

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS**

GENERAL ORDER 11-1

AMENDMENTS TO LOCAL RULE OF BANKRUPTCY PROCEDURE 1017(b)

By agreement of the local bankruptcy judges, this Court makes the following amendments to its Local Bankruptcy Rule 1017(b) pursuant to the authority granted to local bankruptcy courts to adopt local rules under Rule 9029 of the Federal Rules of Bankruptcy Procedure.

IT IS THEREFORE ORDERED that Local Bankruptcy Rule 1017(b) is hereby deleted and replaced with the following:

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 the first paragraph of the dismissal motion in lieu of the negative notice language otherwise required.
3. Any dismissal motion, other than one filed by the trustee with a designated hearing date, must contain the following 14-day negative notice language, which must be in boldface, large font and located in the text of the notice/motion -- preferably in the first paragraph:

**NO HEARING WILL BE CONDUCTED ON THIS MOTION
UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK
OF THE UNITED STATES BANKRUPTCY COURT AND SERVED**

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

4. If a motion is requesting dismissal with prejudice to re-filing for any period of time, such request must be referenced in both the title of the motion and in the title of the proposed order.
5. A movant requesting dismissal of a case pursuant to Bankruptcy Code §1112(b) may waive the 30-day hearing requirement under §1112(b)(3), if desired, in the title of the motion.

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

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

January 26, 2011



THE HONORABLE BRENDA T. RHOADES
CHIEF U.S. BANKRUPTCY JUDGE