

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

(As Amended October 1, 2002).

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF TEXAS



DONALD R. SHARP
CHIEF UNITED STATES BANKRUPTCY JUDGE



BILL PARKER
UNITED STATES BANKRUPTCY JUDGE

Local Rule of Bankruptcy Procedure 1001. SCOPE OF RULES AND FORMS; SHORT TITLE ADOPTION OF LOCAL RULES OF THE UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF TEXAS; ADMISSION PRO HAC VICE; JUDGES' INTERNAL OPERATING PROCEDURES.

(a) Title

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 “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) Scope and Effective Date

1. These Local Rules of Bankruptcy Procedure, as amended, become effective October 1, 2002. These Local Rules of Bankruptcy Procedure, as amended, supercede all Local Rules of Bankruptcy Procedure issued before October 1, 2002, and they govern a case, contested matter, or proceeding pending or commenced after such date. Any appendix to these Local Rules may be modified by the Court from time to time without the necessity of a formal amendment to the Local Rules.
2. 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.
3. These Local Rules of Bankruptcy Procedure may be superseded or modified with respect to documents filed, signed or verified by electronic means in compliance with the *Administrative Procedures for the Filing, Signing,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 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 Appendix 5005 may be modified by the Court from time to time without the necessity of a formal amendment to these Local Rules.

(c) Incorporated Local Court Rules of the United States District Court (the “District Court Rules”)

1. The District Court Rules govern attorney admission, discipline, and disbarment in the Bankruptcy Court; however, “Court” or “Clerk” in the District Court Rules

means the Bankruptcy Court or Bankruptcy Clerk when an attorney appears in Bankruptcy 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) Admission Pro Hac Vice:

The District Court Rules governing temporary admittance when an attorney is not admitted to the District are supplemented as follows:

1. An attorney must file a *pro hac vice* application, and the application must be served on the United States Trustee.
2. The attorney must verify — under penalty of perjury — the following information:
 - A. The attorney's name, law firm, office address, office telephone and facsimile numbers;
 - B. A list of the state and federal court(s) which have admitted the attorney. The list must include any assigned admission numbers and admission dates.
 - C. A statement that:
 - (1) The attorney is in good standing in all courts where admitted;
 - (2) The attorney is not currently suspended or disbarred in any court; and
 - (3) No formal grievance proceeding is pending or disclosure of any formal pending grievance.
 - D. An attorney must list all other *pro hac vice* applications filed in the District during the year before the current *pro hac vice* application. For each applicable *pro hac vice* application, the list must include the following information:

- (1) the case style and number;
- (2) the application file date; and
- (3) the Court's ruling on the application.

E. An attorney must attach a proposed order.

(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 the eligibility to appear or be a bar member in this District.

(f) **Reference to the Bankruptcy Court**

By standing order of the District Court, all cases under Title 11 and all proceedings and matters arising in, arising under or related to a case under Title 11 are referred to the Bankruptcy Court for this district.

(g) **Judges' Regulations**

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

(h) **Clerk's Internal Operating Procedures**

Appendix 1001-h contains the Clerk's internal operating procedures..

(i) **Standards of Litigation Conduct**

In addition to the standards set forth in the District Court Rules, the Texas Lawyers Creed and *Dondi Properties Corp. v. Commerce Sav. and Loan Ass'n.*, 121 F.R.D. 284 (N.D. Tex. 1988) 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

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.

(a) Inclusion of Social Security Numbers

Due to the current requirements of the court's case management system, the complete social security number of every debtor must be referenced on the bankruptcy petition, notwithstanding other provisions within these Local Rules mandating the redaction of all but the last four digits of such number pursuant to policies adopted by the Judicial Conference of the United States.

(b) Inclusion of Chapter Reference

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:
 - A. cash;
 - B. cashier's check;
 - C. money order;
 - D. check drawn from account of the debtor, accepted subject to collection;
 - E. check drawn from account of attorney or attorney's law firm, accepted subject to collection; or
 - F. 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.

(b) Chapter 11 Noticing and Claim Fees

The Clerk's office 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 collects the Chapter 11 quarterly fees imposed by 28 U.S.C. §1930(a)(6).

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

(a) Enforcement of Time Limits by Dismissal

The Court strictly enforces the Fed. R. Bankr. P. 1007 time limits. A party in interest may move for dismissal when the time limits are violated. The motion must be served on:

1. the debtor;
2. the debtor's attorney;
3. any creditor committee's counsel, or — if no committee has been appointed — the twenty (20) largest unsecured creditors;
4. a party who requests notice; and
5. other parties as the Court may direct.

(b) Master Mailing List (Matrix)

1. **General Requirements.**
 - A. At the time of filing a voluntary petition or within fifteen 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 must also include those agencies and officers of the United States required to receive notice in Fed. R. Bankr. P. 2002(j).
 - C. The addresses for the Internal Revenue Service Special Procedure Offices are as shown in Appendix 1007-b-1.
 - D. A master mailing list in a Chapter 7 or Chapter 11 case must include the United States Trustee at its office in the Eastern District of Texas.
2. If a debtor is a partnership, the master mailing list must contain the names and current mailing addresses of each general and limited partner.
3. If a debtor is a corporation, the master mailing list must contain the names and current mailing addresses of the present officers and directors, or if none, the immediate past officers and past directors.
4. A master mailing list must contain the name and last known address or place of business of each equity security holder.

5. **Form of Mailing List.**

The master mailing list must be in such form as prescribed by the Clerk of the Court, as set out in Appendix 1007-b-5. The form may be changed from time to time without amendments to these Local Rules of Bankruptcy Procedure.

6. **Accuracy of Information.**

The debtor and debtor's attorney are responsible for the preparation of the Master Mailing List required by this Local Rule of Bankruptcy Procedure. The debtor must verify the list attesting to the accuracy and completeness of the information. The Verification of the Master Mailing List (Matrix) must be in the form shown in Appendix 1007-b-6 and shall serve as the cover page to the Master Mailing List.

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

When an amended schedule is filed which adds or deletes a new entity, an Amended Master Mailing List must be filed in the same form as the original list. The amendment must be limited to the names and addresses added or deleted. The Notice of Change in Schedule of Creditors must be in the form shown in Appendix 1007-b-7, and it must be the cover page to the amended mailing list and amended schedule of creditors.

(c) **Redaction of Personal Identifiers**

Pursuant to policies adopted by the Judicial Conference of the United States, a debtor should 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:

1. **Social Security Numbers:** if disclosure of a social security number is required, only the last four digits of that number should be used;
2. **Names of Minor Children:** if disclosure of the identity of any minor child is required, only the initials of that child should be used;
3. **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;
4. **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 each schedule 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) **Number of Copies**

The number of copies of schedules and statement of affairs to be filed is the same as the number of copies of the petition prescribed by LBR 1002 and Appendix 1002-a.

(e) **Alphabetical Listing of Creditors**

All creditors listed on Schedules D, E and F must be arranged in alphabetical order.

(f) **Motion for Extension of Time to File Schedules and Statements.**

A motion for an extension of time to file any schedule or statement shall, in addition to the requirements imposed by Fed. R. Bankr. P. 1007(c), state the date upon which the meeting of creditors under §341 of the Bankruptcy Code is scheduled to be conducted. Such motion should not contain negative notice language. In the absence of exigent circumstances clearly set forth in the motion, the Court will not extend the time for filing required schedules or statements to a date less than five (5) business days prior to the scheduled date for the §341 meeting.

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

(a) **Titles**

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)". The Notice of Change in schedule of creditors must be in the form shown in Appendix 1007-b-7, and it must be the cover page to the new list and amended schedule of creditors.

(b) **Number of Copies**

A debtor must file the same number of copies of an amendment as is required under LBR 1002(a) for the filing of an original petition.

(c) **Required Service**

A debtor must serve a copy of any late-filed or amended schedules, statements, mailing list, or list of the twenty (20) largest unsecured creditors on the same parties who originally received service or who are entitled to service

(d) **Notice to Newly Scheduled or Added Entities**

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 or late-filed 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.

(e) **Notice of Amendment to Exemptions**

An amended Schedule of Exemptions (Schedule C) must be served on the Master Mailing List.

(f) **Certificate of Service**

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 form of a certificate of service.

**Local Rule of Bankruptcy Procedure 1015. CONSOLIDATION OR JOINT
ADMINISTRATION OF CASES PENDING IN SAME COURT.**

(a) **Related Debtors**

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 address the following issues:

1. Name and case number of cases sought to be jointly administered;
2. The proposed style and case number to be used on subsequent pleadings if joint administration is ordered;
3. Content of any entered administrative or scheduling order which might require modification; and
4. Need to amend or consolidate master mailing lists 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:

1. Failure to timely file schedules and other pleadings including the Chapter 12 or 13 plan;
2. Failure to timely and diligently prosecute the filing of a plan or disclosure statement;
3. Failure to timely and diligently prosecute the confirmation of a plan or approval of a disclosure statement.
4. Failure to appear at any hearing as ordered by the Court, including the first meeting of creditors;
5. Failure to pay quarterly fees as required under 28 U.S.C. § 1930(a)(6);
6. Failure to furnish 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.

7. Failure to abide by these Rules, the Federal Rules of Bankruptcy Procedure or orders of the Court.

(b) Dismissal

A party in interest may move to dismiss or convert the case when an event enumerated in LBR 1017(a) occurs. The motion is a contested matter pursuant to Fed. R. Bankr. P. 9014. Dismissals by the debtor pursuant to §§ 1208(b) or 1307(b) shall be by motion served on the trustee and United States Trustee. If a motion is requesting dismissal with prejudice to re-filing for any period of time, such fact should be referenced in both the title of the motion and in the title of the proposed order.

(c) Conversion

A debtor's conversion of a case from Chapter 7 to Chapter 11, 12, or 13 pursuant to Bankruptcy Code §706(a) or from Chapter 11 to Chapter 7 pursuant to §1112(a) is made by motion served upon the matrix pursuant to Fed. R. Bankr. P. 2002(a)(4). A debtor's conversion of 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 made by notice of conversion, filed by the debtor, along with a certificate of service reflecting notice on the Master Mailing List. A debtor's motion to convert pursuant to § 1208(a) or § 1307(a) shall be deemed a notice of conversion.

**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) Twenty Day Notice

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

(b) **Twenty-five 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 ten (10) days after the conclusion of the first meeting of creditors. At the time of certification, a debtor must also amend its Master Mailing List 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, subject to the following exceptions pertaining to the review of professional fees:

1. all original and supplemental statements pertaining to attorney compensation as required by 11 U.S.C. §329(a) and Fed. R. Bankr. P. 2016(b);
2. all fee applications or motions for administrative expense pertaining to attorneys' fees; and
3. any motion for the post-confirmation modification of a Chapter 12 or Chapter 13 plan which contains a fee request authorized by LBR 2016(e)(6).

Local Rule of Bankruptcy Procedure 2004. EXAMINATION.

(a) Motion and Notice

An examination motion must:

1. 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.
2. Describe the scope of examination;
3. Itemize requested document categories;
4. Provide ten days' written notice 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
5. Attach a proposed order which contains the date, time, and location of the examination.

(b) Motion to Quash or For Protective Order

A motion to quash or a motion for protective order must be filed within five days of the filing of the examination motion. An objection to the examination motion will not be considered.

(c) Examination Order

The Court will enter an order granting the examination motion if neither a motion to quash nor a motion for protective order is filed in the five-day period following the filing of the examination motion.

(d) Sanctions and Request Modification

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. The Court

may condition an examination on such terms as are just and promote efficient and economical administration.

(e) **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**

An application to employ a professional shall -- in addition to the information required by Fed. R. Bankr. P. 2014 -- also contain the following information:

1. The petition filing date;
2. The chapter under which the petition was filed;
3. The mailing address, state bar number (if an attorney), and telephone number of the professional to be employed;
4. 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, an explanation of why additional professionals are needed;
5. A description or disclosure of any compensation or promise of compensation already given to the professional, or of any security or pledge given. The term "general retainer" is not a proper description;
6. The statements required by Federal Rules of Bankruptcy Procedure 2014(a) and 2016(b) must be attached to the application;
7. A certificate of service reflecting service on the United States Trustee, the only party required to receive notice; and
8. A proposed order.

(b) **Objection**

The United States Trustee has ten (10) days from the application file date to object or comment. An application is set for hearing at the Court's discretion.

(c) **Substitute Court Approved Professional**

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

(d) **Nunc Pro Tunc Approval**

If a professional applies for approval more than thirty (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 the following:

1. An explanation why the application was not filed earlier;
2. An explanation why the order authorizing employment is required *nunc pro tunc*;
3. An explanation -- to the best of the applicant's knowledge -- how approval of the application will or will not prejudice any parties-in-interest;
4. A certificate of service reflecting service on the parties entitled to notice under LBR 9013; and
5. The negative notice language contained in LBR 9007.

(e) **Professionals Employable Without Application**

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.).

(f) **Service of Applications**

An application made under subsection (a) or (c) of this Local Rule of Bankruptcy Procedure is served only on the United States Trustee. An application under subsection (d) must be served as provided therein.

(g) **Order Approving Employment of Professionals**

A proposed order must be submitted with an application for approval of employment. An application is set for hearing only at the Court's discretion.

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

(a) **When a Business is Operated**

The trustee or debtor-in-possession in a Chapter 11 case, a trustee in a Chapter 7 case, and a debtor in a Chapter 13 case, if engaged in business, must file a monthly operating report. This report must be filed with the Court and served on the United States Trustee (or the Chapter 13 Trustee in a Chapter 13 case) not later than the 20th 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 in the form approved by the United States Trustee for this district.

(b) **Duty of Trustees in Cases Under Chapters 12 and 13**

After the conclusion of the first meeting of creditors and prior to the scheduled hearing on confirmation of the plan, the trustee must submit a confirmation recommendation and report. This report may be filed at the confirmation hearing.

(c) **Trustee's Report in Dismissed Cases**

No later than thirty (30) days after entry of an order of dismissal in a Chapter 7 proceeding, or 60 days in a Chapter 13 proceeding, the trustee must file a report as prescribed by the United States Trustee.

(d) **Disposition of Books and Records**

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 twenty (20) 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 twenty day negative notice language 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.

(e) **Post Confirmation Requirements**

In cases filed under Chapter 11, the debtor in possession or trustee must:

1. file a post confirmation report within 30 days after the date of the order confirming the plan. The report must inform the Court of the post-confirmation actions taken by the debtor in possession or trustee and the progress made toward consummation of the plan; and
2. 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 form of order for the final decree or a follow up post-confirmation report explaining why an application for final decree is not appropriate.

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. Comply with the United States Trustee guidelines, when total requested fees and expenses exceed \$10,000.00;
2. Bill travel time at half-rate unless work was done during travel, in which case the time may be billed at full rate; and
3. Comply with the expense guidelines. The expense guidelines are incorporated as Appendix 2016.

(b) **Retainers**

A court authorized professional must deposit a retainer, whether received from the debtor or any other person for the benefit of the debtor, in a trust or IOLTA account. The retainer must remain in the account until the Court enters an order allowing removal.

Exception: A Chapter 7 retainer may be removed without Court order.

(c) **Copies**

File an original and one copy of an application with exhibits. An application with exhibits 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.

(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) **Attorney's Fees in Chapter 13 Cases**

1. If a Chapter 13 debtor's attorney requests \$2000 or less for pre-petition and post-petition services and expenses incurred prior to confirmation, an application is not required.
2. If a Chapter 13 debtor's attorney requests more than \$2,000 for pre-petition and post-petition services and expenses incurred prior to confirmation, the attorney must file an application which complies with subsection (a) of this local rule.
3. The Chapter 13 trustee must review an application and may file a recommendation, comment or objection.
4. When the Court enters the Chapter 13 confirmation order, the attorney is authorized, subject to the Court's directions to the contrary, to withdraw a retainer in full or partial satisfaction of the attorney's outstanding fee.
5. Fees in excess of the retainer held by the debtor must be paid through the Chapter 13 plan as an 11 U.S.C. § 503(b)(2) administrative expense.

6. Fees for post-confirmation legal services -- such as those required in adversary proceedings -- are allowable if the attorney files an application which complies with subsection (a) of this local rule; provided, however, that a detailed request for fees for services pertaining to the preparation and presentation of a post-confirmation Chapter 13 plan modification may be contained within such proposed plan modification.
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.

(f) **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), 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) **Form and Number**

A proof of claim or interest, with attachments, must be filed in duplicate.

(b) **Redaction of Personal Identifiers**

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

(c) **File Stamped Copy**

To obtain a file stamped copy of a proof of claim, provide the Clerk's office with an extra copy of the claim and a stamped self-addressed envelope.

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 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) Bar Date Notice

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.

Local Rule of Bankruptcy Procedure 3007. OBJECTIONS TO CLAIMS.

(a) Orders and Certificate of Service

A claim objection must contain a certificate of service, be accompanied by a proposed order, and comply with the requirements of LBR 9013. The caption of the proposed order must contain the claimant's name and the claim number, and the text must recite the basis of the claim disallowance and the amount in which the claim is allowed.

(b) Hearings

A claim objection is set for hearing on not less than 30 days notice. If a claimant fails to appear at the objection hearing, then the Court usually sustains the objection. If an objecting party fails to appear at the hearing, the Court usually dismisses the objection.

(c) **Objection to Claim of Internal Revenue Service**

In addition to the general claim objection procedure, an objection to an IRS claim must be accompanied by a certification that either tax returns or affidavits of non-liability have been filed for all applicable tax periods. Failure to include a certificate is grounds for sanctions, including dismissal without prejudice of the objection.

(d) **Omnibus Claims Objections Prohibited**

Omnibus claim objections to groups of claims are not allowed. Each claims objection must deal with one specific claim.

Local Rule of Bankruptcy Procedure 3015. 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) **Service**

Within two business days after a Chapter 12 or 13 plan is filed or modified, a debtor must serve the plan, a summary of the plan, or the modification on all creditors and the trustee. A certificate of service must be filed with the Court. If the plan and plan summary are not filed concurrently, the plan summary must clearly identify the plan which it summarizes.

(b) **Confirmation and Objections**

1. The notice of the initial § 341 meeting of creditors in a Chapter 13 case contains the confirmation hearing date. In a Chapter 12 case, the confirmation hearing date will be established by separate order. In both chapters, an objection to confirmation must be filed no later than seven (7) days prior to confirmation, and untimely objections may not be considered by the Court.
2. Delinquent federal tax returns must be filed before confirmation. During the bankruptcy case, federal tax returns must be filed with the appropriate Internal Revenue Service Special Procedures Section (see LBR 1007 for address). If the United States objects to confirmation because returns have not been filed, the failure to file will be grounds for denial of confirmation or appropriate action by the Court.

3. A plan may provide for setoff of a pre-petition tax refund against a pre-petition tax claim, but a refund which exceeds a setoff right must be distributed under the plan. Within ten days of exercising a plan setoff, the Internal Revenue Service must provide the debtor and trustee with a written accounting.

(c) **Pre-Confirmation Modification and Rescheduling the Confirmation Hearing**

If a Chapter 12 or Chapter 13 plan is modified with less than 25 days' notice before the confirmation hearing, the confirmation hearing will proceed only if the Court determines that:

1. The modification does not adversely affect any creditors;
2. Any adversely affected creditor has consented; or
3. The adverse impact on creditors is de minimis.

The debtor must obtain a new confirmation hearing date if a modification does not meet one of the three preceding requirements. The certificate of service required by subsection (a) of this local rule also must reflect that creditors were notified of the new confirmation hearing date and that any objection to the modified plan must be filed no later than seven (7) days prior to the new confirmation hearing date.

(d) **Post Confirmation Modification**

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:

1. the purpose of or the necessity for the modification;
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; and
3. the amount of additional attorneys' fees requested for services pertaining to the modification, pursuant to LBR 2016(e)(6).

A proponent of a Chapter 12 or Chapter 13 post-confirmation modification must mail the proposed modification and the accompanying motion to all creditors 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 thirty-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 THIRTY (30) 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. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

With the exception of the expanded response time, modifications are handled in accordance with the Court's usual motion practice.

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

The transmission and notice required by Fed. R. Bankr. P. 3017(d) must be mailed by the plan proponent. The notice must contain all balloting return instructions, including the address where the ballot should be mailed.

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

(a) Voting

Except as provided by this Local Rule of Bankruptcy Procedure or order of the Court, a ballot is not filed with the Clerk of the Court.

(b) Ballot Summary

At the confirmation hearing, a plan proponent must submit 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 ballots must be attached as an exhibit. At the confirmation hearing the ballot summary will be marked as a plan proponent exhibit, so the plan proponent will need an original ballot summary for the record, a court copy, and copies for parties in interest objecting to confirmation.

PART IV: THE DEBTOR: DUTIES AND BENEFITS

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

(a) **Use of 15-Day Negative Notice Language.**

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 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 15-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 FIFTEEN (15) 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. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

This rule 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 should contain twenty (20)-day negative notice language, pursuant to LBR 9007.

(b) Content of Motion for Relief From Automatic Stay

1. **General Requirements.** An original and one (1) copy of a motion for relief from the automatic stay must be filed with the Clerk and such motion must:
 - A. Contain a caption which:
 - (1) Reflects that relief from the stay is sought against property; and
 - (2) Waives the thirty day automatic stay hearing requirement, if desired. If a waiver is not filed, the Court will set a hearing within 30 days in the division most convenient to the Court.

Caption Examples: Motion for Relief from Stay Against 1999 Mercedes 680i, Waiver of Thirty Day Hearing Requirement, and Request for Hearing in Beaumont, Texas

- B. Contain the 15-day negative notice language described in LBR 4001(a) which must be in boldface, large font; and located in the motion text — preferably in the first paragraph;
- C. Contain a certificate of service reflecting service of the motion in accordance with LBR 9013(f); and,
- D. Though a summons is not required, service must be consistent with Fed. R. Bankr. P. 7004(b); and
- E. Be accompanied by two (2) copies of a proposed order.

(c) **Motion to Use Cash Collateral**

1. **General Requirements.** A motion for use of 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 an entity in control or having possession of the cash collateral;
 - D. Facts demonstrating the need for cash collateral use;
 - E. Nature of the protection to be provided to those having an interest in the cash collateral; and
 - F. A proposed budget exhibit which itemizes the use of the cash collateral.

2. **Emergency Requirements.**

In addition to the general requirements stated in LBR 4001(b)(1), 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 fifteen (15) day budget of emergency items; and
 - E. The adequate protection to be provided to the affected creditors.

A proposed order submitted with the motion to use cash collateral must attach a copy of the budget and include a termination date which shall not exceed fifteen (15) days.

(d) **Agreements**

A stipulation must be accompanied by a motion to approve the stipulation, containing a certificate of service which evidences service upon all parties then listed on the matrix, and a proposed order. Subject to the provisions of LBR 9022 and any local regulations of any judge of this Court, the Court does not approve an agreed order which contains the stipulation because an agreed order suggests the Court has made findings.

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) **Objection to Claim of Exemptions**

An objection to a debtor's claim of exemption is a "contested matter" governed by Federal and Local Rules of Bankruptcy Procedure 9014. It must contain the following 20-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 (20) 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. 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.

(c) **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 Federal Rule of Civil Procedure 8(b).

(d) **Lien Avoidance**

A motion to avoid lien 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; and
5. cite to section 522(f).

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

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

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).

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

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

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).

(b) **Motion for Hardship Discharge in Chapter 13 Cases.**

Any motion by a Chapter 13 debtor for a discharge under §1328(b) must be accompanied by a proposed order which substantially conforms to Bankruptcy Procedural Form B-18WH and shall additionally contain the following paragraphs:

“IT IS FURTHER ORDERED that a complaint to determine the dischargeability of any debt pursuant to §523(c) of the Bankruptcy Code shall be filed not later than sixty (60) days from the date of the entry of this Order.

IT IS FURTHER ORDERED that the Debtor’s counsel shall forward a copy of this Order by First Class United States Mail to the Chapter 13 Trustee, to all parties listed on the Master Mailing List (matrix), and to all parties requesting notice and shall evidence such service by the filing of a Certificate of Service with the Court.”

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 fifteen (15) 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 thirty (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 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.

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

(a) Notice

A notice required by Fed. R. Bankr. P. 6004(a), (c), or (d) must be prepared and served on all creditors by the movant. The notice must contain the twenty-day negative notice language of LBR 9007 and -- if filed pursuant to Fed. R. Bankr. P. 6004(c) -- be accompanied by a proposed order.

(b) Contents of Notice

The notice must -- in addition to the requirements of Fed. R. Bankr. P. 2002(c)(1) -- contain to the extent applicable:

1. The name and address of the proposed buyer;
2. Proposed sale price, estimated costs of the sale or lease, including commissions, auctioneer's fees, costs of document preparation and recordation, etc.;
3. 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; and
4. If filed pursuant to Fed. R. Bankr. P. 6004(c), state with particularity the provision of 11 U.S.C. § 363(f) upon which movant relies.

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 specific property of the estate having a total value of not more than \$1,000.00. All other abandonment actions are governed by paragraph (b) below.
2. An 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 fifteen (15) days after the first meeting of creditors. If no such objection is filed and served, the property will be deemed

abandoned without further notice. If an objection is timely filed and served, the Court shall set a hearing on the merits giving twenty (20) days notice to the trustee, debtor, debtor's attorney, lienholder if any, and to the objecting party. A statement or summary of this Local Rule of Bankruptcy Procedure 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) 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. The notice or motion must include, in bold print, notice that any objection must be filed in 15 days.
2. The motion or notice must describe the property, state the reason the property should be abandoned, and state the value of the property.
3. If an objection is filed to a proposed abandonment noticed by the trustee, debtor's attorney, or debtor, or to a motion to compel abandonment, then the Court shall set a hearing in accordance with its usual motion practice.

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 twenty (20)-day negative notice language 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, the Chapter 7 Trustee and the United States 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 also file the following documents with the Clerk:

1. Original and one copy of the complaint or notice of removal;
2. Original and one copy of an adversary proceeding cover sheet form, which is available from the Clerk's office; and
3. An original and one copy of 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, at the time of filing the complaint, must present a motion to defer payment of the filing fee, 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 Appendix 5005. The transmission facilities of the Court may be utilized to accomplish such service.

Local Rule of Bankruptcy Procedure 7007. PLEADINGS ALLOWED; FORM OF MOTIONS.

LBR 9004, LBR 9007, including the twenty(20)-day negative notice language requirement, and LBR 9013 shall apply to motions in adversary proceedings, with the exception of the following adversary motions, which will require proper certificates of service, but will not require any suspense language, and which will be presented to the Court for immediate consideration:

1. Motion to Quash or Motion for Protective Order
2. Application for Temporary Restraining Order
3. Application for Preliminary Injunctions
4. Motion for Default Judgment.
5. Motion to Defer Payment of Filing Fee.
6. Motion for Summary Judgment.

Local Rule of Bankruptcy Procedure 7010. CAPTION AND FORM OF PLEADING IN ADVERSARY PROCEEDINGS.

The caption of each pleading in an adversary proceeding must identify the district and division in which the proceeding was filed, the style of the bankruptcy proceeding including the captioned debtor, the name of the plaintiffs and the defendants in the adversary proceeding,

the case number and chapter of the bankruptcy proceeding, a space for the number of the adversary proceeding, a time estimation for the hearing on the merits, and a descriptive title indicating the nature of adversary proceeding being initiated.

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 thirty (30) days prior to the date scheduled for the trial.

(d) Exhibits

1. All exhibits that are to be utilized in a hearing on the merits of an adversary proceeding must be marked for identification prior to hearing and identified in numerical sequence.
2. Plaintiff or movant exhibits must be assigned the letter "P", followed by a dash, followed by a number; for example, Exhibit P-3. If there are multiple plaintiffs, then each exhibit shall be marked with the letter "P", followed by a specific plaintiff's name, followed by a dash, followed by a number; for example, Exhibit P Jones-3, Exhibit P Smith, Inc.-1.

Defendant or respondent exhibits must be assigned the letter "D", followed by a dash, followed by a letter; for example, Exhibit D-A. If there are multiple parties

defendant, then the system for multiple plaintiffs applies.

3. Copies of all exhibits must be provided to each party not less than five (5) calendar days prior to trial.
4. In addition to the original exhibit for the record, all parties must supply a copy for use by the witness, a copy for opposing counsel, and two copies for the Court at the time of trial.
5. Failure to comply with the exhibit requirements in this Local Rule of Bankruptcy Procedure may result in the refusal of the Court to admit exhibits into evidence or in sanctions.

(e) **Proposed Findings of Facts and Conclusions of Law**

If the Court requires proposed findings of fact and conclusions of law, the proposals are due by the pretrial order deadline. The conclusions of law must include a reference to the legal authorities relied upon by specific reference to Bankruptcy Code section or Local Rule of Bankruptcy Procedure, state or federal statute or regulation, and proper citation to case law.

(f) **Briefs**

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

(g) **Pretrial Order**

A pretrial or joint pretrial order caption must include the date set for trial or docket call, if known, and the estimated time required for trial of the issues. Unless another date is set in the scheduling order, a pretrial order is due five business days before trial.

(h) **Continuances in Adversary Proceedings**

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

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.

(b) Order and Judgment

An order approving a compromise and settlement must be entered in the bankruptcy case, and a separate judgment will be entered in the adversary proceeding affected.

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.

Local District Court Rule CV-56 applies in adversary proceedings.

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 will be considered by the Court as soon after filing as possible.

PART VIII. APPEALS TO DISTRICT COURT

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

A designation of record filed must include the docket entry number and the filing or entry date for each item to be included in the appellate record. The person who designates items to include in the record must furnish copies of all items designated to the Clerk for inclusion in the 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**
A caption must designate the relief sought in the motion and proposed order. Substantial variance between the caption and the relief sought in the pleading may result in dismissal, denial, or sanctions.
- (b) **Separate Motions Required**
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 or for Adequate Protection;
 2. Motion to Use Cash Collateral and for Adequate Protection;
 3. Motion to Dismiss or to Convert Case; and
 4. Motion for Contempt and/or for Sanctions.
- (c) **Stay Relief Motions**
If filing a motion for relief from stay, please refer to LBR 4001.

**Local Rule of Bankruptcy Procedure 9007. GENERAL AUTHORITY TO
REGULATE NOTICES.**

(a) Twenty-Day Negative Notice Language When Relief May be Granted “After Notice and Hearing”

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 twenty-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 (20) 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.
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.

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:

- (1) Request for Emergency Hearing
- (2) Request for Expedited Hearing.
- (3) Motion for Continuance of Hearing.
- (4) Motion to Limit or Restrict Notice.
- (5) Motion/Application to Shorten or to Extend Notice Period.
- (6) Motion for Extension of Time to File Schedules.
- (7) Motion for Extension of Bar Date for Filing Claims.
- (8) Motion by Debtor to Convert Chapter 7 Case to Any Other Chapter.
- (9) Motion by Debtor to Convert Chapter 11 Case to Chapter 7.
- (10) Motion by Debtor to Convert Chapter 12 Case to Chapter 7
(or Notice of Conversion)

- (11) Motion by Debtor to Convert Chapter 13 Case to Chapter 7
(or Notice of Conversion)
- (12) Motion by Debtor to Dismiss Chapter 12 Case
- (13) Motion by Debtor to Dismiss Chapter 13 Case
- (14) Motion for Approval of Reaffirmation Agreement
- (15) Motion to Quash
- (16) Motion for Protective Order
- (17) Trustee's Motion to Pay Bond Premium
- (18) Motion to Reopen Estate
- (19) Application/Motion for Admission *Pro Hac Vice*
- (20) Motion to Deposit Funds in Court Registry (or for Disposition of Funds).
- (21) Motion to Waive Debtor's Appearance at Section 341 Meeting (or similar)
- (22) Application to Approve Undisputed Appointment of Chapter 11 Trustee
- (23) Motion to Intervene.

(b) Emergency Hearing Request

- 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 five (5) days, and which involves an irreparable injury which outweighs procedural due process concerns. A requests 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 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 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; and
- E. in cases before Judge Sharp, a form order which, in the alternative, grants/denies the relief and which includes the following paragraph:

This motion is scheduled for hearing on the ____ day of _____, 200_, at ____ o'clock __.m. in the Courtroom of the United States Bankruptcy Court, 660 North Central Expressway, Third Floor, in Plano, Texas. Notice of this hearing must be given by _____; or

- F. in cases before Judge Parker, a form order substantially conforming to Parker Regulation Form 9007-b.

(c) **Expedited Hearing Request**

If a motion requires a hearing on shortened notice but does not require an emergency hearing, an application to shorten notice and set an expedited hearing must be filed in accordance with Fed. R. Bankr. P. 9006(c).

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.

Comment: See, *Thomas v. Capital Security Services, Inc.*, 836 F.2d 866 (5th Cir. 1988).

Local Rule of Bankruptcy Procedure 9013: MOTION PRACTICE.

(a) Form and Number of Copies.

When filing a motion or application, an objection to a proof of claim, or an objection to a debtor's claim of exemption, a party must provide the Clerk with an original and one copy of the pleading which contains any information required under these Local Rules of Bankruptcy Procedure to obtain a specific type of relief as well as appropriate negative notice language, if required by one of the following LBRs: 3015(d), 4001 or 9007. A failure to include required information or required negative notice language, or to provide the Clerk with the requisite number of copies of the filed pleading may result in the dismissal of that pleading.

(b) Proposed Orders.

Any motion, application, or objection shall be accompanied by two (2) copies of a proposed order with a caption that describes the relief and refers to the pleading which it accompanies. The proposed order should clearly delineate that the motion is being granted or denied, or that an objection is being sustained or denied, and avoid non-descriptive captions such as "Order On" or "Order Regarding" in order to provide effective notification of the entry of such order to affected parties. A failure to attach a proposed order, or to provide the Clerk with the requisite number of copies of a proposed order, may result in the dismissal of the referenced pleading.

(c) Application

The following requests may be made by application:

1. Application for permission to pay filing fee in installments;
2. Application for appointment of creditors' committee organized before order for relief (with notice to United States trustee and debtor);
3. Application for employment of professional persons (with notice to United States trustee and debtor in accordance with LBR 2014);
4. Application for entry of final decree on consummation of a Chapter 11 plan; and
5. Application to shorten notice period under Fed. R. Bankr. P. 9006.

(d) **Redaction of Personal Identifiers**

Pursuant to policies adopted by the Judicial Conference of the United States, all parties should 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:

1. **Social Security Numbers:** if disclosure of a social security number is required, only the last four digits of that number should be used;
2. **Names of Minor Children:** if disclosure of the identity of any minor child is required, only the initials of that child should be used;
3. **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;
4. **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 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**

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. The certificate of service must indicate specifically the parties served (including their addresses), the method of service, and the date of service. It shall be signed by an attorney and shall state that service complying with LBR 9013(f) — if applicable — has been accomplished. Failure to include a certificate of service evidencing service upon proper parties or to otherwise fail to comply with this Local Rule may cause the Court to deny the relief requested or strike the pleading.

(f) **Notices: Parties-in Interest Served**

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 11 U.S.C. § 102 (other than motions relating to appeals from orders or for new trial), including motions for relief

from stay, the movant shall serve a copy or a summary of the motion upon: (1) all parties entitled to service of such motion or any hearing on such a motion under the Federal Rules of Bankruptcy Procedure, (2) those parties who have requested notice; and (3) the following parties at a minimum:

1. In a Chapter 7 case: the debtor, trustee, the United States Trustee, all members of any court appointed committee and their respective attorneys, 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 and their respective attorneys.
2. In a Chapter 11 case: the debtor, the United States Trustee, the twenty (20) largest unsecured creditors, or all members of any court appointed committee(s), their respective attorneys, 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 and their respective attorneys.
3. In a Chapter 12 or 13 case: the debtor, Chapter 12 or 13 Trustee, 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, and their respective attorneys.

(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) Service by Electronic Means.

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 Appendix 5005. The transmission facilities of the Court may be utilized to accomplish such service.

Local Rule of Bankruptcy Procedure 9014: CONTESTED MATTERS.

(a) Summons

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

(b) Responsive Pleadings.

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 should 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 caption of a responsive pleading must state the respondent's name and incorporate the caption 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) Trial Preparation

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. Exhibits must be marked and copied in accordance with LBR 7016(d).
3. A Witness and Exhibit List and exhibits must be exchanged three business days prior to the hearing.
4. Briefing must be filed at least three business days prior to the hearing.
5. 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 thirty (30) days after final disposition of the proceedings may be destroyed.

Local Rule of Bankruptcy Procedure 9019. COMPROMISE AND ARBITRATION.

A motion to approve compromise must:

- A. Contain an analysis of the settlement factors invoked by the Fifth Circuit and Supreme Court. *See, e.g., Protective Comm. For Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 425 (1968); *United States v. AWECO (In re AWECO)*, 725 F.2d 293 (5th Cir.), *cert. denied*, 469 U.S. 880 (1984);
- B. Cite any adversary proceeding, by style and number, and provide trial setting information;
- C. Attach a copy of the settlement agreement; and
- 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.

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 by LBR 9013(f), 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.