# UNITED STATES BANKRUPTCY COURT
# WESTERN DISTRICT OF LOUISIANA

**LOCAL RULES OF COURT**
**As AMENDED**
**May 9, 2001**

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# LOCAL RULES OF COURT APPLICABLE TO BANKRUPTCY PROCEEDINGS IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA

**UNIFORM LOCAL RULE NUMBER** | **TOPIC**

## PART I

**1002-1** — **PETITION-GENERAL**
**See also LBR-1007-2, 9009-1**.

All petitions, lists, schedules and statements shall be filed in original plus the number of copies specified in the Guide to Practice and shall be properly signed by the debtor(s). Unless excused by order of the court, all petitions filed by an individual debtor shall include copies of (a) picture identification card and (b) the debtor's social security card. Except for proper pro se filing by an individual, no Chapter 11 petition will be allowed filed unless the petition is accompanied by an application for appointment of attorney, affidavit by attorney and order appointing attorney for debtor-in-possession. See LBR 9009-1 forms 1(a), 1(b) and 1(c).

**1006-1** — **FEES-INSTALLMENT PAYMENTS**

**Filing Fee.** Every petition shall be accompanied by the prescribed filing fee except as provided in F.R.B.P. 1006(b); the debtor's application for payment of fees in installments must accompany the petition.

**1007-2** — **MAILING LIST OR MATRIX**
**See also LBR 5001-1.**

The pro se debtor or attorney filing a petition shall file a complete mailing matrix in accordance with the requirements set forth in the Guide to Practice. If an amendment is submitted that requires a change in the mailing matrix, a supplemental mailing matrix consisting of only the names and addresses of added parties shall be submitted.

**1071-1** **DIVISIONS-BANKRUPTCY COURT**
**See also LBR 1072-1, 1073-1.**

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

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

The Clerk of Court for the United States Bankruptcy Court for the Western District of Louisiana presently maintains three (3) offices in the District. These offices are located in the Federal Courthouses located in Shreveport and Opelousas, Louisiana, and in the Hemenway Building in Alexandria, Louisiana. Cases arising in any division and all petitions and pleadings filed therein may be filed in any office of the Clerk of the Bankruptcy Court in the District.

**1072-1** **PLACES OF HOLDING COURT**
**See also LBR 1071-1, 1073-1.**

Court is conducted in Shreveport, Monroe, Alexandria, Opelousas and Lake Charles.

**1073-1** **ASSIGNMENT OF CASES**
**See also LBR 1071-1, 1072-1**.

For the purpose of judicial assignments and maintenance of records, the Lafayette-Opelousas and Lake Charles Divisions are assigned to Chief Judge Gerald H. Schiff in Opelousas. The Shreveport Division is assigned to Judge Stephen V. Callaway. The Alexandria Division is assigned to Judge Henley A. Hunter. Case assignments for the Monroe Division will be divided between the Judges sitting in Shreveport and Alexandria. The Clerk of Court will announce the manner by which such assignments are made annually or as they occur.

**UNIFORM LOCAL RULE NUMBER** | **TOPIC**

## PART II

**2002-1** — **NOTICE TO CREDITORS & OTHER INTERESTED PARTIES**
**See also LBR 2002-2, 2002-3, 2016-1, 3015-2, 3030-2, 6008-1, 9013-1, 9013-3.**

Pursuant to the provisions of F.R.B.P. 2002, the movant or applicant shall send all notices except that the clerk, a standing trustee or the U.S. Trustee shall send the following notices:

1. The original meeting of creditors pursuant to Section 341;
2. The discharge hearing notice;
3. The order for relief;
4. The hearing on the dismissal or conversion of a case to another chapter;
5. The time fixed for filing claims pursuant to 3003(c);
6. Notice of denial or revocation of discharge pursuant to 11 U.S.C. Section 727; and
7. Applicable bar dates.

The clerk may delegate noticing responsibilities to the Bankruptcy Noticing Center.

**2002-2** — **NOTICE TO UNITED STATES OR FEDERAL AGENCY**
**See also LBR 1007-2, 2002-1, 2002-3.**

Failure to properly notice the United States will result in its interests being unaffected by the particular proceeding.

A. **Schedules and Matrix.** When notice is required to be given to the United States pursuant to F.R.B.P. 2002(j), the schedules and mailing matrix must include the following:

1. If the United States is a creditor--all chapters:

(a) Name of agency and its headquarter's address;

(b) Name of agency and its local field office address; and

(c) Name of agency and the address of the United States Attorney for the Western District of Louisiana.

2. District Director of Internal Revenue and the address for the District in which the case is pending; and

3. As applicable in specific cases, the following entities with proper addresses:

(a) Securities and Exchange Commission;
(b) Commodity Futures Trading Commission;
(c) Secretary of Treasury;
(d) Secretary of Transportation;
(e) Department of Commerce; and
(f) Securities Investors Protection Corporation.

B. **Service.** Service on the United States and its officers or agencies must be made on the agencies indicated in this part if required by F.R.B.P. 2002; and, also, as specifically set forth in F.R.B.P. 7004(b)(4) and (5) and 9014.

**2002-3** **UNITED STATES AS CREDITOR OR PARTY**
**See also LBR 1007-2, 2002-1, 2002-2, 2082-1.**

Section I

A. **Lists, Schedules, Statements, and Matrixes.** If one of the following federal agencies ("Agency") is a creditor of the debtor, the list, schedule, statement, and/or matrix of creditors submitted with any petition for relief under any chapter of Title 11 of the United States Code shall list the Agency at the address set out below:

1. United States Department of Agriculture
(excepting the Commodity Credit Corporation, the Consolidated Farm Service Agency, and the Rural Economic and Community Development Administration, which are hereinafter individually set forth)

Associate Regional Attorney, Office of the General Counsel, U.S. Department of Agriculture, 3201 Federal Building, 700 West Capitol Avenue, Little Rock, AR 72201

Commodity Credit Corporation and Consolidated Farm Service Agency (formerly known as the Agricultural Stabilization and Conservation Service)
Associate Regional Attorney (above)

and

State Executive Director, Consolidated Farm Service Agency, U.S. Department of Agriculture, 3737 Government Street, Alexandria, LA 71302

Rural Economic and Community Development Administration (formerly known as the Farmers Home Administration)

Associate Regional Attorney (above)

and

State Director, Rural Economic and Community Development Administration, U.S. Department of Agriculture, 3727 Government Street, Alexandria, LA 71302

2. United States Department of Veterans Affairs (VA)

Debt Management Center (389 OPS), Department of Veterans Affairs, Bishop Henry Whipple Federal Building, One Federal Drive, Fort Snelling, St. Paul, MN 55111-4050

and

Loan Guaranty Division (261), VA Regional Office, 701 Loyola Avenue, New Orleans, LA 70113

3. United States Small Business Administration (SBA)

U.S. Small Business Administration, Office of the District Counsel, 365 Canal Street, Suite 2250, New Orleans, LA 70130

4. United States Department of Health and Human Services (HHS)

Chief Counsel, Office of the General Counsel, Department of Health and Human Services, 1200 Main Tower Building, Suite 1330, Dallas, TX 75202

5. United States Department of Housing and Urban Development (HUD),

Office of General Counsel, United States Department of Housing and Urban Development, 1661 Canal Street, Suite 3100, New Orleans, LA 70112

6. United States Postal Service

Office of Field Legal Services, Southern Division, United States Postal Service, 225 North Humphreys Boulevard, Memphis, TN 38166-0170

7. Internal Revenue Service

Chief, Special Procedures Function, Internal Revenue Service, 600 South Maestri Place, Stop 31, New Orleans, LA 70130

District Counsel, Internal Revenue Service, PO Box 30509, New Orleans, LA 70190

As noted above, the address for SPF remains the same.

When the United States or any federal agency is listed as a creditor, the United States Trustee and the United States Attorney's Office located in the same division in which the petition for relief under Title 11 has been filed shall also be listed at the addresses shown in Part B of this Rule.

B. **Notices to the United States Trustee and United States Attorney.** When service or notice is required under this Rule or otherwise upon the United States Trustee or the United States Attorney's Office located in the same division in which the petition for relief under Title 11 or other motion, complaint or appropriate pleading has been filed, the addresses for such service or notice are as follows:

| Division | Address |
|---|---|
| Shreveport and Monroe | United States Attorney's Office<br>Western District of Louisiana<br>300 Fannin Street, Suite 3201<br>Shreveport, LA 71101-3068 |
| Alexandria, Lake Charles and Lafayette-Opelousas | United States Attorney's Office<br>Western District of Louisiana<br>600 Jefferson Street, Suite 1000<br>Lafayette, LA 70501 |
| All Divisions | United States Trustee<br>United States Courthouse<br>300 Fannin Street, Suite 3196<br>Shreveport, LA 71101 |

Section II

A. **Notices to the United States of America, Its Agencies or Officers as Creditor or When Its Interest(s) or Claim(s) May Otherwise Be Affected.** In addition to any notice required under F.R.B.P. 2002 and 9014, when the United States of America, its agencies or officers are listed as a creditor notice shall be given at the addresses shown in Section I of this Rule.

In all other cases involving or which may affect a claim or interest of the United States, a federal agency or federal officer, notice shall also be sent to the United States Attorney's Office located in the same division in which the petition for relief under Title 11 has been filed at the address set forth in Section I of this Rule. The notice shall clearly designate the federal agency through which the debtor became indebted or the federal agency or federal officer against which any relief is sought or which will otherwise be affected.

Should the federal agency not be known and designated with respect to any such notice, then the notice shall include the taxpayer identification number of the debtor, loan or claim number, and origination date on such loan or claim, if known. It shall be the responsibility of counsel for debtor(s) to undertake reasonably diligent effort to supply this information. No notice shall be sent to the United States Attorney's

office if no claim or interest of the United States or any federal agency or federal officer is indicated or affected.

B. **Content of Notice Required Under This Order-Matrix of Creditors.** Except for notices given by the Clerk of this Court, any notice given to the United States Attorney's Office shall include a copy of the matrix of creditors.

C. **Process, Service, or Summons, and Service of Complaint in Adversary Proceedings.** In addition to the requirements under Federal Rule of Bankruptcy Procedure 7004, service of any summons or complaint upon any Agency or federal officer of the Agency shall be made at the address set forth in Section I of this Rule. In all cases in which the United States, federal agency or federal officer is named as a party defendant, service of any summons or complaint shall also be made upon the United States Attorney's Office located in the same division in which the petition for relief under Title 11 has been filed at the address set forth in Section I(B) of this Rule. Any summons or complaint so served shall designate the federal agency or federal officer against which relief is sought or which will otherwise be affected.

D. **Notices in Cases Under Chapter 12--Summary of Operations.** The debtor in a Chapter 12 case shall serve the "Summary of Operations--Family Farmer" upon the Rural Economic and Community Development Administration and the United States Attorney's Office located in the same division in which the petition for relief under Title 11 has been filed at the addresses set forth in Section I of this Rule in any case in which the Rural Economic and Community Development Administration is a creditor without additional written request by Rural Economic and Community Development Administration or the United States Attorney's Office and as otherwise required by Local Bankruptcy Rule 2082-1.

## Section III

CHANGES IN ADDRESSES:

Pursuant to General Order Re: Notice to and Service upon the United States of America which became effective March 2, 1992, and as amended January 17, 1995, changes in the addresses may, from time to time, be changed by the United States requesting such change. Such request shall be made by written Motion filed with the Chief Bankruptcy Judge for the Western District of Louisiana. The Motion shall include as an exhibit the complete listing of all addresses as set forth in Section I hereof in order to eliminate references to prior versions. The Chief Bankruptcy Judge is authorized to amend Section I of this Local Bankruptcy Rule without further concurrence.

**2003-1** **MEETING OF CREDITORS & EQUITY SECURITY HOLDERS**
**See also LBR 2002-1, 2082-1, 9009-1, 9013-1**.

When a case is filed, the U.S. Trustee shall assign a 341(a) meeting date. The clerk or the U.S. Trustee shall provide notice of the original 341(a) meeting date pursuant to F.R.B.P. 2002. Debtor's attorney and the debtor(s) shall attend the 341(a) meeting.

A. **Attorney's Failure to Attend.** If the debtor's attorney does not attend the 341(a) meeting, the U.S. Trustee shall file a motion for appropriate sanctions against the attorney.

B. **Rescheduling 341(a) Meeting.** Rescheduling of the 341(a) meeting shall be for good cause only. Any request to reschedule the 341(a) meeting shall be made in writing to the U.S. Trustee. The debtor(s) or any party at interest may make such request.

In the event that the U.S. Trustee grants any requests to reschedule the 341(a) meeting, then the U.S. Trustee shall provide movant with a written notice to that, including the date and time of the rescheduled meeting. The requesting party shall send a copy of the notice to the debtor(s) and all parties in interest pursuant to F.R.B.P. 2002(a)(1) and shall promptly file with the clerk a Certificate of Service of that notice and send a copy of the certificate to the U.S. Trustee. In the event that the U.S. Trustee denies any request to reschedule the 341(a) meeting, then review of such denial shall be made only pursuant to C-2 below.

C. **Dismissal of Case, or Hearing if Not Rescheduled.**

1. If a request is made to the U.S. Trustee to reset, pursuant to B above, the 341(a) meeting and the U.S. Trustee denies the request, then the court shall determine at a hearing whether cause exists to reset the 341(a) meeting or whether the case should be dismissed. The hearing shall be a contradictory hearing noticed by the requesting party in accordance withe Local Bankruptcy Rule 9013-1. Failure of the requesting party to attend said hearing will normally result in the dismissal of the voluntary case.

2. If the debtor(s) does not attend the original 341(a) meeting noticed out by the clerk and no request that the U.S. Trustee reset the 341(a) meeting is made pursuant to subsection B above, within the (10) days of the original meeting date, then the U.S. Trustee shall submit to the court an ex parte motion and order to dismiss the case, with an affidavit indicating that the 341(a) meeting was not attended by the debtor(s) and that no request pursuant to sub-section B above has been made. Dismissal for failure to attend and failure to reschedule shall only apply to voluntary cases and shall not be applicable to involuntary cases, or to cases converted from other chapters of the Code on motion of a party at interest other than the debtor.

**2004-1** **DEPOSITIONS AND EXAMINATIONS**

A motion for an order requesting a F.R.B.P. 2004 examination must state that movant has made reasonable efforts to arrange a mutually satisfactory date, time and place for the examination and that the entity to be examined has agreed to the schedule or has refused to cooperate in establishing a schedule.

A motion and order for a 2004 examination which does not make such a declaration shall not be granted by the court.

**2014-1** **EMPLOYMENT OF PROFESSIONALS**
**See also LBR 9009-1, 9013-1, 9013-3**.

**Application for Employment of Professional Persons**. All applications by standing trustees and panel trustees, and applications by debtors-in-possession in reorganization cases to employ attorneys or other professional persons (or motions to substitute a professional person in such matters) shall comply with F.R.B.P. 2014 and Local Bankruptcy Rule 9009-1 Forms 1(a), 1(b) and 1(c). All applications for the approval of the employment of professional persons under this section shall be served upon the United States Trustee and shall be accompanied by a certificate of service in accordance with Local Bankruptcy Rule 9013-3, infra.

All applications for appointment of counsel for Chapter 11 debtors must comply fully with F.R.B.P. 2014, and must also include a Supplemental Schedule providing accurate and complete answers to the following questions:

Supplemental Schedule

1. Does any debtor have any affiliates as defined by 11 U.S.C. § 101(2)? Affiliate is defined as:
   - (A) entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities--
     - (I) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or
     - (II) solely to secure a debt, if such entity has not in fact exercised such power to vote;
   - (B) corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor, or by an entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities--
     - (I) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or
     - (II) solely to secure a debt, if such entity has not in fact exercised such power to vote;
   - (C) person whose business is operated under a lease or operating agreement by a debtor, or person substantially all of whose property is operated under an operating agreement with the debtor; or

(D) entity that operates the business or substantially all of the property of the debtor under a lease or operating agreement...

If any debtor in this case has any affiliates as defined by 11 U.S.C. § 101(2), list the affiliate(s) and explain the relationship between debtor and the affiliate(s). If no debtor has any such affiliates, do not answer the remainder of this Schedule.

2. Has any affiliate ever filed for bankruptcy? If yes, list the affiliate(s) and the date and court for each bankruptcy petition and the chapter under which the petition was filed. If any affiliate files after this schedule is filed, debtor's counsel must amend this schedule and notice all creditors and the judge assigned to the case.

3. Has any affiliate guaranteed any debt of debtor(s) or has the debtor guaranteed any debt of any affiliate? If yes, list the name of the affiliate, the amount of the guarantee, the date of the guarantee, the name of the guarantor, the name of the debtor, and whether any security interest was given by debtor or the affiliate to secure the guarantee. Give this information for every guarantee outstanding at the time of the debtor's Chapter 11 petition, and every guarantee outstanding within 18 months before the petition was filed.

4. Has any affiliate extended credit, received credit, or otherwise established a debtor-creditor relationship with debtor(s)? If yes, list the name of the affiliate, the amount of the loan, the date the loan was made, the repayments made on the loan, and the type of security interest, if any, involved in the loan. Give this information for all loans that have been made and fully paid off within 18 months preceding this Chapter 11 filing and for all loans outstanding at the time of the filing.

5. Has any debtor in this case granted any security interest in any property to secure any debts of any affiliate other than as provided in Questions 3 and 4? Has any affiliate granted any security interest in any property to secure any debts of any debtor other than as provided in Questions 3 and 4? If yes, list the affiliate, the debtor, the collateral, the date and nature of the security interest, the creditor to whom it was granted, and the current balance of the underlying debt.

6. Has any affiliate engaged in any other transaction with any debtor in this case during the past 18 months? If yes, briefly describe the transaction(s).

7. List the name and address of any affiliate who potentially is a "responsible party" for unpaid taxes of any debtor in this case. State the estimated amount of such taxes owed at the time of the Chapter 11 filing.

8. Identify any affiliates employed by the debtor and describe the function or role they perform. Identify any relative or partner or equity security holder employed by the debtor and describe the function or role performed and the amount of compensation received.

9. List all circumstances under which proposed counsel or proposed counsel's law firm has represented any affiliate during the past 18 months. List any position other than legal counsel which proposed counsel holds in either the debtor or affiliate including corporate officer, director, or employee. List any amount owed by the debtor or the affiliate to proposed counsel or counsel's law firm at the time of filing, and also amounts paid within 18 months before filing.

**2015-1** **TRUSTEES-GENERAL**

The United States Trustee shall appoint trustees in accordance with 11 U.S.C. § 701 and 28 U.S.C. § 586. Interim Trustees shall be assigned to Chapter 7 cases from a blind rotation list according to procedures established between the clerk and the U.S. Trustee or designee.

**2015-2** **DEBTOR IN POSSESSION DUTIES**
**See also LBR 1002-1, 2014-1, 2082-1, 9009-1**.

The duties of the debtor in possession shall be set forth in the "Order to Debtor-in-Possession" (set forth in the Guide to Practice as such form may be modified from time to time or as determined by the Court or as set forth in Local Bankruptcy Rule 9009-1 Form No. 2). The Order to Debtor-in-Possession shall be executed by the court and filed with every Chapter 11 case wherein a trustee is not serving. The United States Trustee shall be included on the mailing matrix filed with the petition, and shall also be served with monthly reports at the same time they are filed with the Court. Monthly reports are to be filed in the form provided by the United States Trustee.

**2016-1** **COMPENSATION OF PROFESSIONALS**
**See also LBR 9009-1, 9013-3**.

In making a determination on attorneys' fees and fee applications by professionals other than attorneys, the court shall consider the factors announced by the Fifth Circuit Court of Appeals in the case of *In the Matter of First Colonial Corp. of America*, 544 F.2d 1291 (5th Cir.1977) and *Johnson v. Georgia Highway Express*, 488 F.2d 714 (5th Cir.1974), with such changes as may result from continuing jurisprudence or statutory amendment.

A. **Factors Relative to Quality of Representation.** Among other factors, the court shall consider with respect to the determination of the quality of representation, whether counsel has correctly and effectively performed his duties, including particularly:

1. Whether the debtor was thoroughly interviewed prior to filing;

2. Whether schedules and pleadings are accurate, complete, and professional;

3. The efficiency with which the case was conducted;

4. Whether counsel has been diligent within the rules of professional responsibility to assure that his client fulfills his statutory duties and his duties imposed by the court order;

5. Whether counsel has fully discharged his ethical responsibilities to his client and his professional responsibility to the court;

6. Whether counsel has promptly attended all hearings and has professionally represented his client at those hearings.

B. **Data Supplied in Substantiation of Fees.** To allow the court to efficiently consider the applicable criteria, an application for professional's fees shall include the information listed below. (A sample format appears at Local Bankruptcy Rule 9009-1 Form No. 7).

1. The caption of the application shall recite the name of debtor, the case number, and a heading "Application for Compensation". The caption shall state whether this is the first, second, etc., or final application for compensation and on whose behalf it is filed. The application shall recite the following:

(a) The date the debtor filed the petition;

(b) The date the court authorized the employment of the applicants;

(c) If it is a first application, it shall recite the retainer received by the applicant. If it is a subsequent application, it shall state the date of all prior applications and the amounts approved by the court;

(d) Any list of extraordinary circumstances involved in the case. As a guide, the factors set out in *Johnson v. Georgia Highway Express*, 488 F.2d 714 (5th Cir.1974) should be considered. If the case does not involve extraordinary factors concerning an item, the applicant should state "None" or "not applicable". Those factors are:

(1) The novelty and difficulty of the questions;

(2) The skill required to perform the legal services properly;

(3) The preclusion of other employment;

(4) The customary fee;

(5) Whether the fee is fixed or contingent;

(6) Time limitations imposed by the client or circumstances;

(7) The amount involved and the results obtained;

(8) The experience, reputation and ability of the attorney;

(9) The "undesirability" of the case;

(10) The nature and length of the professional relationship;

(11) Awards in similar cases.

(e) The period covered by the Application;

(f) The amount requested for legal services; and

(g) The amount requested for expenses.

2. Attached to the application shall be exhibits which include the following:

(a) A chronological listing of all the time for which the application is requesting compensation, whether it be attorney, paralegal, or law clerk time; the list should show the amount of time devoted to the case on each date and the legal services performed in that time.

(b) A summary sheet which shows by project category:

(1) The amount of time spent by each attorney and the hourly rate;

(2) The amount of time spent by law clerks and the hourly rate; and

(3) The amount of time spent by paralegals and the hourly rate.

(c) A summary sheet which itemizes all expenses, including copies, telephone charges, courier services, witness fees, postage, mileage, etc.

(d) A statement of the legal experience of the attorneys and paralegals involved. Comments concerning the reputation and ability of these individuals may be attached.

C. **Applications for Attorneys' Fees.** Applications for attorneys' fees shall be filed prior to or accompanied by the notice of the hearing on the same although the notice need not attach a copy of the attorney fee application. The notice may refer to the application on file in the clerk's office, but no hearing will be held or determination reached on a fee application not timely filed with the notice.

D. **Notice and Hearing of Fee Applications.** The notice for a hearing on an application for attorneys' fees shall require objections to be filed at least five (5) days prior to the date set for the hearing. There shall be a hearing on each application for attorneys' fees and/or reimbursement of expenses totaling in excess of $1,000.00. Counsel shall attend the hearing.

**2071-1** **COMMITTEES**

**See also LBR 3020-1, 4001-1(C)(2)**.

The United States Trustee shall appoint the Committee of Creditors holding unsecured claims pursuant to 11 U.S.C. Section 1102 and may appoint additional committees of creditors or equity security holders as deemed appropriate or as ordered by the court. The method and procedure for declination of the opportunity to serve on any such committee and for selection and appointment of members of such committees shall be as determined by the United States Trustee. A corporate creditor appointed to any such committee shall file the name and address of the individual who will serve as such creditor's representative on the committee.

Absent specific authorization from the court, no compensation or other remuneration shall be paid, from assets of the estate, to any present or former insider, affiliate, officer, director, or equity-security holder as set forth in 11 U.S.C. § 101. All applications for compensation under this rule shall be accompanied by a sworn disclosure, by the applicant, of all previous compensation, from any source, for services related to the debtor's proceeding. Further, all applications under this rule shall conform to the following sub-sections, where and as applicable:

A. The Bankruptcy Court may authorize compensation, commensurate with prepetition salaries, to a director or an officer, other than one who is also an "equity security holder," "affiliate," or "insider," as defined in Section 101 of the Bankruptcy Code, upon ex parte application, provided that written notice of the authorizing order shall be served in conformity with Local Bankruptcy Rule 4001-1(C), supra, and upon such other parties as the court may direct. The notice of the order shall state that objections to the order may be filed, and a hearing conducted, if and only if an application to discontinue such compensation, with a request for hearing, is timely filed.

An ex parte application under this sub-section shall include a sworn declaration that the applicant is neither an "affiliate," nor an "insider," nor an "equity security holder" as those terms are defined in § 101 of the Bankruptcy Code.

B. The court may authorize compensation for equity-security holders, insiders, or affiliates, under circumstances considered reasonable by the court, upon ex parte application provided that a hearing to confirm or revoke such authorization shall be conducted after written notice of the order is served and a hearing scheduled in accordance with Local Bankruptcy Rule 9013-3.

C. If an application filed under sub-section A or B of this rule is denied by the court, the applicant may refile the application with a request for a hearing, in conformity with Local Bankruptcy Rule 9013-3 and upon 20 days notice to the parties named in Local Bankruptcy Rule 4001-1. After the hearing, the court may approve the application for good cause shown.

D. Any application under this rule approved by the court under sub-section A, B or C, may be terminated for good cause on motion of the U.S. Trustee or other party in interest after notice and a hearing.

E. In determining "good cause" under section D of this rule, the court will consider the following non-exclusive list of factors:

1. Whether the monthly reports required under Local Bankruptcy Rule 2015-2 reflect that the debtor is operating continuously at a deficit;
2. Whether or not monthly reports have been timely filed during the bankruptcy case;
3. The likelihood of a successful rehabilitation;
4. The debtor's prepetition history, including evidence of seasonal variations in economic performance;
5. Any other factors the court deems relevant to the inquiry.

DUTIES OF A DEBTOR IN CHAPTER 12 - The duties of a debtor in Chapter 12 shall be set forth in the "Order to Attorney for Debtor in Possession and Notice of Chapter 12 Procedural Requirements" (set forth in the *Guide to Practice* or as otherwise promulgated by the clerk as such form may be modified as determined by the court or as set forth in Local Bankruptcy Rule 9009-1 Form No. 3). The Order to Attorney for Debtor in Possession and Notice of Chapter 12 Procedural Requirements shall be executed by the court and filed with every Chapter 12 petition. The debtor in Chapter 12 shall comply with the following requirements. It shall be the duty of the attorney for the Chapter 12 debtor to explain these requirements to the debtor and to assist the debtor to assure that these requirements are met.

A. **Cooperation With Chapter 12 Trustee.** The debtor shall cooperate with the Chapter 12 Trustee, including, but not limited to, furnishing information required by the Chapter 12 Trustee in supervising the administration of the case, including regular reports of operations of the debtor's farming enterprise. The debtor shall promptly serve on the Chapter 12 Trustee notice of all motions, reports, and other pleadings filed by the debtor.

B. **Tax Deposit Statement.** If the debtor is a family farm corporation or if the debtor has employees for which he must withhold income taxes or pay social security taxes, the debtor must complete the tax deposit statement (Local Bankruptcy Rule 9009-1 Form No. 6) and must file the form with the Chapter 12 Trustee with evidence of payment.

C. **Insurance Statement.** At the Section 341 meeting, the debtor must provide the Chapter 12 Trustee with a verified statement or written evidence from the debtor's insurance carrier or broker that the debtor has fire and extended coverage on his buildings and equipment and also motor vehicle insurance on all vehicles operated on public highways. If no such insurance is currently in effect, the debtor must explain why it is not in force. The debtor shall immediately notice the Chapter 12 Trustee of any lapse, cancellation, or proposed cancellation of any insurance coverage.

D. **Books and Records.** The books and records of the debtor are to be closed as of the date of filing the bankruptcy petition, and a new set of books and records must be kept thereafter for the debtor-in-possession under Chapter 12.

E. **Bank Accounts.** All of the debtor's bank accounts must be closed immediately upon the filing of the Chapter 12 petition and new bank accounts opened. All amounts from the old accounts and all receipts are to be deposited in the new bank accounts, and all disbursements should be made by check.

F. **Copies of Transactions.** The debtor must keep a file (or envelope) in which to keep copies of all bills, invoices, and sales slips for purchases or payments the debtor makes after the petition is filed.

G. **Income Tax Returns.** The debtor must bring to the Section 341 meeting a copy of the debtor's last year's federal and state income tax returns, Form 1040, and all Schedules filed with the return, including Schedule F. The copy of the income tax returns must be filed with the Chapter 12 Trustee at the first meeting as an exhibit.

H. **IRS Schedules and Forms.** Within seventy (70) days after the end of a calendar year or fiscal year, the debtor must complete and file with the Chapter 12 Trustee a Schedule F, together with all supporting schedules of Schedule F, and Form 4835 of IRS Form 1040 for any part of the first calendar or taxable period ending after the date on which the Chapter 12 petition was filed. The Schedule F and

Form 4835 must report all income and all expenses at the end of the calendar or fiscal year. The debtor is responsible for filing and paying all federal taxes as usual.

I. **Restrictions.** The debtor may not:

1. Retain or employ attorneys, accountants, appraisers, auctioneers, or other professional persons without court approval. This includes employing the attorney who filed the petition to provide services after the filing.

2. Compensate any attorney, accountant, appraiser, auctioneer or other professional except as allowed by the court.

3. Use cash collateral (or cash equivalents) without the consent of the secured creditor or court authorization. Cash collateral includes proceeds, products, offsprings, rents, or profits of property subject to a security interest when reduced to cash.

4. Obtain credit or incur unsecured debt other than in the ordinary course of business without court authorization.

5. Incur secured debt without court authorization.

6. Pay any creditor for goods or services provided before the filing of the petition except as provided in a confirmed plan.

J. **Failure to Comply.** Failure of the debtor to comply with the instructions contained in these rules will result in a hearing to determine whether the case should be dismissed and may result in other sanctions.

K. **Requirement for Reports.** Chapter 12 debtor(s) shall file Monthly Cash Receipts and Disbursements Reports. These reports shall be filed for each calendar month and are due by the 15th day of the month following the month for which the report is due. (e.g. the report for the first month is due on the 15th of the calendar month following the month in which the petition was filed; for example, if a petition were filed January 18, the first monthly report would be due February 15 for the period January 18-January 31.) Copies of these monthly reports should be served on the Trustee on or before the dates they are due to be filed with the Clerk of Bankruptcy Court.

L. **Form of Reports, Filing and Service.** The form of the Monthly Cash Receipts and Disbursements Reports shall conform substantially to the Monthly Cash Receipts and Disbursements Report [Local Bankruptcy Rule 9009-1, Form No. 4], unless otherwise specified by the United States Trustee. The Reports shall be filed with the clerk's office and a copy of the report shall be served on the Chapter 12 Trustee and upon any creditor who makes a written request for a copy.

M. **Summary of Operations**. At least five (5) days prior to the Section 341 meeting, the debtor shall file with the clerk a "Summary of Operations--Family Farmer". The summary shall substantially conform with Local Bankruptcy Rule 9009-1, Form No. 5 , unless otherwise specified by the United States Trustee. Contemporaneously with the filing of the form with the clerk, the debtor shall serve a copy of the form on the Chapter 12 Trustee and on any creditor who makes written request for a copy.

**2090-1** **ATTORNEYS-ADMISSION TO PRACTICE**
**See also LBR 9029-3**.

Local District Court Rules for admission to practice in effect and as may be amended hereafter are applicable to all bankruptcy proceedings in this district.

**2092-1** **CLAIMS OF JUDICIAL MISCONDUCT OR DISABILITY**

To improve the administration of justice in the federal courts, Congress passed the Judicial Conduct and Disability Act of 1980, codified at 28 U.S.C. § 372(c). The law authorizes complaints against United States circuit, district, bankruptcy, and magistrate judges who have "engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts" or who are "unable to discharge all the duties of office by reason of mental or physical disability." The conduct to which the law is addressed does not include making wrong judicial decisions, for the law provides that a complaint may be dismissed if it is "directly related to the merits of a decision or procedural ruling."

The Judicial Council of the Fifth Circuit has adopted Rules Governing Complaints of Judicial Misconduct or Disability. These rules apply to judges of the U.S. Court of Appeals for the Fifth Circuit and to the district, bankruptcy, and magistrate judges of federal courts within the Fifth Circuit. The circuit includes the states of Texas, Louisiana, and Mississippi.

These rules may be obtained from, and written complaints filed at, the following office:

Clerk
U.S. Court of Appeals, Fifth Circuit
600 Camp Street, Room 102
New Orleans, Louisiana 70130

**UNIFORM LOCAL RULE NUMBER** **TOPIC**

## PART III

**3015-1** **CHAPTER 13-PLAN**

In accordance with F.R.B.P. 3015, Chapter 13 debtors shall file a plan within fifteen (15) days after the filing of the petition and such time may be extended on motion, for cause shown, and noticed by debtors pursuant to F.R.B.P. 2002. Failure to file the Plan or an appropriate Motion to Extend the Time to File a Plan shall be cause for a Motion to Dismiss pursuant to Bankruptcy Code Section 1307(c). Motions requesting leave for extension of time within which to file a Plan must be for good cause and shall

be filed within that same fifteen (15) day period required for the filing of a Plan. Where leave for extension of time within which to file a Plan has been granted, debtor shall tender its first full plan payment upon filing of the Plan.

**3015-2** **CHAPTER 13-AMENDMENTS TO PLANS**
**See also LBR 2002-1**.

A. **Prior to Confirmation.** The debtor may file a modification of the Chapter 13 Plan at any time before the Plan is confirmed, in accordance with Section 1323(a). The attorney for the debtor shall send notice of such modification to the trustee and to all creditors affected by the modification. A copy of the notice, including a certificate of mailing, shall be filed with the modification.

B. **After Confirmation Pursuant to Section 1329.** The attorney for the debtor shall send notice of such modification, accompanied by a copy of summary of the proposed modification, to the Trustee and to all creditors affected by the modification. The notice shall advise that any objections to the proposed modification shall be filed by written pleading with the court and the Trustee within twenty (20) days of mailing of the notice and that a hearing will be held on a specific date if, and only if, such objection is filed. A copy of the notice, including a certificate of mailing, shall be filed with the proposed modification. If no objections are timely filed, the court may approve the plan as modified.

**3015-3** **CHAPTER 13-CONFIRMATION**

Objections to confirmation must be filed in writing and served on the debtor, debtor's attorney and Trustee at least five (5) days prior to the confirmation hearing.

**3016-2** **DISCLOSURE STATEMENT-GENERAL**

A disclosure statement normally 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.

When appropriate to the case, additional items may be needed, some items in the above list may be supplemented, and some items may be omitted.

A. *Disclaimers*. Disclaimers of accuracy or responsibility for items in a disclosure statement may be considered as failure to provide information on the issue disclaimed.

B. *References to Schedules*. References to schedules filed in a case or to information found in the case record are not considered to be the disclosure of information. Information sufficient to satisfy the requirement of the Code must be found within the disclosure statement itself.

**3020-1** **CHAPTER 11-CONFIRMATION**
**See also LBR 2071-1, 4001-1(C)(2)**.

Objections to confirmation must be filed with the court and served on the debtor, the United States Trustee, the trustee serving in the case (if any), any committee appointed under the Code, and the proponent of the plan (if other than the debtor or a committee mentioned herein) at least five (5) days prior to the confirmation hearing.

**3025-1** **CHAPTER 12-PLAN**
**See also LBR 9009-1**.

A. **Filing a Chapter 12 Plan.** When a Chapter 12 Plan is filed, the plan shall be submitted to the Clerk of Court. The petitioner must also comply with L.B.R. 1002-1. A Chapter 12 Plan must be filed within ninety (90) days of the date the petition was filed unless the court extends the time.

B. **Liquidation Analysis.** Under Section 1225(a)(4) of Chapter 12, the debtor must be able to prove at the hearing on confirmation of the Plan that the amount that will be distributed under the Plan for each allowed unsecured claim is not less than the amount that would be paid on the claim if the debtor were

liquidated under Chapter 7. The debtor shall prepare an accurate analysis of the liquidation value of all of the property of the debtor's estate which the debtor shall present to the Chapter 12 Trustee at the Section 341 meeting. The liquidation analysis should also be filed in the case record on or before confirmation of the Plan. See Local Bankruptcy Rule 9009-1, Form No.3.

**3030-1** **CHAPTER 12-CONFIRMATION**

The order fixing the confirmation hearing will be issued by the Clerk of Court who will mail a copy to the attorney for the debtor(s) or to the debtor(s). Within five (5) days after entry of the order, the attorney for the debtor(s) or the debtor(s) shall mail a copy of the chapter 12 Plan and a copy of the order to all creditors and other parties in interest. If the debtor amends the Plan pre-confirmation, a copy of the amended Plan shall be filed with the court and shall contemporaneously be mailed to all creditors and parties in interest.

Objections to confirmation must be filed in writing and served on the debtor, debtor's attorney and Trustee at least (5) days prior to the confirmation hearing.

**3030-2** **AMENDMENTS TO PLANS-CHAPTER 12 POST-CONFIRMATION**
**See also LBR 2002**.

The attorney for the debtor shall send notice of such modification, accompanied by a copy or summary of the proposed modification, to the Trustee and to all creditors affected by the modification. The notice shall advise that any objections to the proposed modification shall be filed by written pleading with the court and the Trustee within twenty (20) days of mailing of the notice and that a hearing will be held on a specific date if, and only if, such objection is filed. A copy of the
notice, including a certificate of mailing, shall be filed with the proposed modification. If no objections are timely filed, the court may approve the Plan as modified.

**UNIFORM LOCAL RULE NUMBER** **TOPIC**

## PART IV

**4001-1** **AUTOMATIC STAY-RELIEF FROM**
**See also LBR 9013-1**.

The procedures applicable to all motions also apply to Section 362(d) Motions and Agreements relating to relief from the Automatic Stay. Motions for relief as described in this section shall comply with F.R.B.P. 4001 and with 9014 where applicable. In addition, such motions shall comply with the following.

A. **Contents of the Motion.**

1. The motion shall contain a short and plain statement of the alleged facts that are grounds for relief; mere statement of the statutory grounds for relief is insufficient.

2. If "cause" other than lack of adequate protection is alleged, the motion must explain the "cause".

3. If valuation of property is an issue, the motion must state the valuation asserted by movant. The following shall be attached to the motion or must be supplied to the court and to the opposing party (through counsel) as soon as possible.

(I) If movant intends to offer valuation testimony at the hearing, the name(s) and address(es) of the witness(es) and a copy of the appraisal (if one is to be introduced at the hearing);

(II) If expert testimony will be offered at the hearing, a statement of the qualifications of the expert must be attached;

(III) The court may refuse to admit evidence or may impose other appropriate sanctions for failure to observe the requirements of this rule.

4. If the motion seeks relief from the stay to proceed to foreclose on a security device (security interest) affecting property of the estate, copies of the following must be attached to the motion:

(a) All notes or other obligations secured by the property;

(b) All security devices (instruments included);

(c) Proof of perfection of the security instrument (stamped copies may be filed with the motion, but certified copies shall be submitted at trial of the motion or in the event an entry of default is desired, then at the time such default is requested).

B. **Answer Required.** No hearing will be held on a motion for relief from the automatic stay and relief may be granted by default as set forth hereinafter in *D. Relief From the Stay by Default*, unless an answer, objection or opposition is filed by the **RESPONSE DEADLINE** set forth hereinafter in *G. Required notice and Filing of Response Deadline*. An answer, opposition or objection shall contain the following.

1. If valuation of property is an issue, the answer must state the valuation asserted by respondent. The following shall be attached to the answer or must be supplied to the court and to the opposing party (through counsel) as soon as available:

(I) If respondent intends to offer valuation testimony at the hearing, the name(s) and address(es) of the witness(es) and a copy of the appraisal (if one is to be introduced at the hearing);

(II) If expert testimony will be offered at the hearing, a statement of the qualifications of the expert must be attached;

(III) The court may refuse to admit evidence or may impose other appropriate sanction for failure to observe the requirements of this rule.

2. If the party intends to dispute the existence, validity, effect or other aspect of the notes or security devices (instruments) required by these rules to be attached to the motion for relief from the stay, the objections must be stated with specificity.

3. If the party proposes to offer adequate protection, it must state with specificity the adequate protection that is offered; if periodic payments are proposed, the specific amounts and intervals (if applicable) must be stated or a formula must be set forth to determine the amount of the payments; if substitute liens are proposed, a description of the proposed collateral must be set forth as well as valuation allegations (such as those described above) must be supplied. If other indubitable equivalents are involved, the allegations must be equally specific.

C. **Service of Pleadings in Motions Under Section 362.** The following persons must receive service unless otherwise designated by F.R.B.P. 4001 and/or F.R.B.P. 9014.

1. Chapter 7 cases--The debtor, debtor's attorney, debtor's trustee, and the United States Trustee. All parties requesting notice under F.R.B.P. 2002(I).

2. Chapter 11 cases--The debtor, debtor's attorney, the debtor's trustee if one is appointed, the United States Trustee, any committee appointed under the Code or its authorized agent, or, if no committee has been appointed, the creditors on the list filed pursuant to F.R.B.P. 1007(d), and all parties requesting notice under F.R.B.P. 2002(I).

3. Chapter 12 and 13 cases--The debtor, debtor's attorney, the debtor's trustee, the United States Trustee, and all parties requesting notice under F.R.B.P. 2002(I).

D. **Relief From the Stay by Default.** If no answer, objection or opposition is filed by the **RESPONSE DEADLINE**, then the clerk shall, as soon as possible thereafter, submit the Motion to Lift the Stay, together with the attachments, notice, mailing certificate (hereinafter collectively referred to as "pleadings and papers") and the submitted proposed order to the court for execution. If the pleadings and papers are in proper form and indicate that relief is warranted as prayed for, then the court shall execute the proposed Order Lifting the Stay and same shall be duly filed and entered on the docket and notice given. If the pleadings and papers are defective or do not warrant the relief prayed for, then the court shall deny the relief prayed for and state in writing on the proposed order or in the court's own order the grounds for the denial, and same shall be duly filed and entered on the docket and notice given.

If an answer, objection or opposition is filed after the **RESPONSE DEADLINE** and before the court executes an order granting the relief prayed for, the court **shall not consider same UNLESS** it is accompanied by an additional ex parte motion stating cause for the late filing and requesting that the court grant leave for the late filing and place the then contested Motion to Lift the Stay on the court's calendar for the originally noticed hearing date, as if the opposition was timely filed. The ex parte motion shall be accompanied by a proposed order granting leave to file the opposition late and resetting the original hearing date, and a certificate of counsel certifying that prior to the submission to the court that counsel has been in contact with counsel for the movant in the motion to lift the stay, informed such person when the ex parte motion to allow the late filed answer would be submitted, and the response of opposing counsel. If counsel was unable to make such contact with opposing counsel, then the certificate shall state what efforts were made to make such contact. If the court decides to grant the ex parte motion, than it shall execute the proposed order granting leave to file the late opposition and resetting the hearing and same shall be duly filed and entered on the docket. *Counsel for the party requesting the late filing shall promptly give timely and sufficient notice to opposing counsel of the granting of the*

*ex parte motion and the resetting of the hearing for the originally scheduled date, and proof of such notice shall be set forth in a certificate of notice which shall be filed and entered on the docket prior to the hearing date*. If the court decides to deny the ex parte motion, then it shall state in writing on the proposed order or in the court's own order the grounds for the denial, and same shall be duly filed and entered on the docket and notice given.

E. **Procedure for Motions Timely Controverted.** If the motion is timely and properly controverted:

1. The initial hearing will, in most cases, be a final hearing. The parties, unless they agree otherwise prior to the hearing, should be prepared to proceed to final hearing of the issue. The court will ordinarily set a time later on the same motion day when the merits shall be heard, but the court may set the case for final hearing at a later date in its discretion and in the interest of justice.

2. The initial hearing may be a preliminary hearing to:

(a) determine length of hearing necessary;

(b) determine if there is reasonable likelihood that the party opposing relief from such stay will prevail at the final hearing;

(c) set date for final hearing; and

(d) enter such other orders as may be appropriate.

F. **Certificate of Service Required.** All motions filed hereunder shall be accompanied by a Certificate of Service as described in Local Bankruptcy Rule 9013-3.

G. **Required Notice, Response Deadline and Determining Factors on Hearings.** The movant in a Motion to Lift the Stay shall obtain a hearing date from the clerk's office controlling the division where the motion will be heard. Movant shall give notice of the filing of the motion and the hearing date to parties entitled to notice under these Rules, the F.R.B.P. and the Code. The notice shall inform all parties that a hearing will be held on the motion **IF AND ONLY IF** an answer, objection or opposition to the motion is filed with the clerk's office and mailed to the movant's counsel within fifteen (15) days of the mailing date shown on movant's certificate of mailing of the motion to lift the stay. The date to answer, object or oppose shall be clearly and succinctly stated in bold type on the notice and shall be referred to as the **RESPONSE DEADLINE.** The hearing date assigned by the clerk shall be no less than five (5) calendar day after the **RESPONSE DEADLINE.** The clerk shall not place the Motion to Lift the Stay on the hearing calendar unless an answer, objection or opposition to the motion is filed by the **RESPONSE DEADLINE.** The court may, for cause stated in written and filed pleadings, extend or reduce these notice, response and hearing provisions.

H. **Motion for Relief From Co-Debtor Stay.** In addition to the notice provisions outlined in this rule, movant shall specifically certify that the co-debtor against whom relief is sought has been properly served with notice according to F.R.B.P. 7004

**4004-1** **DISCHARGE HEARINGS**
**See also LBR 4008-1**.

Under Section 524 of the Bankruptcy Code, attendance at the discharge hearing is not mandatory, but shall be encouraged.

**4008-1** **REAFFIRMATIONS**
**See also LBR 4004-1**.

If the debtor desires to reaffirm a debt pursuant to Section 524(c) prior to the discharge being granted, and the requirements of Section 524(c)(2) and (c)(3) have not been met or the debtor is not represented by counsel, then in such instances, the debtor's attendance at a reaffirmation/discharge hearing is mandatory in order to allow the court to review such agreements under Section 524(c)(6)(A). Reaffirmation agreements should be filed ten (10) days prior to the discharge. Reaffirmation agreements may be approved by the court after the discharge is granted only pursuant to Section 524(d) and F.R.B.P. 4008.

**UNIFORM LOCAL RULE NUMBER** **TOPIC**

## PART V

**5001-1** **COURT ADMINISTRATION**

The clerk of the United States Bankruptcy Court may issue a *Guide to Practice* which may be amended from time to time for the administration of that office. The *Guide to Practice* shall govern the administration of bankruptcy cases before the court unless they are found by the court to be inconsistent with the Local Bankruptcy Rules or with the Local District Court Rules or where the court determines in the interest of justice that the *Guide to Practice* is inappropriate. A copy of the *Guide to Practice* shall be provided without charge to each member of the bar of this court upon request.

**5003-2** **COURT PAPERS-REMOVAL OF**
**See also LBR 9029-3**.

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.

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## PART VI

**6008-1** **REDEMPTION**
**See also LBR 2002-1, 2002-2, 9013-1, 9013-3**.

Motions for redemption must be noticed and set for hearing at the discharge hearing; the motion must be filed, and the creditor must be noticed at least ten (10) days prior to hearing.

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## PART VII

**7001-1** **ADVERSARY PROCEEDINGS-GENERAL**
**See also LBR 2002-2, 2002-3, 7004-2, 7016-1, 7055-1**.

Upon filing of a Complaint, a Summons and Pretrial Order will be issued and delivered to complainant's counsel for service; counsel may obtain blank forms from the clerk and may fill them in prior to filing to expedite issuance of the Summons. Counsel for complainant must serve the Summons, Preliminary Pretrial Order and Complaint and must timely file proof of service.

**7004-1** **SERVICE OF PROCESS**
**See also LBR 2002-2, 2002-3, 7055-1**.

Counsel for complainant must serve the Summons, Preliminary Pretrial Order and Complaint and must timely file proof of service.

**7016-1** **PRE-TRIAL PROCEDURES**
**See also LBR 7001-1, 7004-2**.

A. **Summons Will Set Pretrial Conference.** Each adversary proceeding will be set for a pretrial conference as soon as possible after filing. However, a case may be set for trial without a pretrial conference if the court determines that the case (or the class of cases) does not need a pretrial conference and should be set for trial.

B. **Preliminary Telephone Scheduling Conference**. Approximately forty-five (45) days after the adversary is filed, the court may notify counsel of a scheduling conference to be held by conference telephone call. As a result of this telephone conference, the court may enter such orders as are appropriate, including:

1. Dismissal for unreasonable failure to serve the complaint and summons;
2. Other requirements for service;
3. Deadlines for taking a default judgment;
4. Discovery schedules and orders; and
5. Determination of whether the scheduled pretrial conference will be a preliminary or a final pretrial conference.

C. **Pretrial Conference**. In the more complex adversary proceedings, the pretrial conference will be a preliminary pretrial conference. In less complex adversary proceedings, the pretrial conference will be a final pretrial conference. The preliminary pretrial conference and/or pretrial conference must be attended by trial counsel who must be prepared to discuss settlement and who must present at the conference, or earlier if ordered, all information in the form required by the pretrial order. The procedure for setting additional conferences which may be needed in the more complex litigation shall be determined by the Bankruptcy Judge at the preliminary pretrial conference.

D. **Division Variances**. The Bankruptcy Judge of each division will devise and implement the pretrial procedures to be used in such division and such procedures shall be set forth in detail in the Pretrial Order served with the Summons and Complaint or in any subsequent Order from Pretrial Conference.

**7055-1** **FAILURE TO PROSECUTE**
**See also LBR 2002-2, 2002-3, 7004-2**.

Failure to serve the Summons, Preliminary Pretrial Order and Complaint and timely filed proof of service may result in dismissal for failure to prosecute the case unless good cause is shown for different disposition.

**7067-1** **REGISTRY FUND**

Prior to a deposit into the registry of the court, it shall be the responsibility of the party depositing funds into the registry of the court to obtain an order permitting the deposit.

**UNIFORM LOCAL RULE NUMBER** | **TOPIC**

## PART IX

**9009-1** | **FORMS**

FORM NO. 1(a). APPLICATION TO EMPLOY ATTORNEY

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA
_____ DIVISION

IN RE: CASE NUMBER:

(Debtor(s)) CHAPTER 11 PROCEEDING

APPLICATION TO EMPLOY ATTORNEY

The application of _____, respectfully represents:

1.

The debtor has filed under Chapter 11 of Title 11, United States Code.

2.

The debtor, as debtor-in-possession, wishes to employ _____ and the law firm of _____, as attorneys under a general retainer to give the debtor legal advice with respect to debtor's powers and duties as debtor-in-possession in the continued operation of the debtor's business and management of the debtor's property and to perform all legal services for the debtor-in-possession which may be necessary herein.

3.

Your applicant has selected _____ and the law firm of _____ for the reasons that they have filed the initial papers on behalf of the debtor corporation, because they have gained experience as to the debtor's business and property by filing the petition herein, and the debtor believes that _____ and the law firm of _____ are well qualified to represent debtor, as debtor-in-possession in this proceeding. Furthermore, it is necessary for the debtor, as debtor-in-possession, to employ attorneys for such professional services.

4.

To the best of the debtor's knowledge, said _____ and the law firm of _____ have no connection with the debtor, the creditors or any other party in interest, their respective attorneys and accountants, the U.S. Trustee or any person employed in the office of the U.S. Trustee other than previously representing the debtor in filing the initial pleadings and in matters preliminary hereto.

5.

No party in interest has requested the appointment of a trustee, and thus no notice of this application need be given and no hearing thereon need be held because of the presumption accorded the debtor-in-possession pursuant to 11 U.S.C. § 1107(b).

WHEREFORE, your applicant prays that debtor be authorized to employ _____ and the firm of _____ or any of its members (attorneys) under a general retainer to represent the debtor as debtor-in-possession in this proceeding under Chapter 11 of the Bankruptcy Code, and that said debtor have such other and further relief as is just.

BY: _____

FORM NO. 1(b). AFFIDAVIT

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA
_____ DIVISION

IN RE: _____ CASE NUMBER: _____
(Debtor(s))

AFFIDAVIT

STATE OF _____
PARISH OF _____

1. BEFORE ME, the undersigned Notary Public, came and appeared _____, an attorney at law, who, after first being duly sworn, did declare and state that he/she is a partner in the law firm of _____, that to the best of his/her knowledge, _____ has no connections with the debtor, creditors, or any other party in interest, their respective attorneys and accountants, the U.S. Trustee or any person employed in the office of the U.S. Trustee represent(s) no interest adverse to _____ with respect to any of the matters upon which _____ has/have been or is/are to be engaged by the debtor(s) in the captioned proceeding, except as specified in paragraph 2 below, and that _____ are/is "disinterested" within the meaning of 11 U.S.C. Sections 327 and 1107(b).

2._____
_____ .

_____ (Signed)

SWORN TO AND SUBSCRIBED to before me, the undersigned Notary Public, this _____ day of _____, 20__.

_____
NOTARY PUBLIC

FORM NO. 1(c). ORDER AUTHORIZING RETENTION OF ATTORNEY

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA
_____ DIVISION

IN RE: CASE NUMBER:

(Debtor(s))

ORDER AUTHORIZING RETENTION OF ATTORNEY

Upon the annexed application of the debtor-in-possession, through his counsel, praying for authority to employ _____ and, if applicable, the law firm of _____ (individually, and if applicable, collectively "attorney") to represent the debtor-in-possession in these proceedings under Chapter 11 of the Bankruptcy Code, no notice of the application being given and none being necessary, and no adverse interest being represented; it appearing that said attorney is duly admitted to practice in this court, that said attorney represents no interest adverse to the debtor-in-possession or his estate in the matters upon which he is to be engaged, that said attorney's employment is necessary and would be in the best interest of the estate, that the case is one justifying a general retainer, that by accepting employment, the said attorney as an officer of this court enters into a special relationship of trust to the court and to the creditors, and that such employment brings with it special responsibilities;

IT IS THEREFORE ORDERED that the debtor-in-possession be and he is hereby authorized to retain _____ and the law firm of _____ as attorney generally in all matters, which in the performance of his duties the debtor-in-possession may properly require the services of an attorney under general retainer; and

IT IS FURTHER ORDERED that the said attorney be and he is hereby charged with the following special duties and responsibilities which he is hereby ordered to perform:

1. He shall offer advice to the debtor-in-possession and the officers, directors, employees, agents and partners thereof, as applicable, regarding the operation of the business of the debtor-in-possession and the debtor-in- possession's responsibility to comply with the orders of this court, including the Order to Debtor-in-Possession, the Bankruptcy Code, the F.R.B.P., the Local Bankruptcy Rules, the Guide to Practice, and other applicable law.

2. He shall advise debtor-in-possession of his obligations to file the reports required by the Order to Debtor-in-Possession filed in connection with this case and shall instruct debtor-in-possession to include therein any information material to the continued operation of the debtor-in-possession and to the continuation of these proceedings.

3. He shall instruct debtor-in-possession of his responsibility to take all steps reasonably necessary to prevent any depletion of the assets of the estate during the pendency of these proceedings and his responsibility to notify the court of any actual or threatened depletion of the assets.

4. If, at any time during the pendency of these proceedings, he concludes that the continued operation of debtor-in-possession's business or the continuation of these proceedings is not in the best interest of the creditors and of the estate, he shall immediately advise debtor-in-possession of that conclusion and recommend that debtor-in-possession so advise the court.

5. He shall inform debtor-in-possession that debtor-in-possession may not pay any indebtedness or obligation owed by the debtor on the date of the filing of the petition initiating this proceeding pending further orders of the court.

6. He shall promptly advise debtor-in-possession not to make any sales of any assets outside the ordinary course of business except upon appropriate further orders of this court.

7. He shall advise debtor-in-possession that debtor-in-possession must comply with the requirements of the Internal Revenue Code and in particular with the depository receipt requirements of the Internal Revenue Code and regulations and that debtor-in-possession must comply with all applicable state tax laws and regulations. Further, he shall report to the court any continued and intentional failure of debtor-in-possession to follow his advice.

8. He shall advise debtor-in-possession that all financial reports that are required to be filed by the Order to Debtor-in-Possession must be true, correct and accurate and that debtor-in- possession must timely file such reports. In the event that debtor-in-possession continually intentionally fails to follow his advice, he shall report same to the court.

9. He shall advise debtor-in-possession that all debts incurred by the debtor-in-possession in the course of the operation of his business as debtor-in-possession are to be paid in the ordinary course of business and in accordance with the terms of this court's order authorizing the continued operation of the business.

_____, Louisiana, this _____ day of _____, 20__.

_____
UNITED STATES BANKRUPTCY JUDGE

I agree to accept, and agree to be bound in all particulars by the provisions of the foregoing order authorizing my employment.

_____
Attorney for Debtor-in-Possession

FORM NO. 2. ORDER TO DEBTOR-IN-POSSESSION

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA
_____ DIVISION

IN RE: CASE NUMBER:

(Debtor(s))

ORDER TO DEBTOR-IN-POSSESSION

Upon the filing of this case under the provisions of Chapter 11 of the Bankruptcy Code and under the authority granted by 11 U.S.C. Section 105 to carry out the provisions of the Bankruptcy Code,

IT IS ORDERED that, pursuant to 11 U.S.C. Section 1101(1), the above named debtor continue in possession of its estate and, pursuant to 11 U.S.C. Sections 1107(a) and 1108, the operation of its business and management of its property until further order of this court.

IT IS FURTHER ORDERED that in connection with the operation of said business, the debtor-in-possession:

1. Shall close all bank accounts maintained prior to the filing of the petition. All funds presently on deposit to the credit of the debtor in said accounts shall be transferred to new accounts to be opened by the debtor-in-possession. Deposits are to be made only in accounts insured or guaranteed by a department or an agency of the United States or in an account in an approved depository for bankruptcy accounts by the United States Bankruptcy Court provided that all deposits in excess of those amounts insured or guaranteed by a department or an agency of the United States or in excess of those amounts authorized to be in an account in an approved depository for bankruptcy accounts by the United States Bankruptcy Court shall be made only upon motion and order of this court pursuant to F.R.B.P. 5008 and 11 U.S.C. Section 345(b).

2. Shall segregate and hold separate and apart from all other funds any and all monies withheld from employees or collected from others for taxes, including social security taxes, under the laws of the United States or any state or subdivision thereof, and shall deposit, using federal tax deposit forms, within two days of a payroll, all monies withheld from employees for social security and federal income tax withholdings and shall notify the Special Procedures Staff, Internal Revenue Service, 600 South Maestri Place, New Orleans, Louisiana, 70130, of the amount of each such deposit and whether such amount represents the entire sum due at that time, and shall deposit or pay promptly (upon collection) to any state or political subdivision thereof any and all monies required to be withheld or collected from others, on such similar basis as may be required by the laws or ordinances of such state or political subdivision; the debtor-in-possession is required to report the amounts withheld and collected for others which are to be paid in the way of income, withholding, or social security taxes to the appropriate authorities.

3. Shall close and preserve his present books and accounts and open and maintain new books of account showing all income, expenditures, receipts and disbursements of the debtor while debtor-in-possession.

4. Shall not pay any debt or obligation incurred prior to the filing of the petition unless payment of the pre-petition debt is specifically authorized by the court.

5. Shall not use "cash collateral" as defined in Section 363 of the Bankruptcy Code if said cash collateral is the subject of a security interest until further order of this court. All cash collateral is to be deposited in a separate account pending the entry of a court order with respect to its disposition.

6. Shall not sell, lease or otherwise dispose of property not in the ordinary course of business or enter into any transaction not in the ordinary course of business except pursuant to court order, but may buy and sell merchandise, supplies and other property in the ordinary course of business necessary and essential for its operation and to render and obtain services.

7. Shall keep the property of the debtor's estate insured at a level equal to the value of such property or to such lesser or greater amounts as this court by order might approve and to pay such premiums as may be or may become due thereon.

8. Shall file with the Clerk of this Court and submit to the U.S. Trustee and the unsecured creditors' committee on or before the 15th day of each month a verified statement of financial information covering the prior month's operations of the debtor, which shall include therein the following information:

A. The compilation or review or audit of financial statements to include:

1. A balance sheet reflecting primary classifications of Schedules A and B data;

2. A profit and loss statement for the current month and the accumulation during the Chapter 11 case;

3. A statement of the method of accounting used;

4. Cash receipts and disbursements stating received from or paid to whom; or a statement of source and application of funds or cash.

B. A narrative report of the debtor's efforts during the prior month to rehabilitate the business and confect a plan.

9. Shall take all steps reasonably necessary to attempt to prevent the incurring of administrative or priority expenses, the payment of which will not be possible from funds which can be generated during the proceeding, and take all steps necessary to prevent any depletion or potential depletion of said assets and

shall further advise this court promptly if the continued operation of the business of the debtor may not be in the best interest of the creditors or the debtor.

IT IS FURTHER ORDERED that no compensation or other remuneration shall be paid from the assets of the estate to the debtor, or if the debtor is a partnership to any of the partners, or if the debtor is a corporation to any present or former officer, director, or stockholder thereof from the time of the filing of the petition until confirmation of a plan unless such employment and the basis of compensation has first been authorized by this court. See Local Bankruptcy Rule 2014-1. Any application for such compensation or other remuneration requested on an ex parte basis or otherwise shall disclose, under oath, all income from any source for compensation for services related to the debtor proceeding.

IT IS FURTHER ORDERED that the debtor herein file a plan, pursuant to 11 U.S.C. Sections 1121 and 1123, within one hundred twenty (120) days after the date of the order for relief.

IT IS FURTHER ORDERED that the debtor file, with the plan, a disclosure statement containing such information as is adequate, pursuant to 11 U.S.C. Section 1125.

THUS DONE AND SIGNED in _____, Louisiana, this __ day of _____, 20__.

_____

JUDGE, U.S. BANKRUPTCY COURT

FORM NO. 3. ORDER TO ATTORNEY FOR DEBTOR-IN-POSSESSION AND NOTICE OF CHAPTER 12 PROCEDURAL REQUIREMENTS

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA
_____ DIVISION

IN RE: CASE NUMBER:

(Debtor(s))

ORDER TO ATTORNEY FOR DEBTOR-IN-POSSESSION AND NOTICE OF CHAPTER 12 PROCEDURAL REQUIREMENTS

You have filed a petition for relief for a family farmer under Chapter 12 of the Bankruptcy Code on behalf of the above debtor. I am hereby notifying you as attorney for the debtor of the following:

1. Section 521 of the Bankruptcy Code requires the debtor to cooperate with the United States Trustee and the Chapter 12 Trustee appointed in this case. The debtor is also required to furnish information required by the United States Trustee and the Chapter 12 Trustee in supervising the administration of this case, including regular reports of operations of the debtor's farming enterprise. Also, as required by F.R.B.P. 9034, you and the debtor are required to give the Chapter 12 Trustee and the United States Trustee notice of all motions and other pleadings filed in this case, as specified in the Rule.

2. The debtor must provide the Chapter 12 Trustee with the following financial and informational reports:

   a. **Summary of Operations for Chapter 12 Case**. The enclosed report is an informational report showing the debtor's acreage, results from last year's operation, and estimates or projections for the current or next crop year. This form should be completed and received in the Chapter 12 Trustee's office at least five (5) days prior to the first meeting of creditors.

   b. **Monthly Cash Receipts and Disbursements Statement**. The enclosed form should be self-explanatory. The debtor must report no later than the 15th day following the end of the month all of his receipts or income, in cash or by check received during the month. The receipts should be itemized by kind, quantity, and dollar amount, for example: "Sold 2,000 bushels of corn--$2,000", "Sold 10 beef cattle--$4,000", "Sold 5 tons of hay--$275." Likewise, all expenses paid in cash or by check should be itemized. All cash received must be deposited in the debtor-in-possession's bank account and all payments should be made by check to the extent feasible. If cash is paid by the debtor, a written

receipt must be obtained and kept in a file or envelope. As indicated, household or family living expenses need not be itemized but a lump-sum of cash used or spent for household or family living expenses should be shown. Operating expenses should be itemized under appropriate headings such as fuel, feed, veterinary expense, repairs, etc. Be sure the debtor knows how to complete that part of the form which calls for a monthly reconciliation of cash.

c. **Tax Deposit Statement**. If the debtor is a family farm corporation or if the debtor has employees for which he must withhold income taxes or pay social security taxes, he must complete the tax deposit statement enclosed with this letter and provide evidence of payment.

d. **Insurance Statement**. Within ten days after the date of this letter, the debtor must provide the Chapter 12 Trustee with a verified statement or written evidence from his insurance carrier or broker that he has fire and extended coverage on his buildings and equipment and also motor vehicle insurance on all vehicles operated on public highways. If no such insurance is currently in effect, the debtor must explain why it is not in force. The debtor shall immediately notify the Chapter 12 Trustee of any lapse, cancellation, or proposed cancellation of any insurance coverage.

3. Under Section 1231 of Chapter 12 of the Bankruptcy Code, a separate taxable entity is created for state and local tax purposes commencing on the day the Chapter 12 petition was filed. Therefore, the debtor is required to commence keeping books and records for the new separate taxable entity. This means that the debtor should do the following:

a. The books and records of the debtor are to be closed as of the date of filing the bankruptcy petition, and a new set of books and records must be kept thereafter for the debtor-in-possession under Chapter 12.

b. All of the debtor's bank accounts must be closed immediately upon the filing of the Chapter 12 petition, and new bank accounts opened. All amounts from the old accounts and all receipts are to be deposited in the new bank accounts, and all disbursements should be made by check.

c. The debtor must keep a file (or envelope) in which to keep a copy of all bills, invoices and sales slips for purchases or payments he makes after the petition is filed.

4. You will receive a separate notice of the date, time and place for the first meeting of creditors under Section 341 of the Bankruptcy Code. Both the debtor and his attorney must attend that meeting, at which the debtor will be examined under oath by the Chapter 12 Trustee and any creditors who may attend. The debtor must bring to that meeting a copy of his last year's federal, state and local (if required) income tax returns, Form 1040, and all Schedules filed with the return, including

Schedule F. The copy of the income tax returns must be filed with the Chapter 12 Trustee at the First Meeting as an exhibit.

5. In addition to the Monthly Cash Receipts and Disbursements Statement referred to in paragraph 2.b. above, within 60 days after the end of a calendar year (or fiscal year), the debtor must complete and file with the Chapter 12 Trustee a Schedule F together with all supporting schedules of Schedule F, and Form 4835 of IRS Form 1040 for any part of the first calendar or taxable period ending after the date on which the Chapter 12 petition was filed. The Schedule F and Form 4835 must report all income and all expenses to the end of the calendar (or fiscal) year. Since Section 1231(b) of Chapter 12 requires the Chapter 12 Trustee to make a state or local tax return for an individual debtor-in-possession, the Chapter 12 Trustee will probably have to consult further with you and the debtor-in-possession in order to discharge his responsibility to prepare the tax return. The debtor is responsible for filing and paying all federal taxes as usual.

6. Since Congress specified that Chapters 1, 3 (except for Section 361) and 5 of the Bankruptcy Code also apply to cases under Chapter 12 of the Bankruptcy Code, you should emphasize to your client that he may not:

   a. Retain or employ attorneys, accountants, appraisers, auctioneers or other professional persons without court approval. This includes employing the attorney who filed the petition to provide services after the filing. See 11 U.S.C. Section 327.

   b. Compensate any attorney, accountant, appraiser, auctioneer or other professional person except as allowed by the Court. See 11 U.S.C. Section 330.

   c. Use cash collateral (or cash equivalents) without the consent of the secured creditor or court authorization. See 11 U.S.C. Section 363(c)(2). Cash collateral includes proceeds, products, offsprings, rents, or profits of property subject to a security interest when reduced to cash.

   d. Obtain credit or incur unsecured debt other than in the ordinary course of business without Court authorization. See 11 U.S.C. Section 364(b).

   e. Incur secured debt without court authorization. See 11 U.S.C. Section 364(c).

   f. Pay any creditor for goods or services provided before the filing of the petition except as provided in a confirmed plan. See 11 U.S.C. Section 549.

7. A Chapter 12 plan must be filed within 90 days of the date the petition was filed, unless the Court extends the time. 11 U.S.C. Section 1221. Failure to comply is cause for dismissal under 11 U.S.C. Section 1208. The statement of current income and current expenditures required to be filed under 11 U.S.C. Section 521(1) should be accurate and should be reviewed and modified

if necessary prior to the Section 341 meeting. Failure to provide an accurate statement may result in denial of confirmation, dismissal or conversion to a Chapter 7 liquidation.

8. Liquidation Analysis. Under Section 1225(a)(4) of Chapter 12, you must be able to prove at the hearing on confirmation of the plan that the amount that will be distributed under the plan for each allowed unsecured claim is not less than the amount that would be paid on the claim if the debtor were liquidated under Chapter 7. A claim filed by an unsecured creditor is allowed unless the debtor or the Chapter 12 Trustee files an objection to it in court and the court sustains the objection. I suggest that you give consideration to the early preparation of an accurate analysis of the liquidation value of all of the property of the debtor's estate which you must be prepared to offer as an Exhibit at the confirmation hearing, or the court may not be able to confirm your plan.

9. Failure to Comply. Failure of the debtor to comply with the instructions contained in this Order may be grounds for dismissal of this Chapter 12 case under Section 1208 of the Bankruptcy Code.

If you or the debtor have any questions about this order and the enclosed instructions, please call or write, or discuss the situation with:

Ms. Fran Strange
Mailing Address/Office Address
United States Trustee
United States Courthouse
300 Fannin Street, Suite 3196
Shreveport, LA 71101
(318)676-3456

who has been appointed Chapter 12 Standing Trustee. You will need to contact the Trustee who has been appointed for this particular case. The Trustee's percentage fee to be collected on all payments under plans has been set by the Attorney General at 10 percent on the first $450,000.00 paid under the plan, and three percent on the overage.

IT IS SO ORDERED.

THUS DONE AND SIGNED at _____, Louisiana, this ___ day of _____, 20__.

_____
JUDGE, U.S. BANKRUPTCY COURT

FORM NO. 4. CHAPTER 12 CASE--MONTHLY CASH RECEIPTS AND DISBURSEMENTS

Month of _____, 20__

CHAPTER 12 CASE

NAME OF DEBTOR: _____
CASE NO.: _____

MONTHLY CASH RECEIPTS AND DISBURSEMENTS

(Report on a cash basis, unless you keep financial records on an accrual basis.)

I. Cash Received During Month (Itemize):

| Item & Quantity Sold | Amount | |
|---|---|---|
| New loan received this month (if any): | $_____ | |
| Wages earned from outside work: | $_____ | |
| Other receipts: | $_____ | |
| TOTAL CASH RECEIPTS | | $_____ |

II. Expenses Paid:

Total amount paid for household or living expenses: $_____

Operating expenses paid (itemize):

| Item | Amount | |
|---|---|---|
| Plan payments made to Chapter 12 Trustee: | $_____ | |
| TOTAL EXPENSES PAID DURING MONTH | | $_____ |
| Losses due to crop failure or damage: | $_____ | |
| Losses due to death or disease of livestock or poultry: | $_____ | |
| PROFIT (OR LOSS) FOR MONTH | | $____ |

III. Cash Reconciliation:

| | | |
|---|---|---|
| Cash and Bank Accounts Balance at Beginning of Month: | $_____ | |
| Income (or Loss) During Month: | $_____ | |
| Cash and Bank Account Balance at End of Month: | | $____ |

IV. Expenses Charged But Not Paid During Month (Itemize):

| Expense | Amount |
|---|---|

I CERTIFY UNDER PENALTY OF PERJURY THAT I HAVE READ THE FOREGOING STATEMENT, AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

| _____ | _____ |
|---|---|
| DATE | DEBTOR/OFFICER OF DEBTOR |

FORM NO. 5. CHAPTER 12 CASE SUMMARY OF OPERATIONS--FAMILY FARMER

CHAPTER 12 CASE

SUMMARY OF OPERATIONS--FAMILY FARMER

(This report must be filed with the Chapter 12
Trustee 5 days before the First Meeting of Creditors)

NAME OF DEBTOR: _____
CASE NO.: _____

I. NUMBER OF ACRES:

Owned: _____

Leased (list by parcel) — Amount or % of Rent Received by Debtor

_____ _____
_____ _____
_____ _____

Total owned & leased by debtor from others: _____
Total leased to others: _____
Tillable acreage: _____
Set aside acreage: _____

II. LIVESTOCK AND POULTRY:

Number of (list by kind)

III. RESULTS OF LAST CROP SEASON:

A. Crops Grown:

| CROP | NUMBER ACRES PLANTED | PER ACRE | YIELD AMOUNT SOLD | TOTAL SALES PRICE | QUANTITY SOLD OR SEALED | AMOUNT OF LIEN ON STORED CROP |
|---|---|---|---|---|---|---|
| (LIST BY CROP) | | | | | | |

B. Livestock and Poultry Sold Last Year:

| Livestock and poultry | Number | Total Price |
|---|---|---|
| (LIST BY KIND) | | $_____ |

C. Total Income Last Year from Products Sold:
(i.e., milk, eggs, wool, hides, etc.)

(LIST BY KIND) $_____

Have you made an assignment of proceeds?
(YES/NO) _____
If yes, to whom: _____

IV. CURRENT OR PROPOSED FARMING SEASON:

A. Crops:

| CROP | NO. OF ACRES | ESTIMATED* YIELD | ESTIMATED PRICE ** PER UNIT | TOTAL PROCEEDS |
|---|---|---|---|---|
| (LIST BY KIND) | | | | |

TOTAL PROCEEDS--ALL CROPS: $_____

FN* Assuming normal moisture and growing conditions.
FN** State your estimate of market price per unit or government support (loan) price if you are eligible for government support program.

B. Estimated Income from Livestock and Poultry Operation:

| Livestock and Poultry | Number to be Sold | Estimated Total Price |
|---|---|---|
| (LIST BY KIND) | | |

TOTAL LIVESTOCK AND POULTRY SALES PRICE: $_____

C. Total Estimated Crop & Livestock and Poultry Income: $_____

V. CURRENT OR PROPOSED CROP SEASON--ESTIMATED EXPENSES:

A.

| Expenses | Amount |
|---|---|
| Fuel | $_____ |
| Seed | $_____ |
| Feed | $_____ |
| Fertilizer | $_____ |
| Herbicides, Pesticides or other Chemicals | $_____ |
| Equipment Rental | $_____ |
| Electric & Phone Bills | $_____ |
| Repairs | $_____ |
| Crop Insurance | $_____ |
| Other Insurance | $_____ |
| Real Estate Taxes | $_____ |
| Cash Rent on Leased Land | $_____ |
| Combining and/or Drying Expense | $_____ |
| Processing Costs | $_____ |
| Hired Labor | $_____ |
| Other | $_____ |
| TOTAL ESTIMATED OPERATING EXPENSES | $_____ |

If you have an operating loan for the current or proposed crop season, state amount $_____ and name and address of lender _____ and security given or pledged _____.

B. Payments on Secured Debt:

Cash rents (if not included in Part A above)

_____

Crop Share Rents--State no. of bushels/pounds and dollar value--_____

Real Estate Mortgage and Contract for Deed (purchase agreement) payments:

| To Whom: | Amount |
|---|---|
| _____ | $_____ |
| _____ | $_____ |
| _____ | $_____ |
| _____ | $_____ |
| TOTAL AMOUNT | $_____ |

Annual Payment due on Equipment Purchase Contracts:

| To Whom: | _____ | Amount | $_____ |
|---|---|---|---|
| | _____ | | $_____ |
| | _____ | | $_____ |
| | _____ | | $_____ |
| | TOTAL AMOUNT | | $_____ |

Payments on Loans Secured by Equipment, Crops, or Livestock:

| To Whom: | _____ | Amount | $_____ |
|---|---|---|---|
| | _____ | | $_____ |
| | _____ | | $_____ |
| | _____ | | $_____ |
| | TOTAL AMOUNT | | $_____ |

TOTAL PAYMENTS ON SECURED DEBT: $_____

C. Total Operating Expenses and Payments on Secured Debt: $_____

VI. NET ESTIMATED OPERATING PROFIT OR LOSS:
(Total Receipts from Item IV(C) less Total Expenses and Payments from Item V(C)): $_____

VII. AMOUNT OF DISPOSABLE INCOME AVAILABLE TO PAY UNSECURED CLAIMS:
(Subtract VII(C) from Item VI) $_____

| | | | |
|---|---|---|---|
| A. | Estimated Household and Family Cash Living Expenses (subtract from net profit or add to net loss): | $_____ | |
| B. | Estimated State, Local, and Federal Income Tax on Net Profit | $_____ | |
| C. | Total of A and B | | $_____ |
| D. | Disposable Income from Farming (Subtract C from amount entered on line at VII) | | $_____ |
| E. | Income from other than Farming | | $_____ |
| F. | Total Disposable Income | | $_____ |

FORM NO. 6. TAX DEPOSIT STATEMENT

TAX DEPOSIT STATEMENT

_____, Debtor in Possession Case No. _____

Month or Period Ending _____, 20__

SUMMARY

FEDERAL WITHHOLDING TAX

| | | |
|---|---|---|
| Beginning Withholding Tax Payable | | $____ |
| Withheld or Accrued | $____ | |
| Disbursements to Tax Account | | $____ |
| Deposit Receipt _____ | | |
| and/or | | |
| Check Numbers _____ | | |
| Ending Withholding Tax Payable | | $____ |

STATE WITHHOLDING TAX

| | | |
|---|---|---|
| Beginning Withholding Tax Payable | | $____ |
| Withheld or Accrued | $____ | |
| Disbursements to Tax Account | | $____ |
| Deposit Receipt _____ | | |
| and/or | | |
| Check Numbers _____ | | |
| Ending Withholding Tax Payable | | $____ |

FICA WITHHOLDING TAX (Include both Employer and Employee Share)

| | | |
|---|---|---|
| Beginning Withholding FICA Tax Payable | | $____ |
| Withheld or Accrued | $____ | |
| Disbursements to Tax Account | | $____ |
| Deposit Receipt _____ | | $____ |
| and/or | | |
| Check Numbers _____ | | |
| Ending FICA Tax Payable | | $____ |

SALES TAX

| | |
|---|---|
| Beginning Sales Tax Payable | $____ |
| New Sales Tax Payable | $____ |
| Disbursements to Tax Account | $____ |
| Deposit Receipt _____ | |
| and/or | |
| Check Numbers _____ | |
| Ending Sales Tax Payable | $____ |

I CERTIFY UNDER PENALTY OF PERJURY THAT I HAVE READ THE FOREGOING STATEMENT, AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

_____ Debtor or Officer of the Debtor

FORM NO. 7. APPLICATION FOR INTERIM ALLOWANCE OF ATTORNEYS' FEES AND FOR REIMBURSEMENT OF OUT-OF-POCKET EXPENSES BY _____ ATTORNEYS OR OTHER PROFESSIONALS

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA
_____ DIVISION

IN RE:

)( CASE NO. ___BK_____

)(
Debtor(s) )( CHAPTER (7, 11, 12, 13)

(FIRST, SECOND, ..FINAL) APPLICATION FOR
COMPENSATION AND EXPENSES BY
(ATTORNEY, ACCOUNTANT, AUCTIONEER..OR
OTHER PROFESSIONAL) FOR
(TRUSTEE, DEBTOR, ____COMMITTEE...OR OTHER PARTY)

NOW INTO COURT, comes ___(name)___, (attorney or other professional) for (Trustee, or debtor or other party), in the above captioned case, pursuant to 11 U.S.C. §§ 330, 331 (include any other statutory reference under which compensation is sought); F.R.B.P. 2016; and previous orders of this Court, hereby submits a (__first, second, or __) application for allowance and payment of 1) compensation in the amount of $_____ for the period of __(date)__; and 2) reimbursement of actual and necessary out-of-pocket expenses in the total amount of $_____incurred during the same time period. In support of this application, it is represented as follows:

I. INTRODUCTION

A. Case Background

1. On ___(date)__, __(name)__ filed a (voluntary or involuntary) petition seeking relief under Chapter (7, 11, 12, 13) of the United States Bankruptcy Code.

2. This court has jurisdiction over this matter pursuant to 28 U.S.C. §§157, 1334; this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

3. The (trustee, ___Name___; or __type____ committee) was appointed by the United States Trustee on ____(date)_____.]

B. Applicant's Employment

1. Upon application to this court by the (trustee, debtor, examiner, type) committee) an order was entered on (date) approving the employment of applicant as (attorney, accountant, auctioneer, etc...) to the (trustee, debtor, examiner, type committee). Said (name professional) was employed under a general retainer to be paid as an administrative expense of the bankruptcy estate (include any other agreement or any appropriate source providing compensation).

2. Applicant has not provided services to the estate which unnecessarily duplicate the professional services performed by other (attorney, accountant, auctioneer, etc...) approved herein.

3. All services performed and expenses incurred for which compensation or reimbursement is requested were performed or incurred for and on behalf of the (trustee, debtor, examiner, etc.) and not for any other person or entity.

4. The applicant has not shared or agreed to share compensation or reimbursement of expenses awarded in this case with any other person except as among the members and employees of the firm.

5. The applicant has not made any agreements with the (trustee, debtor, examiner, type committee,...), or others, for compensation or reimbursement which have not been disclosed to the Court.

II. APPLICATION HISTORY

1. This applicant is the (first, second, final, etc...) applicant for compensation by (attorney, accountant or other professional) for (trustee or other appropriate party). A summary of prior awards, if any, is provided below as part III, subsection F.

2. More than 120 days have passed since the order for relief was entered or the last fee application was approved, and therefore, leave of court to file this application is not necessary. (Or state date order was entered allowing applications for a lesser term than 120 days.)

III. THE PRESENT APPLICATION

A. BILLING

1. A summary, arranged according to project categories of the compensation requested and stating the out-of-pocket expenses incurred in this case, is attached hereto as Exhibit "A" and incorporated herein. Exhibit "B," attached hereto and incorporated herein, includes a detailed listing by date of the party or parties providing services, the services rendered to the estate and a detailed listing of actual and necessary out-of-pocket expenses for which reimbursement is sought.

2. Movant's hourly rate and the rate for other members of the firm for the time period covered were _____ $_____ and _____ $_____, and these rates have been previously approved by this court and other courts. Fees are fixed and not contingent. Applicant charges __ $_____/ hour to non-bankruptcy clients.

3. The __(Trustee, debtor, examiner, committee, etc.)____ has reviewed this application and approved the request for compensation and reimbursement.

B. CASE STATUS

ALL CASES

1. Cash on hand/deposit:

2. Accrued, unpaid administrative expenses:

3. Unencumbered estate funds:

4. CHAPTER 7 administrative summary (trustee and trustee's counsel)
   a. monies received:_____
   b. monies disbursed:_____
   c. projected closing date:_____

   CHAPTER 11, (debtor-in-possession's attorney, creditors' committee attorney, trustee's attorney, etc...)
   a. date disclosure statement/plan filed:_____
   b. status of UST fees:_____
   c. status of monthly reports:_____

   CHAPTER 12, 13
   a. date plan filed:_____
   b. status of confirmation:_____
   c. status of plan payments:_____
   d. status of monthly reports for chapter 12:__

5. (status changes in case:_____)

C. SERVICES PERFORMED ON BEHALF OF THE TRUSTEE, DEBTOR, EXAMINER, (TYPE) COMMITTEE, ETC...)

1. During the period covered by this application, the applicant has performed various services on behalf of the (name party) which are fully detailed in Exhibit "B". The applicant has categorized the time spent by its professionals according to project categories. In this case, the applicant's professionals have billed time to the following project categories:

a)_____
b)_____
c)_____

2. The categories are maintained as separate working files and billing matters. The detailed descriptive list of services performed provide the date the service was performed, the activity which occurred, the persons involved in the activity, and the time required to perform the task. Travel time is billed at one-half the regular hourly rate.

3. A summary of each category is as follows:

a) _____
b) _____
c) _____

4. The amount of compensation sought for each project is summarized on Exhibit "A" as referred to in part III., subsection A., above.

5. The total amount of compensation sought in this application is _____.

6. The services rendered by the applicant to the estate are of benefit to the estate and satisfy the factors in *Johnson v. Georgia Highway Express,* 488 F.2d 714 (5th Cir.1974) as discussed below. (If the case does not involve *extraordinary* factors concerning the item, the applicant should state *"none"* or *"not applicable"*.) Those factors are:

a) The novelty and difficulty of the questions;
b) The skill required to perform the legal services properly;
c) The preclusion of other employment;
d) The customary fee;
e) Whether the fee is fixed or contingent;

f) Time limitations imposed by the client or circumstances;
g) The amount involved and the results obtained;
h) The experience, reputation and ability of the attorney;
i) The "undesirability" of the case;
j) The nature and length of the professional relationship;
k) Awards in similar cases.

D. PROFESSIONALS WHO HAVE PROVIDED SERVICES

1. The applicant's professionals who have provided services to the estate on each project and individual hourly rates are itemized on Exhibit " B" herein.

2. Attached as Exhibit "C" are brief biographical summaries, including bankruptcy experience, of the professionals rendering services for which compensation is sought in this application.

3. Given the education and experience of each professional, the rates charged are reasonable compensation for the services of these professionals and are the same rates which are typically charged to non-bankruptcy clients for similar services by the applicants.

E. REIMBURSEMENT OF OUT-OF-POCKET EXPENSES

1. From _date_ to _date_ the applicant has incurred actual and necessary out-of-pocket expenses in the total amount of ___ $_____ in connection with the professional services which it has rendered to the estate.

2. A summary (as stated above in part III (A) with the amount of out-of-pocket expenses incurred by categories is attached hereto as Exhibit "A". A detailed analysis of the expenses is attached hereto as Exhibit "B".

3. Photocopying is charged at the rate of $___ per page; long distance charges are actual costs incurred from the provider of services; photocopies made by third party services are actual expenses; mileage is billed at $____ per mile (add other per piece rates here, if applicable).

4. The total amount of reimbursement for expenses is $_____.

F. SUMMARY OF PAYMENTS MADE UNDER COMPENSATION ORDER

1. Applicant received a retainer of ____ $_____ which applicant holds in its attorney escrow account. (State lack of retainer or explain previously approved draws from retainer.)

2. "The debtor has not been paid for any services or expenses rendered or described herein." OR "A summary of the previously approved fees and expenses" includes $_____.

3. Previously approved, but unpaid awards include: ____(give amounts, dates of order, conditions [if any] of holdbacks)_____.)

WHEREFORE, applicant prays:

1. That interim compensation and reimbursement of expenses be awarded in the total amount of _____ $_____ which represents _____ $_____ for professional services rendered from _date to _date_ and _____ $_____for out-of-pocket expenses incurred during the same period.

2. That these amounts be allowed as administrative expenses of the estate; and

3. That the _(trustee, debtor-in-possession)__ be ordered and authorized to pay such amounts from assets of the estate as set forth herein and that applicant be allowed to set-off and pay any such amounts authorized through the retainer from its professional escrow account.

This _____ day of _____, _____.

_____

(APPLICANT'S SIGNATURE BLOCK WITH NAME
[BAR NUMBER, IF ATTORNEY], ADDRESS,
TELEPHONE NUMBER)

[CERTIFICATE OF SERVICE]

EXHIBIT "A"

SUMMARY

TOTAL TIME EXPENDED ACCORDING TO PROJECT CATEGORIES::

INITIAL PLEADINGS:

| | |
|---|---|
| Attorney Compensation | $195.50 |
| Paralegal Compensation | 37.50 |

INVESTIGATION OF SECURED CLAIMS:

| | |
|---|---|
| Attorney Compensation | $62.50 |
| Law Clerk | 50.00 |
| Total Compensation | $345.50 |

[Other project categories might include Interview Client, Preparation and Filing Disclosure Statement and Plan, Review Executory Contracts, Leases, Lender Liability Issues, Discharge Litigation, Objections to Claims, etc. Note that itemization by project categories will vary in proportion to complexity of the case and/or the scope of the employment. For example, an attorney employed to represent the trustee generally might object to the discharge, file objections to claims, and prosecute fraudulent conveyance and preference actions which should be categorized separately. However, an accountant employed to assist the trustee in the final accounting may perform services in only one category].

Out-of-Pocket Expenses

Photocopies (100 copies at $0.10 per page) ..... $ 10.00
Long Distance Charges ..... $ 13.78
Postage (50 letters at $0.32 each) ..... ..... $ 16.00
Etc..... $_____
TOTAL EXPENSES ..... $ 39.78

| | |
|---|---|
| TOTAL COMPENSATION REQUESTED | $345.50 |
| TOTAL EXPENSES REQUESTED | $ 39.78 |
| TOTAL (COMPENSATION AND EXPENSES) REQUESTED | $ 385.28 |

Exhibit "B"

(Daily breakdown of all time spent in this case by attorneys, paralegals, and law clerks.) For Example:

PROJECT: INITIAL PLEADINGS

| Date: | Attorney | Explanation of Activities | Hours |
|---|---|---|---|
| 01/15/yr | WB | Met with client & prepared Schedules | 2.30 |
| 01/31/yr | Paralegal (Green) | Prepared Schedules | 1.50 |

PROJECT: INVESTIGATION OF SECURED CLAIMS

| Date: | Attorney | Explanation of Activities | Hours |
|---|---|---|---|
| 03/02/yr | JA | Called client re: 1st mortgage on office building & furniture | 0.50 |
| 03/03/yr | Law Clerk (Dan) | Research re: recordation of chattel Mortgage in multiple parishes | 2.00 |

TOTAL TIME EXPENDED:
WB.....2.30 hours at $85.00/hr.....$195.50
Paralegal.....1.50 hours at $25.00/hr.....$ 37.50
JA.....0.50 hours at $125.00/hr.....$ 62.50
Law Clerk.....2.00 hours at $25.00/hr.....$ 50.00
TOTAL LEGAL FEES $345.50

OUT-OF-POCKET EXPENSES

[Example]

Itemization of Long Distance Expense by Date

| | |
|---|---|
| 01/15 Call Clerk of Bankruptcy Court | 1.02 |
| 03/12 Call Client | 2.10 |
| [Etc.] | [.....] |
| Total Long Distance Expense | $13.78 |

TOTAL COMPENSATION REQUESTED..... $345.50
TOTAL OUT-OF-POCKET EXPENSES.....39.78
TOTAL AMOUNT DUE ..... $385.28

Exhibit “C”

[Biographical Summaries]

**9013-1** **MOTION PRACTICE**

**See also LBR 2002-1, 2002-3, 4001-1**.

A. **Motion Day.** Each judge of each division shall designate a particular day or days as its motion day. Motion day may be cancelled or changed on account of national holidays or other cause. On this day, priority shall be given to the presentation of motions. Motions may also be designated for hearing at some other time by order of the judge to whom the action is allotted.

B. **Setting Motions for Hearing.** All motions (except those made during a hearing or trial) and all applications must be made in writing and shall be filed with the Clerk of the Bankruptcy Court. Scheduling of motions for hearing shall be the responsibility of the Clerk of the Bankruptcy Court. After scheduling by the clerk or the court, counsel for movant shall notice opposing parties, the United States Trustee, as well as any other parties required by the F.R.B.P.; the notice shall state date, time, and place of the hearing. Failure to notice hearings shall result in the matter being stricken from the docket.

C. **Expedited Hearings**. When movant needs an expedited hearing, counsel shall request an earlier date agreed to by opposing counsel; if agreement of opposing counsel cannot be obtained, counsel may file an ex parte motion for expedited hearing with reasons set forth showing the need for an expedited hearing and a statement that opposing counsel has been contacted and refuses to consent to the expedited hearing or reasons why such contact is impractical.

**9013-2** **BRIEFS & MEMORANDA OF LAW**

Upon request by the court, in its discretion, counsel shall submit a memorandum of authorities in support of or in opposition to any motion which counsel may file or oppose. Such memoranda shall contain or be accompanied by a concise statement of the reasons supporting the movant's or opponent's position and a citation of the statutes, jurisprudence or other authorities upon which the party relies.

**9013-3**

## CERTIFICATE OF SERVICE-MOTIONS

**See also LBR 2002-1, 2002-2, 2002-3 4001-1, 9013-1.**

A. **Certificate of Service**. A certificate of service of the motion and notice of hearing shall be filed no later than five (5) calendar days prior to the hearing. The certificate of service shall specify, where applicable, the names and addresses of the parties served and shall not simply state that "all interested parties" have been served. Notice by mail as imposed by F.R.B.P. 2002(a) shall include any reasonable method of transmitting printed documents including, but not limited to, U.S. Mail, Telex, hand delivery, facsimile, or private carrier. The certificate of service shall state the method of delivery used by sender. Counsel who files an ex parte motion for expedited hearing shall serve that motion and shall certify service as the Court may direct.

B. **Responsive Pleadings**. Parties opposing the relief sought in 362 motions or contradictory motions pursuant to F.R.B.P. 9014 shall file an opposition or objection to same and a request for a hearing thereon, which responses or objections shall be filed at least five (5) calendar days prior to the noticed hearing date. The court in its discretion may hear or may refuse to hear a response not timely filed. The discretionary factors that the court should consider include: the reason opposition was not timely filed; the need for the court to consider the defenses alleged in order to determine the appropriate action, and the injury that might result to the untimely filed opponent. All oppositions shall contain a short and plain statement of the law and facts on which the respondent relies and shall set forth any applicable defenses of law or fact on which the respondent relies. Oppositions styled as merely Requests for a Hearing shall not be allowed. All oppositions or objections and requests for hearings thereon shall be served in accordance with sub-section (A), supra and shall further comply with sub-section (C)(1)-(4) of this Rule.

C. **Contents of Motion and Default**.

(1) All petitions, motions, pleadings and other papers filed, and exhibits and materials attached to or accompanying them, shall be plainly and legibly typewritten, mimeographed or printed without being materially impaired by erasures, interlineations or strikeovers or subject to unusual fading or deterioration. Type smaller than elite shall not be used; type the size of pica or larger is preferred. Paper used shall be approximately 8 ½ x 11 inches in size, white and of standard weight. The upper margin of each page shall not be less than 1 ½ inches and the pages shall be fastened at the top left corner. Handwritten papers are not permissible unless typing of their contents would lessen their usefulness in litigation (e.g. when an "original document" is handwritten and may be used as exhibits).

(2) The name, address and telephone number of attorneys and litigants acting in proper person (pro se) shall be typed or printed under all signatures. In addition, counsel's attorney identification number assigned by the U.S. District Court shall be typed or printed under the signature. All such persons have a continuing obligation to keep the clerk's office advised of their current addresses.

(3) No petitions, applications, motions, or pleadings shall be in letter form or on letterhead paper.

(4) All papers subsequent to those commencing a case shall show, when offered for filing, in the caption, the proper case number, the proper adversary number if applicable, the chapter in which the case is pending, the division in which the petition was filed, an accurate indication of their contents and the parties on whose behalf they are filed.

(5) Failure to comply with the provisions of these Rules may result in the Clerk of Bankruptcy Court requiring the filing party to file corrective pleadings. Failure to comply with this or any other rule imposing a merely formal requirement does not ordinarily result in the loss of right. See F.R.B.P. 9005.

(6) A motion should contain a short and plain statement of all facts necessary to entry of relief by default, and the movant should attach relevant documentation supporting his motion; mere statement of the statutory grounds for relief is not sufficient. Relief by default may be granted without hearing when no objection has been timely filed and the motion and supporting documentation, if any, evidence entitlement to relief. The court may consider, or may refuse to consider, an opposition to a motion if the opponent does not appear at the hearing to support the opposition.

D. **Procedure on Motion Day.** On motion day, the court shall call all proceedings set for hearing, except those disposed of by default without hearing or by consent without hearing. Counsel shall state their appearances and shall state whether they have an agreed order; if they do not have an agreed order, counsel shall state the estimated time required for hearing the motion or their intention to request relief by default. After the docket call, the court shall:

1. Set hearing times later in the day to hear matters that will be contested or set the motion for final hearing on a later date;
2. Receive and consider agreed orders approved by all parties in interest;
3. Consider and enter orders by default;
4. Uncontested matters will be considered; and
5. At the conclusion of the above, the court will hear contested motions.

E. **Attendance Sheet**. The court may maintain an attorney sign-in sheet which may be signed by the attorneys to indicate their intention to be present although a temporary absence may occur. The attorneys shall designate the following:

ATTORNEY'S NAME CASE # NAME(S) OF DEBTOR(S)

F. **Status Conferences.** Motion days may include hearings on status conferences on such matters as the court may direct.

G. **Appearance, Continuances.** Motions for continuance ordinarily will not be considered unless filed in writing no less than three (3) working days prior to the hearing date. Motions for continuance of Section 362(d) motions will not be granted unless the creditor consents in the motion to continuance of the stay until the matter can be heard and determined according to the court's order. Rulings on motions for continuance will be issued on or before the hearing date. Counsel are responsible for determining whether the continuance has been granted; if a continuance has not been granted, counsel must be prepared to go forward with the hearing. Motions for continuance agreed to by all parties will ordinarily, but not always, be granted.

Motions for continuance without agreement of all parties will be granted only for good cause shown.

**9014-1** **EXCEPTIONS**
**See also 9029-1, 9029-3**

The provisions of Uniform Local Rule 6.09W as amended by Order of the District Court dated November 30, 1993, applying Uniform Louisiana Local Rule 26.1W *et seq*., F.R.C.P. 26(a)(2), (a)(3) and (f) to cases filed after December 1, 1993, shall not apply to contested matters under the Code pursuant to F.R.B.P. 9014 unless (1) ordered by the bankruptcy court or (2) agreed to by stipulation of the parties.

**9029-1** **LOCAL RULES -GENERAL**
**See also LBR 2090-1.**

These Local Bankruptcy Rules are part of the Local Rules of the United States District Court for the Western District of Louisiana; the Local Bankruptcy Rules govern proceedings before the Bankruptcy Judge for this district, and they also govern any bankruptcy cases withdrawn in toto by a District Judge, except as modified by the District Judge with respect to the case withdrawn; the Local District Court Rules not the Local Bankruptcy Rules, apply to cases withdrawn in part by a District Judge and apply to motions to withdraw cases or proceedings.

These rules are intended to expedite bankruptcy cases and proceedings with consideration of the characteristics, case load, travel requirement of the Western District, and the needs of litigants before each of the Bankruptcy Judges of the Western District (herein "Court"). These rules shall be construed to secure the just, speedy and inexpensive determination of every case and proceeding in accordance with F.R.B.P. 1001.

**9029-3** **LOCAL RULES-DISTRICT COURT**
**See also LBR 2090-1, 9029-1**.

The generally applicable rules of the United States District Court for the Western District of Louisiana apply to bankruptcy cases and proceedings commenced in the Western District, except where they conflict with these Local Bankruptcy Rules, or where the proceedings are conducted before a District Court Judge in which case the Local District Court Rules shall apply. The present Local District Court Rule which addresses bankruptcy matters is Rule 83.4. Local Civil Rule 83.4 is recited in full below and is adopted as a portion of these Local Bankruptcy Rules, as are any future revisions, modifications or additions that the District Court may adopt as to bankruptcy matters.

## 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 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.