

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI**

**FEDERAL TRADE COMMISSION,** )  
 )  
 **Plaintiff,** )  
 )  
 v. ) **Case No. 4:14-CV-00815-BCW**  
 )  
 **BF LABS INC., et al.,** )  
 )  
 **Defendants,** )

**MOTION FOR ENTRY OF STANDING ORDER NO. 1 TO  
ESTABLISH MOTION PROCEDURES**

COMES NOW Temporary Receiver Eric L. Johnson (“Temporary Receiver”) and moves that the Court enter an order to establish notice and motion procedures. In support of this motion, Temporary Receiver states as follows:

1. On September 18, 2014, this Court entered an Ex Parte Order, which imposed a temporary restraining order, appointed Temporary Receiver, and froze the assets of BFL. Doc. 9. On September 29, 2014, the Court extended the temporary restraining order until October 3, 2014, at 9:00 a.m. Doc. 47. On October 2, 2014, the Court entered a Stipulated Interim Order that reappointed Temporary Receiver. Doc. 54.

2. Local Rule 66.1 provides that “[i]n respects other than administration of the estate, any civil action in which the appointment of a receiver is sought . . . is governed by the Federal Rules of Civil Procedure and by [the Local Rules]. . . . (d) In all other respects the receiver . . . shall administer the estate as nearly as may be in accordance with the practice in the administration of estate in bankruptcy, except as otherwise ordered by the Court.” It is not uncommon in the administration of a bankruptcy estate to establish a Standing Order with respect to Motion Procedures. *See, e.g., In re XWW, Inc. f/k/a Weld Wheel, Indus., Inc.*, Case No.

06-42105 (Bankr. W.D. Mo.), Doc Nos. 24 and 75; *In re Arrow Speed Warehouse, Inc.*, Case No. 08-50698 (Bankr. W.D. Mo.), Doc. Nos. 19 and 64; *In re HMC/CAH Consolidated, Inc.*, Case No. 11-44738 (Bankr. W.D. Mo.), Doc. No. 110. Temporary Receiver submits that, in this case, the Court and parties are better served by having established motion procedures in place with respect to receivership estate matters.

3. The Temporary Receiver requests that the Court establish the following motion procedures with respect to administration of receivership estate matters:

- a. **Incorporation of Certain Provisions of Local Rule 7.0.** Local Rule 7.0 (b), (f)-(i) apply with respect to motions, applications, and other requests related to the administration of the receivership estate.
- b. **Suggestions in Support of Motions.** The moving party shall serve and file with the party's motion a brief written statement of the reasons in support of the motion. If less than ten (10) pages, the Suggestions in Support of the Motion may be combined with the Motion.
- c. **Suggestions in Opposition.** Within seven (7) calendar days from the time the motion is filed, each party opposing the motion shall serve and file a brief written statement of the reasons in opposition to the motion.
- d. **Reply Suggestions.** Within three (3) business days from the time the suggestions in opposition are filed, a reply brief may be filed.
- e. **Extension or Reduction of Time.** For good cause shown, the Court may in its discretion with or without motion extend or reduce the time limits relating to motions regarding the administration of the estate. The Court may not extend or reduce the time to act under Federal Rules of Civil Procedure 50(b) and (d), 52(b), 59(b), (d), and (e), and 60(b).

4. Additionally, Federal Rule 83(b) provides that the Court "may regulate practice in any manner consistent with federal law, rules adopted under 28 U.S.C. § 2072 and 2075, and the district's local rules." In this regard, the Temporary Receiver requests that the Court establish the following procedures with respect to all motions filed in this case:

- a. **Temporary Receiver's Position.** Except for summary judgment motions, discovery motions, and pleadings where the Temporary Receiver is a movant, all motions, applications, or other requests should represent

whether the Temporary Receiver supports, opposes, or takes no position on such motion, application, or request.

- b. **Consent Judgments.** Any proposed consent judgment that resolves the pending action must be submitted to the Court by motion and in accordance with Local Rule 7.0.
- c. **Stipulated Motions.** Except for motions with respect to proposed consent judgments, the Court may immediately grant motions that have been stipulated to and to which the Temporary Receiver (i) is the moving party, (ii) has no position, or (iii) does not oppose.
- d. **Proposed Orders.** Upon filing any motion, application, or request, the movant shall provide to the Court in word format a proposed order granting such motion, application, or request. The proposed order shall be sent via electronic mail to the courtroom deputy at [joella\\_baldwin@mow.uscourts.gov](mailto:joella_baldwin@mow.uscourts.gov).

5. None of the proposed procedures identified herein shall replace or supersede the procedures related to Discovery Motions as set forth in Local Rule 37.1 and all such procedures shall remain in effect.

6. Neither plaintiff, nor the represented defendants object to this motion.

WHEREFORE Temporary Receiver respectfully requests that the Court enter an order establishing the motion procedures as outlined above and for such other relief as the Court deems just and proper.

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Respectfully submitted,  
SPENCER FANE BRITT & BROWNE LLP

/s/ Kersten L. Holzhueter

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### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 8th day of October 2014, a true and correct copy of the foregoing was filed electronically with the United States District Court for the Western District of Missouri using the CM/ECF system, which sent notification to all parties of interest participating in the CM/ECF system.

/s/ Kersten L. Holzhueter

Attorney for Temporary Receiver Eric L.  
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