv. disburse restitution or registry funds pursuant to Court order;
  - v. accept and process petitions and documents filed in adversary proceedings;
  - vi. produce reports required by Judges for the performance of their duties;
  - vii. maintain a complete docket of cases and proceedings.
- c. The Court suspends all activities not specifically authorized in this plan, including:
- i. hiring employees including in-processing new interns and/or pro bono law clerks;
  - ii. purchasing equipment, supplies, and contractual services<sup>1</sup>;
  - iii. entering into new contractual obligations;
  - iv. non-essential training;
  - v. non-essential travel;
  - vi. supporting public and private non-adjudicative functions such as bar organization meetings and functions; and
  - vii. attendance of judicial officers at public functions/appearances requiring security personnel.
- d. Those employees performing tasks essential to the constitutional and statutory mission of the Court are deemed to be excepted employees. Excepted employees must report to work during any lapse of appropriations. Excepted employees may not take annual or sick leave during any lapse in funding. The applicable court

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<sup>1</sup> Even if a contract is currently in place, any actions that would result in further expenses under the contract will be curtailed unless the activities are clearly in support of designated essential activities. Further, payment on any goods and services acquired during a lapse in appropriations will have payment delayed until funds become available. The Court's Procurement Officer will notify contractors prior to an appropriation lapse as directed by the Procurement Management Division.

unit executive or judicial officer may approve, on a case-by-case basis, an excepted employee's request to be absent from duty due to hardship, illness, or other similar circumstances. Approval of such a request will place that employee in a furlough status during the duration of his or her absence.<sup>2</sup>

e. The Court will advise the United States Marshal Service and the United States General Services Administration of the level of services required to maintain continuing operation of the Court system.

## **2. Judges and Their Staff**

a. Judges are mandated by federal statute to continue working despite a lapse of appropriations. Each Judge may employ staff, such as law clerks and judicial assistants, who are essential to the resolution of cases. Each Judge will furlough members of the judicial staff on a rotating basis, and the reduced staff will perform excepted activities. The judge will notify the Clerk of Court when a staff member is placed in furlough status.

b. During any lapse in appropriations, chambers staff may only perform functions essential to the constitutional and statutory mission of the Court. Accordingly, chambers staff they may not work on ancillary projects, such as preparing materials for an article or speech, or perform non-essential administrative tasks.

## **3. Clerk's Office**

a. Clerk's Office staff perform functions that are essential to the Court's constitutional and statutory mission, including:

- i. accepting and processing bankruptcy petitions and adversary complaints;
- ii. file-stamping, scanning, and docketing all documents and proofs of claims received in paper format;
- iii. scheduling matters for consideration by the judge and setting hearings;

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<sup>2</sup> S 24 has passed the Senate and House and awaits Presidential action. The measure would permit furloughed employees to use leave. The Administrative Office of the U.S. Courts will provide guidance on the use of leave by furloughed employees when this measure is enacted into law.

- iv. assisting persons who have questions at the Front Counter or on the telephone;
  - v. issuing summons and other types of service;
  - vi. serving notices, as required;
  - vii. docketing and serving orders;
  - viii. ensuring the proper and timely processing of all petitions, pleadings, motions, orders, emergency applications, other litigation documents, and proofs of claims;
  - ix. reviewing electronic filings;
  - x. issuing bankruptcy discharges as dictated by law;
  - xi. collecting and depositing fees into the Treasury;
  - xii. disbursing registry funds pursuant to Court order;
  - xiii. maintaining the Court's information technology (IT) systems, including the Court's systems network, CM/ECF system, courtroom technology, e-mail, internal and external websites, and IT security;
- b. The employees performing these functions are listed by title below.
- i. Administration and Oversight of Office's Statutory Duties
    - A. Clerk of Court
    - B. Chief Deputy Clerk
  - ii. Court Operations
    - A. Operations Supervisor
    - B. Case Administrator Supervisor
    - C. Courtroom Deputies
    - D. Case Administrators
    - E. Data Quality Analysts
    - F. CM/ECF Administrator
  - iii. Space and Facilities and Procurement Specialist
  - iv. Administrative Court Support
  - v. IT Support

- A. Systems Technology Manager
- B. Automation Manager
- C. PC/Network Administrator
- D. Programmer/Analyst

c. The Clerk of Court will determine the employees needed to perform essential functions, including the number of such personnel when more than one employee is performing the function. In addition, the Clerk of Court shall determine the excepted or furlough status of employees on a weekly basis in accordance with § 220.30.10(e) of the *Guide to Judiciary Policy*. The Clerk of Court will furlough employees on a rotating basis, and the reduced staff will perform accepted activities. The Clerk of Court shall notify employees of the excepted or furlough status of their employment by the preceding week by posting a notice on the Court's internal website; however, the Clerk may adjust furlough status due to the daily press of business. The Clerk of Court will post notice when employees shall return to a regular schedule.

IT IS SO ORDERED.

Entered this 16<sup>th</sup> day of January, 2019.

  
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JANICE D. LOYD  
CHIEF BANKRUPTCY JUDGE