

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

[Revised ~~November~~ ~~December~~ 1, ~~2012~~ ~~2017~~]

~~BRENDA T. RHOADES~~ ~~BILL PARKER~~
CHIEF UNITED STATES BANKRUPTCY JUDGE

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

(b) Scope and Effective Date

1. These Local Rules of Bankruptcy Procedure, as amended ~~and restated~~, become effective ~~May~~December 1, 2012~~7~~. They supersede all Local Rules of Bankruptcy Procedure issued prior to that date, 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;~~

~~————— (C) 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.~~

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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 or acting sua sponte, 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.

COMMENTS: *changes effective date; eliminates phased-in provisions from earlier sets of Local Rules/General Orders; and clarifies that Court can act on its own regarding the applicability of a local rule.*

Local Rule of Bankruptcy Procedure 1002. COMMENCEMENT OF 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.

Unless excused by order of the Court, all petitions filed by an individual debtor without legal counsel, shall include copies of a picture identification card.

Local Rule of Bankruptcy Procedure 1006. FILING FEES.

(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~~103B. 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~~103A. Such an application ~~shall~~should be accompanied by an initial payment of not less than \$75.

COMMENTS: The change in 1002 is incorporating terms of General Order 13-2.

The change in 1006(e) is somewhat mandated by change in the national rule which forbids refusal by the Clerk if some amount is not paid. It has been TXEB policy for a number of years that the Clerk will accept all filings, even if deficient, including presentment without any accompanying filing fee.

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

(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. **Though governed by the service requirements set forth in the preceding paragraph,** 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.~~

(d) **Alphabetical Listing of Creditors**

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

COMMENTS: The primary change is the deletion of any requirement for negative notice language and matrix service requirements on a second motion for extension of time to file schedules. The rule retains the requirement that extraordinary and compelling circumstances be demonstrated. But the use of negative notice unnecessarily delayed the determination by the Court because no party ever responded and the Court can now make an immediate decision as to the validity of the circumstances under which an additional extension has been requested.

Also reflects the re-titling of the Official Schedule for unsecured claims.

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

(c) 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 schedules ~~and/or statements on each entity which has been newly added to the matrix or~~ newly scheduled ~~or newly added in the amended documents~~, and must also attach a copy of: (1) the “Notice ~~Notice~~ of Chapter # Bankruptcy Case; Meeting of Creditors, & Deadlines;” “Discharge of Debtor,” “Order;—(2) any Order Fixing Last Date for Filing Claims; (3) any Order Confirming Plan,” or “Order Fixing Date for Filing Claims”; ~~and/or (4) any Discharge of Debtor which have been~~ entered in the case.

COMMENTS: No substantive change here.... just recognizing the change in the title of certain Official Forms.

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

(b) Husband and Wife Filing by Spouses

When ~~a husband and wife~~ spouses 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.

COMMENTS: Again, no substantive change here.... just recognizing the change in nomenclature reflected in the new national rule arising from Obergefell v Hodges, 135 S.Ct. 2584 (2015).

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

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(b) Dismissals

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(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: (1) 14 days from the date of filing for dismissal motions under §707(a)(3) or §707(b); or (2) 21 days from the date of filing for all other dismissal motions. Such trustee shall give notice of that scheduled hearing in boldface, large font in on the first paragraph-initial page of the dismissal motion in lieu of the negative notice language otherwise required.
3. Any dismissal motion, other than one 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 appear as presented and be located in the text of the notice/motion= motion text — preferably in the first paragraph: on the initial page:

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.

14-DAY NEGATIVE NOTICE – LBR 1017(b):

Your rights may be affected by the relief sought in this pleading. You should read this pleading carefully and discuss it with your attorney, if you have one in this bankruptcy case. If you oppose the relief sought by this pleading, you must file a written objection, explaining the factual and/or legal basis for opposing the relief.

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* shown in the certificate 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 with appropriate notice. 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.

(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 appear as presented, and it** must be **in boldface, large font and** located in the **text of the notice/motion – motion text –** preferably **on the initial page:**

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.~~

14-DAY NEGATIVE NOTICE – LBR 1017(b):

Your rights may be affected by the relief sought in this pleading. You should read this pleading carefully and discuss it with your attorney, if you have one in this bankruptcy case. If you oppose the relief sought by this pleading, you must file a written objection, explaining the factual and/or legal basis for opposing the relief.

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 shown in the certificate 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 with appropriate notice. 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.

COMMENTS: This is just the first example of a “freshening” of the negative notice language based upon the “plain English” tenor of the amended rules and the adopted national Ch 13 plan form. Though certainly subjective, the all-caps mode seemed to deaden one’s eyes to the important info rather than to enhance it. Thus, all caps has been eliminated except to highlight the actual time period.

This freshening of negative notice language also occurs in the following rules:

LBR 2004 ; 2014; 3017-1; 3019 (28 day); 4000(b)&(c) (certification language); 4001; 4003 (21 day); 6007(b); 7007; 9007 (21 day).

Other than the designated suspense time, the new language is identical in all of the above-referenced rules and will not repeated herein for the sake of brevity.

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

(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:

- (4) utilize the 14-day negative notice language described in LBR ~~4001~~2014(a);

. . .

(h) Attorney's Fees in Chapter 13 Cases

1. ~~The allowance of compensation and expense reimbursements for an attorney for a Chapter 13 debtor shall encompass pre-petition and post-petition services rendered 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-Reconciliation 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 "Benchmark Fee Period"). Such compensation shall be determined by the timely filing of a formal fee application in compliance with the requirements of this rule unless the attorney elects in the plan for the compensation to be determined by the benchmark fee amounts listed below according to the applicable circumstances:~~

~~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~~
- (A) If the attorney has not rendered legal services pertaining to automatic stay litigation arising during the Benchmark Fee Period, a formal fee application is not required so long as the attorney requests \$3,500 or less for the Benchmark Fee Period. The \$3,000~~500 benchmark fee~~

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~~ arising during the ~~case~~ Benchmark Fee Period, 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~~

\$4,000 or less for the Benchmark Fee Period. The \$4,000 benchmark fee 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.

2. If an attorney for a Chapter 13 debtor elects to file a formal fee application for fees and expenses incurred during the Benchmark Fee Period, such application shall be filed no later than 30 days after the expiration of the Benchmark Fee Period as outlined in subsection (h)(1). If no formal fee application is filed by that deadline, the allowed compensation awarded to the debtor's attorney for services rendered in the Benchmark Fee Period shall revert to the applicable benchmark amounts authorized by subsection (h)(1) without the necessity of any further motion, notice or hearing.

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

34. 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.

45. 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.
- 5.6. To obtain compensation for legal services rendered to a Chapter 13 debtor during any period subsequent to the Benchmark Fee Period outlined in subsection (h)(1), a formal fee application must be filed for allowance of such 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 the award of such fees.
67. 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. Unless otherwise ordered by 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.
78. 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.

COMMENTS:

The change in subsection (g) simply incorporates a different rule from which to import the 14-day negative notice suspense language – one with more connection to employment / compensation issues than is LBR 4001.

*The changes in subsection (h) simply reorders existing language and incorporates the \$500 hike in the benchmark fee that was implemented through General Order 15-2. The changes also provide a title [Benchmark Fee Period] for the chronological period previously established by this local rule and the period under which most professional fees of the debtor’s counsel will be engendered. The changes also eliminates the directive regarding fees in converted cases in light of the Supreme Court decision in *Harris v. Viegelahn*, 135 S.Ct. 1829 (2015).*

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 or Chapter 11 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~~ under that chapter, except as follows:

1. ~~A~~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. ~~T~~he 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.

COMMENTS: This is not actually a substantive change, but a linguistic one. The bar date for claims in a Chapter 11 case is changed to 120 days after the Petition Date..... thus mirroring the abandonment of the "first date set for 341 meeting" rule for measuring claim bar dates which has been abandoned in Ch 7 & 13 cases by the December 2016 federal rules amendments. Yet the bar date in Chapter 11 should actually occur approximately the same time as under our prior local rule.

Local Rule of Bankruptcy Procedure 3007. OBJECTIONS TO CLAIMS.

(a) Contents

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~~ person most recently designated on the claimant in its claimant's proof of claim as the person to receive notices, at the notice address indicated thereon, 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) Hearings

A party filing an objection to claim, other than an objection for which the filing of an adversary proceeding is required, may elect to utilize the following 21-day negative notice language ~~described in LBR 9007(a).~~

which must be located in the objection text — preferably on the initial page:

21-DAY NEGATIVE NOTICE – LBR 3007(b):

ATTENTION: YOUR CLAIM MAY BE REDUCED, MODIFIED, OR ELIMINATED. Accordingly, you should read this pleading carefully and discuss it with your attorney, if you have one in this bankruptcy case. If you do not wish for the Court to eliminate or change your claim, you must file a written response opposing the claim objection, explaining the factual and/or legal basis for that response.

No hearing will be conducted on this claim objection unless a written

response in opposition 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 listed in the certificate of service unless the Court shortens or extends the time for filing such response. If no response in opposition is timely served and filed, this claim objection shall be deemed to be unopposed, and the Court may enter an order sustaining the objection to your claim. If a response in opposition is filed and served in a timely manner, the Court will thereafter set a hearing with appropriate notice. If you fail to appear at the hearing, your response in opposition may be stricken. The Court reserves the right to set a hearing on any matter.

If the objection meets the requirements mandated by subsection (a) of this rule and no response in opposition to the claim objection is timely filed under the terms of the negative notice provided, 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 be set for hearing on not less than 30 days' notice.

COMMENTS: The new national rule now follows our existing local rule which requires service to the address listed by the claimant in its proof of claim. The language in (a)(3) is stylistically changed to mirror the national language in BRule 3007. Further, in light of the national amendments to Rule 3007, rather than just a passing reference to the 21-day language in LBR 9007, the 21-day negative notice language option is rewritten to mimic the warning language that the new national rule gives to (particularly pro se) claimants. As under current procedure, the use of negative notice language results in a greater notice period being provided to claimants in the event that a response to the claim objection is filed.

Local Rule of Bankruptcy Procedure 3012. DETERMINING THE AMOUNT OF SECURED CLAIMS.

(a) Contents

A motion to determine the amount of a secured claim under § 506(a), through the valuation of the collateral upon which such claim is based, must contain:

- (1) a title which:
 - (A) identifies the holder of the lien or security interest upon the collateral sought to be valued; and
 - (B) adequately describes the collateral sought to be valued

Title Example: Motion for Valuation of Collateral of ABC Finance Corp. (2016 Ford Focus);

- (2) a proposed valuation amount for the referenced collateral that the motion seeks to impose;
- (3) an affidavit and/or other documentary proof in support of the motion that clearly identifies a credible, objective basis for the affiant's stated belief as to valuation of the referenced collateral;
- (4) the 21-day negative notice language described in LBR 9007(a);
- (5) a certificate of service reflecting service of the motion in accordance with LBR 9013(f), including upon the person most recently designated on the claimant's proof of claim as the person to receive notices, at the notice address indicated thereon; and
- (6) be accompanied by a proposed order incorporating the title information from the pleading and otherwise substantially complying with *TXEB Local Form 9007-a*.

(b) Claim Procedures in Chapter 13 Cases

The procedure for the determination of claims in Chapter 13 cases, including the establishment of a deadline for the filing of any motion for valuation of collateral to determine the amount of a secured claim in a Chapter 13 case, is governed by LBR 3015(g).

COMMENTS: This is a new local rule giving specifications for the contents of Rule 3012 valuation motions. Subsection (b) specifies that LBR 3015(g) imposes a deadline for the use of Rule 3012 valuation motions in a Chapter 13 context.

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

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~~ equivalent to 1.50% of the value of the utilized collateral on the Petition Date and accruing for each 30-day period from the Petition Date until the month in which equal monthly payments to such holder are initiated under a confirmed 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~~ at the ~~—earlier of plan confirmation, or the dismissal or the conversion of the Chapter 13 case~~ earliest practicable time, notwithstanding any failure of a debtor to confirm a Chapter 13 plan.

. . .

(e) Chapter 13 - Initial Confirmation Process

3. No later than seven (7) days prior to the scheduled hearing to consider confirmation of the plan, a debtor shall:
 - (A) tender to the Chapter 13 Trustee a proposed confirmation order in a format which substantially conforms to *TXEB Local Form 3015-b*;
 - (B) file with the Court a declaration under penalty of perjury from the Debtors regarding the status of post-petition mortgage obligations which substantially conforms to *TXEB Local Form 3015-c*;

. . .

6. Upon the ~~denial~~ entry of an order denying confirmation of any original or ~~modified~~ amended Chapter 13 plan ~~by the Court~~, any objection previously filed to that plan is resolved for all purposes and any objection by a creditor or party-in-interest to the confirmation of a subsequently-proposed Chapter 13 plan must be filed no later than seven (7) days prior to the scheduled hearing to consider that subsequently-proposed plan.

f) **Pre-Confirmation Modification Amendment Process**

1. If a Chapter 12 or Chapter 13 plan is ~~modified~~ amended 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~~ plan amendment does not meet one of the three preceding requirements and additional notice of the ~~modified~~ amended plan is therefore required, a new confirmation hearing shall be scheduled, the deadline for filing an objection to the ~~modified~~ amended 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~~ amendment 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 ~~amended~~ plan without the necessity of the entry of an independent order and, in the event that the debtor fails to confirm such a ~~modified~~ an amended 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.

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(g) **Claims Adjudication in Chapter 13 Cases**

1. A Trustee's **Recommendation Reconciliation** 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 **serve primarily as a reconciliation device between the claims registry and the terms of the confirmed Chapter 13 plan.**
3. **As set forth below, the TRCC shall also provide prominent notice of the deadline by which challenges to claims filed in a Chapter 13 case must be filed by any party-in-interest, regardless of the means utilized to bring such challenge.**
4. Absent a court order to the contrary, the deadline in a Chapter 13 case for any party-in-interest to:
 - (i) **file an objection** to the allowance of any proof of claim ~~filed in this case, or to;~~
 - (ii) file a motion under Rule 3012 to determine the amount of a secured claim through the valuation of collateral; or
 - (iii) avoid or otherwise challenge the validity of any security interest claimed in any proof of claim ~~in this case, is~~shall be the twenty-first (21st) day following the date of service of the TRCC. ~~this document—~~
5. **The TRCC shall contain the following 28-day negative notice language and notice of bar date for filing objections to claim:**

Notice Regarding Trustee’s Recommendation Concerning Claims:

**THIS DOCUMENT SHALL CONSTITUTE AN
OBJECTION TO YOUR CLAIM 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**~~

therefore contain the following notice:

Notice of Filing Deadline for Challenging Claims

YOU ARE NOTIFIED that, pursuant to LBR
3015(g), the deadline for: (1) filing an objection to the
allowance of any proof of claim filed in ~~a Chapter 13~~
~~case, or~~ this case; (2) filing a motion for valuation of
collateral to determine the amount of a secured claim
filed in this case pursuant to Rule 3012; or (3) filing an
appropriate pleading to avoid or otherwise challenge
the validity of any security interest claimed in any

proof of claim filed in a Chapter 13 this case, shall be established as is the 21st twenty-first (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. of this document.

5. Since a TRCC serves as a reconciliation document which requires no court approval, no negative notice language nor any proposed order is required.
6. A certificate of service is required, evidencing service of the TRCC upon the master mailing list (matrix) as constituted by the Court on the date of service.

A TRCC shall ~~be accompanied by a proposed order and shall be served upon the master mailing list (matrix) as constituted by the Court on the date of service.~~

- ~~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~~
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~~When any claim is challenged by a proper objection, the Chapter 13 Trustee shall reserve funds otherwise attributable to ~~any-challenged~~that 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~~In a Chapter 13 case, a proponent requesting the post-confirmation modification of a Chapter 13 plan shall file a proposed *Motion to Modify Confirmed Chapter 13 Plan* in a format which substantially conforms to *TXEB Local Form 3015-d*. The motion must be accompanied by a proposed *Order Modifying Confirmed Chapter 13 Plan* in a format which substantially conforms to *TXEB Local Form 3015-e*.
2. In a Chapter 12 case, a proponent requesting the post-confirmation modification of a Chapter 12 ~~or Chapter 13~~ plan must file ~~the~~a modified plan as an attachment to 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).

- 2 —
3. ~~A proponent of~~In either a Chapter 12 or ~~Chapter 13~~13 case, the standing trustee is authorized during the pendency of a post-confirmation modification motion to maintain payments on allowed claims the treatment of which stands unaffected by the proposed modification.
4. In a Chapter 13 case, a debtor seeking a modification of a confirmed plan must contemporaneously file with the Court:
- (a) a declaration under penalty of perjury regarding the status of post-petition mortgage obligations which substantially conforms to *TXEB Local Form 3015-c*;
 - (b) an amended Schedule I and an amended Schedule J in order to verify current income and expenditure information or, in the alternative, certify under penalty of perjury in the modification motion filed with the Court that the information contained in Schedule I and Schedule J as previously filed with the Court remains true and correct.
5. In either a Chapter 12 or 13 case, a proponent seeking a modification of a confirmed plan must serve the proposed modification ~~and the accompanying motion~~, together with any attachments, 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,~~ which must appear as presented and be located in the motion text — preferably on the initial page:

28-DAY NEGATIVE NOTICE – LBR 3015(h):

Your rights may be affected by the plan modifications sought in this pleading. You should read this pleading carefully and discuss it with your attorney, if you have one in this bankruptcy case. If you oppose the relief sought by this pleading, you must file a written objection, explaining the factual and/or legal basis for opposing the relief.

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 TWENTY-EIGHT (28) 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.

3shown in the certificate 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 confirming this plan modification. If an objection is filed and served in a timely manner, the Court will thereafter set a hearing with appropriate notice. 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.

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

COMMENTS:

The changes to subsection (c)(1) adopt a standardized measurement, already existing in many districts within the circuit, for adequate protection payments which our new Chapter 13 plan form requires to be initiated upon month 1 of the case.

The changes to subsection (c)(2) incorporates the directive regarding the distribution of adequate protection payments under General Order 15-2.

The changes to subsection (e)(3) will require that the declaration regarding post-petition mortgage payments be filed with the Court, thus solving a discrepancy between divisions. CM-ECF is already set up to accept them and it provides a better evidentiary foundation for the imposition of sanctions in the rare event of a false declaration

The changes to subsection (f), incorporating minor language revisions re “amendment” and “modification” is a quixotic effort on behalf of the Chief Judge to standardize the use of terms to avoid needless confusion — an “amended” plan references one that is changed prior to any confirmation while a “modification” references an attempt to change a plan after its confirmation.

The changes (mostly deletions) to subsection (g) limit the purpose of the TRCC and, in fact, changes its name to reflect its modified purpose of presenting a reconciliation of claims to the confirmed plan, rather than reflect any attempt by the Trustee to truncate/eliminate creditor rights. It is designed to trigger the duty of the Debtor to do something to solve any revealed infeasibility problem. The revised subsection retains the notice to creditors regarding the bar date for filing claim objections in Chapter 13 cases and incorporates an identical deadline for Rule 3012 motions for valuation which such avenue is used to address the amount of a secured claim in a Chapter 13 context.

Subsection (h) really just implements provisions of the form modification motion that has been developed for adoption. It imposes a duty upon the debtor to file a new budget upon modification or confirm under oath the existing vitality of the old one. It grants discretion to the Trustee to evaluate the impact of any proposed modification and to maintain payments to claimants, if unaffected by the proposed changes.

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

(d) Agreements

- ~~1.~~ 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 14-day negative notice language pursuant to LBR 4001(a), 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.
- ~~2.~~ ~~In a Chapter 13 case, a declaration under penalty of perjury by the debtor(s) substantially conforming to TXEB Local Form 4001-b must be attached to any proposed agreed order modifying the automatic stay that seeks to address unpaid post-petition mortgage obligations through a modification of a confirmed Chapter 13 plan.~~

COMMENTS: Simply gives a local rule reference for the applicable negative notice.... and eliminates TXEB Local Form 4001-b... which has become a bit outdated in light of other efforts to corroborate the debtor's fulfillment of post-petition mortgage obligations.

Local Rule of Bankruptcy Procedure 4003. EXEMPTIONS.

(e) Lien Avoidance

A motion to avoid a judicial lien impairing or a non-possessory, non-purchase money security interest that impairs a claim of exemption must:

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

~~— (2) — confirm that the lien is non-possessory and~~

(2) identify in the title of the pleading whether the allegedly avoidable interest is a judicial lien or a non-possessory, non-purchase money security interest;

(3) either specifically describe the property subject to the ~~lien~~lien/non-PMSI or attach the security documentation which describes the property;

COMMENTS: Simply a confirmation that all avoidance activities under § 522(f) are encompassed by this local rule.

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

...

(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~~ **Within** 30 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 form indicated:

Chapter 11: adapt Bankruptcy ~~Procedural~~ **Director’s** Form ~~B-18FH-B-3180FH~~ (Chapter 12 form) until one is actually promulgated for Chapter 11 cases

Chapter 12: Bankruptcy ~~Procedural~~ Director's Form ~~B-18FHB-3180FH~~
Chapter 13: Bankruptcy ~~Procedural Form B-18WH-~~
Director's Form B-3180WH.

These forms are available at www.uscourts.gov/forms/bankruptcy-forms.

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.”

Comments: slight changes in (c) to eliminate distinction between pre-BAPCPA and post-BAPCPA cases ... no longer relevant.

change in references to procedural forms in subsection (d).

Local Rule of Bankruptcy Procedure 5009. DECLARATIONS REGARDING SATISFACTION OF SECURED CLAIM AND RELEASE OF LIEN.

A motion seeking a declaration that a secured claim has been satisfied and the corresponding lien has been released under the terms of a confirmed plan must contain:

- (1) a title which identifies the holder of the lien or security interest which is alleged to have been fully satisfied and which adequately describes the property upon which the lien had existed

Title Example: Motion for Order Declaring Release of Lien of ABC Finance Corp. Upon 1813 Falcon Blvd., Anytown, Texas Due to Full Satisfaction of Secured Claim [Claim #4-1];

- (2) an affidavit and/or other documentary proof in support of the motion that demonstrates that: (1) the total satisfaction of the underlying indebtedness has occurred under nonbankruptcy law; (2) a discharge has been granted to the debtor-movant under § 1328; or (3) other circumstances exist that establish the complete satisfaction of the secured claim of the claimant;
- (3) the 21-day negative notice language described in LBR 9007(a);
- (4) a certificate of service reflecting service of the motion in accordance with LBR 9013(f), including upon the person most recently designated on the secured claimant's proof of claim as the person to receive notices, at the notice address indicated thereon; and
- (5) be accompanied by a proposed order incorporating the title information from the pleading and otherwise substantially complying with *TXEB Local Form 9007-a*.

COMMENTS: This is a new local rule... addressing this "issue" that the new national plan form emphasizes. Though I've not ever seen this type of relief requested, nevertheless, guidance is provided in the event that someone elects to do so.

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

(d) Exhibits

1. Exhibits which are to be introduced into evidence must be:
 - (A) individually marked for identification on the first page of the exhibit as set forth below prior to the hearing;
 - (B) tendered through digital (electronic) media, such as a USB flash drive or compact disc (CD), or otherwise bound in a booklet format, but a minimum of one copy of the exhibits must be tendered to the Court in a digital format;
 - (C) if tendered in booklet format, separated by tabs or other appropriate dividers;
 - (D) if tendered in digital format, indexed by bookmark or other appropriate dividing mechanism;
 - (E) presented in numerical or alphabetical sequence and preceded by an exhibit list in the format prescribed by *TXEB Local Form 7016*; and
 - (F) tendered in a minimum number of four (4) sets: two for the Court (one of which must be in a digital format); one for the witness box (which must be in a paper format); and one set for each opposing counsel who appears.
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. 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) **Proposed Findings of Facts and Conclusions of Law**

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.~~

The Court shall direct the time and the means for such submission through its scheduling order.

COMMENTS:

Subsection (d) regarding the presentation of exhibits is updated to incorporate the mandated use of digital (electronic) media pursuant to General Order 13-1.

Subsection (e) is modified with flexible language to accommodate individual preferences of each particular judge.

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

(b) Request for Emergency Hearing

1. If a motion requires an emergency hearing, it should still contain any applicable negative notice language and a separate request for emergency hearing must be filed.

(c) Request for Expedited Hearing

If a motion requires a hearing on shortened notice but does not require an emergency hearing, the motion should still contain any applicable negative notice language and 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*.

COMMENTS: These brief insertions act as a simple reminder to the bar that a request for emergency or expedited consideration is a separate issue from the pleading for which it is sought and that such pleading should contain appropriate negative notice language in the event that the separate emergency/expedited hearing request is denied.

Local Rule of Bankruptcy Procedure 9013. MOTION PRACTICE.

(f) Notices: Parties-in-Interest Served

1.

- (C) In a Chapter 12 or 13 case: the debtor, the debtor's attorney,
the 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 or a motion for
valuation with respect to property, any party claiming a
security interest of record in the same property [no service
upon United States Trustee is required].

COMMENTS: Simply corrects a clerical omission of the debtor's attorney from the last set of local rules (although such person would be receiving electronic notification from the Court in any event) and clarifies service of a Rule 3012 valuation motion.

Local Rule of Bankruptcy Procedure 9014. CONTESTED MATTERS.

(d) Trial Preparation

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~~a digital or booklet format as 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. prevailing 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.

COMMENTS: Provides a slight adjustment to reference the alternative means to submit evidence under the new LBR 7016.

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~~ the removing party is responsible for tendering the following items as **separate** attachments to the Notice of Removal:

1. the complete docket sheet from the prior court;
2. the operative petition or complaint;
3. all operative answers to the petition or complaint;
4. all operative counterclaims or cross-claims;
5. all operative answers to pending counterclaims or cross-claims;
6. any pending motion and any objections or replies thereto;

Documents other than those enumerated above may be tendered to the Court in a unified format. Unless the subject of a pending motion in need of resolution, or unless otherwise ordered by the Court, no discovery request or discovery response shall be filed in the removed action.

COMMENTS: This supplementation provides guidance to a removing party regarding the format and attachments required for a Notice of Removal and that it is the responsibility of that removing party to forego the submission of a single, large PDF document containing “the file” from the source court, but rather to present separate attachments of relevant, operative documents at the time of removal.