LOCAL RULES
OF BANKRUPTCY PROCEDURE
OF THE UNITED STATES
BANKRUPTCY COURT
FOR THE
EASTERN DISTRICT OF TEXAS

[Revised December 1, 2009]

BILL PARKER
CHIEF UNITED STATES BANKRUPTCY JUDGE

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UNITED STATES BANKRUPTCY JUDGE

<u>Local Rule of Bankruptcy Procedure 1001.</u> GENERAL SCOPE; APPLICABILITY OF DISTRICT COURT LOCAL RULES; ATTORNEY ADMISSIONS AND DUTIES; JUDGE'S REGULATIONS AND CLERK'S INTERNAL OPERATING PROCEDURES.

(a) <u>Title</u>

These Local Rules of Bankruptcy Procedure and Forms govern procedure in the United States Bankruptcy Court for the Eastern District of Texas. These rules may be abbreviated in citations as "LBR," and the forms may be abbreviated as a "TXEB Local Form." These rules must be construed consistently with the Federal Rules of Bankruptcy Procedure ("Fed. R. Bankr. P.") to secure the just, speedy, and inexpensive determination of every case and proceeding.

(b) <u>Scope and Effective Date</u>

1. These Local Rules of Bankruptcy Procedure, as amended and restated, become effective December 1, 2009. They supersede all Local Rules of Bankruptcy Procedure issued prior to December 1, 2009, and they govern a case, contested matter, or proceeding pending or commenced after such date with the following exceptions:

   (A) the provisions of LBR 2016(h)(1) as revised in 2008, pertaining to Chapter 13 compensation issues, shall apply only to cases filed on or after January 1, 2008. Chapter 13 cases filed on or after October 17, 2005, but prior to January 1, 2008, shall continue to be governed by previous confirmation procedures and compensation rules;

   (B) the provisions of LBR 4004(c)(2), as revised in 2008, which authorizes a 60-day period in which to object to the discharge of a Chapter 13 debtor shall apply only to cases filed on or after October 17, 2005, and the discharge process in cases filed prior to that date shall continue to be governed by a 30-day objection period since the discharge in those pre-BAPCPA cases is not dependent upon the submission of further debtor documentation;

   (D) any LBR which pertains to statutory authority applicable only to cases filed on or after October 17, 2005, shall apply only to cases filed on or after October 17, 2005.

2. Any appendix or local form to these Local Rules may be modified by the Court without the necessity of a formal amendment to the Local Rules.

3. On motion of a party in interest, the Court may -- for the convenience of the

parties or other good cause -- suspend or modify any Local Rule of Bankruptcy Procedure in a particular case.

4. These Local Rules of Bankruptcy Procedure may be superseded or modified with respect to documents filed, signed or verified by electronic means in compliance with the *Administrative Procedures for the Filing, Signing, and Verifying of Documents by Electronic Means* as set forth in *TXEB Appendix 5005* and such Appendix controls in the event of a conflict between its procedures and these Local Rules. The procedures for electronic filing set forth in *TXEB Appendix 5005* may be modified by the Court from time to time without the necessity of a formal amendment to these Local Rules.

(c) <u>Incorporated Local Court Rules of the United States District Court (the "District Court Rules")</u>

1. The District Court Rules governing attorney admission, suspension, and disbarment apply in the Bankruptcy Court; provided, however, "Court" or "Clerk" in the District Court Rules means the Bankruptcy Court or Bankruptcy Clerk when an attorney appears in Bankruptcy Court. No decision by the Bankruptcy Court shall affect the ability of an attorney to appear before the District Court.

2. Other Local Court Rules of the United States District Court for the Eastern District of Texas do not apply in the Bankruptcy Court, except as specified in these Local Rules of Bankruptcy Procedure or in a separate order of the Court.

(d) <u>Admission Pro Hac Vice</u>

A request for temporary admittance when an attorney is not admitted to practice in the Eastern District of Texas is generally governed by the Eastern District Court Rule AT-1(d) except that:

(1) the Court will rule upon the application and the applicant must attach a separate proposed order to the request;

(2) the prescribed admission fee is waived if the attorney has not previously asked for temporary admittance within one year of the request;

(3) the applicant must list, by case style, case number and application filing date, all other *pro hac vice* applications granted in the Bankruptcy Court within the year preceding the application.

Attorneys frequently appearing before the Bankruptcy Court must seek admission to

practice in the Eastern District of Texas pursuant to Eastern District Court Rule AT-1. Unless otherwise authorized by the Court, an attorney may not be admitted to practice before the Bankruptcy Court on a *pro hac vice* basis on more than three (3) occasions in any given 12-month period.

(e) **Attorney Obligation to Court**
An attorney must promptly notify the Court of a formal grievance proceeding, disbarment, suspension, or other status change which impacts such person's eligibility to practice law.

(f) **[Reserved for Future Use]**

(g) **Judges' Regulations**
Each bankruptcy judge may adopt regulations in accordance with Fed. R. Bankr. P. 9029(b). *TXEB Appendix 1001-g* contains the current regulations and must be carefully reviewed as the regulations may make important additions or modifications to these Rules.

(h) **Clerk's Internal Operating Procedures**
TXEB Appendix 1001-h contains the Clerk's internal operating procedures..

(i) **Standards of Litigation Conduct**
The standards for attorney conduct set forth in the Local District Court Rule AT-3 and the Texas Lawyers Creed apply in the Bankruptcy Court.

PART I: COMMENCEMENT OF CASE; PROCEEDINGS RELATING TO PETITION AND ORDER FOR RELIEF.

Local Rule of Bankruptcy Procedure 1002. COMMENCEMENT OF CASE.

(a) **Filing Requirements**
TXEB Appendix 1002-a outlines the requirements for commencing a new bankruptcy case.

(b) **Filing a Bankruptcy Petition Without Counsel**
An individual may file bankruptcy or appear in Bankruptcy Court without legal counsel. An attorney must sign the bankruptcy petition and appear for other types of debtors -- including partnerships, corporations, and trusts. If a debtor who is not an individual files a bankruptcy petition without legal counsel, then the Court will dismiss the bankruptcy case sua sponte or on motion of a party in interest.

Local Rule of Bankruptcy Procedure 1005. CAPTION OF PETITION.

The petition caption must reflect the Title 11 bankruptcy chapter under which the debtor seeks relief.

Local Rule of Bankruptcy Procedure 1006. FILING FEES.

(a) Basis for Fees and Method of Payment

1. The Clerk collects fees as authorized by 28 U.S.C. §1930, including those prescribed by the Judicial Conference of the United States under the *Bankruptcy Court Miscellaneous Fee Schedule* and the *Electronic Public Access Miscellaneous Fee Schedule*.

2. The Clerk accepts the following forms of payment:

   - cash;
   - cashier's check;
   - money order;
   - check drawn from account of attorney or attorney's law firm, accepted subject to collection;
   - debit card account of the debtor**;**
   - debit or credit card account of an attorney as authorized by the Court.

3. Items must be made payable to "Clerk, U.S. Bankruptcy Court."

4. The Clerk maintains a list of attorneys and law firms whose checks have been dishonored. The Clerk may refuse to accept a check from an attorney or law firm on the list.

5. Payment is due on the date the petition is filed.

(b) Chapter 11 Noticing and Claim Fees

The Clerk periodically invoices the fees imposed by the Bankruptcy Court Fee Schedule established by 28 U.S.C. § 1930. Fees are payable on invoice receipt.

(c) The United States Trustee Quarterly Filing Fee

The United States Trustee invoices and collects the Chapter 11 quarterly fees imposed by 28 U.S.C. §1930(a)(6).

(d) Application to Waive Filing Fee by Chapter 7 Individual Debtor

A request by an individual debtor to waive the filing fee for Chapter 7 relief must be

indicated on the Voluntary Petition and accompanied by an application and proposed order that substantially conform to Official Form 3B. If granted, the waiver shall apply to all fees prescribed by the Judicial Conference of the United States to be paid by a debtor in a Chapter 7 case, excluding a Chapter 7 debtor's request to convert the case to another chapter, which must be accompanied by the full filing fee for relief under that chapter.

(e) Application to Pay Filing Fee in Installments

A request by an individual debtor to pay a filing fee in installments must be indicated on the Voluntary Petition and accompanied by an application and proposed order that substantially conform to Official Form 3A.

Local Rule of Bankruptcy Procedure 1007. LISTS, SCHEDULES, STATEMENTS, AND OTHER DOCUMENTS; TIME LIMITS.

(a) Master Mailing List (Matrix)

1. **General Requirements**.

(A) At the time of filing a voluntary petition [or within 14 days after the entry of an order for relief following the filing of an involuntary petition], the debtor [or petitioning creditor or partner, upon order of the Court] must file an alphabetized creditor list which includes the name and last known mailing address for every creditor.

(B) A master mailing list (matrix) must also include those agencies and officers of the United States required to receive notice in Fed. R. Bankr. P. 2002(j).

(C) The designated national address for service upon the Internal Revenue Service is contained in *TXEB Appendix 1007-b-1*.

(D) A master mailing list (matrix) in a Chapter 7 or Chapter 11 case must include the United States Trustee at its office address in the Eastern District of Texas.

2. **Partnership Filings**

If a debtor is a partnership, the master mailing list (matrix) must contain the names and current mailing addresses of each general and limited partner.

3. **Corporate Filings**

If a debtor is a corporation, the master mailing list (matrix) must contain:

(A) the names and current mailing addresses of the present officers and directors or, if none, the immediate past officers and directors;

(B) the name and last known address or place of business of each equity security holder.

4. **Form of Mailing List**

The master mailing list (matrix) must be in the format prescribed by *TXEB Appendix 1007-b-5*. The format may be changed from time to time without amendments to these Local Rules of Bankruptcy Procedure.

5. **Accuracy of Information**

(A) The debtor and debtor's attorney [or petitioning creditor or partner, upon order of the Court] are responsible for the preparation of the master mailing list required by this Local Rule of Bankruptcy Procedure.

(B) The debtor must verify the list attesting to the accuracy and completeness of the information. The Verification of the Master Mailing List (Matrix) must conform to *TXEB Appendix 1007-b-6* and shall serve as the cover page to the master mailing list (matrix).

(C) A debtor should exercise care to insure that designated creditor addresses as described in §342(c)(2) are utilized in the master mailing list (matrix).

6. **Amendment of Master Mailing List (Matrix)**

(A) When an amended schedule is filed which adds or deletes a new entity, an amended master mailing list (matrix) must be filed in the same format as the original list. The amendment must be limited to the names and addresses to be added or deleted.

(B) The Notice of Change in Schedule of Creditors must be in the format shown in *TXEB Appendix 1007-b-7*, and it must be the cover page to the amended mailing list (matrix) and amended schedule of creditors.

(b) Motion for Extension of Time to File Schedules and Statements

1. An initial motion by a debtor to obtain an extension of the 14-day deadline to file schedules, statements and other documents under Fed. R. Bankr. P. 1007(c) shall

not require negative notice language and must be served only upon the case or standing trustee, any committee elected under §705 or appointed under §1102 of the Bankruptcy Code, and in a case under Chapter 7 or Chapter 11, the United States Trustee.

2. Any motion for an additional extension, including a motion filed pursuant to §521(i)(3) or §1116(3), shall be supported by the debtor's affidavit or unsworn declaration under penalty of perjury as provided in 28 U.S.C. §1746 establishing the existence of extraordinary and compelling circumstances necessitating an extension beyond twenty-eight (28) days from the petition date. Such additional extension motion shall contain a certificate of service reflecting service on the master mailing list (matrix) as constituted by the Court on the date of service and shall contain the following 14-day negative notice language:

NO HEARING WILL BE CONDUCTED ON THIS MOTION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS APPLICATION SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SCHEDULE A HEARING UNLESS IT DETERMINES THAT AN EVIDENTIARY HEARING IS NOT REQUIRED AND THAT THE COURT'S DECISION WOULD NOT BE SIGNIFICANTLY AIDED BY ORAL ARGUMENT. IF YOU FAIL TO APPEAR AT ANY SCHEDULED HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

3. Any untimely motion for extension of time shall be subject to immediate dismissal absent evidence of excusable neglect.

(c) <u>Redaction of Personal Identifiers</u>

Pursuant to Fed. R. Bankr. P. 9037 and the exemptions contained therein, a debtor must refrain from including, or shall redact where inclusion is necessary, the following personal identifiers from all lists, schedules and statements filed with the Court, unless

ordered by the Court to do otherwise:

- **Social Security Numbers:** if disclosure of a social security number is required, only the last four digits of that number should be used;

- **Names of Minor Children:** if disclosure of the identity of any minor child is required, only the initials of that child should be used;

- **Dates of Birth:** if disclosure of an individual's date of birth is required by any statement or schedule, only the year should be used;

- **Financial Account Numbers:** if disclosure of any financial account number is required, only the last four digits of that number should be used.

The responsibility for redacting these personal identifiers rests solely with the debtor and debtor's counsel. The Court will not review documents for compliance with this rule. Parties are cautioned that failure to redact these personal identifiers may subject them to the full disciplinary power of the Court.

(d) **Alphabetical Listing of Creditors**
All creditors listed on Schedules D, E and F must be arranged in alphabetical order.

(e) **Payment Advices Required by §521(a)(1)(B)(iv)**
Copies of all payment advices or other evidence of payment from any employer received by an individual debtor in a Chapter 7 or Chapter 13 case within 60 days before the filing of the petition shall not be filed with the Court unless otherwise ordered. In lieu thereof, such payment advices shall be provided by the debtor:

(1) to the case or standing Trustee at least seven (7) days prior to the first date set for the §341 meeting of creditors and, only upon request, to the United States Trustee; and

(2) to any creditor who serves upon the debtor a written request for such copies within seven (7) days following the conclusion of the §341 meeting of creditors**.**

Local Rule of Bankruptcy Procedure 1009. AMENDMENTS OF VOLUNTARY PETITIONS, LISTS, SCHEDULES, AND STATEMENTS.

(a) **Titles and Effect of Amendment**
An amendment to the petition, lists, schedules or statements required under the Federal

or Local Rules of Bankruptcy Procedure must be entitled "AMENDMENT TO (name of document)" and the amended document should clearly reveal the nature of the change being effectuated by the amendment **[i.e. designations of ADDED, DELETED, ALTERED, etc..]** The Notice of Change in schedule of creditors must be in the format shown in *TXEB Appendix 1007-b-7*, and it must be the cover page to the new list and amended schedule of creditors. Additional copies are no longer required.

(b) <u>Required Service</u>

1. A debtor must serve any amended schedule, statement, master mailing list (matrix), or list of the twenty (20) largest unsecured creditors upon the case or standing trustee, if any, the United States Trustee, and any party affected by such amendment.

2. If an amendment adds a creditor to the schedule of assets and liabilities, a debtor should exercise care to insure that the full tax identification number is provided in the copy of any amended schedule served upon any added creditor as described in §342(c), while redacting such tax identification number in the amended schedule filed with the Court.

(c) <u>Notice to Newly Scheduled or Added Entities</u>

In addition to all parties entitled to notice of such amendments under the Federal Rules of Bankruptcy Procedure, a debtor must serve a notice of the filing of amended schedules on each entity newly scheduled or newly added, and must also attach a copy of the "Notice of Chapter # Bankruptcy Case, Meeting of Creditors, & Deadlines;" "Discharge of Debtor," "Order Confirming Plan," or "Order Fixing Date for Filing Claims" entered in the case.

(d) <u>Notice of Amendment to Exemptions</u>

An amended Schedule of Property Claimed as Exempt (Schedule C) must be served on the master mailing list (matrix) as constituted by the Court on the date of service or it will be stricken.

(e) <u>Certificate of Service</u>

When notice of an amendment is required by this Local Rule of Bankruptcy Procedure, a certificate of service must be filed. LBR 9013(e) governs the format of a certificate of service.

<u>Local Rule of Bankruptcy Procedure 1015</u>. CONSOLIDATION OR JOINT ADMINISTRATION OF CASES PENDING IN SAME COURT.

(a) <u>Related Debtors</u>

When a joint administration or consolidation motion is filed, the bankruptcy judge with

the lowest case filing number determines the motion.

(b) **Husband and Wife**

When a husband and wife file a joint petition, the Court deems the joint petition an order directing joint administration, unless the Court orders otherwise based on a party in interest's motion.

(c) **Related Entities**

A motion requesting joint administration of two or more pending bankruptcy cases must be filed in each such case and:

(1) contain the name and case number of cases sought to be jointly administered;

(2) address whether the practicalities of providing professional services to the jointly-administered estates preclude any professional person from effectively or accurately separating the services rendered solely for the benefit of one bankruptcy estate vis-a-vis another, thus justifying the submission of a consolidated application for compensation to be filed solely in the main case, accompanied by a proposal for proper apportionment of accumulated fees and expenses between/among the respective bankruptcy estates, subject to the right of any party-in-interest to object to the proposed apportionment;

(3) identify any existing administrative or scheduling order which might require modification; and

(4) attach a proposed consolidated master mailing list (matrix) in the affected cases for future noticing requirements.

Local Rule of Bankruptcy Procedure 1017. DISMISSAL OR CONVERSION OF CASE; SUSPENSION.

(a) **Definition of "Want of Prosecution"**

For purposes of Fed. R. Bankr. P. 1017 and as used in these Local Rules of Bankruptcy

Procedure, "want of prosecution" includes, but is not limited to, the following:

- failure to timely file schedules, statements and other required documents, including the Chapter 12 or 13 plan;
- failure to timely and diligently prosecute the filing of a plan or disclosure statement;
- failure to timely and diligently prosecute the confirmation of a plan or approval of a disclosure statement;
- failure to appear at any hearing as ordered by the Court, including the first meeting of creditors;
- failure to pay fees required under 28 U.S.C. § 1930; or
- failure to furnish to the case or standing trustee, if any, or to the United States Trustee information which is reasonably required to supervise the administration of the estate, including, but not limited to, monthly operating reports, proof of insurance on estate assets and evidence of payment of post-petition taxes.

(b) <u>Dismissals</u>

1. A motion to dismiss a case filed by any party in interest must be served upon the master mailing list (matrix) as constituted by the Court on the date of service unless the dismissal is sought under §707(a)(3), §707(b), §1307(c), §1307(e) or for failure of the debtor to pay the required filing fee, in which service of the motion pursuant to the applicable section of LBR 9013(f)(1) shall suffice.

2. A trustee or the United States Trustee is given the discretion to schedule and provide notice of a hearing to consider a dismissal motion which he/she has filed. Such hearing may only be scheduled on the regularly-scheduled docket date for trustee dismissal motions under that chapter which is not less than 14 days from the date of filing. Such trustee shall give notice of that scheduled hearing in boldface, large font in the first paragraph of the dismissal motion in lieu of the negative notice language otherwise required.
3. Any dismissal motion, other than one filed by the debtor pursuant to §1208(b) or §1307(b), or filed by the trustee with a designated hearing date, must contain the following 14-day negative notice language, which must be in boldface, large font and located in the text of the notice/motion -- preferably in the first paragraph:

NO HEARING WILL BE CONDUCTED ON THIS MOTION UNLESS A

WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS MOTION WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

4. If a motion is requesting dismissal with prejudice to re-filing for any period of time, such request must be referenced in both the title of the motion and in the title of the proposed order.

5. A movant requesting dismissal of a case pursuant to Bankruptcy Code §1112(b) may waive the 30-day hearing requirement under §1112(b)(3), if desired, in the title of the motion.

   Title Example: Motion to Convert or Dismiss Chapter 11 Case, Waiver of 30-Day Hearing Requirement, and Request for Hearing in Beaumont, Texas

   If a waiver is not filed, the Court will convene a hearing within the required 30 days in the division most convenient to the Court.

6. Dismissals sought by the debtor pursuant to §1208(b) or §1307(b) shall be by motion served only upon the standing trustee and no negative notice language is required.

(c) **<u>Trustee's Motion to Waive Automatic Dismissal of Case</u>**

A motion by a Chapter 7 trustee or the Chapter 13 trustee to waive the automatic dismissal provisions of §521(i)(1), pursuant to the grounds set forth in §521(i)(4), shall contain 14-day negative notice language, as utilized in LBR 1017(b)(3), and contain a certificate of service reflecting service on the master mailing list (matrix) as constituted by the Court on the date of service.

(d) Conversion

1. A debtor's right to convert a case from Chapter 12 to Chapter 7 pursuant to Bankruptcy Code §1208(a), or from Chapter 13 to Chapter 7 pursuant to Bankruptcy Code §1307(a), is accomplished by the filing of a notice of conversion served upon the master mailing list (matrix) as constituted by the Court on the date of service. A debtor's motion to convert pursuant to §1208(a) or §1307(a) shall be deemed a notice of conversion.

2. Any other conversion motion, including one filed by the debtor pursuant to §706(a) or §1112(a), must be served upon the master mailing list (matrix) as constituted by the Court on the date of service and must contain the following 14-day negative notice language, which must be in boldface, large font and located in the text of the notice/motion -- preferably in the first paragraph:

   NO HEARING WILL BE CONDUCTED ON THIS MOTION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS MOTION WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

3. A movant requesting conversion of a case pursuant to Bankruptcy Code §1112(b) may waive the 30-day hearing requirement under §1112(b)(3), if desired, in the title of the motion.

   Title Example: Motion to Convert or Dismiss Chapter 11 Case, Waiver of 30-Day Hearing Requirement, and Request for Hearing in Beaumont, Texas

   If a waiver is not filed, the Court will convene a hearing within the required 30 days in the division most convenient to the Court.

Local Rule of Bankruptcy Procedure 1020. **SMALL BUSINESS CHAPTER 11 REORGANIZATION CASE**

(a) **Determination of "Small Business Debtor" Status**

A party seeking to object to a Chapter 11 debtor's statement in its petition regarding whether it meets the definition of a "small business debtor" under §101 (51D) of the Bankruptcy Code shall file a Motion to Determine Small Business Debtor Status. The motion must contain the 21-day negative notice language described in LBR 9007(a) and shall be served upon the parties designated by LBR 9013(f). A proposed order shall accompany the motion.

(b) **Determination of Status of Unsecured Creditors' Committee**

A party seeking to challenge the effectiveness of an official committee of unsecured creditors appointed under §1102(a)(1) of the Bankruptcy Code for the purpose of imposing the designation of a "small business debtor" under §101 (51D) shall file a Motion for Determination of Status of Unsecured Creditors' Committee. The motion must contain the 21-day negative notice language described in LBR 9007(a) and shall be served upon the parties designated by LBR 9013(f). A proposed order shall accompany the motion.

PART II: OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS; EXAMINATIONS; ELECTIONS; ATTORNEYS AND ACCOUNTANTS

Local Rule of Bankruptcy Procedure 2002. **NOTICES TO CREDITORS, EQUITY SECURITY HOLDERS, UNITED STATES, AND UNITED STATES TRUSTEE**.

(a) **21-Day Notice**

Unless otherwise ordered by the Court, the Clerk notices the matters listed in Fed. R. Bankr. P. 2002(a).

(b) **28-Day Notice**

Unless otherwise ordered by the Court, the Clerk notices all matters listed in Fed. R. Bankr. P. 2002(b).

(c) **Notice Content**

A hearing notice must identify the matter set for hearing, the court location, the hearing date, and the hearing commencement time.

(d) **Returned Notices**

Upon receipt of a returned undeliverable notice of the meeting of creditors, the debtor or debtor's counsel must attempt to find correct addresses for each returned notice and re-serve the affected parties. A debtor must confirm the fulfillment of this duty by filing a certificate of service within 14 days after the conclusion of the first meeting of creditors. At the time of certification, a debtor must also amend the master mailing list (matrix) pursuant to LBR 1007(b)(7). If corrected addresses cannot be found, the debtor or counsel must identify the creditors who cannot be found by written notification to the Clerk. The Clerk then may remove these creditors from the master mailing list.

(e) **Service and Notice to the United States Trustee**

The United States Trustee has a standing request not to receive service of pleadings nor notice of hearings in a Chapter 12 or Chapter 13 case.

Local Rule of Bankruptcy Procedure 2004. EXAMINATION.

(a) **Motion and Notice**

A motion for an examination under Fed. R. Bankr. P. 2004 must:

(1) contain the following 14-day negative notice language:

NO HEARING WILL BE CONDUCTED ON THIS MOTION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS APPLICATION SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT ANY SCHEDULED HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

(2) contain a certificate of conference tailored to one of the following three options:

(A) reflects that the parties agreed to a date, time, and place for examination;

(B) explains why the parties were unable to confer; or

(C) explains that the parties conferred but could not reach an agreement.

(3) describe the scope of examination;

(4) itemize requested document categories;

(5) provide a minimum of 28 days' written notice of the proposed examination date to the proposed examinee, the proposed examinee's counsel, the debtor's counsel, any trustee, any committee's counsel, and the United States Trustee; and

(6) attach a proposed order which contains the date, time, and location of the examination.

(b) Duration

Unless otherwise authorized by the Court or stipulated by the parties, an examination under Fed. R. Bankr. P. 2004 shall not exceed three (3) hours.

(c) Sanctions

The Court may impose sanctions if it finds that an examination request was unreasonably sought or resisted under Fed. R. Bankr. P. 2004 or LBR 2004.

(d) Exception

If a contested matter or an adversary proceeding is pending, then the adversary discovery rules govern, and Fed. R. Bankr. P. 2004 and LBR 2004 do not apply.

Local Rule of Bankruptcy Procedure 2014. EMPLOYMENT OF PROFESSIONAL PERSONS.

(a) Content of Application

In addition to the information required by Fed. R. Bankr. P. 2014, an application to employ a professional person shall:

(1) contain the following 14-day negative notice language:

NO HEARING WILL BE CONDUCTED ON THIS APPLICATION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS APPLICATION SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING UNLESS IT DETERMINES THAT AN EVIDENTIARY HEARING IS NOT REQUIRED AND THAT THE COURT'S DECISION WOULD NOT BE SIGNIFICANTLY AIDED BY ORAL ARGUMENT. IF YOU FAIL TO APPEAR AT ANY SCHEDULED HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

(2) identify the petition filing date;

(3) identify the chapter under which the petition was filed;

(4) identify the mailing address, state bar number (if an attorney), telephone number, and e-mail address of the professional to be employed;

(5) identify the name(s) of any other professionals in the same profession employed pursuant to court order by the same applicant and, if there is any overlap in proposed services, provide an explanation of why additional professionals are needed;

(6) provide a description or disclosure of any compensation or promise of compensation already given to the professional, or of any security or pledge given; including a highlighted disclosure of any agreement to compensate the proposed professional under specified terms and conditions pursuant to §328 of the Bankruptcy Code rather than §330;

(7) attach the statements required by Fed. R. Bankr. P. 2014(a) and 2016(b);

(8) attach a certificate of service reflecting service as required by subsection (b) of

this Local Rule;

(9) attach, if there has been a waiver of conflicts in a Chapter 11 case, an adequate description of the waiver and a copy of any written waiver;

(10) provide a description of any party in interest that has a connection with the applicant; and;

(11) attach a proposed order approving the employment which substantially conforms to *TXEB Local Form 2014.*

(b) <u>Service of Applications</u>

An application made under subsection (a) or (c) of this Local Rule shall be served on the parties designated by LBR 9013(f), as well as any entity described in Fed. R. Bankr. P. 2016 with whom the applicant has agreed to share compensation for services rendered in the case.

(c) <u>Substitute Court Approved Professional</u>

If a court-approved professional withdraws, then the substitute professional must file a motion for substitution of professional person which also contains the elements of an application to employ under Fed. R. Bankr. P. 2014 and LBR 2014.

(d) <u>*Nunc Pro Tunc* Approval</u>

If a professional applies for approval more than 30 days after employment and the professional seeks retroactive approval to the employment date, then the professional seeks approval *nunc pro tunc*. In addition to the general application content requirements, the *nunc pro tunc* application must contain:

(1) an explanation of why the application was not filed earlier;

(2) an explanation of why the order authorizing employment is required *nunc pro tunc*;

(3) an explanation -- to the best of the applicant's knowledge -- of how approval of the application will or will not prejudice any parties-in-interest;

(4) the 21-day negative notice language described in LBR 9007(a); and

(5) a certificate of service reflecting service on the master mailing list (matrix) as constituted by the Court on the date of service.

(e) <u>Professionals Employable Without Application</u>

Professionals on the payroll of an operating business at the time of the order for relief are exempt from the provisions of this Local Rule of Bankruptcy Procedure except that the professionals' annual salary and other compensation must be disclosed. This information must be contained in a separate pleading filed with the Court. The debtor is responsible for filing this pleading at the same time schedules are filed. Service of this pleading shall be on the same parties entitled to notice of an order approving employment of professionals. When cash collateral issues are not implicated, a debtor-in-possession or trustee of an operating business may also apply for an order waiving the provisions of this rule as to professionals of a type who are regularly employed in the ordinary course of a debtor's business and who are to provide services not directly related to the reorganization proceedings (e.g., collection agents or attorneys, accountants, geologists, appraisers, realtors, eviction attorneys, etc.).

Local Rule of Bankruptcy Procedure 2015. DUTY TO KEEP RECORDS, MAKE REPORTS, AND GIVE NOTICE OF CASE.

(a) Required Monthly Operating Reports When a Business is Operated

When a business is operated by a trustee or debtor-in-possession in a Chapter 11 or 12 case, by a trustee in a Chapter 7 case, or by a debtor in a Chapter 13 case, a monthly operating report must be filed with the Court and served upon the United States Trustee [or, in lieu thereof, upon the standing trustee in a Chapter 12 or 13 case] not later than the 21st day of the month following the month for which the report is submitted. The first report is due the month following the month that the order for relief is granted or that a trustee qualifies. A report must be filed in the format approved by the United States Trustee [or, in lieu thereof, by the standing trustee in a Chapter 12 or 13 case].

(b) Disposition of Books and Records

Except in cases involving the disposal of patient records governed by § 351 of the Bankruptcy Code, a trustee who is in possession of books and records of the debtor may destroy, abandon, store, or return to the debtor all or a portion of those books and records on 21 days' notice to the Court, the debtor, the attorney for the debtor, the United States Trustee, the United States Attorney, and the appropriate Internal Revenue Service Special Procedures Staff office. A notice must include the 21-day negative notice language described in LBR 9007(a) and a detailed description of the books and records. If no objection to the proposed disposition is filed with the Court and served on the trustee, the disposition may be made without court order or further notice.

(c) Post Confirmation Requirements in Chapter 11 Cases

1. In cases filed under Chapter 11 in which the debtor is a partnership or corporation, the proponent of a confirmed plan must:

(A) file a post confirmation report within 28 days after the date of the order confirming the plan and serve that report upon the master mailing list (matrix) as constituted by the Court on the date of service. The report must inform the Court of the post-confirmation actions taken by the confirmed debtor or the trustee and the progress made toward consummation of the plan; and

(B) within 180 days after the date of the confirmation order, file either an application for a final decree showing that the plan has been consummated with a proposed final decree or a subsequent post-confirmation report explaining why an application for final decree is not yet appropriate and requesting a continuance of any status conference previously scheduled.

2. In cases filed under Chapter 11 in which the debtor is an individual, the proponent of a confirmed plan must:

(A) file an annual status report on each anniversary date of the entry of the confirmation order which outlines the status of payments made by the individual debtor in the past year and any other post-confirmation action taken toward consummation of the plan; and

(B) file a "Notice of Plan Completion and §522(q) Statement By Individual Debtor"in a Chapter 11 Case" (no service required) in a format substantially conforming to *TXEB Local Form 4004-b* under which each individual debtor declares that all payments under the confirmed Chapter 11 plan have been completed and that all prerequisites for the entry of an order of discharge pursuant to 11 U.S.C. §1141(d)(5) have been fulfilled.

Local Rule of Bankruptcy Procedure 2016. COMPENSATION FOR SERVICES RENDERED AND REIMBURSEMENT OF EXPENSES.

(a) Form of Application

An application for compensation and reimbursement of expenses must:

(1) contain all information required by Fed. R. Bankr. P. 2016(a);

(2) disclose the name, hourly rate and work experience of each professional performing services for which compensation is sought;

(3) comply with the United States Trustee guidelines, when total requested fees and

expenses exceed $10,000.00;

(4) bill travel time at half-rate unless work was done during travel, in which case the time may be billed at full rate;

(5) comply with the expense guidelines set forth in *TXEB Appendix 2016*;

(6) contain the 21-day negative notice language described in LBR 9007(a);

(7) contain a certificate of service reflecting service as required under subsection (c) of this rule; and

(8) attach a proposed order granting the application.

(b) <u>Time Records Required</u>

All professionals submitting an application under this rule, except auctioneers, real estate brokers, and appraisers, or professionals retained on a fixed-fee or contingent-fee basis, must keep accurate and contemporaneous time records.

(c) <u>Service</u>

A complete copy of the application, including all exhibits thereto, must be served on the debtor or the debtor's counsel, the trustee or the trustee's counsel, attorneys for any court appointed committees, and the United States Trustee. The applicant must serve a summary of the fee application upon the master mailing list (matrix) as constituted by the Court on the date of service which:

(1) identifies the applicant and the capacity of such applicant;

(2) identifies the title of the application and the date it was filed,
(3) identifies the amounts sought by the application;

(4) identifies the time period covered by the application;

(5) contains the 21-day negative notice language described in LBR 9007(a); and

(6) contains a notice that a complete copy of the application will be sent to any requesting party at no charge.

If the fee exhibit to the application exceeds twenty-five (25) pages, the applicant must deliver a paper copy of the complete application, including all exhibits thereto, to the Clerk for use by the assigned judge per *TXEB Appendix 5005*.

(d) Multiple Cases

In cases involving multiple estates -- absent substantive consolidation or special Court order -- a separate fee application must be filed for each case, and the detail of services and expenses must be apportioned to each estate or charged to the appropriate estate.

(e) Pre-Petition Retainers

1. Any professional, regardless of whether employment of that professional must be approved under §§ 327 or 1103 of the Bankruptcy Code, must deposit any pre-petition payment for prospective services (i.e., a "security retainer") into a trust or IOLTA account. Except as otherwise authorized under these Local Rules, the security retainer must remain in the account until the Court enters an order allowing removal.

2. This requirement shall not apply to pre-petition payments constituting a classic or advance payment (flat fee) retainer, although such retainer must be disclosed pursuant to Fed. R. Bankr. P. 2016(b) and is subject to review under §329 of the Bankruptcy Code.

(f) Post-Petition Retainers

1. Unless otherwise authorized by the Court or these Rules, any post-petition payment received by a professional from the debtor or any other person for the benefit of the debtor must be disclosed to the Court and deposited into a trust or IOLTA account as a security retainer. This rule shall not apply to a post-petition payment tendered by a Chapter 7 debtor with funds which do not constitute property of the bankruptcy estate.
2. Unless the Court orders otherwise, any post-petition payment must remain in the trust or IOLTA account until the Court enters an order allowing its removal. Any motion seeking such removal may be combined with an application for an award of post-petition fees and expenses. The motion must contain the 21-day negative notice language described in LBR 9007(a) and shall be served upon the parties designated by LBR 9013(f). A proposed order shall accompany the motion.

(g) Motion for Distribution of Retainer in Chapter 11 and 12 Cases

A motion for distribution of a retainer received by a professional in a Chapter 11 or 12 case may be filed on a monthly basis. Such motion must, at a minimum:

(1) contain all information required by Fed. R. Bankr. P. 2016(a);

(2) disclose the name, hourly rate and work experience of each professional

performing services for which compensation is sought;

(3) meet the travel time and expense guidelines referenced in LBR 2016(a);

(4) utilize the 14-day negative notice language described in LBR 4001(a);

(5) contain a certificate of service reflecting service on the United States Trustee, the trustee (if one has been appointed), the ten (10) largest unsecured creditors or any committee appointed under the Bankruptcy Code or its authorized agent, and any party which has filed a notice of appearance or request for notice in the case; and

(6) attach a proposed order granting the motion.

The motion for distribution of retainer shall be treated as an application for interim compensation under §331 of the Bankruptcy Code and, if no objection is filed within 14 days of the service thereof, the filing professional may withdraw from the retainer the amounts set forth as interim compensation without the necessity of a formal order.

(h) <u>Attorney's Fees in Chapter 13 Cases</u>

1. An attorney for a Chapter 13 debtor must file an application for compensation and reimbursement in compliance with subsections (a) and (b) of this rule except in the following circumstances:

   (A) If the attorney has not rendered legal services pertaining to automatic stay litigation occurring in the case, a formal fee application is not required so long as the attorney requests $3,000 or less for pre-petition and post-petition services and expenses rendered or incurred prior to the earlier of: (1) the first successful post-confirmation modification of a Chapter 13 plan which occurs subsequent to the filing of the Trustee's Recommendation Concerning Claims; or (2) the filing of a certification by the Chapter 13 Trustee that all proofs of claim have been reconciled with the terms of the confirmed plan without the necessity of a plan modification. The $3,000 shall include all pre-petition payments received by such attorney. This threshold amount may be increased by $500 in a case involving a debtor engaged in business when so certified by the Chapter 13 Trustee in the Trustee's confirmation report.

   (B) If the attorney has rendered legal services pertaining to automatic stay litigation occurring in the case, a formal fee application is not required so long as the attorney requests $3,500 or less for pre-petition and post-

petition services and expenses rendered or incurred prior to the earlier of: (1) the first successful post-confirmation modification of a Chapter 13 plan which occurs subsequent to the filing of the Trustee's Recommendation Concerning Claims; or (2) the filing of a certification by the Chapter 13 Trustee that all proofs of claim have been reconciled with the terms of the confirmed plan without the necessity of a plan modification. The $3,500 shall include all pre-petition payments received by such attorney. This threshold amount may be increased by $500 in a case involving a debtor engaged in business when so certified by the Chapter 13 Trustee in the Trustee's confirmation report.

2. The Chapter 13 trustee shall review a formal fee application and may file a recommendation, comment or objection.

3. Unless the Court orders otherwise, the entry of a Chapter 13 confirmation order shall authorize an attorney for a Chapter 13 debtor to withdraw a retainer in full or partial satisfaction of the attorney's outstanding fee without the necessity of a formal order.

4. Fees in excess of the retainer held by an attorney for a Chapter 13 debtor must be paid through the Chapter 13 plan as a Bankruptcy Code § 503(b)(2) administrative expense.

5. A formal fee application must be filed for allowance of fees and expenses for legal services rendered to a Chapter 13 debtor subsequent to the time period outlined in subsection (h)(1) unless such services pertain to a successful post-confirmation modification of a Chapter 13 plan achieved during such subsequent time period and such modification motion contains a detailed request for such fees.

6. To obtain a fee award from the funds held by the Chapter 13 Trustee that are otherwise subject to return to the debtor under §1326(a)(2) because the case has been dismissed or converted prior to the entry of a plan confirmation order, the attorney must file an "Application for Administrative Expense by Chapter 13 Debtor's Attorney" which shall contain 21-day negative notice language and shall be served only upon the debtor(s) and any other party otherwise entitled to a share of those funds pursuant to an order of the Court. Such application must be filed prior to the dismissal or conversion of the case or it will be terminated by the Court without notice. If the application has not completed the required notice period prior to the dismissal of the case, the Court shall retain jurisdiction to consider the application when ripe for adjudication pursuant to the authority recognized in *Querner v. Querner (In re Querner)*, 7 F.3d 1199 (5th Cir. 1993) without the necessity of an order specifically retaining jurisdiction for that purpose.

7. A party in interest always has the right to object to the reasonableness of a fee request. This rule does not establish minimum, maximum, or average fees, nor does it establish the reasonableness of a fee in a particular case.

(i) Substitution of Attorney for Debtor

In addition to filing a statement under Fed. R. Bankr. P. 2016(b), an attorney who enters a case as substitute counsel for the debtor shall file a Notice of Appearance in that case, with notice to the master mailing list (matrix) as constituted by the Court on the date of service, which clearly sets forth the substitution of counsel.

PART III: CLAIMS AND DISTRIBUTION TO CREDITORS AND EQUITY INTEREST HOLDERS; PLANS

Local Rule of Bankruptcy Procedure 3002. FILING PROOF OF CLAIM OR INTEREST.

(a) Redaction of Personal Identifiers

The requirements of LBR 9013(d) regarding the redaction of personal identifiers applies to proofs of claim, and attachments thereto, filed with the Court.

(b) Service

A copy of a proof of claim or interest, with attachments, must be served on the debtor, evidenced by a certificate of service filed with the Court. Service upon the debtor's counsel shall be accomplished by electronic means through the transmission facilities of the Court.

Local Rule of Bankruptcy Procedure 3003. FILING OF PROOF OF CLAIM OR EQUITY SECURITY INTEREST IN CHAPTER 9 OR CHAPTER 11 REORGANIZATION CASES.

(a) Time for Filing

A proof of claim is timely filed in a Chapter 9 case if it is filed not later than 120 days after the entry of the order for relief, or is timely filed in a Chapter 11 case if it is filed not later than 90 days after the first date set for the meeting of creditors called under §341(a) of the Code, except as follows:

1. A proof of claim by a governmental unit is timely filed if it is filed not later than 180 days after the date of the order for relief; or

2. The Court may set a different bar date for a creditor or creditors. Notice of a different bar date for all creditors must comply with Fed. R. Bankr. P. 2002.

(b) <u>Bar Date Notice</u>

1. The Clerk is authorized and directed to stamp the Court's signature and notify creditors of the Chapter 11 bar dates set forth in subsection (a) of this Rule.

2. If the Court orders a different bar date for filing proofs of claim or interest, then the order will conspicuously reflect that a new date has been set and that the new date differs from the deadline established in subsection (a) of this Rule.

<u>Local Rule of Bankruptcy Procedure 3007</u>. OBJECTIONS TO CLAIMS.

(a) <u>Contents</u>

A claims objection must comply with the requirements of LBR 9013 and must contain the following:

(1) a copy of the proof of claim (without exhibits) to which the objection pertains;

(2) an affidavit and/or other documentary proof in support of the objection which is sufficient to overcome the presumption of validity imposed by Fed. R. Bankr. P. 3001(f) and, if pertaining to the valuation of collateral, a clear identification of the basis of any valuation opinion asserted; and

(3) a certificate of service evidencing service of the claims objection upon the claimant at the address disclosed by the claimant in its proof of claim and upon all other parties entitled to notice under other applicable service rules; and

(4) a proposed order substantially conforming to TXEB Local Form 3007.

(b) <u>Hearings</u>

A party filing an objection to claim, other than an objection for which the filing of an

adversary proceeding is required, may utilize the 21-day negative notice language described in LBR 9007(a). If the objection meets the requirements mandated by subsection (a) of this rule and no response to the claim objection is timely filed under the terms of the negative notice, the objection may be sustained by the Court without further notice or hearing. If a response to the claim objection is timely filed, the claim objection shall be set for hearing on not less than 30 days' notice. If a claim objection does not contain the 21-day negative notice language, then the claim objection shall be immediately set for hearing on not less than 30 days' notice.

(c) <u>Omnibus Claim Objections Prohibited</u>

Except as authorized by Fed. R. Bankr. P. 3007 or unless otherwise authorized by the Court, omnibus claim objections to groups of claims are not allowed. Each claims objection must deal with one specific claim.

(d) <u>Claim Procedures in Chapter 13 Cases</u>

The procedure for adjudication of claims in Chapter 13 cases, including the establishment of a bar date for the filing of claim objections in Chapter 13 cases, is governed by LBR 3015(g).

<u>Local Rule of Bankruptcy Procedure 3015</u>. FILING, OBJECTION TO CONFIRMATION, AND MODIFICATION OF A PLAN IN A CHAPTER 12 FAMILY FARMER'S DEBT ADJUSTMENT OR A CHAPTER 13 INDIVIDUAL'S DEBT ADJUSTMENT CASE.

(a) <u>Plan and Confirmation Order Format - Chapter 13</u>

Every Chapter 13 debtor shall file a proposed Chapter 13 plan in a format which substantially conforms to *TXEB Local Form 3015-a*. Any proposed confirmation order must substantially conform to *TXEB Local Form 3015-b*.

(b) <u>Service and Notice</u>

A debtor filing an original or modified Chapter 12 or 13 plan must serve such plan upon the master mailing list (matrix) as constituted by the Court on the date of service, including the standing trustee. A certificate of service evidencing the proper service of the plan on the matrix must be filed with the Court or such plan will be stricken. If a plan summary is not filed concurrently with a proposed plan, the plan summary must clearly identify by date of filing the proposed plan which it summarizes.

(c) Plan Payments

1. Except to the extent that a proposed Chapter 13 plan provides for retention of collateral and direct payments by the debtor to the holder of a claim secured thereby or is otherwise authorized by the Court, no Chapter 13 debtor may provide adequate protection payments directly to a holder of a secured claim under the provisions of §1326(a)(1)(C) but shall instead tender required adequate protection payments to the Chapter 13 Trustee in an amount to be established in the debtor's proposed Chapter 13 plan or as otherwise ordered by the Court.

2. Any adequate protection payment tendered to the Chapter 13 Trustee pursuant to this rule shall be held solely for the benefit of the affected secured creditor to the exclusion of the debtor and shall be tendered to that secured creditor by the Chapter 13 Trustee upon the earlier of plan confirmation, or the dismissal or the conversion of the Chapter 13 case, notwithstanding any failure of a debtor to confirm a Chapter 13 plan.

(d) Chapter 12 - Initial Confirmation Process

1. In a Chapter 12 case, the initial confirmation hearing date will be established by separate order.

2. An objection to confirmation by a creditor or party-in-interest must be filed no later than seven (7) days prior to confirmation, and untimely objections may not be considered by the Court.

3. The Chapter 12 Trustee must submit a confirmation recommendation and report, in which the Trustee must set forth all objections to the confirmation of the proposed Chapter 12 plan. This report must be filed with the Court and served on the debtor and the debtor's attorney at least seven (7) days prior to the scheduled confirmation hearing.

(e) Chapter 13 - Initial Confirmation Process

1. The notice of the initial § 341 meeting of creditors in a Chapter 13 case contains notice of the initial hearing to consider confirmation of a proposed Chapter 13 plan.

2. An objection to confirmation by a creditor or party-in-interest, other than the Chapter 13 Trustee, must be filed no later than fourteen (14) days prior to the scheduled hearing to consider confirmation of the plan, and untimely objections

may not be considered by the Court.

3. A debtor shall tender to the Chapter 13 Trustee a proposed confirmation order in a format which substantially conforms to *TXEB Local Form 3015-b* no later than seven (7) days prior to the scheduled hearing to consider confirmation of the plan.

4. No later than seven (7) days prior to the scheduled hearing on confirmation of the plan, the Chapter 13 Trustee must determine whether to recommend confirmation of the proposed plan to the Court:

   (A) if the Chapter 13 Trustee wishes to object to the confirmation of a proposed plan, a confirmation report must be filed in which the Trustee must set forth all objections to the confirmation of the proposed Chapter 13 plan. This report must be filed with the Court and served on the debtor and the debtor's attorney at least seven (7) days prior to the scheduled confirmation hearing;

   (B) if the Chapter 13 Trustee wishes to recommend confirmation of the proposed plan and if all objections have been resolved, the Chapter 13 Trustee may upload an approved proposed confirmation order to the Court and such action will constitute a recommendation by the Trustee for confirmation of the proposed plan without the necessity of presenting additional documentation.

5. Upon the upload of an approved confirmation order by the Chapter 13 Trustee, the confirmation of the plan shall be considered unopposed, the attendance of the Debtor and the Debtor's counsel at the scheduled confirmation hearing shall be excused, and the Court may enter the submitted confirmation order without further hearing. Upon its review of the proposed plan and confirmation order, the Court reserves the right to reschedule the confirmation hearing with notice to all parties.

(f) <u>Pre-Confirmation Modification Process</u>

1. If a Chapter 12 or Chapter 13 plan is modified in the pre-confirmation period with less than 35 days' notice before the confirmation hearing, the confirmation hearing will proceed only if the Court determines that:

   (a) the modification does not adversely affect any creditors;

   (b) any adversely affected creditor has consented; or

(c) the adverse impact of the modification on creditors is de minimis.

If a pre-confirmation modification does not meet one of the three preceding requirements and additional notice of the modified plan is therefore required, a new confirmation hearing shall be scheduled, the deadline for filing an objection to the modified plan shall be extended to seven (7) days prior to the new confirmation hearing date, and the debtor shall provide notice of the new confirmation hearing date and the corresponding new 7-day objection deadline to the master mailing list (matrix) as constituted by the Court on the date of service. A certificate of service evidencing that proper notice has been given must be filed with the Court.

2. In the event that a new confirmation hearing is required to be scheduled due to a pre-confirmation modification of the plan, and unless the Court orders otherwise, the continuation of the confirmation hearing in that context shall establish a final dismissal deadline for achieving confirmation of the proposed plan without the necessity of the entry of an independent order and, in the event that the debtor fails to confirm such a modified plan upon consideration by the Court at the rescheduled confirmation hearing, the underlying bankruptcy case shall be immediately dismissed, pursuant to §349(a) of the Bankruptcy Code, without further notice or hearing and with prejudice to the rights of the debtor to file a subsequent petition under any chapter of Title 11, United States Code, for a period of 120 days from the entry of the order of dismissal.

(g) <u>Claims Adjudication in Chapter 13 Cases</u>

1. A Trustee's Recommendation Concerning Claims ("TRCC") shall be filed by the Chapter 13 Trustee within 45 days following the latter of: (a) the expiration of the time allowed for the filing of a proof of claim by a governmental unit; (b) the entry of an order confirming the Chapter 13 plan. The Chapter 13 Trustee is authorized to extend the TRCC deadline to a specified future date without leave of court on one occasion in any case by filing a notification with the Court which outlines the necessity for such an extension.

2. A TRCC shall contain the following 28-day negative notice language and notice of bar date for filing objections to claim:

<u>Notice Regarding Trustee's Recommendation Concerning Claims:</u>

THIS DOCUMENT SHALL CONSTITUTE AN **<u>OBJECTION TO YOUR CLAIM</u>** UNLESS THE RECOMMENDATION IN

THIS DOCUMENT CONCERNING YOUR CLAIM ACCEPTS YOUR PROOF OF CLAIM PRECISELY AS FILED.

NO HEARING WILL BE CONDUCTED ON THE TRUSTEE'S RECOMMENDATION CONCERNING CLAIMS UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE TRUSTEE WITHIN **TWENTY-EIGHT (28) DAYS** FROM DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION.

IF NO OBJECTION IS TIMELY SERVED AND FILED TO THIS DOCUMENT, THE TRUSTEE'S RECOMMENDATION CONCERNING YOUR CLAIM SHALL BE SUSTAINED AS UNOPPOSED AND YOUR CLAIM SHALL BE ALLOWED ONLY AS SET FORTH IN THIS DOCUMENT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

Notice of Deadline for Filing Objections to Claim:

YOU ARE FURTHER NOTIFIED that the **deadline for filing an objection** to the allowance of any proof of claim filed in this case, or to avoid or otherwise challenge the validity of any security interest claimed in any proof of claim in this case, is the **twenty-first (21st) day** following the date of service of this document.

3. A TRCC shall be accompanied by a proposed order and shall be served by the Court on its master mailing list (matrix) upon filing, with the service date noted on the certificate of mailing relating thereto.

4. A TRCC recommendation concerning a filed proof of claim shall constitute a valid objection to the allowance of such claim as filed (a "challenged claim") if the recommendation:

   (A) clearly identifies the basis upon which the claim is being challenged;

(B) contains proof in support of the objection, which may include references to any entry upon the Court's docket or claim registry of which the Court can properly take judicial notice under Fed. R. Evid. 201, which is sufficient to overcome the presumption of validity imposed by Fed. R. Bankr. P. 3001(f); and

(C) is served upon the affected claimant at the address disclosed by such claimant in its proof of claim.

5. If no objection is timely filed to the TRCC by the holder of a challenged claim and the TRCC recommendation constitutes the only pending objection to the allowance of that claim, the objection reflected by the TRCC recommendation shall be sustained, such claim shall be allowed only in the amount set forth in the TRCC recommendation, and such determination shall be binding upon the holder of the challenged claim. Under such circumstances, the Chapter 13 Trustee is authorized to make disbursements on such claim according to the provisions of the TRCC without further order of the Court.

6. If an objection is timely filed to the TRCC by the holder of a challenged claim, the claim objection contained in the TRCC shall be set for hearing on not less than 30 days' notice. In such event, subject to the resolution of any claim objection filed by another party-in-interest and any payment reserve requirements imposed by this LBR, the Chapter 13 Trustee is authorized to make disbursements on all other claims according to the unopposed recommendations of the TRCC without further order of the Court.

7. The bar date for any party-in-interest to object to the allowance of any proof of claim filed in a Chapter 13 case, or to avoid or otherwise challenge the validity of any security interest claimed in any proof of claim filed in a Chapter 13 case, shall be established as the 21st day following the date of service of the TRCC and such bar date shall be prominently displayed in the TRCC as set forth in this rule.

8. Any claim objection filed by a party-in-interest in a Chapter 13 case must comply with the requirements of LBR 3007.

9. The Chapter 13 Trustee shall reserve funds attributable to any challenged claim until the dispute regarding such claim has been resolved. If the claim resolution results in an increase of money available for distribution to any class of creditors under the confirmed plan, the Chapter 13 Trustee may accordingly adjust payments to be made on allowed claims without the necessity of filing an additional TRCC.

(h) Post Confirmation Modification

1. A proponent requesting the post-confirmation modification of a Chapter 12 or Chapter 13 plan must file the modified plan, together with a motion seeking confirmation of the modified plan which specifies the precise changes sought by the modification including, but not limited to, the following:

   (A) the purpose of or the necessity for the modification;

   (B) the changes being made as to the plan payment, the term of the plan; the proposed distribution to any class, or any other substantive provision; and

   (C) the amount of additional attorneys' fees requested for services pertaining to the modification, subject to the provisions and limitations of LBR 2016(h)(5).

   A debtor seeking a modification of a confirmed plan must separately file an amended Schedule I and an amended Schedule J in order to verify current income and expenditure information.

2. A proponent of a Chapter 12 or Chapter 13 post-confirmation modification must serve the proposed modification and the accompanying motion to the master mailing list (matrix) as constituted by the Court on the date of service as required by Fed. R. Bankr. P. 3015(g) and file a certificate of service evidencing such service. The motion must also contain the following 28-day negative notice language:

   NO HEARING WILL BE CONDUCTED ON THIS MOTION UNLESS AN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN TWENTY-EIGHT (28) DAYS FROM DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE

STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

3. With the exception of the expanded response time, modifications shall be handled in accordance with the Court's usual motion procedures.

Local Rule of Bankruptcy Procedure 3016. FILING OF PLAN AND DISCLOSURE STATEMENT IN CHAPTER 9 MUNICIPALITY AND CHAPTER 11 REORGANIZATION CASES.

The plan proponent must deliver a paper copy of the proposed plan of reorganization and the accompanying disclosure statement, including all exhibits thereto, to the Clerk for use by the assigned judge pursuant to *TXEB Appendix 5005*.

Local Rule of Bankruptcy Procedure 3017. COURT CONSIDERATION OF DISCLOSURE STATEMENT IN CHAPTER 9 MUNICIPALITY AND CHAPTER 11 REORGANIZATION CASES.

The solicitation package containing the documents and notice required by Fed. R. Bankr. P. 3017(d) must be served by the plan proponent upon the master mailing list (matrix) as constituted by the Court on the date of service. The notice must contain all instructions regarding the return of the ballot, including the name and address of the party to which the ballot must be returned as designated by LBR 3018(a) or by court order.

Local Rule of Bankruptcy Procedure 3017.1. COURT CONSIDERATION OF DISCLOSURE STATEMENT IN A SMALL BUSINESS CASE.

(a) Conditional Approval

A plan proponent in a small business case may seek conditional approval of a disclosure statement, subject to final approval after notice and hearing, by filing a request with the Court contemporaneously with the filing of the proposed plan of reorganization. Such request shall contain a certificate of service evidencing service upon the parties designated by LBR 9013(f) and shall be accompanied by a proposed order substantially conforming to *TXEB Local Form 3017.1*. The request will not require negative notice language and will be presented to the Court for immediate consideration

(b) Waiver

A plan proponent in a small business case may seek to waive the requirement of a disclosure statement because the proposed plan of reorganization itself provides adequate information. Such waiver may be sought by motion to be filed contemporaneously with the proposed plan of reorganization. Such motion shall be served upon the parties designated by LBR 9013(f) and shall contain the following 14-day negative notice language:

NO HEARING WILL BE CONDUCTED ON THIS MOTION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS APPLICATION SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING UNLESS IT DETERMINES THAT AN EVIDENTIARY HEARING IS NOT REQUIRED AND THAT THE COURT'S DECISION WOULD NOT BE SIGNIFICANTLY AIDED BY ORAL ARGUMENT. IF YOU FAIL TO APPEAR AT ANY SCHEDULED HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

Local Rule of Bankruptcy Procedure 3018. ACCEPTANCE OR REJECTION OF PLAN IN A CHAPTER 9 MUNICIPALITY OR A CHAPTER 11 REORGANIZATION CASE.

(a) Voting

Unless otherwise ordered by the Court, a ballot accepting or rejecting a proposed plan must be returned to the attorney for the plan proponent.

(b) Ballot Summary

1. At the confirmation hearing, a plan proponent must tender to the Court a ballot summary which certifies the amount and number of allowed claims of each class accepting or rejecting the plan and the amount of allowed interest of each class accepting or rejecting the plan. The actual ballots must be attached to the ballot summary.

2. The ballot summary will be marked as an exhibit for the plan proponent at the

confirmation hearing. Thus, the plan proponent must provide appropriate copies of the ballot summary pursuant to LBR 7016(d), as incorporated into contested matters by LBR 9014(d).

<u>Local Rule of Bankruptcy Procedure 3019</u>. MODIFICATION OF ACCEPTED PLAN AFTER CONFIRMATION IN A CHAPTER 11 REORGANIZATION CASE INVOLVING AN INDIVIDUAL DEBTOR.

(a) <u>Required Information</u>

A proponent requesting the post-confirmation modification of a Chapter 11 plan of reorganization involving an individual debtor must file the modified plan, together with a motion seeking confirmation of the modified plan which specifies the precise changes sought by the modification including, but not limited to, the following:

(1) the purpose of, or the necessity for, the modification, together with sufficient information regarding such circumstances that would enable a hypothetical investor to make an informed judgment regarding the legitimacy of the need for the modification; and

(2) the changes being made as to the plan payment, the term of the plan; the proposed distribution to any class, or any other substantive provision.

(b) <u>Service</u>

A proponent requesting the post-confirmation modification of a Chapter 11 plan of reorganization involving an individual debtor must serve the proposed modification and the accompanying motion upon the master mailing list (matrix) as constituted by the Court on the date of service as required by Fed. R. Bankr. P. 3015(g) and file a certificate of service evidencing such service. The motion must also contain the following 28-day negative notice language:

NO HEARING WILL BE CONDUCTED ON THIS MOTION UNLESS AN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN TWENTY-EIGHT (28) DAYS FROM DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT

WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

Modifications shall be handled in accordance with the Court's usual motion procedures.

PART IV: THE DEBTOR: DUTIES AND BENEFITS

Local Rule of Bankruptcy Procedure 4000. IMPOSITION, CONTINUATION OR STATUS OF THE AUTOMATIC STAY.

(a) Imposition/Continuation Motions Scheduled for Hearing Upon Filing

1. The following motions to impose or to continue the automatic stay shall not require negative notice language but instead shall be scheduled for an accelerated hearing upon filing:

   (A) Motion to impose automatic stay pursuant to §362(c)(4)(B) of the Code;
   (B) Motion to impose automatic stay by small business debtor pursuant to §362(n)(2) of the Code;
   (C) Motion to continue automatic stay in consecutive individual case under chapter 7, 11 or 13 pursuant to §362(c)(3)(B); and
   (D) Motion to continue automatic stay on personal property of individual debtor by trustee pursuant to §362(h)(2) and §521(a)(6).

2. A stay imposition or continuation motion shall disclose in the body of the motion the following information regarding the dismissal of the debtor's prior bankruptcy case(s):

   (A) the prior case number and the court in which it was filed;
   (B) the circumstances upon which the dismissal was based;
   (C) whether a request for relief from automatic stay had been granted

or was pending in the prior case at the time of the dismissal;

(D) the identity and mailing address for any attorney (or pro se creditor) who had filed a request for relief from automatic stay for any party in the prior case; and

(E) the identity and mailing address for any attorney who had filed a notice of appearance in the prior case;

3. A stay imposition or continuation motion shall contain a certificate of service reflecting service of the motion upon the master mailing list (matrix) as constituted by the Court on the date of service if the stay is to be imposed or continued as to all parties in the case, or otherwise in accordance with LBR 9013(f), and in a manner consistent with Fed. R. Bankr. P. 7004(b); provided, however, that the motion shall also be served upon any attorney who had filed a request for relief from automatic stay or a notice of appearance in the debtor's prior bankruptcy case(s) and any party who filed a proof of claim in debtor's prior bankruptcy case shall be served at the address disclosed by such claimant in its prior proof of claim.

4. The motion must be accompanied by:

(A) a proposed deadline order which substantially conforms to *TXEB Local Form 4000-a*; and

(B) a proposed order granting the requested relief which substantially conforms to *TXEB Local Form 4000-b*.

5. Consideration of any stay imposition or continuation motion shall either be governed by an "Order Establishing Deadline for Objection to Motion for Continuation/Imposition of Automatic Stay and Setting Possible Hearing Date on Such Motion" *[TXEB Local Form 4000-a]* through which the Court shall establish a deadline for filing an objection to the motion and a potential hearing date for the motion which shall be served upon the matrix or the Court shall proceed to schedule an accelerated hearing on the Motion upon filing.

6. If a hearing is so scheduled by the Court without the establishment of a deadline for objections, any such objection to the stay imposition or continuation motion must be filed and served no later than two (2) business days prior to the scheduled hearing; provided, however, that if the hearing is held on notice of seven (7) days or less, no formal objection shall be required.

(b) <u>Petition-Date Certification of Compliance: Lease of Residential Real Property</u>

1. A petition-date certification of compliance necessary for a debtor to invoke the protection of the automatic stay regarding a lease of real property in which the debtor resides as a tenant pursuant to §362(l)(1) – in addition to the requirements imposed by the Code – shall contain:

   (A) the following 14-day negative notice language, which must be in boldface, large font and located in the text of the motion -- preferably in the first paragraph:

   THIS PETITION DATE CERTIFICATION IS SELF-EXECUTING AND SHALL DEFER THE APPLICABILITY OF 11 U.S.C. §362 (b)(22) TO THIS LEASE OF RESIDENTIAL REAL PROPERTY FOR A PERIOD OF 30 DAYS FROM THE PETITION DATE ABSENT AN ORDER OF THE COURT TO THE CONTRARY. NO HEARING WILL BE CONDUCTED REGARDING THIS CERTIFICATION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

   and

   (B) contain a certificate of service reflecting service of the petition date certification upon the affected lessor.

2. A lessor objecting to a debtor's petition-date certification of compliance may waive the 10-day hearing requirement, if desired, in the caption of the objection. If a waiver is not filed, the Court will convene a hearing within the required 10 days in the division most convenient to the Court.

   Title Example: Objection to Debtor's Petition-Date Certification of Compliance Regarding Lease of Residential Real Property, Waiver of 10-Day Hearing Requirement, and Request for Hearing in Beaumont, Texas.

(c) <u>Post-Petition Certification of Compliance: Lease of Residential Real Property</u>

1. A post-petition certification of compliance necessary for a debtor to continue the protections of the automatic stay regarding a lease of real property in which the debtor resides as a tenant for a period beyond 30 days from the petition date pursuant to §362(l)(2) of the Code – in addition to the requirements imposed by the Code – shall contain:

   (A) the following 14-day negative notice language, which must be in boldface, large font and located in the text of the motion -- preferably in the first paragraph:

   THIS POST-PETITION CERTIFICATION IS SELF-EXECUTING AND SHALL DEFER THE APPLICABILITY OF 11 U.S.C. §362 (b)(22) TO THIS LEASE OF RESIDENTIAL REAL PROPERTY FOR THE DURATION OF THIS BANKRUPTCY CASE ABSENT AN ORDER OF THE COURT TO THE CONTRARY. NO HEARING WILL BE CONDUCTED REGARDING THIS CERTIFICATION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.
   and

   (B) contain a certificate of service reflecting service of the post-petition certification upon the affected lessor.

2. A lessor objecting to a debtor's post-petition certification of compliance may waive the 10-day hearing requirement, if desired, in the title of the objection. If a waiver is not filed, the Court will convene a hearing within the required 10 days in the division most convenient to the Court.

   Title Example: Objection to Debtor's Post-Petition Certification of Compliance Regarding Lease of Residential

Real Property, Waiver of 10-Day Hearing Requirement, and Request for Hearing in Beaumont, Texas.

(d) **<u>Requests to Confirm Status of Automatic Stay</u>**

Any request for the Court to confirm the status of the automatic stay, including a request for an order pursuant to §362(c)(4)(A)(ii) to confirm that the automatic stay is not in effect, or a request for an order pursuant to §362(j) to confirm that the automatic stay has been previously terminated, shall be in writing and filed with the Clerk. Such requests shall not require negative notice language, nor a certificate of service, but shall require a proposed order substantially conforming to TXEB Local Form 4000-d.

(e) **<u>Notice of Termination of Automatic Stay</u>**

Any creditor which asserts that the automatic stay has been terminated by operation of law as against its interests shall file a Notice of Termination with the Court to evidence such termination of the automatic stay. Such Notice of Termination shall cite the statutory basis for the asserted termination.

<u>Local Rule of Bankruptcy Procedure 4001</u>. RELIEF FROM AUTOMATIC STAY; PROHIBITING OR CONDITIONING THE USE, SALE, OR LEASE OF PROPERTY; USE OF CASH COLLATERAL; OBTAINING CREDIT; AGREEMENTS.

(a) **<u>Use of 14-Day Negative Notice Language</u>**

The following motions:

1. Motion to provide adequate protection;
2. Motion to prohibit or condition the use, sale, or lease of property pursuant to §363(e) of the Code;
3. Motion for relief from automatic or co-debtor stay;
4. Motion for authority to use or to prohibit use of cash collateral; and
5. Motion to obtain credit pursuant to §364 of the Code;

must contain the following 14-day negative notice language, which must be in boldface, large font and located in the text of the motion -- preferably in the first paragraph:

> **NO HEARING WILL BE CONDUCTED ON THIS MOTION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED**

AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

The use of 14-day negative notice language does **not** apply to a motion for authority (or a notice of intention) to use, sell or lease property of the estate pursuant to §363(b) of the Code or a motion to sell property of the estate free and clear of liens or other interests pursuant to §363(f) of the Code. Such motions must contain **21-day** negative notice language described in LBR 9007(a), and contain a certificate of service reflecting service on the master mailing list (matrix) as constituted by the Court on the date of service. See LBR 6004.

(b) Content: Motion for Relief From Automatic Stay

A motion for relief from the automatic stay must:

(1) contain a title which:

(A) reflects that relief from the stay is sought against property, and

(B) waives the 30-day automatic stay hearing requirement, if desired. If a waiver is not filed, the Court will convene a hearing within the required 30 days in the division most convenient to the Court;

Title Example: Motion for Relief from Automatic Stay Against 2002 Ford Taurus, Waiver of 30-Day Hearing Requirement, and Request for Hearing in Beaumont, Texas.

(2) contain the 14-day negative notice language described in LBR 4001(a);

(3) contain a certificate of service reflecting service of the motion in accordance with LBR 9013(f) and in a manner consistent with Fed. R. Bankr. P. 7004(b);

(4) be accompanied by an affidavit which details the date and amount of each post-petition payment which:

(i) has become due since the filing of the petition; and

(ii) has been received by the Movant since the filing of the

petition,
if relief from the stay is sought "for cause" in a case under Chapter 11, 12, or 13 based upon an alleged failure of the debtor to tender a required post-petition payment; and

(5) be accompanied by a proposed order substantially complying with TXEB Local Form 4001.

(c) <u>Motion to Use Cash Collateral</u>

1. **<u>General Requirements</u>**
A motion to use cash collateral must include:

(A) the amount of cash collateral sought to be used;

(B) name and address of each entity having an interest in the cash collateral;

(C) name and address of any entity in control or having possession of the cash collateral;

(D) facts demonstrating the need to use cash collateral;

(E) nature of the protection to be provided to those parties having an interest in the cash collateral; and

(F) a proposed budget exhibit which itemizes the proposed use of the cash collateral; accompanied by

(G) a proposed order.

2. **<u>Emergency Affidavit Requirements</u>**
A request for an emergency hearing regarding a motion for use of cash collateral must comply with the standards in LBR 9007(b) and, in compliance with such standards, the affidavit or unsworn declaration under penalty of perjury attesting to the emergency facts in a cash collateral context must reflect the following:

(A) names and addresses of all creditors holding or asserting an interest in the collateral and their attorneys, if known;

(B) efforts made to contact the affected creditor(s) or its/their attorneys with regard to the motion;

(C) the nature of the immediate and irreparable injury, loss, or damage;

(D) verification of a 30-day budget of emergency items; and

(E) the adequate protection to be provided to the affected creditors.

(d) <u>Agreements</u>

If a stipulation involves relief beyond the scope of that requested in any motion governed by this rule, a motion to approve the stipulation must be filed. The motion must contain a certificate of service which evidences service upon the master mailing list (matrix) as constituted by the Court on the date of service, and attach the stipulation and a proposed order which grants the motion for approval.

(e) <u>Lengthy Agreed Cash Collateral or Financing Orders</u>

Agreed orders regarding a motion for authority to use cash collateral or to obtain credit pursuant to §364 of the Code which are in excess of ten (10) pages in length must be accompanied by an executed attorney checklist of provisions in substantial conformity with Exhibit J of *TXEB Appendix 9007*, regardless of whether the underlying case has been designated as a complex Chapter 11 case by the Court.

<u>Local Rule of Bankruptcy Procedure 4002</u>. DUTIES OF DEBTOR.

(a) <u>Individual Debtor's Duty to Provide Advance Documentation</u>

Upon written notification that the §341 meeting of creditors shall be conducted by the trustee or United States Trustee via video conference, an individual debtor shall provide an enlarged (150%), legible (photo setting) copy of his/her picture identification and evidence of his/her social security number to the presiding trustee no later than seven (7) days prior to the first date set for the §341 meeting of creditors. Such copy shall reference the date and time of the scheduled meeting at which time the debtor must present the original documents.

(b) <u>Tax Return Required by §521(e)(2)(A)</u>

Upon request, an individual debtor in a Chapter 7 case shall provide a copy of the federal tax return required under §521(e)(2)(A) to the United States Trustee at the time that a copy is provided to the case trustee under that statute.

(c) Request for Debtor to File Tax Information with Court

1. Any request by a party-in-interest to compel a individual debtor in a case under Chapter 7, 11, or 13 to file a copy of a federal tax return with the Court pursuant to §521(f) shall be in writing and filed with the Clerk. Such request shall not require negative notice language, but shall require a certificate of service evidencing service upon the debtor(s) and his/her counsel of record, and shall be accompanied by a proposed order.
2. An individual debtor who is directed to file tax information with the Court shall redact from such tax information all personal identifiers pursuant to LBR 1007(c) prior to filing.

(d) Motion to Obtain Access to Debtor's Tax Information

A motion by party-in-interest to obtain access to a debtor's tax information tendered to the Court pursuant to §521(f) must:

(1) contain the following 14-day negative notice language:

NO HEARING WILL BE CONDUCTED ON THIS MOTION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS APPLICATION SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT ANY SCHEDULED HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

(2) describe the movant's status in the case in order to allow the Court to ascertain whether the movant may properly be given access to the requested information;

(3) contain a description of the specific tax information sought;

(4) contain a statement indicating that the tax information sought cannot be obtained by the movant from any other source;

(5) contain a statement showing a demonstrated need for the tax information sought;

(6) contain a certificate of service reflecting service of the motion upon the debtor and any counsel for the debtor; and

(7) be accompanied by a proposed order.

Any party obtaining tax information from the Court through this process must safeguard the confidentiality of the information provided and sanctions may be imposed for any improper use, disclosure or dissemination of the tax information provided.

Local Rule of Bankruptcy Procedure 4003. EXEMPTIONS.

(a) Claim of Exemptions

The exemption list in Schedule C must itemize, describe and separately value each item claimed as exempt, except that household supplies, linens, cooking utensils, clothing and other items with an aggregate value of less than $500 may be placed in generic categories.

(b) Notice of Amendment to Exemptions

Any amendment to Schedule C must be accompanied by a certificate of service which evidences service of the amended schedule upon the master mailing list (matrix) as constituted by the Court on the date of service or it will be stricken.

(c) Objection to Claim of Exemptions

An objection to a debtor's claim of exemption is a "contested matter" governed by Fed. R. Bankr. P. 9014 and LBR 9014. It must contain the following 21-day negative notice language:

NO HEARING WILL BE CONDUCTED ON THIS OBJECTION TO EXEMPTION UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS OBJECTION WITHIN TWENTY-ONE (21) DAYS FROM DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH RESPONSE. IF NO RESPONSE IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF A RESPONSE IS FILED AND SERVED IN A TIMELY MANNER,

THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR RESPONSE MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

The negative notice language must be in boldface and large font; and it must be located in the motion text — preferably in the first paragraph. An objection must otherwise comply with the requirements of LBR 9013, including the submission of a certificate of service and be accompanied by a proposed order. The proposed order must specify the basis for disallowance and must not generically recite that the objection is sustained.

(d) **Responsive Pleading**

Any debtor who opposes the relief sought by an objection to a claim of exemption must file a ***response*** within the designated negative notice period. Any response must conform to the requirements of Fed. R. Civ. P. 8(b).

(e) **Lien Avoidance**

A motion to avoid lien impairing a claim of exemption must:

(1) delineate the extent to which the debtor seeks to avoid a lien;

(2) confirm that the lien is non-possessory and non-purchase money;

(3) either specifically describe the property subject to the lien or attach the security documentation which describes the property;

(4) state whether the debtor claimed federal or state exemptions and state that the exemption objection period has expired;

(5) attach sufficient information regarding the formation of the allegedly avoidable lien to validate the sufficiency of service of the motion (e.g., copy of abstract of judgment, etc.); and

(6) cite to § 522(f).

As explained in Fed. R. Bankr. P. 4003 and the Advisory Committee notes, only a §522(f) lien avoidance action may be sought by motion. Lien avoidance under the Texas Constitution or by statutory authority other than §522(f) must be sought by an adversary complaint.

Local Rule of Bankruptcy Procedure 4004. GRANT OR DENIAL OF DISCHARGE.

(a) Motion for Extension of Time.

In addition to stating the justification for the requested extension, a motion for an extension of time to file a complaint objecting to the debtor's discharge pursuant to §727(a) of the Bankruptcy Code shall state the deadline for filing such a complaint in that case as established under Fed. R. Bankr. P. 4004(a) and the specific date to which an extension is requested.

(b) Discharge Process for Chapter 11 Individual Debtors

1. Upon completion of all plan payments required of an individual debtor under a confirmed Chapter 11 plan, the individual debtor(s) shall file a "Notice of Plan Completion and §522(q) Statement By Individual Debtor in a Chapter 11 Case" (no service required) in a format substantially conforming to *TXEB Local Form 4004-b*.

2. Upon the filing of the Notice of Plan Completion, an opportunity to object to the entry of the discharge order shall be given by the Clerk to all parties on the master mailing list (matrix) as constituted by the Court on that date.

3. Upon the entry of a discharge order on behalf of an individual debtor, and in the absence of any unresolved administrative issue, a final decree closing the case shall be entered by the Clerk.

(c) Discharge Process in Chapter 12 or Chapter 13

1. Upon receipt of all plan payments from the debtor, the Trustee shall file a Notice of Plan Completion which verifies to the Court that the debtor has completed all payments under the confirmed plan for which the Trustee served as the disbursing agent and that the process to determine the entitlement of the debtor to an order of discharge should be initiated pursuant to 11 U.S.C. §1228(a) or §1328(a).

2. Upon the filing of the Notice of Plan Completion, a 60-day opportunity to object to the entry of the discharge order shall be given by the Clerk to all parties on the master mailing list (matrix) as constituted by the Court on that date.

3. **If the case was filed on or after October 17, 2005**, within 28 days after the filing of the Notice of Plan Completion by the Trustee, the Debtor must file:

(A) a "Statement of Debtor(s) Regarding Applicability of 11 U.S.C. §522(q) in a Chapter 12 or 13 Case" in a format substantially conforming to *TXEB Local Form 4004-c;* and

(B) a "Certification of Debtor Regarding Status of Domestic Support Obligations in a Chapter 12 or 13 Case" in a format substantially conforming to *TXEB Local Form 4004-d*.

(d) **Motion for Hardship Discharge**

Any motion by an individual debtor for a discharge under §1111(d)(5)(B), §1228(b) or §1328(b) of the Bankruptcy Code must be accompanied by a proposed order which substantially conforms to the bankruptcy procedural form indicated:

Chapter 11:	adapt Bankruptcy Procedural Form B-18FH (Chapter 12 form) until one is actually promulgated for Chapter 11 cases
Chapter 12:	Bankruptcy Procedural Form B-18FH
Chapter 13:	Bankruptcy Procedural Form B-18WH.

In Chapter 13 cases, the proposed order shall also contain the following paragraph:

"**IT IS FURTHER ORDERED** that a complaint to determine the dischargeability of any debt pursuant to §523(a)(6) of the Bankruptcy Code shall be filed on or before [DATE], which is not later than 60 days from the date of the entry of this Order."

Local Rule of Bankruptcy Procedure 4007. DETERMINATION OF DISCHARGEABILITY OF A DEBT.

(a) **Motion for Extension of Time.**

In addition to stating the justification for the requested extension, a motion for an extension of time to file a complaint to determine the dischargeability of a debt pursuant to §523(c) of the Bankruptcy Code shall state the deadline for filing such a dischargeability complaint in that case as established under Fed. R. Bankr. P. 4007(c) and the specific date to which an extension is requested.

PART V. COURTS AND CLERK

Local Rule of Bankruptcy Procedure 5001. COURTS AND CLERKS' OFFICES.

"Clerk" means the Clerk of the Bankruptcy Court for the Eastern District of Texas or the Deputy Clerk in charge of the division in which such case or proceeding is pending or their designee.

Local Rule of Bankruptcy Procedure 5003. RECORDS KEPT BY THE CLERK.

(a) Electronic Files and Duty to Confirm

The Clerk shall keep and maintain all filed documents, bankruptcy dockets, and claim registers in an electronic format, unless otherwise ordered by the Court. Any document submitted to the Clerk in a paper format shall be converted into an electronic format prior to docketing. It is the duty of the filing party to confirm that such document has been accurately submitted into the Court's electronic file. If no challenge regarding the presentation of the document in the Court's electronic file is communicated to the Clerk within 14 days of the date of docketing, then the document as presented is conclusively confirmed as the document submitted, unless otherwise ordered by the Court.

(b) Retention of Paper Documents

Upon conversion of a paper document to an electronic format, such paper document shall be thereafter maintained by the Clerk by date of filing (as opposed to case number) for a retention period of not less than 30 days. Paper documents shall not be available for examination by the public during the retention period and shall thereafter be destroyed.

Local Rule of Bankruptcy Procedure 5005. FILING AND TRANSMITTAL OF DOCUMENTS.

Documents may be filed, signed or verified by electronic means that are consistent with technical standards established by the Judicial Conference of the United States and are in compliance with the *Administrative Procedures for the Filing, Signing, and Verifying of Documents by Electronic Means* as set forth in TXEB Appendix 5005.

Local Rule of Bankruptcy Procedure 5010. **REOPENING CASES**.

(a) Filing Fee

A motion to reopen must be accompanied by the filing fee. If a party contends the filing fee is not required, then the motion to reopen must state the facts supporting a finding that the reopening corrects an administrative error or relates to the debtor's discharge.

(b) Trustee Appointment

In a Chapter 7, 12, or 13 case, the motion to reopen also must state whether or not a trustee is needed.

(c) Proposed Order

A proposed order must be attached to a motion to reopen, and the proposed order must contain instructions to the Clerk about the filing fee and – in a Chapter 7, 12, or 13 case – to the United States trustee about appointment of a trustee.

PART VI. COLLECTION AND LIQUIDATION OF THE ESTATE

Local Rule of Bankruptcy Procedure 6004. USE, SALE OR LEASE OF PROPERTY.

(a) Contents

A notice or motion required by Fed. R. Bankr. P. 6004(a), (c), or (d), in addition to the requirements of Fed. R. Bankr. P. 2002(c)(1), must contain:

(1) the 21-day negative notice language described in LBR 9007(a);

(2) a certificate of service reflecting service on the master mailing list (matrix) as constituted by the Court on the date of service;

and, to the extent applicable:

(3) the name and address of the proposed buyer;

(4) the proposed sale price, estimated costs of the sale or lease, including commissions, auctioneer's fees, costs of document preparation and recordation, etc.;

(5) the names and addresses of all parties including judgment creditors who claim an interest in the property, the nature of the claimed interest, and the balance due.

Any motion to sell pursuant to Fed. R. Bankr. P. 6004(c) must also state with particularity the provision of 11 U.S.C. § 363(f) upon which movant relies and be accompanied by a proposed order.

(b) <u>Motion to Sell Personally Identifiable Information</u>

1. A motion to sell property which includes personally identifiable information under the conditions set forth in §363(b)(1) of the Bankruptcy Code, shall not require negative notice language but instead shall be scheduled for hearing upon filing.

2. Such motion shall contain a certificate of service reflecting service of the motion upon the master mailing list (matrix) as constituted by the Court on the date of service and must be accompanied by two (2) proposed orders:

   (A) one proposed order shall acknowledge the filing of the motion and shall order the United States Trustee to appoint a consumer privacy ombudsman pursuant to Fed. R. Bankr. P. 6004(g); and

   (B) the other proposed order shall grant the relief requested by the motion.

3. Any objection to a motion which seeks to sell personally identifiable information must be filed and served no later than seven (7) days prior to the scheduled hearing.

(c) <u>Authority to Pay Estate Expenses</u>

A Chapter 7 trustee who has not been authorized to operate the business of the debtor under §721 of the Bankruptcy Code may advance from bankruptcy estate funds:

(1) payment of expenses incurred by the estate and owed to unrelated third parties in an aggregate amount not to exceed $1,000; provided that no single expense shall exceed $500 and that all such expenses are subsequently subjected to court approval for reasonableness after notice and a hearing;

(2) adversary filing fees; or

(3) payment of bond premiums as authorized by the United States Trustee.

Local Rule of Bankruptcy Procedure 6007. ABANDONMENT OF PROPERTY.

(a) Abandonment by Chapter 7 Trustee at First Meeting of Creditors

1. A trustee in a case under Chapter 7 may, at the first meeting of creditors, announce an intention to abandon property of the estate having an aggregate value of not more than $1,500.00. All other abandonment actions are governed by subsection (b) below.

2. Any objection to such a proposed abandonment must be in writing and filed with the Clerk and served upon the trustee, debtor, debtor's attorney, and any known lienholders of the property no later than 14 days after the first meeting of creditors.

3. If an objection is timely filed and served, the Court shall schedule a hearing with notice to the trustee, debtor, debtor's attorney, any lienholder, and to the objecting party. If no objection is filed, the property will be deemed abandoned without further notice.

4. A statement or summary of this Local Rule shall be included in the notice of the first meeting of creditors.

(b) Abandonment Generally

1. A notice of intent to abandon (filed by the trustee or debtor-in-possession) or motion to compel abandonment (filed by any other entity) must be filed with the Clerk and served in accordance with Fed. R. Bankr. P. 6007.

2. The notice/motion must describe the property, state its value, if known, and the justification for the proposed abandonment.

3. The notice/motion must contain the following 14-day negative notice language, which must be in boldface, large font and located in the text of the notice/motion -- preferably in the first paragraph:

   NO HEARING WILL BE CONDUCTED ON THIS PLEADING UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN

FOURTEEN (14) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

Local Rule of Bankruptcy Procedure 6008. REDEMPTION OF PROPERTY FROM LIEN OR SALE.

(a) Contents of Motion

A motion for redemption of property pursuant to §722 of the Bankruptcy Code shall contain the 21-day negative notice language described in LBR 9007(a) and be accompanied by an affidavit of the debtor which discloses the following information:

(1) the date of the purchase and purchase price of the item(s) of property sought to be redeemed, as well as the account number by which the secured creditor can identify the particular loan transaction(s);

(2) a specific description of the condition of such item(s) of property;

(3) the Debtor's opinion of the fair market value of such item(s);

(4) the basis for the Debtor's opinion of the value of such item(s); and

(5) the creditor's valuation of such item(s) as indicated in its proof of claim, if any.

(b) Service

Service of a motion for redemption of property shall be made upon any affected creditor and the Chapter 7 Trustee.

PART VII. ADVERSARY PROCEEDINGS

Local Rule of Bankruptcy Procedure 7003. COMMENCEMENT OF ADVERSARY PROCEEDING.

(a) Filing Requirements

A party filing an adversary proceeding must file the following documents with the Clerk:

1. The complaint or notice of removal;

2. A completed adversary proceeding cover sheet, the form for which is available at the Court's website **[www.txeb.uscourts.gov]**; and

3. A summons for each defendant.

(b) Filing Fees

1. A filing fee must be paid at the time the adversary proceeding is commenced unless no fee is required pursuant to 28 U.S.C. § 1930.

2. If funds are available in an estate, the trustee must pay the filing fee. If no funds are available, the trustee must file, at the time of filing the adversary complaint, a motion to defer payment of the filing fee. Such motion to defer shall be filed in the underlying bankruptcy case and be accompanied by a proposed order.

3. The provisions of Title 28 U.S.C. § 1915 apply to adversary proceedings filed in cases under the Bankruptcy Code.

(c) Caption and Form

The caption and form of pleading must comply with the provisions of LBR 7010.

Local Rule of Bankruptcy Procedure 7005. SERVICE BY ELECTRONIC MEANS.

Documents filed in any adversary proceeding subsequent to the original complaint may be served upon another party by electronic means that are consistent with technical standards established by the Judicial Conference of the United States and are in compliance with the *Administrative Procedures for the Filing, Signing, and Verifying of Documents by Electronic Means* as set forth in *TXEB Appendix 5005*. The transmission facilities of the Court may be

utilized to accomplish such service.

<u>Local Rule of Bankruptcy Procedure 7007.</u> PLEADINGS ALLOWED; FORM OF MOTIONS.

Unless otherwise ordered by the Court or the provisions of this rule, all motions filed in adversary proceedings shall be governed by the requirements of LBR 9004, 9007 and 9013. Except for the following motions which are not required to contain negative notice language,

Motion for Summary Judgment	Motion to Quash
Application for Preliminary Injunction	Motion for Protective Order
Application for Temporary Restraining Order	Motion for Default Judgment

any motion filed in an adversary proceeding shall contain the following 14-day negative notice language:

> **NO HEARING WILL BE CONDUCTED ON THIS MOTION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS APPLICATION SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING UNLESS IT DETERMINES THAT AN EVIDENTIARY HEARING IS NOT REQUIRED AND THAT THE COURT'S DECISION WOULD NOT BE SIGNIFICANTLY AIDED BY ORAL ARGUMENT. IF YOU FAIL TO APPEAR AT ANY SCHEDULED HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.**

<u>Local Rule of Bankruptcy Procedure 7010</u>. CAPTION AND FORM OF PLEADING IN ADVERSARY PROCEEDINGS.

The caption of each pleading in an adversary proceeding must identify:

1. the district and division in which the proceeding was filed;

2. the style of the bankruptcy case including the name, address, and last four (4)

digits of the taxpayer identification number of the debtor, the case number and the applicable chapter of the bankruptcy proceeding;

3. the name of the plaintiffs and the defendants in the adversary proceeding;

4. a space for the case number assigned to the adversary proceeding; and

5. a descriptive title indicating the nature of the relief being sought.

Local Rule of Bankruptcy Procedure 7016. PRETRIAL PROCEDURES AND ORDERS.

(a) Discovery

Discovery conducted in adversary proceedings must not be filed with the Clerk.

(b) Scheduling Order

A scheduling order controls the course of an adversary proceeding and may not be amended without Court approval. To the extent that a scheduling order is inconsistent with a provision in the Local Rules of Bankruptcy Procedure, the scheduling order controls. If a scheduling order is not issued, the provisions of this rule shall apply.

(c) Pretrial Conference

A pretrial conference may be scheduled, on written motion to the Court, or on the Court's own motion. A party's request for a pretrial hearing or conference must be made no later than 28 days prior to the date scheduled for the trial.

(d) Exhibits

1. Exhibits which are to be introduced into evidence must be:

   (A) marked for identification on the first page of the exhibit prior to hearing;
   (B) bound in a booklet form in numerical or alphabetical sequence preceded by an exhibit list in the format prescribed by *TXEB Local Form 7016*; and
   (C) separated by tabs or other appropriate dividers.

2. Exhibits for the Plaintiff shall be designated by number. In the event of multiple plaintiffs, then each exhibit shall be designated by a specific plaintiff's name, followed by a number [i.e. Smith, Inc.- 1].

3. Exhibits for the Defendant shall be designated by letter. In the event of multiple defendants, then each exhibit shall be designated by a specific defendant's name,

followed by a letter [i.e. Smith, Inc.- A].

4. Copies of all exhibits must be provided to each party not less than 14 days prior to trial.

5. Counsel must provide a minimum of **<u>four</u> (4)** copies of the exhibit binder for trial: two for the Court, one for the witnesses, and one for opposing counsel. Additional exhibit binders must be furnished for each additional party.

6. Failure to comply with the exhibit requirements in this Local Rule may result in the refusal of the Court to admit exhibits into evidence or other sanctions.

(e) <u>Proposed Findings of Facts and Conclusions of Law</u>

Unless excused by the Court, each party shall prepare proposed findings of fact and conclusions of law and present them to the Court on computer disk in either Word or WordPerfect format on the day of trial. The proposed findings of fact must be presented in a detailed format based upon the evidence anticipated to be offered at trial. The proposed conclusions of law must include specific references to any controlling Bankruptcy Code section, Bankruptcy Rule, or other state or federal statute or regulation, as well as to any controlling jurisprudence.

(f) <u>Briefs</u>

Any legal brief must be filed by the pretrial order deadline and must be served on opposing counsel.

(g) <u>Pretrial Order</u>

A pretrial or joint pretrial order caption must include the date set for trial, if known, and the estimated time required for trial of the issues. Unless otherwise established by the Court, a pretrial order is due 14 days prior to trial.

(h) <u>Continuances in Adversary Proceedings</u>

A motion for continuance in an adversary proceeding will require a proper certificate of service, but will not require any negative notice language.

<u>Local Rule of Bankruptcy Procedure 7021</u>. MISJOINDER AND NON-JOINDER OF PARTIES.

A plaintiff prosecuting an adversary complaint against multiple defendants shall set forth in its complaint the justifications for permissive joinder of such parties under the provisions of Fed. R. Bankr. P. 7020. Upon review of the complaint, and after maintaining the adversary

proceeding against the first defendant named therein, the Court may, pursuant to Fed. R. Bankr. P. 7021 and without notice or hearing, either sever, or dismiss without prejudice, all claims against any mis-joined parties in the adversary proceeding.

Local Rule of Bankruptcy Procedure 7041. SETTLEMENT AND DISMISSAL.

(a) Settlement of Controversies Which Impact Bankruptcy Estate

A motion to compromise must comply with Federal and Local Rules of Bankruptcy Procedure 2002(a), 9014, and 9019. Such motion, and any proposed order approving such a motion, shall be filed in the underlying bankruptcy case.

(b) Disposition of Adversary Upon Settlement Approval

Upon the entry of an order approving a compromise and settlement in the underlying bankruptcy case, the parties shall submit to the Court either a final judgment based upon the approved settlement or an agreed order dismissing the adversary proceeding.

Local Rule of Bankruptcy Procedure 7055. DEFAULT JUDGMENTS - AFFIDAVITS.

Subject to the terms of Fed. R. Bankr. P. 7055, damages may be awarded without further hearing only if damages are liquidated and evidenced by an affidavit. Attorney's fees may be awarded if an affidavit satisfactory to the Court is submitted which details the fees incurred or other grounds for such award.

Local Rule of Bankruptcy Procedure 7056. SUMMARY JUDGMENTS.

(a) Length

A motion for summary judgment and brief in support thereof shall not exceed 30 pages in length, excluding attachments; however, a party may submit multiple motions, with each motion addressing a particular cause of action or defense.

(b) Response

Any response in opposition to a motion for summary judgment must be filed within 28 days of the filing of the motion. This deadline supersedes the deadline in Fed. R. Bankr. P. 7056(c). A response in opposition shall not exceed 30 pages in length, excluding attachments.

(c) Reply

Any reply brief to an opposed summary judgment motion must be filed within 14 days of the filing of the response in opposition. Any such reply brief shall not exceed 10 pages in length, excluding attachments. No sur-replies shall be filed without leave of court and such shall not be granted in the absence of exigent circumstances.

(d) **Format**

Each motion for summary judgment, or response and reply thereto, shall comply in format and content with the requirements of Local District Court Rule CV-56 and shall be decided under the procedures stated therein. A paper copy of the complete motion or response, including all exhibits thereto, must be delivered to the Clerk for use by the assigned judge per *TXEB Appendix 5005*.

(e) **Hearing**

The Court does not normally require nor permit oral argument in connection with a motion for summary judgment. In the absence of the granting of a motion to allow oral argument, no formal hearing on a motion for summary judgment will be conducted and the Court shall proceed to consider the merits of any such motion upon the expiration of the reply deadline set forth in subsection (c) above.

Local Rule of Bankruptcy Procedure 7065. INJUNCTIONS.

An application for a temporary restraining order or a preliminary injunction filed in an adversary proceeding does not require the negative notice language of LBR 9007, but must be accompanied by a request for emergency hearing under LBR 9007(b) in order to obtain the immediate attention of the Court.

PART VIII. APPEALS TO DISTRICT COURT

Local Rule of Bankruptcy Procedure 8006. RECORD AND ISSUES ON APPEAL.

A designation of record filed by any party must include the docket entry number and the filing or entry date for each item to be included in the appellate record. Payment must be made for all transcripts or copies prior to inclusion in the record.

Local Rule of Bankruptcy Procedure 8007. COMPLETION AND TRANSMISSION OF THE RECORD; DOCKETING OF THE APPEAL.

If a party fails to designate the appellate record or to request transcript preparation, the Clerk must certify the omission when the appellate record is transmitted to the District Court. The omission does not stay transmittal of the record.

Local Rule of Bankruptcy Procedure 8011. MOTIONS PENDING DOCKETING OF THE APPEAL.

Except for motions which may be filed directly with the District Court pursuant to Fed. R. Bankr. P. 8005, until an appeal is docketed by the District Clerk, all pleadings must be filed with the Bankruptcy Clerk and acted upon by the bankruptcy judge.

PART IX. GENERAL PROVISIONS

Local Rule of Bankruptcy Procedure 9001. GENERAL DEFINITIONS.

The Bankruptcy Code and Federal Rules of Bankruptcy Procedure definitions of words and phrases and rules of construction govern their use in these rules. In addition, the following words and phrases used in these local rules have the meanings indicated:.

(a) **Bankruptcy Court or Court** means the United States Bankruptcy Court for the Eastern District of Texas.

(b) **Clerk** means the United States Bankruptcy Clerk for the Eastern District of Texas. [See LBR 5001.]

(c) **District** means the Eastern District of Texas.

(d) **District Court** means the United States District Court for the Eastern District of Texas.

(e) **District Court Rules** means the Local Court Rules of the United States District Court for the Eastern District of Texas in effect on the effective date of these local rules and as subsequently amended.

(f) **Trustee** means the Chapter 7, 11, 12, or 13 trustee unless these Bankruptcy Rules specify the "United States Trustee."

Local Rule of Bankruptcy Procedure 9004. GENERAL REQUIREMENTS OF FORM.

(a) **Caption of Pleading**

The caption of each pleading must identify:

1. the district and division in which the proceeding was filed;

2. the name, address, and last four (4) digits of the taxpayer identification number of the debtor;

3. the bankruptcy case number; and

4. the applicable chapter of the bankruptcy proceeding.

(b) <u>Title of Pleading</u>

The title of a pleading must designate the relief sought in the motion and proposed order. Substantial variance between the title and the relief sought in the pleading may result in dismissal, denial, or sanctions.

(c) <u>Separate Motions Required</u>

A separate motion is required for each form of relief requested, and multiple forms of relief may not be contained in one motion, with the following exceptions:

(1) Motion for Relief from Automatic Stay, for Adequate Protection, and for Relief from Co-Debtor Stay;
(2) Motion to Use Cash Collateral and for Adequate Protection;
(3) Motion to Dismiss or to Convert Case;
(4) Trustee's Motion to Approve Compromise and Settlement Under Fed. R. Bankr. P. 9019 and Application for Compensation of Special Counsel Pertaining Thereto Based Upon Approved Contingent Fee Contract; and
(5) Motion for Contempt and/or for Sanctions.

(d) <u>Stay Relief Motions</u>

If filing a motion for relief from stay, refer to LBR 4001.

(e) <u>Omission of Negative Notice Language</u>

If a motion is amended after a hearing has been scheduled, such amended motion shall contain the date, time and location of the scheduled hearing in lieu of any negative notice language otherwise required by these Local Rules.

<u>Local Rule of Bankruptcy Procedure 9007</u>. GENERAL AUTHORITY TO

REGULATE NOTICES.

(a) <u>21-Day Negative Notice Language</u>

If relief may be granted "after notice and hearing" as defined in 11 U.S.C. § 102, *and unless otherwise specifically provided in these rules,* the pleading must contain the following 21-day negative notice language:

NO HEARING WILL BE CONDUCTED ON THIS MOTION/OBJECTION/ APPLICATION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN TWENTY-ONE (21) DAYS FROM DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

The negative notice language must be in boldface and large font; and it must be located in the motion text — preferably in the first paragraph.

Proposed orders for motions with 21-day language should substantially comply with *TXEB Local Form 9007-a*.

The following motions will require proper certificates of service, but will not require any suspense language, and will be presented to the Court for immediate consideration:

- Request for Emergency Hearing;
- Request for Expedited Hearing;
- Request for Conditional Approval of Disclosure Statement for Small Business Debtor;
- Motion for Continuance of Hearing;
- Motion/Application to Shorten or to Extend Notice Period;
- Initial Motion for Extension of Time to File Schedules;
- Motion for Extension of Bar Date for Filing Claims;
- Motion by Debtor to Convert Chapter 11 Case to Chapter 7;
- Motion by Debtor to Convert Chapter 12 Case to Chapter 7 (or Notice of Conversion);

- Motion by Debtor to Convert Chapter 13 Case to Chapter 7 (or Notice of Conversion);
- Motion by Debtor to Dismiss Chapter 12 Case;
- Motion by Debtor to Dismiss Chapter 13 Case;
- Motion for Approval of Reaffirmation Agreement;
- Motion to Quash;
- Motion for Protective Order;
- Motion to Reopen Estate;
- Motion to Defer Payment of Filing Fee;
- Application/Motion for Admission *Pro Hac Vice;*
- Motion to Deposit Funds in Court Registry (or for Disposition of Funds);
- Motion to Waive Debtor's Appearance at Section 341 Meeting (or similar).

(b) <u>Request for Emergency Hearing</u>

1. If a motion requires an emergency hearing, a separate request for emergency hearing must be filed.

2. An "emergency" is a matter which requires a hearing in less than seven (7) days, and which involves an irreparable injury which outweighs procedural due process concerns. A request for an emergency hearing is given the highest priority by the Court. Abuse of the emergency process may subject parties and/or attorneys to sanctions, contempt, or other disciplinary powers of the Court.

3. A request for emergency hearing must contain the following:

   (A) sufficient factual information for the Court to find just cause for the scheduling of an emergency hearing;

   (B) a certificate of conference reflecting inability to agree or inability to confer;

   (C) a certificate of service reflecting service by e-mail or facsimile, if possible, and by first class mail;

   (D) an affidavit or an unsworn declaration under penalty of perjury as provided in 28 U.S.C. §1746 by the party or the attorney attesting to the emergency facts;

   (E) a form order substantially conforming to *TXEB Local Form 9007-b*.

(c) <u>Request for Expedited Hearing</u>

If a motion requires a hearing on shortened notice but does not require an emergency hearing, an application to shorten notice and/or to schedule an expedited hearing must be filed in accordance with Fed. R. Bankr. P. 9006(c). The request for expedited hearing must be accompanied by a proposed order substantially conforming to *TXEB Local Form 9007-c*.

(d) Complex Chapter 11 Cases

Procedures set forth in these Local Rules may be superseded in complex Chapter 11 cases by the procedures set forth in *TXEB Appendix 9007*.

Local Rule of Bankruptcy Procedure 9011. SIGNING PLEADINGS.

In addition to the requirements of Fed. R. Bankr. P. 9011, every pleading must contain the attorney's state bar number. Failure to comply with Fed. R. Bankr. P. 9011 or this local rule may result in dismissal of the pleading by the Court or other appropriate sanctions.

Local Rule of Bankruptcy Procedure 9013. MOTION PRACTICE.

(a) Form

A motion or application, an objection to a proof of claim, or an objection to a debtor's claim of exemption, must contain all information required under these Local Rules of Bankruptcy Procedure including any applicable negative notice language. A failure to include required information may result in the dismissal of that pleading.

(b) Proposed Orders.

1. Any motion, application, or objection shall be accompanied by a proposed order with a title that describes the relief and refers to the pleading which it accompanies.

2. A proposed order must clearly delineate that the motion is being granted or denied, or that an objection is being sustained or denied, and avoid non-descriptive titles such as "Order On" or "Order Regarding" in order to provide effective notification of the entry of such order to affected parties.

3. A failure to attach a proposed order may result in the dismissal of the referenced pleading.

(c) [Reserved for future use]

(d) Redaction of Personal Identifiers

Pursuant to Fed. R. Bankr. P. 9037 and the exemptions contained therein, as well as policies adopted by the Judicial Conference of the United States, all parties must refrain from including, or shall redact where inclusion is necessary, the following personal identifiers from all pleadings and exhibits filed with the Court, unless ordered by the Court to do otherwise:

- **Social Security Numbers:** if disclosure of a social security number is required, only the last four digits of that number should be used;

- **Names of Minor Children:** if disclosure of the identity of any minor child is required, only the initials of that child should be used;

- **Dates of Birth:** if disclosure of an individual's date of birth is required by any statement or schedule, only the year should be used;

- **Financial Account Numbers:** if disclosure of any financial account number is required, only the last four digits of that number should be used.

- **Driver's License Numbers**: parties should redact license numbers when attaching a copy of any driver's license to any pleading, including motions pertaining to unclaimed funds.

The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Court will not review each pleading for compliance with this rule. Parties are cautioned that failure to redact these personal identifiers may subject them to the full disciplinary power of the Court.

(e) Notices: Certificate of Service

1. A motion, application, or other document filed with the Court when notice to interested parties is required under applicable law, or in which the relief requested may adversely affect an interested party, must contain a certificate of service.

2. The certificate of service must indicate specifically the parties served (including their addresses), the method of service, the date of service, and shall be signed by an attorney or an agent thereof.

3. Failure to include a certificate of service in compliance with this rule may result in the dismissal, denial or striking of the affected pleading.

(f) Notices: Parties-in-Interest Served

1. When a motion or application is filed which can only be authorized or granted on notice or "after notice and hearing" as such phrase is defined in Bankruptcy Code §102 (other than motions relating to appeals from orders or for new trial), including motions for relief from automatic stay, the movant shall serve a copy of the motion, or a summary of the motion, upon all parties entitled to service of such motion or any hearing on such a motion under any Federal Rule or Local Rule of Bankruptcy Procedure. Such service includes the following parties at a minimum:

   (A) In a Chapter 7 case: the debtor, the trustee, the United States Trustee, all members of any official committee, and their respective attorneys; all parties who have filed a notice of appearance or request for notice in the case; and, if the motion involves relief from the stay with respect to property, any other parties claiming a security interest of record in the same property;

   (B) In a Chapter 11 case: the debtor, the United States Trustee, the case trustee (if one has been appointed), all members of any official committee, and their respective attorneys; all secured creditors; all governmental units, the twenty (20) largest unsecured creditors (only in the event that no official committee of unsecured creditors has been formed); and all parties who have filed a notice of appearance or request for notice in the case;

   (C) In a Chapter 12 or 13 case: the debtor, Chapter 12 or 13 Trustee, all parties who have filed a notice of appearance or request for notice in the case, and, if the motion involves relief from the stay with respect to property, any party claiming a security interest of record in the same property [no service upon United States Trustee is required].

2. Any summary of a motion or application issued to parties entitled to service shall contain:

   (A) the relevant facts regarding the motion or application;

   (B) appropriate negative notice language as designated in these Local Rules for that type of motion or application; and

   (C) a notification that a complete copy of the motion or application will be sent to any requesting party at no charge.

(g) Briefs

Authorities and argument may be briefed in a motion, application or responsive pleading, and a separate brief or memorandum of authorities is not required. However, any party wishing to submit a separate brief must do so no later than three (3) business days prior to a hearing.

(h) <u>Service by Electronic Means</u>

Documents filed in any matter governed by this rule may be served upon another party by electronic means that are consistent with technical standards established by the Judicial Conference of the United States and are in compliance with the *Administrative Procedures for the Filing, Signing, and Verifying of Documents by Electronic Means* as set forth in *TXEB Appendix 5005*. The transmission facilities of the Court may be utilized to accomplish such service.

<u>Local Rule of Bankruptcy Procedure 9014</u>. CONTESTED MATTERS.

(a) <u>Summons</u>

A summons is not required in a contested matter, but service otherwise must comply with Fed. R. Bankr. P. 7004.

(b) <u>Responsive Pleadings</u>

1. Excluding the filing of a ***response*** to an objection to claim under LBR 3007 or to an objection to the debtor's claim of exemption under LBR 4003, any party who opposes the relief requested in any pleading containing negative notice language must file an ***objection*** within the designated negative notice period.

2. An objection -- or a "response" under LBR 3007 or 4003 only -- must conform to the requirements of Fed. R. Civ. P. 8(b) and is the only responsive pleading in a contested matter which constitutes a request for hearing. Any other type must be properly denominated as a ***comment*** and will not trigger the scheduling of a hearing before the Court.

3. If no objection -- or no "response" under LBR 3007 or 4003 only -- is filed within the designated negative notice period, the Court will deem the pleading unopposed and proceed to consider the merits of the pleading without a hearing in light of any comments which have been filed.

4. The title of a responsive pleading must state the respondent's name and incorporate the title of the original pleading. For example, "Big Bank's Objection [or Comment] to Deborah Debtor's Motion to Avoid Lien."

5. A responsive pleading must contain a certificate of service under LBR 9013(e) which documents that appropriate service has been accomplished under LBR 9013(f).

6. A responsive pleading does not require a proposed order.

(c) <u>Scheduling of Hearings</u>

1. Hearings before the Court are generally scheduled and noticed by the Clerk through the auspices of the Bankruptcy Noticing Center.

2. The Courtroom Deputy must be contacted if the parties anticipate that a hearing scheduled to be conducted on a general docket date will exceed one (1) hour.

3. Once a hearing has been scheduled, any amendment of the pleading scheduled for hearing shall comply with LBR 9004(e) and become the operative pleading for the hearing. The amendment of a pleading scheduled for hearing shall not result in the cancellation of the hearing unless otherwise ordered by the Court.

(d) <u>Trial Preparation</u>

1. Subsections (a) and (f) of Fed. R. Bankr. P. 7026 and all other provisions of Fed. R. Bankr. P. 7026 pertaining to or based upon those subsections, shall not apply in a contested matter unless the Court orders otherwise.

2. Each party to a hearing on a contested matter shall provide to every other party:

   (A) a witness list;

   (B) an exhibit list presented in the format prescribed by TXEB Local Form 7016; and

   (C) a copy of all exhibits, properly identified by number or letter as required by LBR 7016(d), which that party may seek to introduce at the hearing.

   Such disclosures shall be made by 5:00 p.m, central time, at least three (3) business days prior to the hearing in compliance with the following schedule:

Hearing Day	Disclosure and Production Deadline
Monday	Prior Wednesday at 5:00 p.m.
Tuesday	Prior Thursday at 5:00 p.m.
Wednesday	Prior Friday at 5:00 p.m.
Thursday	Prior Monday at 5:00 p.m.
Friday	Prior Tuesday at 5:00 p.m.

3. In the face of a timely objection, and unless the Court orders otherwise, the testimony of any witness not timely identified under this rule or any exhibit not timely identified and produced to every other party under this rule at least three (3) business days prior to a hearing shall be inadmissible for any purpose at such hearing.

4. Excluding the time established for the exchange of exhibits among the parties as set forth in this subsection, the presentation of exhibits to the Court in contested matters shall be governed by LBR 7016(d).

5. Any brief must be filed at least three (3) business days prior to the hearing.

6. Witnesses may present testimony at any scheduled hearing on a contested matter except for preliminary hearings on motions for relief from the automatic stay and hearings to determine the adequacy of a Chapter 11 disclosure statement, although the Court may grant leave upon proper motion to allow witnesses to testify at any scheduled hearing.

Local Rule of Bankruptcy Procedure 9017. EVIDENCE.

Exhibits introduced into evidence may be withdrawn from the custody of the Clerk only upon order of the Court. Any exhibit not withdrawn 30 days after final disposition of the proceedings may be destroyed without further order or notice.

Local Rule of Bankruptcy Procedure 9018. FILING DOCUMENTS UNDER SEAL.

No document shall be placed under seal unless authorized by the Court. A motion to place a document under seal shall not require service nor negative notice language, but shall be be accompanied by a proposed order. Parties seeking to submit documents under seal should also consult Section III(A) of *TXEB Appendix 5005* regarding the submission of documents under seal by electronic means. Any party may seek to vacate or modify the order and the Court, after hearing on notice, shall determine such motion in a manner designed to preserve the confidential nature of the information sought to be protected.

Local Rule of Bankruptcy Procedure 9019. COMPROMISE AND ARBITRATION.

A motion to approve compromise must:

(A) contain an analysis of the settlement factors invoked in this context by decisions of the United States Supreme Court and the Fifth Circuit Court of Appeals: *See, e.g., Protective Comm. For Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 425 (1968); *Official Comm. of Unsecured Creditors v. Cajun Electric Power Coop., Inc. (In re Cajun Elec. Power Coop., Inc.)*, 119 F.3d 349, 355-56 (5th Cir. 1997); *Connecticut Gen. Life. Ins. Co. v. United Cos. Fin. Corp. (In re Foster Mortgage Corp.)*, 68 F.3d 914, 917 (5th Cir. 1995);

(B) cite any adversary proceeding, by style and number, and provide trial setting information;

(C) attach a copy of the settlement agreement;

(D) contain an affidavit or an unsworn declaration under penalty of perjury as provided in 28 U.S.C. §1746 by the debtor or trustee recommending settlement approval under the case law guidelines.

(E) contain the 21-day negative notice language described in LBR 9007(a); and

(F) attach a certificate of service reflecting service on the master mailing list (matrix) as constituted by the Court on the date of service.

Local Rule of Bankruptcy Procedure 9022. AGREED ORDERS.

(a) Presentation

When a disputed matter has been set for hearing and the parties have resolved the matter, in order to excuse the parties from appearance at the scheduled hearing, the agreed order: (1) must be reduced to writing, signed by the parties or their attorneys and submitted to

the division where the case is pending prior to the hearing; (2) must be submitted to the Court at the hearing; or (3) if the agreement has not been reduced to writing, the terms of the agreement must be read into the record by at least one interested party or such party's attorney.

(b) **Service**

The Court may direct an agreed order or summary thereof be served by the movant on all parties upon whom service of the motion was required under these Local Rules, giving those parties an opportunity to object before the Court will enter the order.

Local Rule of Bankruptcy Procedure 9027. REMOVALS.

When a Notice of Removal is filed pursuant to Fed. R. Bankr. P. 9027(a), setting forth bankruptcy jurisdiction under 28 U.S.C. § 1334 as the ground for removal, copies of all pleadings and orders and writs relating to the claim or cause of action in the court from which the claim or cause of action is being removed, must be attached to the Notice of Removal.