

**UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF NEW YORK**

**PROTOCOL FOR THE EMPLOYMENT OF CLAIMS
AND NOTICING AGENTS UNDER 28 U.S.C. § 156(c)**

An application seeking to retain a claims and noticing agent under 28 U.S.C. § 156(c) [“Section 156(c) Application”] should be limited in scope to those duties that would be performed by a Clerk of Court with respect to providing notice and processing claims (such as maintaining a claims register).¹ The Section 156(c) Application should exclude those duties that would *not* be performed by a Clerk of Court, for example, duties involving the preparation of schedules, acting as balloting and tabulation agent, or distributing assets pursuant to a confirmed plan of reorganization; such services should be the subject of a *separate* application to and order of the Court.

To ensure the use of a competitive process in the selection of claims and noticing agents in instances where the Court has authorized such use under 28 U.S.C. § 156(c), the following protocol have been established for this Court:

1. A debtor or trustee seeking to retain a claims and noticing agent under chapter 7, 11 or 15 shall obtain and review engagement proposals from at least three (3) court approved claims and noticing agents. A list of approved claims and noticing agents is accessible at www.nyeb.uscourts.gov.
2. An application for retention of a claims and noticing agent shall contain an affirmative statement – under penalty of perjury and Fed. R. Bankr. P. 9011 – that the applicant chose the claims and noticing agent after the review and competitive comparison of at least three (3) proposals.
3. As a condition of retention, the claims and noticing agent has a duty to comply with all relevant statutory provisions and rules of procedure, including local rules of procedure, general orders and applicable guidelines.
4. As a condition of retention, the claims and noticing agent shall agree to maintain records of all services which, at a minimum, will show dates, categories of services, fees charged, and expenses incurred.
5. The fee structure shall be included in the engagement agreement. The engagement agreement shall be annexed to the application for retention.

¹ The duties that would be performed by a claims and noticing agent are listed in paragraph 5 of the Section 156(c) Application.

