

## Deceased Debtor

Counsel should notify the Trustee upon learning of the death of a debtor, including providing a redacted copy of the death certificate or a published obituary.

Under Fed. R. Bankr. P. 1016, upon the death of a debtor, the case should be dismissed as to that debtor unless continued administration is possible.

If continued administration is being pursued to continue the case, a Motion for Continued Administration of Case should be filed promptly that provides the date of the death, explains why continued administration is possible, and provides the reason for any delay in filing the Motion (if the Motion is filed more than six months since the date of death for the debtor). The personal representative is the appropriate party to bring this Motion under state law.

If no timely action is taken to continue the administration of the case, the Trustee may seek to dismiss the case.

INDIVIDUAL DEBTOR CASES: If the Motion is filed promptly, in the circumstances of an individual debtor, the Trustee will generally not object to a Motion to Continue Administration if:

- (1) The Motion seeks to continue administration to complete payments of the plan in a lump sum from the debtor's probate estate or life insurance proceeds; or
- (2) The Motion seeks to continue administration to file a Motion for hardship discharge.

The Trustee will generally object if the Motion to Continue Administration seeks to convert the case to chapter 7, proposes a modified plan for the deceased debtor, seeks to have a third party or relative continue plan payments, or if the plan is unconfirmed.

JOINT DEBTOR CASES: In the circumstances of a case with joint debtors, in which only one has died, the Trustee will generally not object to a Motion to Continue Administration if:

- (1) The Motion seeks to continue administration to complete payments of the plan in a lump sum from the debtor's probate estate or life insurance proceeds;
- (2) The Motion seeks to continue administration to file a motion for hardship discharge; or
- (3) The Motion seeks to continue administration to allow the surviving debtor to complete payments under the confirmed plan and certify eligibility of discharge after the completion of the case, with the condition that the surviving debtor cannot amend the plan or convert the case to chapter 7.

In addition to seeking continued administration, a surviving joint debtor could also seek to divide the case with the deceased debtor or seek dismissal solely as to the deceased debtor.

In seeking to continued administration, the Trustee recommends reviewing the local opinions of our District, which are available at the Court's website [here](#).