

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA**

GUIDE TO PRACTICE



March 10, 2008

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**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA**

INTRODUCTION

The Guide to Practice in the United States Bankruptcy Court for the Western District of Louisiana is designed for the assistance of practitioners before this Court. It is not a definitive statement of the law and may not be cited as such! The Guide is merely provided for the aid and assistance of those using this Court.

The United States Bankruptcy Court for the Western District of Louisiana is a mandatory Case Management and Electronic Case Filing (CM/ECF) court. Filings should be made electronically in accordance with the Administrative Procedures For Filing, Signing and Verifying Pleadings and Papers by Electronic Means as amended September 16, 2004. The official record is the electronic record.

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA**

ROSTER OF OFFICIALS

SHREVEPORT DIVISION

Stephen V. Callaway, Chief Judge
Suite 4400, U.S. Court House
300 Fannin Street
Shreveport, LA 71101
(318)676-4269

J. Barry Dunford, Clerk of Court
United States Court House
300 Fannin Street, Suite 2201
Shreveport, LA 71101
(318)676-4267

Paula Funderburk Scholzen, Judicial Assistant/Secretary
Felton "Gary" Horton, Law Clerk

Johanna Wilbanks, Chief Deputy

ALEXANDRIA DIVISION

Henley A. Hunter, Judge
300 Jackson Street, Suite 201
Alexandria, LA 71301-8357
(318)443-8083

Rebecca McMath, Judicial Assistant/Secretary
Jennifer Sues, Law Clerk

Clerk of Court's Office
300 Jackson Street, Suite 116
Alexandria, LA 71301-8357
(318)445-1890

William P. "Bill" Gates, Deputy-in-Charge

LAFAYETTE DIVISION

Robert Summerhays, Judge
214 Jefferson St., Ste. 120
Lafayette, LA 70501
(337)262-6383 Voice
(337)262-6382 Fax

Lynda Dupre, Judicial Assistant/Secretary
Mary Alice Dukes, Law Clerk

Clerk of Court's Office
214 Jefferson St., Ste. 100
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**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA**

DIVISIONAL OFFICES

The United States Bankruptcy Court for the Western District of Louisiana consists of forty-two (42) parishes and is presently divided into five (5) specific divisions. Those divisions and the parishes they include are as follows:

1. Alexandria Division consisting of Avoyelles, Catahoula, Concordia, Grant, LaSalle, Natchitoches, Rapides, Vernon, and Winn Parishes.
2. Lafayette - Opelousas Division consisting of Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary, and Vermillion Parishes.
3. Lake Charles Division consisting of Allen, Beauregard, Calcasieu, Cameron, and Jefferson Davis Parishes.
4. Monroe Division consisting of Caldwell, East Carroll, West Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, and Union Parishes

Chapter 7 and Chapter 11 cases shall be filed in the
Monroe Division before Judge Henley A. Hunter.

Chapter 12 and Chapter 13 cases shall be filed in the
Monroe Division before Chief Judge Stephen V. Callaway.

5. Shreveport Division consisting of Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine, and Webster Parishes.

FILING A VOLUNTARY BANKRUPTCY PETITION

I. PETITION

II. MAILING MATRIX

III. FEES

I. Petition

A. Form:

1. The petition must conform substantially to the Official Bankruptcy Forms, Rules 1002 and 9009, Federal Rules of Bankruptcy Procedure.
2. Caption Rule 1005, Federal Rules of Bankruptcy Procedure:
 - a. Name of court, e.g.,

“UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION”
 - b. Title of the case:

"Name of debtor, last four (4) digits of the debtor's social security number, last four (4) digits of the employer's tax identification number for debtor, all other names used by debtor"
 - c. Docket number.
3. The original is filed electronically and is retained by the filer per the Administrative Procedures For Filing, Signing and Verifying Pleadings and Papers by Electronic Means as amended September 16, 2004.

B. Check list and assemblage for Chapter 7 petitions:

ITEM	TIME DUE	REMARKS
Petition	Immediately	<u>Rule 1002(a), Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms</u>
Exhibit B or Notice to Consumer Debtor	Immediately	<u>11 USC §342(b), Official Bankruptcy Forms</u> Required when debts are primarily consumer debts <u>11 USC §101(8)</u> . Exhibit B is a certificate by the attorney that indicates that the debtor was informed of all options under the Code. Notice to Consumer Debtors is required only if Exhibit B is not filed and must be mailed by the clerk.
Exhibit D - Individual Debtor's Statement of Compliance with Credit Counseling Requirement	Immediately	<u>11 USC §109(h), Official Bankruptcy Forms</u> Statement of Compliance with Credit Counseling Requirement. (A copy of the certificate and any repayment plan developed through the agency must be filed.)
Verification (Unsworn Declaration)	Immediately	<u>28 USC § 1746 Rule 1008, Federal Rules of Bankruptcy Procedure</u> Required when any petition, list, schedule, statement, or amendment thereto, is filed.
Statement of Social Security Number(s)	Immediately	<u>Rule 1007(f), Federal Rules of Bankruptcy Procedure</u> May be filed in conjunction with the Declaration Re: Electronic Filing
Declaration Re: Electronic Filing	48 Hours	<u>Administrative Procedures For Filing, Signing and Verifying Pleadings and Papers by Electronic Means</u> as amended September 16, 2004.
Copy of Social Security Card and Drivers License	Immediately	<u>Uniform Local Bankruptcy Rule 1002-1</u> May be filed in conjunction with the Declaration Re: Electronic Filing If not available, file Motion to Waive Compliance with Local Rule LBR 1002-1.

Certificate of Credit Counseling and Debt Repayment Plan (Or § 109(h)(3) certification or § 109(h)(4) request).	Immediately	<u>Rule 1007(b) & (c), Federal Rules of Bankruptcy Procedure</u> Required if the debtor is an individual. Required for all cases filed on or after March 10, 2008.
Summary of Schedules with the Schedules and Statements	15 days	<u>11 USC § 521(1) Rule 1007(a)(1), (b)(1) & (c), Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms</u> If the list of creditors with addresses (mailing matrix) is not filed, the schedules are due immediately.
Debtor's Statement of Intention	30 days	<u>11 USC § 521(2)(A), Rule 1007(b)(2), Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms</u> Required if assets and liabilities include consumer debts secured by property of the estate.
Disclosure of Compensation Paid Attorney	15 days	<u>11 USC § 329(a), Rule 2016(b), Federal Rules of Bankruptcy Procedure</u> Required whether or not attorney applies for compensation.
Statement of Current Monthly Income and Means Test Calculation	15 days	<u>11 USC § 707(b)(2), Rule 1007(b) & (c), Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms</u> Required if the debtor is an individual with primarily consumer debts.
Employee Income Records/Payment Advices	15 days	<u>Rule 1007(b) & (c), Federal Rules of Bankruptcy Procedure</u> Required if the debtor is an individual.
Certification of Completion of Instructional Course Concerning Personal Financial Management	45 days after the first date set for the 341 meeting of creditors	<u>Rule 1007(b)(7), Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms</u> Required if the debtor is an individual. Required for all cases filed on or after March 10, 2008.

C. Check list and assemblage for Chapter 9 petitions:

ITEM	TIME DUE	REMARKS
Petition	Immediately	<u>11 USC § 109(c), Rule 1002(a), Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms</u>
List of 20 Largest Unsecured Creditors	Immediately	<u>Rule 1007(d), Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms</u>
Application & Order for Appointment of Attorney	Immediately	<u>Rule 2014(a), Federal Rules of Bankruptcy Procedure, Uniform Local Bankruptcy Rule 2014-1</u>
Verification (Unsworn Declaration)	Immediately	<u>28 USC § 1746, Rule 1008, Federal Rules of Bankruptcy Procedure</u> Required when any petition, list, schedule, statement, or amendment thereto, is filed.
Summary of Schedules with the Schedules and Statements	Fixed by court	<u>11 USC § 521(1), Rule 1007(e), Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms</u> If the list of creditors with addresses (mailing matrix) is not filed, the schedules are due immediately.
Declaration Re: Electronic Filing	48 Hours	<u>Administrative Procedures For Filing, Signing and Verifying Pleadings and Papers by Electronic Means</u> as amended September 16, 2004.
Disclosure of Compensation Paid Attorney	15 days	<u>11 USC § 329(a), Rule 2016(b), Federal Rules of Bankruptcy Procedure</u>
Chapter 9 Plan	With the petition or thereafter, but within a time fixed by the court	<u>11 USC § 941, Rule 3016, Federal Rules of Bankruptcy Procedure</u>

D. Check list and assemblage for Chapter 11 petitions:

ITEM	TIME DUE	REMARKS
Petition	Immediately	<u>Rule 1002(a), Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms</u>
Exhibit A	Immediately	<u>Official Bankruptcy Forms</u> Required if the debtor is a corporation.
Exhibit D - Individual Debtor's Statement of Compliance with Credit Counseling Requirement	Immediately	<u>11 USC §109(h), Official Bankruptcy Forms</u> Statement of Compliance with Credit Counseling Requirement. (A copy of the certificate and any repayment plan developed through the agency must be filed.) Required if the debtor is an individual.
List of 20 Largest Unsecured Creditors	Immediately	<u>Rule 1007(d), Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms</u> List should include name, address, telephone, nature and amount of claim. Insiders are not to be included.
Application & Order for Appointment of Attorney	Immediately	<u>11 USC § 1103(a), Rule 2014(a), Federal Rules of Bankruptcy Procedure, Uniform Local Bankruptcy Rule 2014-1</u>
Verification (Unsworn Declaration)	Immediately	<u>28 USC § 1746, Rule 1008, Federal Rules of Bankruptcy Procedure</u> Required when any petition, list, schedule, statement, or amendment thereto, is filed.
Supplemental Schedule	Immediately	<u>Uniform Local Bankruptcy Rule 2014-1</u>
Statement of Social Security Number(s)	Immediately	<u>Rule 1007(f), Federal Rules of Bankruptcy Procedure</u> May be filed in conjunction with the Declaration Re: Electronic Filing. Required if the debtor is an individual.

Declaration Re: Electronic Filing	48 Hours	<u>Administrative Procedures For Filing, Signing and Verifying Pleadings and Papers by Electronic Means</u> as amended September 16, 2004.
Copy of Social Security Card and Drivers License	Immediately	<u>Uniform Local Bankruptcy Rule 1002-1</u> May be filed in conjunction with the Declaration Re: Electronic Filing. If not available, file Motion to Waive Compliance with Local Rule LBR 1002-1. Required if the debtor is an individual.
Balance Sheet or a statement made under penalty of perjury that no balance sheet has been prepared	Immediately	<u>11 USC §1116</u> Required if the debtor is a small business.
Statement of Operations or a statement made under penalty of perjury that no statement of operations has been prepared	Immediately	<u>11 USC §1116</u> Required if the debtor is a small business.
Cash Flow Statement or a statement made under penalty of perjury that no cash flow statement has been prepared	Immediately	<u>11 USC §1116</u> Required if the debtor is a small business.
Federal Income Tax Return or a statement made under penalty of perjury that no Federal tax return has been filed	Immediately	<u>11 USC §1116</u> Required if the debtor is a small business.
Certificate of Credit Counseling and Debt Repayment Plan (Or § 109(h)(3) certification or § 109(h)(4) request).	Immediately	<u>Rule 1007(b) & (c), Federal Rules of Bankruptcy Procedure</u> Required if the debtor is an individual. Required for all cases filed on or after March 10, 2008.

Summary of Schedules with the Schedules and Statements	15 days	<u>11 USC § 521(1), Rule 1007(a)(1) & (b)(1) & (c), Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms</u> If no list of creditors with addresses (mailing matrix) is filed, schedules are due immediately.
Disclosure of Compensation Paid Attorney	15 days	<u>11 USC § 329(a), Rule 2016(b), Federal Rules of Bankruptcy Procedure</u> Required whether or not attorney applies for compensation.
Statement of Current Monthly Income	15 days	<u>11 USC § 707(b)(2), Rule 1007(b) & (c), Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms</u> Required if the debtor is an individual.
Certification of Completion of Instructional Course Concerning Personal Financial Management	No later than the date the last payment is made as required by the plan.	<u>Rule 1007(b)(7), Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms</u> Required if the debtor is an individual. Required for all cases filed on or after March 10, 2008.
Chapter 11 Plan	120 days	<u>11 USC § 1121(a), (b), (c),(d) and (e), Rule 3016, Federal Rules of Bankruptcy Procedure</u> Only a debtor may file a Chapter 11 Plan for the first 120 days after the Order for Relief. Any party in interest may file a Chapter 11 Plan after 120 days if: (1) a trustee has been appointed; (2) debtor has not filed a Plan, or; (3) debtor has not filed a Plan which
Chapter 11 Small Business Plan	180 days	has been accepted by each class of impaired claims by 180 days from the Order for Relief.

In a small business only the debtor may file a plan until after 180 days after the Order for Relief, unless that period is extended or ordered by the court.

Chapter 11 Disclosure
Statement

120 days

11 USC §1125, Rule 3016 & 3017, Federal Rules of Bankruptcy Procedure, Uniform Local Rule 3016-2 Disclosure Statement shall be filed with the plan or within a time fixed by the Court, unless the plan is intended to provide adequate information under 11 USC § 1125(f)(1). If the plan is intended to provide adequate information under 11 USC § 1125(f)(1), it shall be so designated and Rule 3017.1 shall apply as if the plan is a disclosure statement. The statement should include: (1) A full statement of the events leading up to the filing of the petition; (2) A description of assets and a valuation of same; (3) Financial statements (both income statement and balance sheet) in reasonable detail; (4) Financial forecasts (both income and cash flow) in sufficient detail and with sufficient background data (such as assumptions on which the forecasts are based) to enable the reader to judge the likelihood of a successful reorganization; (5) Description of the classes established in the plan and a summary of the plan; (6) A comparison of the estimated return to creditors, (a) if the case were converted to a case under Chapter 7, and (b) if the reorganization were approved; (7) A comparison of estimated administrative expenses: (a) if the case were converted to a case under Chapter 7, and (b) if the reorganization were approved; (8) Full disclosure concerning future management of the debtor and compensation to be paid management; (9) Any anticipated future litigation, including preference and fraudulent conveyance avoidance litigation; and a statement of whether the debtor knows of any preference or fraudulent conveyance actions that will not be pursued; (10) Significant tax attributes of the debtor.

E. Check list and assemblage for Chapter 12 petitions:

ITEM	TIME DUE	REMARKS
Petition	Immediately	<u>Rule 1002(a), Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms</u>
Verification (Unsworn Declaration)	Immediately	<u>28 USC § 1746, Rule 1008, Federal Rules of Bankruptcy Procedure</u> Required when any petition, list, schedule, statement, or amendment thereto, is filed.
Statement of Social Security Number(s)	Immediately	<u>Rule 1007(f), Federal Rules of Bankruptcy Procedure</u> May be filed in conjunction with the Declaration Re: Electronic Filing. Required if the debtor is an individual.
Declaration Re: Electronic Filing	48 Hours	<u>Administrative Procedures For Filing, Signing and Verifying Pleadings and Papers by Electronic Means</u> as amended September 16, 2004.
Copy of Social Security Card and Drivers License	Immediately	<u>Uniform Local Bankruptcy Rule 1002-1</u> May be filed in conjunction with the Declaration Re: Electronic Filing. If not available, file Motion to Waive Compliance with Local Rule LBR 1002-1. Required if the debtor is an individual.
Summary of Schedules with the Schedules and Statements	15 days	<u>11 USC § 521(1), Rule 1007(a)(1) & (b)(1) & (c), Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms</u> If the list of creditors with addresses (mailing matrix) is not filed, the schedules are due immediately.
Disclosure of Compensation Paid Attorney	15 days	<u>11 USC § 329(a), Rule 2016(b), Federal Rules of Bankruptcy Procedure</u> Required whether or not attorney applies for compensation.

Chapter 12 Plan

90 days

11 USC § 1221 & § 1224, Rule 3015(a),
Federal Rules of Bankruptcy Procedure
Required within 90 days after the Order for
Relief unless extended by the court. The
confirmation hearing must be concluded
within 45 days after filing the Plan.

F. Check list and assemblage for Chapter 13 petitions:

ITEM	TIME DUE	REMARKS
Petition	Immediately	<u>Rule 1002(a), Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms</u>
Exhibit B or Notice to Consumer Debtor	Immediately	<u>11 USC §342(b), Official Bankruptcy Forms</u> Required when debts are primarily consumer debts <u>11 USC §101(8)</u> . Exhibit B is a certificate by the attorney that indicates that the debtor was informed of all options under the Code. Notice to Consumer Debtors is required only if Exhibit B is not filed and must be mailed by the clerk.
Exhibit D - Individual Debtor's Statement of Compliance with Credit Counseling Requirement	Immediately	<u>11 USC §109(h), Official Bankruptcy Forms</u> Statement of Compliance with the Credit Counseling Requirement. (A copy of the certificate and any repayment plan developed through the agency must be filed.)
Verification (Unsworn Declaration)	Immediately	<u>28 USC § 1746, Rule 1008, Federal Rules of Bankruptcy Procedure</u> Required when any petition, list, schedule, statement, or amendment thereto, is filed.
Statement of Social Security Number(s)	Immediately	<u>Rule 1007(f), Federal Rules of Bankruptcy Procedure</u> May be filed in conjunction with the Declaration Re: Electronic Filing.
Declaration Re: Electronic Filing	48 Hours	<u>Administrative Procedures For Filing, Signing and Verifying Pleadings and Papers by Electronic Means</u> as amended September 16, 2004.

Copy of Social Security Card and Drivers License	Immediately	<u>Uniform Local Bankruptcy Rule 1002-1</u> May be filed in conjunction with the Declaration Re: Electronic Filing. If not available, file Motion to Waive Compliance with Local Rule LBR 1002-1.
Certificate of Credit Counseling and Debt Repayment Plan (Or § 109(h)(3) certification or § 109(h)(4) request).	Immediately	<u>Rule 1007(b) & (c), Federal Rules of Bankruptcy Procedure</u> Required if the debtor is an individual. Required for all cases filed on or after March 10, 2008.
Summary of Schedules with the Schedules and Statements	15 days	<u>11 USC § 521(1), Rule 1007(a)(1) & (b)(1) & (c), Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms</u> If the list of creditors with addresses (mailing matrix) is not filed, the schedules are due immediately.
Disclosure of Compensation Paid Attorney	15 days	<u>11 USC § 329(a), Rule 2016(b), Federal Rules of Bankruptcy Procedure</u> Required whether or not attorney applies for compensation.
Chapter 13 Plan	15 days	<u>11 USC § 1321, Rule 3015(b), Federal Rules of Bankruptcy Procedure</u>
Statement of Current Monthly Income and Means Test Calculation	15 days	<u>11 USC § 707(b)(2), Rule 1007(b) & (c), Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms</u> Required if the debtor is an individual with primarily consumer debts.
Employee Income Records/Payment Advices	15 days	<u>Rule 1007(b) & (c), Federal Rules of Bankruptcy Procedure</u> Required if the debtor is an individual.
Certification of Completion of Instructional Course Concerning Personal Financial Management	No later than the date the last payment is made as required by the plan.	<u>Rule 1007(b)(7), Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms</u> Required if the debtor is an individual. Required for all cases filed on or after March 10, 2008.

G. Check list and assemblage for Chapter 15 petitions:

ITEM	TIME DUE	REMARKS
Petition	Immediately	<u>Rule 1002(a), Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms</u>
List of names and addresses	Immediately	<u>Rule 1007(a)(4), Federal Rules of Bankruptcy Procedure</u> All administrators in foreign proceedings of the debtor, all parties to any litigant the debtor is a party and is pending in the United States at the time of filing of the petition where the debtor is a party, and all entities against whom provisional relief is being sought under §1519.
Certified Copy of Order Granting Recognition or decision commencing foreign proceeding and appointing a foreign representative	Immediately	<u>11 USC § 1511(b) & 1515(b)</u> In the absence of evidence, any other evidence acceptable to the court of the existence of such foreign proceeding and of the appointment of the foreign representative.
Certificate from foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative	Immediately	<u>11 USC § 1515(b)</u> In the absence of evidence, any other evidence acceptable to the court of the existence of such foreign proceeding and of the appointment of the foreign representative.
Statement	Immediately	<u>11 USC § 1515(c)</u> A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.
Declaration Re: Electronic Filing	48 Hours	<u>Administrative Procedures For Filing, Signing and Verifying Pleadings and Papers by Electronic Means</u> as amended September 16, 2004.

H. Check list - signatures, pro se party, and party represented by attorney:

Party not represented by an attorney

Party shall sign all papers, stating address and telephone number.

Rule 9011, Federal Rules of Bankruptcy Procedure

Party represented by an attorney

Attorney's signature. Attorney's name, office address and office telephone number.

Rule 9011, Federal Rules of Bankruptcy Procedure, Uniform Local Bankruptcy Rule 2090-1, Local Civil Rule 83.2.1E&W, Attorney must be admitted to practice before the United States District Court for the Western District of Louisiana.

I. Non-attorney bankruptcy petition preparer, 11 USC § 110, Official Bankruptcy Forms:

A bankruptcy petition preparer who prepares a document for filing shall sign the document and print on the document the preparer's name and address. If a bankruptcy petition preparer is not an individual, then an officer, principal, responsible person, or partner of the bankruptcy petition preparer shall be required to sign the document for filing; and print on the document the name and address of that officer, principal, responsible person, or partner.

Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice which shall be on an official form prescribed by the Judicial Conference of the United States in accordance with Rule 9009 of the Federal Rules of Bankruptcy Procedure.

A declaration under penalty of perjury by the bankruptcy petition preparer shall be filed together with the petition, disclosing any fee received from or on behalf of the debtor within 12 months immediately prior to the filing of the case, and any unpaid fee charged to the debtor.

II. Mailing matrix Uniform Local Bankruptcy Rule 1007-2 and U.S. Bankruptcy Court Creditor Matrix Specifications. The aforementioned specifications are attached to this Guide.

A. Must be filed with the petition. Uniform Local Bankruptcy Rule 1007-2.

B. The list must be typed on single pages in single columns on 8 ½" x 11" paper, with no letters closer than 2" from any edge of paper.

- C. Each name/address must contain no more than five (5) total lines with at least two (2) blank lines between each name/address block. The name line must be 50 characters or less in length including blanks and each address line must be 40 characters or less in length.
- D. ONLY CREDITORS should be listed on the matrix. Do not include the debtor, debtor's attorney, the U.S. Trustee, LA Department of Employment and Training (Labor), or the LA Department of Revenue and Taxation.
- E. The Sheriff for the Parish in which the debtor(s) resides should be listed on the matrix in addition to the creditors.

III. Fees 28 USC § 1930 and Rule 1006(a), Federal Rules of Bankruptcy Procedure

A. Filing fees:

- 1. Chapter 7 - \$ 245.00
- 2. Chapter 9 - \$1000.00
- 3. Chapter 11 - \$1000.00
- 4. Chapter 11 Railroad - \$1,000.00
- 5. Chapter 12 - \$ 200.00
- 6. Chapter 13 - \$ 235.00
- 7. Chapter 15 - \$1000.00

Current Court fees may be verified at www.uscourts.gov/library/courtfees.html or by contacting the Clerk's office.

B. Miscellaneous administrative fees:

In all cases filed under all chapters of Title 11 of the United States Code, the debtor or the petitioner shall pay a bankruptcy miscellaneous administrative fee. 28 USC § 1930(b) and Appendix, Rule 1006, Federal Rules of Bankruptcy Procedure.

- 1. The bankruptcy miscellaneous administrative fee is \$39.00 for all chapters filed, due at the time of filing.
- 2. The bankruptcy miscellaneous administrative fee may be paid in installments in the same manner that the filing fee may be paid in installments, consistent with the procedure set forth in Rule 1006, Federal Rules of Bankruptcy Procedure.

C. Trustee fee surcharge:

In all cases filed under chapter 7 of Title 11 of the United States Code, the petitioner shall pay a trustee fee surcharge. 28 USC § 1930(b) and Appendix, Rule 1006, Federal Rules of Bankruptcy Procedure.

1. A \$15.00 trustee fee surcharge will be paid by the petitioner upon the filing of a petition under Chapter 7, by the movant upon the filing of a motion to convert a case to Chapter 7, and upon the filing of a notice of conversion.
2. The trustee fee surcharge may be paid in installments in the same manner that the filing fee may be paid in installments, consistent with the procedure set forth in Rule 1006, Federal Rules of Bankruptcy Procedure.

D. The miscellaneous administrative fee and the trustee fee surcharge shall be paid in addition to the filing fees prescribed under 28 USC § 1930.

E. Installment fees Rule 1006(b)(1), (2) & (3), Federal Rules of Bankruptcy Procedure and Uniform Local Bankruptcy Rule 1006-1:

1. Signed application in accordance with Rule 9011, Federal Rules of Bankruptcy Procedure, for payment of filing fees in installments by an individual debtor shall include statements that debtor is unable to pay the filing fees except in installments and that neither any money has been paid nor property transferred to an attorney for services in connection with the case.
2. All installments of the filing fee must be paid in full before the debtor or chapter 13 trustee may make further payments to an attorney or any other person who renders services to the debtor in connection with the case.
3. Prior to the first meeting of creditors, the court will act on the application.
4. The number of installments shall not exceed three (3) and shall be paid as follows in Chapter 7 individual cases:
 - a. \$99.00 with petition.
 - b. \$100.00 no later than 30 days after filing of petition.
 - c. \$100.00 no later than 60 days after filing of petition.

5. The number of installments shall not exceed four (4) and shall be paid as follows in Chapter 11 individual cases:
 - a. \$259.75 with petition.
 - b. \$259.75 no later than 30 days after filing of petition.
 - c. \$259.75 no later than 60 days after filing of petition.
 - d. \$259.75 no later than 90 days after filing of petition.

6. The number of installments shall not exceed four (4) and shall be paid as follows in Chapter 12 individual cases:
 - a. \$59.00 with petition.
 - b. \$60.00 no later than 30 days after filing of petition.
 - c. \$60.00 no later than 60 days after filing of petition.
 - d. \$60.00 no later than 90 days after filing of petition.

7. The number of installments shall not exceed three (3) and shall be paid as follows in Chapter 13 individual cases:
 - a. \$94.00 with petition.
 - b. \$90.00 no later than 30 days after filing of petition.
 - c. \$90.00 no later than 60 days after filing of petition.

F. Waiver of Filing Fee Rule 1006(c), Federal Rules of Bankruptcy Procedure, and 28 USC § 1930(f):

1. A voluntary chapter 7 petition filed by an individual shall be accepted for filing if accompanied by the debtor's application requesting a waiver under 18 USC § 1930(f), prepared as prescribed by the appropriate Official Form.

FILING AN INVOLUNTARY BANKRUPTCY PETITION

I. GENERAL

II. PETITION

III. FEES

IV. SUMMONS

V. JOINDER OF PETITION

VI. RESPONSIVE PLEADINGS

VII. ORDER FOR RELIEF

VIII. PROCEDURE AFTER ORDER FOR RELIEF

I. General 11 USC § 303

- A. An involuntary case may be commenced only under chapter 7 or 11 of this title, and only against a person, except a farmer, family farmer, or a corporation that is not a moneyed, business, or commercial corporation, that may be a debtor under the chapter under which such case is commenced.
- B. An involuntary case against a person is commenced by the filing with the bankruptcy court of a petition under chapter 7 or 11 of this title.
 - 1. By three (3) or more entities, each of which is either a holder of a claim against such person that is not contingent as to liability or the subject of a bona fide dispute as to liability or amount, or an indenture trustee representing such a holder, if such non contingent, undisputed claims aggregate at least \$13,475.00 more than the value of any lien on property of the debtor securing such claims held by the holders of such claims.
 - 2. If there are fewer than twelve (12) such holders, excluding any employee or insider of such person and any transferee of a transfer that is voidable under section 544, 545, 547, 548, 549, or 724(a) of this title, by one or more of such holders that hold in the aggregate at least \$13,475 of such claims.

3. If such person is a partnership
 - a. By fewer than all of the general partners in such partnership; or .
 - b. If relief has been ordered under this title with respect to all of the general partners in such partnership, by a general partner in such partnership, the trustee of such a general partner, or a holder of a claim against such partnership; or
4. By a foreign representative of the estate in a foreign proceeding concerning such person.

II. Petition 11 USC § 303, Rule 1003, Federal Rules of Bankruptcy Procedure,
Official Bankruptcy Forms

- A. The original is filed electronically and is retained by the filer per the Administrative Procedures For Filing, Signing and Verifying Pleadings and Papers by Electronic Means as amended September 16, 2004.
- B. Transferor or Transferee of Claim:
 1. Attach all documents evidencing the transfer.
 2. Signed statement that the transfer was not for the purpose of commencing the case, and set forth the consideration for and terms of the transfer.

III. Filing fee 28 USC § 1930, Rule 1006, Federal Rules of Bankruptcy Procedure

- A. Chapter 7 - \$245.00
- B. Chapter 11 - \$1000.00
- C. Miscellaneous administrative fees:

In all cases filed under all chapters of Title 11 of the United States Code, the debtor or the petitioner shall pay a bankruptcy miscellaneous administrative fee. 28 USC § 1930(b) and Appendix, Rule 1006, Federal Rules of Bankruptcy Procedure.

1. The bankruptcy miscellaneous administrative fee is \$39.00 for all chapters filed, due at the time of filing.

D. Trustee fee surcharge:

1. In all cases filed under chapter 7 of Title 11 of the United States Code, the petitioner shall pay a trustee fee surcharge. 28 USC § 1930(b) and Appendix, Rule 1006, Federal Rules of Bankruptcy Procedure.
2. A \$15.00 trustee fee surcharge will be paid by the petitioner upon the filing of a petition under Chapter 7.
3. The trustee fee surcharge will be paid in addition to the filing fee prescribed under 28 USC § 1930.

E. There is no provision for filing an involuntary petition with payment of fees by installments.

IV. Summons Rule 1010, Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms

A. Shall be signed by the clerk and bear the seal of the court.

B. Service Rule 4(a)-(j), Federal Rules of Civil Procedure and Rule 1010 and Rule 7004(a)-(h), Federal Rules of Bankruptcy Procedure:

1. Petitioner or petitioner's attorney shall be responsible for prompt service of the summons and a copy of the petition with any attachments.
2. Service may be made by any person who is not a party and who is at least eighteen (18) years of age.
3. Methods of service:
 - a. Personal or domiciliary.
 - b. First class mail within the United States.
 - c. If service cannot be made otherwise, under Rule 1010, Federal Rules of Bankruptcy Procedure, the court may order mailing to the last known address, and publication.
 - d. Service may be made on debtor anywhere in the United States.
 - e. Time limit for service is ten (10) days from issuance.
 - f. Return of service, i.e., proof, must be filed promptly (before delays to respond have expired), and must be by affidavit or unsworn declaration under penalty of perjury 28 USC § 1746.

- V. Joinder of petitioner after filing 11 USC § 303(c) and Rule 1003(b), Federal Rules of Bankruptcy Procedure
- A. Right to join must be prior to relief being ordered and claim must be unsecured and not contingent.
 - B. Effect of joinder - the same effect as if joining creditor were a petitioning creditor.
 - C. If the answer alleges existence of more than twelve (12) creditors, but there were less than three (3) petitioners, the court shall allow a reasonable opportunity for other creditors to join before the hearing is held.
- VI. Responsive pleadings Rule 1011(a) & (b), Federal Rules of Bankruptcy Procedure
- A. Who may respond:
 - 1. The debtor.
 - 2. In the case of a partnership, a non-petitioning partner.
 - B. Time:
 - 1. Within twenty (20) days after service.
 - 2. If service is made out of state, the court shall prescribe the time.
 - 3. If a motion is filed, time for response is extended until ten (10) days after disposition of the motion Rule 12(a), Federal Rules of Civil Procedure.
- VII. Order for Relief 11 USC § 303(h) and Rule 1013, Federal Rules of Bankruptcy Procedure
- A. When responsive pleadings are filed:
 - 1. A trial is required.
 - 2. Grounds:
 - a. Debtor is not paying debts as they become due (excluding debts subject to bona fide dispute).
 - b. Appointment of a custodian within 120 days (other than one appointed to enforce a lien of less than substantially all debtor's property).

B. By default 11 USC § 303(h) and Rule 1013(b), Federal Rules of Bankruptcy Procedure

1. Order for Relief shall be entered by default if no response is filed timely.
2. The Order for Relief should be submitted to the judge by the clerk, on the next day, or as soon as is practicable after delays have run.

VIII. Procedure after Order for Relief

A. Filing of schedules and statements:

1. In an involuntary case, the debtor shall file within 15 days after entry of the order for relief, a list containing the name and address of each entity included or to be included on Schedules D, E, F, G, and H as prescribed by the Official Forms. Rule 1007(a)(2), Federal Rules of Bankruptcy Procedure.
2. In an involuntary case, the list in subdivision (a)(2), and the schedules, statement, and other documents required by subdivision (b)(1) shall be filed by the debtor within 15 days of the entry of the order for relief. Rule 1007(c), Federal Rules of Bankruptcy Procedure.

B. In an involuntary chapter 11 reorganization case, the List of 20 Largest Creditors shall be filed by the debtor within two (2) days after entry of the Order for Relief under §303(h) of the Code. Rule 1007(d), Federal Rules of Bankruptcy Procedure.

C. After entry of the Order for Relief, an involuntary case follows the same procedures as a voluntary case.

FILING AN ADVERSARY PROCEEDING

I. COMPLAINT

II. BANKRUPTCY ADVERSARY PROCEEDING COVER SHEET (FORM B104)

III. FEES (\$250.00)

IV. PROCESS FOR EACH DEFENDANT TO BE SERVED

I. Complaint

- A. Form of pleadings Rule 7010, Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms.
- B. All parties **MUST** be listed in the caption of the original complaint. Rule 10(a), Federal Rules of Civil Procedure, and Rule 7010, Federal Rules of Bankruptcy Procedure
- C. Type of actions Rule 7001, Federal Rules of Bankruptcy Procedure:
 1. To recover money or property, other than a proceeding to compel the debtor to deliver property to the Trustee, or a proceeding under 11 USC § 554(b), 11 USC § 725 of the Code, Rule 2017, or Rule 6002, Federal Rules of Bankruptcy Procedure;
 2. To determine the validity, priority, or extent of a lien or other interest in property, other than a proceeding under Rule 4003(d), Federal Rules of Bankruptcy Procedure;
 3. To obtain approval under 11 USC § 363(h) for the sale of both the interest of the estate and of a co-owner in property;
 4. To object to or revoke a discharge;
 5. To revoke an order of confirmation of a chapter 11, chapter 12, or chapter 13 plan;
 6. To determine the dischargeability of a debt;
 7. To obtain an injunction or other equitable relief, except when a chapter 9, chapter 11, chapter 12 or chapter 13 plan provides for the relief;

8. To subordinate any allowed claim or interest, except when a chapter 9, chapter 11, chapter 12, or chapter 13 plan provides for subordination;
 9. To obtain a declaratory judgment relating to any of the foregoing; or
 10. To determine a claim or cause of action removed under 28 USC § 1452, Federal Rules of Civil Procedure to a Bankruptcy Court.
- II. Bankruptcy Adversary Proceeding Cover Sheet (Form B104) Rule 9009, Federal Rules of Bankruptcy Procedure
- III. Filing fee is \$250.00, except no fee is required for the United States or a debtor, except a debtor-in-possession, 28 USC § 1930, Judicial Conference Schedule of Fees.
- IV. Process for summons and complaint; service; proof of service for each defendant to be served, Rule 4(a)-(j), Federal Rules of Civil Procedure and Rule 7004(a)-(h), Federal Rules of Bankruptcy Procedure.
- A. Summons with one copy of complaint for each defendant to be served, shall be signed by the clerk and bear the seal of the court.
 - B. Issuance - the plaintiff may present the summons to the clerk for signature and seal. If summons is in proper form, the clerk shall sign, seal and issue to the plaintiff for service on the defendant.
 1. "The defendant shall serve an answer within thirty (30) days after the issuance of the summons, except when a different time is prescribed by the court," Rule 7012, Federal Rules of Bankruptcy Procedure.
 2. "The United States or an officer or agency thereof shall serve an answer to a complaint within thirty-five (35) days after issuance of the summons," Rule 7012, Federal Rules of Bankruptcy Procedure.
 - C. Obligation to serve - "plaintiff's attorney...shall be responsible for prompt service," Rule 4(c), Federal Rules of Civil Procedure.
 - D. Who can serve summons and complaint - "any person at least eighteen (18) years of age who is not a party," Rule 7004(a), Federal Rules of Bankruptcy Procedure.

E. How a summons and complaint is served, Rule 4(a)-(j), Federal Rules of Civil Procedure, and Rule 7004(a)-(h), Federal Rules of Bankruptcy Procedure:

1. On an individual:

- a. Personal delivery.
- b. Delivery to an authorized agent.
- c. Delivery to a person of suitable age and discretion residing at the person's dwelling.
- d. First class mail, postage prepaid, to person's dwelling or usual place of abode or to the place where person regularly conducts business or profession.

2. On a debtor:

After a petition has been filed by or served upon the debtor and until the case is dismissed or closed, by mailing a copy of the summons and complaint to the debtor at the address shown in the petition or to such other address as the debtor may designate in a filed writing.

3. On a corporation, partnership, or unincorporated association:

By mailing a copy of the summons and complaint to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant.

4. On the United States:

By mailing a copy of the summons and complaint addressed to the civil process clerk at the office of the United States attorney for the district in which the action is brought and by mailing a copy of the summons and complaint to the Attorney General of the United States at Washington, District of Columbia, and in any action attacking the validity of an order of an officer or agency of the United States not made a party, by also mailing a copy of the summons and complaint to that officer or agency.

5. On an officer or agency of the United States:

By mailing a copy of the summons and complaint to the United States as prescribed in (4) above and also to the office or agency.

6. On the United States trustee, when the United States trustee is the trustee in the case and service is made upon the United States trustee solely as trustee:

By mailing a copy of the summons and complaint to an office of the United States trustee or another place designated by the United States trustee in the district where the case under the Code is pending.

- F. Service by publication, Rule 7004(c), Federal Rules of Bankruptcy Procedure:

The court may order the summons and complaint to be served by mailing copies thereof by first class mail to the party's last known address and by at least one publication in such manner and form as the court may direct.

- G. Nationwide service, Rule 7004(d), Federal Rules of Bankruptcy Procedure:

The summons and complaint and all other process except a subpoena may be served anywhere in the United States.

- H. Summons - Time limit for service, within the United States. Rule 7004(e), Federal Rules of Bankruptcy Procedure:

Delivery or mailing of the summons and complaint must be within ten (10) days following issuance.

- I. Proof of service (return), Rule 4(l), Federal Rules of Civil Procedure:

An affidavit (or unsworn declaration under penalty of perjury under 28 USC § 1746) showing the method of service.

APPEALS AND WITHDRAWAL OF REFERENCE

- I. GENERAL**
- II. FILING AN APPEAL AS OF RIGHT**
- III. APPEAL BY LEAVE OF COURT**
- IV. CROSS APPEAL**
- V. MISCELLANEOUS**
- VI. LOCAL CIVIL RULE 83.4 - BANKRUPTCY**
- VII. DIRECT APPEAL**

- I. General

- A. Bankruptcy matters may be heard in the district court in two instances:

- 1. Upon appeal under 28 USC § 158.
 - 2. Upon withdrawal of reference under 28 USC § 157(d).

- B. Any filing which initiates a request for relief in a bankruptcy matter from the district court should be filed in the office of the clerk of the bankruptcy court. When the record is complete for purposes of appeal, the clerk shall transmit a copy thereof to the district court for consideration. Generally, subsequent filings should be made in the district court.

- C. Fees, 28 USC § 1930 and Appendix:

- 1. Appeal, \$255.00 (\$5.00 filing + \$250.00 docketing).
 - 2. Cross Appeal, \$255.00.
 - 3. Withdrawal of Reference, \$150.00.

- II. Filing an Appeal as of Right

- A. The notice of appeal from a final judgment, order or decree of a bankruptcy judge shall conform substantially to Official Bankruptcy Forms and shall be filed with the clerk within the time allowed by Rule 8002, Federal Rules of Bankruptcy Procedure.

B. Copies to be filed with the original, Rules 8001 and 8004, Federal Rules of Bankruptcy Procedure:

Appellant shall file a sufficient number of copies of the notice of appeal to enable the clerk to comply promptly with Rule 8004, Federal Rules of Bankruptcy Procedure.

C. Service, Rule 8004, Federal Rules of Bankruptcy Procedure:

The clerk shall serve notice of the filing of the notice of appeal on each party other than the appellant. The clerk shall transmit a copy of the notice of appeal to the United States trustee.

D. Fee, 28 USC § 1930 and Appendix:

A fee of \$255.00 (\$5.00 filing + \$250.00 docketing) shall accompany the filing of a notice of appeal.

E. Record and Issues on Appeal, Rule 8006, Federal Rules of Bankruptcy Procedure:

Within ten (10) days after filing the notice of appeal as provided by Rule 8001(a), entry of an order granting leave to appeal, or entry of an order disposing of the last timely motion outstanding of a type specified in Rule 8002(b), whichever is later, the appellant shall file with the clerk and serve on the appellee a designation of the items to be included in the record on appeal and a statement of the issues to be presented. Copies of the designated items to be included in the record on appeal shall be provided to the clerk by the designating party; if the party fails to provide copies, the clerk shall prepare copies at the party's expense.

F. Request for transcript, Rule 8006, Federal Rules of Bankruptcy Procedure:

1. If the record designated by any party includes a transcript, the party shall deliver to the electronic court recorder operator (ECRO) a completed Form AO 435, Transcript Order. Form AO 435 may be obtained from the clerk's office.
2. Upon receipt of the AO Form 435, Transcript Order, the electronic court recorder operator (ECRO), will inform the party of the amount required for payment of the transcription.
3. Transcription fees are payable in advance ONLY.

III. Appeal by Leave of Court

- A. Notice of Appeal:
(Same requirements as for an appeal as of right.)
- B. Fee:
(Same fee as for an appeal as of right.)
- C. Motion for leave to appeal, Rules 8001(b), 8003, & 8008, Federal Rules of Bankruptcy Procedure:
1. Contents of motion, Rule 8003(a), Federal Rules of Bankruptcy Procedure:
 - a. a statement of facts necessary to an understanding of the questions to be presented by the appeal.
 - b. a statement of those questions and of the relief sought.
 - c. a statement of the reasons why an appeal should be granted.
 - d. a copy of the judgment, order, or decree complained of and of any opinion or memorandum relating thereto.
 2. Service of the motion, Rule 8008(b), (c) & (d), Federal Rules of Bankruptcy Procedure:

Appellant must serve a copy of the motion on all parties and include a certificate of service with the motion.
 3. Answer in opposition, Rule 8003(a), Federal Rules of Bankruptcy Procedure:

Within ten (10) days after service of the motion, an adverse party may file an answer in opposition with the clerk of the bankruptcy court.
 4. Transmittal of the motion, Rule 8003(b), Federal Rules of Bankruptcy Procedure:

Upon examination of delays, the clerk of the bankruptcy court shall transmit the notice of appeal, motion and any answer to the district court.
- D. Record and Issues on Appeal, Rule 8006, Federal Rules of Bankruptcy Procedure:

Designation of the items to be included in the record on appeal and statements of the issues to be presented shall be in accordance with Rule 8006, Federal Rules of Bankruptcy Procedure.

E. Request for transcript, Rule 8006, Federal Rules of Bankruptcy Procedure:

(Same as for an appeal as of right.)

IV. Cross Appeal

A. A cross appeal may be filed with the clerk within the time allowed by Rule 8002, Federal Rules of Bankruptcy Procedure.

B. Fee, 28 USC § 1930:

A fee of \$255.00 shall accompany the filing of a cross appeal from a bankruptcy court determination.

C. Record and Issues on Appeal, Rule 8006, Federal Rules of Bankruptcy Procedure:

Designation of the items to be included in the record on appeal and statements of the issues to be presented shall be in accordance with Rule 8006, Federal Rules of Bankruptcy Procedure.

V. Miscellaneous

Stay pending appeal, Rule 8005, Federal Rules of Bankruptcy Procedure:

There is no automatic stay pending appeal. A motion to stay pending appeal should be made in the bankruptcy court. If security is required, it should be filed with the clerk of the bankruptcy court.

VI. Local Civil Rule 83.4 - Bankruptcy

LR83.4.1 Reference to Bankruptcy Judge

Under the authority of 28 USC § 157 the district court refers to the bankruptcy judges of this district all cases under Title 11 and all proceedings arising under Title 11 or arising in or related to a case under Title 11. As set forth in 28 USC § 157(b)(5), personal injury tort and wrongful death claims shall be tried in the district court.

LR83.4.2 Appeal to the District Court

Appeals from judgments, orders or decrees of a bankruptcy judge shall be governed by Part VIII of the Bankruptcy Rules (Section 8001, et seq.) and the applicable local rules of the district and bankruptcy courts.

LR83.4.3 Motion Seeking Relief From a District Judge

Motions filed seeking relief from a district judge, including motions under 28 USC § 157(d) (for withdrawal of reference), 28 USC § 157(c)(1) (objections to proposed findings of fact and conclusions of law) and Bankruptcy Rule 8005 (for stay pending appeal), shall be governed by the rules set out below.

A. Original Motion

1. **Applicable Rules.** The Local Rules for the district court shall be applicable to all motions filed in bankruptcy cases or proceedings seeking relief from a district judge. In those instances where the Bankruptcy Rules require a report from the bankruptcy judge, e.g., Bankruptcy Rules 5011(b) and 9027(e), the local Bankruptcy Rules shall apply until such report is issued.
2. **Place of Filing.** All motions described in this section above shall be filed with the clerk of the bankruptcy court.
3. **Contents of Motion.** In addition to the normal requirements of papers filed in the bankruptcy court, motions described in this section above shall include:
 - a. A clear and conspicuous statement opposite the title of the action that "RELIEF IS SOUGHT FROM A UNITED STATES DISTRICT JUDGE."
 - b. A designation of the portions of the record of the proceedings in the bankruptcy court that will reasonably be necessary or pertinent for consideration of the motion by the district court.
 - c. A list showing each party with an interest in the motion and for each party shown, their attorney along with such attorney's mailing address.
4. **Subsequent Filings.** Any filing in a matter under this section subsequent to the "Original Motion" set forth above shall be filed with the clerk of the district court and shall comply with all rules of such court.

5. Duties of the clerk of the bankruptcy court. Upon filing of an original motion, as set forth above, the clerk of the bankruptcy court shall promptly transmit to the clerk of the district court:
 - a. The original motion and all attachments to the motion, and
 - b. The portion of the bankruptcy court record designated in accordance with (3)(b) above.

B. No Automatic Stay.

There shall be no automatic stay of bankruptcy court proceedings as a result of the filing of any motion under the above. Any stay of proceedings will result only from an order of the bankruptcy court or the district court.

C. Obligation of the Parties.

It shall be the obligation of each and every party and their attorney to apprise the bankruptcy court and the United States District Court of orders entered in either forum which significantly affect matters pending in either forum.

LR83.4.4 Record Transmitted to the District Court

The authority to retain any portion of the record on appeal or in connection with a motion seeking relief from a district judge is delegated to the clerk of the bankruptcy court. If any portion of a record is retained in the bankruptcy court, a certified copy of such record shall be transmitted to the district court. If the district court requests the retained papers, the bankruptcy clerk shall transmit them forthwith.

In the event that papers are retained in the bankruptcy court and certified copies are transmitted to the district court, the bankruptcy court may order the party upon whose instance the papers were required to reimburse the clerk of the bankruptcy court for the cost of making the copies.

(Source: Uniform Local Rules of the United States District Courts for the Eastern, Middle and Western Districts of Louisiana, as updated December 16, 2004).

VII. Direct Appeal

- A. 28 U.S.C. § 158(d)(2) provides circuit courts of appeal with discretion to accept bankruptcy appeals without an intermediate (district court) appellate decision. The circuit court may accept a direct appeal if the bankruptcy court, district court, or the parties certify that a direct appeal is necessary to resolve a matter of first impression, conflicting decisions, public importance, or a matter that would materially advance the progress of the case.
- B. When a party files a notice of appeal subject to certification for direct appeal, the fee for filing an appeal, currently \$255.00 (\$5.00 filing + \$250.00 docketing) under 28 USC § 1930(c) should be collected by the bankruptcy court. In the event the Court of Appeals authorizes the direct appeal, the appellant must pay an additional \$200.00 pursuant to Item 15 of the Bankruptcy Court Miscellaneous Fee Schedule.

FILING A NOTICE OF REMOVAL

- I. **ACTIONS REMOVABLE GENERALLY**
- II. **NOTICE OF REMOVAL**
- III. **FEE (\$350.00)**
- IV. **TIME FOR REMOVAL**
- V. **NOTICE TO OTHER PARTIES & THE STATE CLERK OF COURT**
- VI. **BOND**
- VII. **REMOVAL ORDER**
- VIII. **REMAND**
- IX. **REMAND ORDER**
- X. **REMOVAL OF CLAIMS**

- I. Actions removable generally 28 USC §1441

“Any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or defendants, to the district court of the United States for the district and division embracing the place where such action is pending.”

- II. Notice of removal 28 USC §1446(a), Rule 9027(a)(1), Federal Rules of Bankruptcy Procedure

- A. Formerly known as a “petition for removal”

- B. Requirements:

- 1. “File in the district court of the United States for the district and division within which such action is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure.
 - 2. “Containing a short and plain statement of the grounds for removal”

3. “A copy of all process, pleadings, and orders served upon such defendant or defendants in such action.”
- III. Fee 28 USC §1914(a)
- “The clerk of each district court shall require the parties instituting any civil action, suit or proceeding in such court, whether by original process, removal or otherwise, to pay a filing fee of \$350,”
- IV. Time for removal 28 USC §1446(b), Rule 9027(a)(3), Federal Rules of Bankruptcy Procedure
- A. The notice of removal of a civil action or proceeding shall be filed within thirty days of
 1. through service or otherwise, of a copy of the initial pleading, or
 2. after the service of summons, or
 3. “after receipt by the defendant ... of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable...”
- V. Notice to other parties & the State Clerk of Court
28 USC §1446(d), Rule 9027(b), Federal Rules of Bankruptcy Procedure
- A. “Promptly after the filing of such notice of removal of a civil action the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of such State Court”.
 - B. Filing of a copy of the notice of removal with the State clerk “shall effect the removal and the State Court shall proceed no further unless and until the case is remanded.”
- VI. NO BOND IS REQUIRED FOR REMOVAL OF A STATE COURT ACTION.
- VII. Removal Order - Procedure after removal generally
28 USC §1447(a), Rule 9027(e), Federal Rules of Bankruptcy Procedure
- A. Immediately upon the filing of an application/notice of removal, an order will be issued by the Court setting forth the requirements for the parties to the removed action.

VIII. Remand 28 USC §1447(c) and (d), Rule 9027(e), Federal Rules of Bankruptcy Procedure

- A. A motion to remand for procedural defect must be filed within 30 days of filing of the notice of removal.
- B. A motion to remand for lack of subject matter jurisdiction may be filed at any time before final judgment.
- C. A motion for remand of the removed claim or cause of action shall be governed by Rule 9014, Federal Rules of Bankruptcy Procedure and served on the parties to the removed claim or cause of action.

IX. Remand Order

- A. An order remanding the case “may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal.”
- B. “A certified copy of the order of remand shall be mailed by the clerk to the clerk of the State court.”
- C. “An order remanding a case to the State court from which it was removed is not reviewable on appeal...”

X. Removal of claims related to bankruptcy cases 28 USC 1452(a)

- A. “A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court of a civil action by a governmental unit to enforce such governmental unit’s police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under Section 1334 of this title.”

SUBPOENAS

I. FORM; ISSUANCE FOR TRIAL, HEARING, DEPOSITION, PRODUCTION OR INSPECTION

II. EXAMINATION UNDER RULE 2004, FEDERAL RULES OF BANKRUPTCY PROCEDURE

III. SERVICE

I. Form; issuance for attendance at trial, hearing, deposition or for production or inspection, Rule 45, Federal Rules of Civil Procedure and Rule 9016, Federal Rules of Bankruptcy Procedure

A. Every subpoena shall:

1. State the name of the court from which it is issued.
2. State the title of the action, the name of the court in which it is pending, and its civil action number.
3. Command each person to whom it is directed to attend and give testimony or to produce and permit inspection, copying, testing, or sampling of designated books, documents, electronically stored information, or tangible things in possession, custody or control of that person, or to permit inspection of premises, at a time and place therein specified.
4. Set forth the text set out in Rule 45(c) & (d), Federal Rules of Civil Procedure. A command to produce evidence or to permit inspection, copying, testing, or sampling may be joined with a command to appear at trial or hearing or at a deposition, or may be issued separately. A subpoena may specify the form or forms in which electronically stored information is to be produced.

B. A subpoena must issue as follows:

1. A subpoena commanding attendance at trial or hearing shall issue from the court for the district in which trial or hearing is to be held.

2. A subpoena for attendance at a deposition shall be issued from the court for the district where the deposition is to be taken, stating the method for recording the testimony.
 3. A subpoena for production, inspection, copying testing, or sampling, if separate from a subpoena commanding a person's attendance, from the court for the district where the production or inspection is to be made.
- C. The clerk shall issue a subpoena, signed but otherwise in blank, to a party requesting it, who shall complete it before service. An attorney as officer of the court may also issue and sign a subpoena on behalf of a court in which the attorney is authorized to practice; or a court for a district in which a deposition or production is compelled by the subpoena, if the deposition or production pertains to an action pending in a court where the attorney is authorized to practice.
1. There is no longer a requirement that the "Seal" of the Court appear on the subpoena.
- II. Subpoena for Examination under Rule 2004, Federal Rules of Bankruptcy Procedure
- A. On motion of any party in interest, the court may order the examination of any entity.
 - B. A completed Form B254, Subpoena for Rule 2004 Examination should be submitted with the motion.
 - C. Attendance of an entity for examination and for the production of documents may be compelled as provided in Rule 9016, Federal Rules of Bankruptcy Procedure, for the attendance of a witnesses at a trial or hearing.
 - D. The court may for cause shown and on terms as it may impose, order the debtor to be examined under Rule 2004, Federal Rules of Bankruptcy Procedure, at any time or place it designates, whether within or without the district wherein the case is pending.

- E. An entity other than a debtor shall not be required to attend as a witness unless lawful mileage and witness fee for one day's attendance shall be first tendered. If the debtor resides more than 100 miles from the place of examination when required to appear for an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, the mileage allowed by law to a witness shall be tendered for any distance more than 100 miles from the debtor's residence at the date of the filing of the first petition commencing a case under Title 11, United States Code or the residence at the time the debtor is required to appear for the examination, whichever is the lesser.
- III. Service Rule 45, Federal Rules of Civil Procedure and Rule 9016, Federal Rules of Bankruptcy Procedure
- A. Subpoena may be served by any person who is not a party and is not less than 18 years of age.
- B. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and, if the person's attendance is commanded, by tendering to that person the fees for one day's attendance and the mileage as allowed by law. When the subpoena is issued on behalf of the United States or an officer or agency thereof, fees and mileage need not be tendered. Prior notice of any commanded production of documents and things or inspection of premises before trial shall be served on each party in the manner prescribed by Rule 5(b).
- C. Subpoenas may be served at any place within the district of the court by which it is issued, or at any place without the district that is within 100 miles of the place of the deposition, hearing, trial, production, inspection, copying, testing, or sampling specified in the subpoena or at any place within the state where a state statute or rule of court permits service of a subpoena issued by a state court of general jurisdiction sitting in the place of the deposition, hearing, trial, production, inspection, copying, testing, or sampling specified in the subpoena. When a statute of the United States provides therefor, the court upon proper application and cause shown may authorize the service of a subpoena at any other place. A subpoena directed to a witness in a foreign country who is a national or resident of the United States shall issue under the circumstances and in the manner and be served as provided in title 28, U.S.C. § 1783.

- D. Proof of service when necessary shall be made by filing with the clerk of the court by which the subpoena is issued a statement of the date and manner of service and of the names of the persons served, certified by the person who made the service.
- E. If filing an out of district notice of deposition, a \$39.00 miscellaneous filing fee will be required. 28 USC § 1930

AMENDMENTS

A voluntary petition, list, schedule, or statement may be amended by the debtor, as a matter of course, at any time before the case is closed. Rule 1009(a), Federal Rules of Bankruptcy Procedure

The statement of intention may be amended by the debtor at any time before the expiration of the period provided in 11 USC § 521(2)(B). Rule 1009(b), Federal Rules of Bankruptcy Procedure

1. For amendments to a debtor's schedules or lists of creditors after notice to creditors, \$26.00 fee for each amendment, provided the bankruptcy judge may, for good cause, waive the charge in any case. Appendix to 28 USC § 1930, Federal Rules of Civil Procedure
2. All petitions, lists, schedules, statements and amendments thereto shall be verified or contain an unsworn declaration. 28 USC § 1746, Federal Rules of Civil Procedure and Rule 1008, Federal Rules of Bankruptcy Procedure
3. When amending the schedules to add a creditor(s), a master mailing matrix showing only the newly listed creditor(s) must accompany the amendment.
4. The debtor shall give notice of the amendment to the trustee and to any entity affected. Rule 1009(a), Federal Rules of Bankruptcy Procedure
5. Pursuant to Uniform Local Bankruptcy Rule 9013-3, a certificate of service of said notice shall be filed no later than five (5) days after notice is given and must include that the added creditor(s) have been advised of the time for filing complaint objecting to discharge. Rule 4004, Federal Rules of Bankruptcy Procedure
6. The debtor or attorney for debtor will be advised by a deficiency letter if the amendment is incorrect.
7. The original is filed electronically and is retained by the filer per the Administrative Procedures For Filing, Signing and Verifying Pleadings and Papers by Electronic Means as amended September 16, 2004.

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA**

**COURT DELEGATED SERVICES
CERTIFICATION REQUIREMENT**

Effective October 1, 1996, the Chief Judge directed that certain orders of the Court will be served upon the required interested parties by the movant or filer of the corresponding antecedent pleading.

Certificates of service for orders sent to attorneys and/or pro se debtors are to be filed with the Clerk of Court not later than five (5) days after receipt of said order.

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA**

ADDITIONAL INFORMATION

The court's website www.lawb.uscourts.gov is available and may be accessed for court information including, judge specific information and requirements, publications, **forms**, CM/ECF Document Filing System, special notices and alerts, and related links.

If in doubt about any information, please contact the Clerk's office.

Alexandria Office:

(318)445-1890

1(866)356-5221 (toll free)

Lafayette Office:

(337)262-6800

1(866)789-6015 (toll free)

Shreveport Office:

(318)676-4267

1(866)721-2105 (toll free)

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA

CREDITOR MATRIX SPECIFICATIONS

To ensure the creditors listed on the creditor mailing matrix are properly added to a case, please observe the following guidelines.

- The creditor matrix must be saved as a .txt file in order to “Upload a Creditor Matrix File” in CM/ECF.
- Lists should be typed in a single column with a double line between each creditor.
- Names and addresses must be left margin justified.
- The name line may contain no more than 50 characters including blanks.
- Each address line may contain no more than 40 characters including blanks.
- Do not capitalize the entire matrix, only proper names. Please use Initial Capitals, only.
- The name and address of each creditor cannot be more than 5 lines. If an address is more than 5 lines, the 6th line will be combined with the 5th line and the 7th and 8th lines will be cut short.
- City, state, and zip code must be on the last line.
- Nine digit zip codes must be typed with a hyphen separating the two groups of digits.
- Spaces in the first position of a line will cause an exception report for that creditor. Prevent proper noticing.
- Do not use special characters such as ~, ½, or ^. These will cause problems. The # and & characters have not been reported to cause errors.
- Do not include account numbers or phone numbers on the list.
- Attention lines should be placed on the second line of the name/address.
- Do not include page numbers, headers, footers, etc...
- Do not duplicate addresses on the matrix.
- Do not list creditors with incomplete addresses on the matrix. Complete addresses are required in order to notice properly.
- Do not include the following on your creditor matrix. These are automatically included on the matrix once the case is entered into our system.
 - Debtor
 - Joint Debtor
 - Attorney for Debtor(s)
 - U.S. Trustee
 - LA Dept. Of Employment and Training (Labor)
 - LA Dept. Of Revenue and Taxation
- The Sheriff for the parish in which the debtor(s) resides should be listed on the matrix.