

PRACTICE GUIDE
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UNITED STATES BANKRUPTCY JUDGE

The following is intended to serve as an informational guide to common issues encountered in the Shreveport and Monroe Bankruptcy Courts. Parties should also reference the Court's Courtroom Procedures and Standing Orders which control over this informal practice guide.

1. MOTION PRACTICE, ALL CHAPTERS.

The Court typically has weekly motion dockets in Shreveport and biweekly dockets in Monroe. In Shreveport, hearings in Chapter 7, 11, 12, and adversary cases are typically set on Tuesdays at 9:30 a.m. Chapter 13 hearings are typically set on Wednesdays at 1:30 p.m. In Monroe, all hearings are set at 9:30 a.m. on Thursdays, but be advised that all Chapter 13 cases in Monroe are assigned to Judge John Kolwe. Motions in cases assigned to Judge Norman are set on twenty-one (21) day negative notice; therefore, pleading form and certificates of service are of the utmost importance. The Court reviews pleading form and service on every motion. Defective pleading form or incorrect service will lead to denial of your motion. The Bankruptcy Rules create a complex system of notice and service requirements. The following is a general aid for notice and service:

- a. Motions are typically governed by Bankruptcy Rules 9013 and 9014. These rules require pleadings state with particularity the relief requested and the grounds therefore, and require the pleadings be served in the same manner as a summons and complaint under Bankruptcy Rule 7004.
- b. Most applications (e.g., to sell or use property of the estate, professional employment, Rule 9019 settlement or compromise, compensation) must be served in accordance with Bankruptcy Rule 2002.

The Court has suggested forms for pleadings, which can be found on its website. The Court suggests that you follow the suggested form and review the Standing Order Regarding *Ex Parte* Motions or Applications: Response Deadlines, IF and Only IF Motions or Objections and Certificates of Service for specific details. Hearing dates should be self-calendared when filing via CM/ECF. Instructions for filing via CM/ECF are available under "Shreveport Forms" on the Court's website.

All motions, except those made at trial, must be made in writing and state with particularity the grounds supporting the motion and the relief or order sought. Motions should address the issues presented in the motion and follow with the pertinent facts, statutory framework, legal arguments, and the specific relief requested in the motion.

The court will generally rule on all motions based on responsive pleadings unless the presentation of evidence is required. Hearings that are set may not be heard if the Court can rule on a motion without the necessity of a hearing. Should your motion be unopposed, you should upload a form

of order prior to the hearing for the Court to review. If your motion is unopposed, the Court is likely to sign your order after the response deadline but before the hearing date. Motions that are ruled on before the hearing date are struck from the Court's docket. If your motion does not appear on the Court's docket, then the Court has already entered its order. There may be a delay between the Court ruling on your motion and the docketing of the order, especially if your order is signed the day of your hearing. If the Court does not sign your order, then generally it has questions or concerns regarding your motion and counsel must appear at the hearing. Likewise, if you oppose a motion, you must always file a response in opposition. This is especially true on motions that are set "if and only if" as no hearing is scheduled by the Clerk unless a response is filed. Should you fail to respond to a properly served pleading, the Court will assume the pleading is unopposed and will generally grant the relief requested. Should a response be filed and the Court can rule on the motion and the response, it will do so before the hearing. Should you fail to upload an order on an opposed motion, you must attend the scheduled hearing. The Court liberally grants late filed responses to any motion but if your response is untimely you must file a motion to allow the late filed response or the motion will be deemed unopposed.

The standing order regarding *ex parte* motions indicates every motion that may be filed on an *ex parte* basis. Do not file *ex parte* motions that are not authorized by the standing order. These motions will be denied. However, be cognizant that the Court will consider the entry of any agreed order on an *ex parte* basis. All agreed orders must contain the signatures of all affected parties, including in Chapter 13 and 12 cases the Trustee.

Parties that wish expedited consideration of a motion may file a Motion for an Expedited or Emergency Hearing. Requests for emergency or expedited hearing must set forth the exact nature of the facts requiring expedited consideration. The Court will not grant expedited or emergency hearings on routine matters. Emergency hearings may depending on Court scheduling be set by video appearance.

2. MOTION PRACTICE, ADVERSARY PROCEEDINGS.

Motions filed in adversary proceedings are not subject to the negative notice requirements of main bankruptcy cases and shall be governed by the Federal Rules of Civil Procedure. The Clerk of Court will set all motions in adversary proceedings for hearing and will also set a response deadline. The Court may at the expiration of the response deadline rule without the necessity of a hearing based on responsive pleadings. Counsel should upload any orders on unopposed pleadings prior to the hearing date and the Court will generally rule prior to the scheduled hearing and remove the hearing from the hearing calendar.

3. APPEARANCE AT HEARINGS.

Should you be unable to attend any hearing you have several options. The Court grants unopposed continuance requests by email without motion and order. Please see the Court's Standing Order Regarding Continuance Procedures. However, if you file a Motion for Continuance, it should contain an affidavit indicating a conference was attempted or held with the other parties. The Court is able and willing to reset hearing times on the same day as your scheduled hearing should you have a conflict in other courts. Please note that the Court does not consider an appearance in

state court to be grounds for continuance of a federal court hearing other than to the same scheduled day at a different time. The Court also does not grant all continuance requests.

Additionally, the Court allows appearance on all non-evidentiary matters by video. Details with a form motion, order, and technical specifications are available on the Court's website.

4. ORDERS.

Orders should be succinct and not contain unnecessary findings or verbiage.

Unopposed Orders on Motions for Relief from the Automatic Stay should not contain a waiver of Bankruptcy Rule 4001(a)(3) as the Court will immediately sign unopposed orders lifting the stay as soon as the Local Bankruptcy Rule 4001-1(G) 17 day response deadline passes. The Court will only waive Bankruptcy Rule 4001(a)(3) after hearing, so the Court chooses not to waive Bankruptcy Rule 4001(a)(3) in uncontested (i.e. no hearing) orders. Should the movant seek waiver of Bankruptcy Rule 4001(a)(3) on an unopposed motion, it should file a response to its own motion seeking a waiver and the Clerk will then set the matter for hearing. Counsel may appear by video at that hearing and request the waiver.

Orders reopening cases should be limited to reopening the case. Often, uploaded orders contain other findings which are inappropriate for a Motion to Reopen as the mere reopening of a bankruptcy case is a ministerial act that lacks independent legal significance and determines nothing with respect to the merits of the case.

5. AMENDED ORDERS.

Parties may only request that a signed order be amended by filing a motion to amend. Merely submitting a proposed amended order is insufficient. The motion to amend should be filed with the proposed amended order.

6. CHAPTER 7 PRACTICE.

Motion practice in Chapter 7 cases is generally limited. Motions to avoid judicial liens (mortgages) pursuant to 11 U.S.C. § 522(f) should not be filed until the debtor's exemptions have been allowed. A form motion and order to avoid a judicial lien is posted on the Court's Shreveport Form webpage. Reaffirmation Agreements will be set for hearing if the forms are incomplete or do not contain an attorney affidavit. The Court will grant a single 30 day extension to file a Reaffirmation Agreement. A non-mandatory form of motion and order are posted on the Court's website. Debtors and their counsel are required to attend hearings on Reaffirmation Agreements. Use of the National Bankruptcy Forms (Forms B427, B2400A, and B2400B) for Reaffirmation Agreements is required. The Clerk of Court, however, will upload an Order on Reaffirmation Agreement (Form B2400C) on any reaffirmation set for hearing; therefore, you are not required to upload an Order approving any Reaffirmation Agreement. The Court strictly enforces the debtor's duty to cooperate with the Trustee across all Chapters. The Court will not allow the Chapter 7 Trustee to administer assets simply to pay administrative expenses and/or a nominal distribution to unsecured creditors. All National Forms are linked from the Court's webpage.

7. CHAPTER 11 PRACTICE.

Pursuant to Federal Rule of Bankruptcy Procedure 2014 and 6003(a), the Court approves attorney employment in Chapter 11 cases on an interim basis, retroactive to the petition date during the Federal Rule of Bankruptcy Procedure 6003, 21 day waiting period. Therefore, counsel may set any Application to Employ for hearing on twenty-one (21) days negative notice and seek, if desired, expedited consideration. Thereafter, the Court will grant an interim order approving employment until the scheduled hearing on an *ex parte* basis. Service is governed by Federal Bankruptcy Rule 2014(a) and only requires service on the United States Trustee. A sample form Application to Employ, Order on Application to Employ, Request for Expedited Consideration or Interim Relief and Order Granting Interim Relief are posted on the Court's website. These are not mandatory forms.

Debtors should always request expedited consideration of first day motions. The Court is also able to set a standing weekly motion hearing date on complex cases.

The United States Trustee has reporting requirements in all Chapter 11 cases. The Assistant United States Trustee in the Region 5, Shreveport Office is Frances Hewitt, 300 Fannin St. Suite 3196, Shreveport, LA 71101 (381)676-3456. The Court requires compliance with the reporting requirements of the United States Trustee in all Chapter 11 cases. Questions regarding this reporting should be directed to the office of the United States Trustee.

Additionally, the Court has posted a suggested Form Individual Chapter 11 Plan on its website. This is not a mandatory form; however, any Order confirming a Chapter 11 Plan should strictly comply with National Bankruptcy Form B315. Again, a link to all National Forms is posted on this Court's webpage.

8. CHAPTER 12 PRACTICE.

Practice in Chapter 12 cases is largely dictated by the procedures of the Chapter 12 Trustee. The Western District of Louisiana does not have a standing Chapter 12 Trustee, but typically E. Eugene Hastings, P. O. Box 14839, Monroe, Louisiana 71207 (318) 651-7733 is appointed as a case trustee in all Chapter 12 cases. Counsel may contact the Trustee for assistance regarding Chapter 12 procedures. The Court has posted a suggested form of Chapter 12 Plan on its website. This is not a mandatory form. A mandatory order confirming a Chapter 12 Plan is posted on the Court's webpage, it may not be altered.

9. CHAPTER 13 PRACTICE.

Practice in Chapter 13 cases is largely dictated by the procedures of the Chapter 13 Trustee. The Standing Trustee in the Shreveport Division of the Western District of Louisiana is Todd S. Johns, P. O. Box 1770, Shreveport, LA 71166 (318) 673-8244. Counsel may contact the Trustee for assistance regarding any Chapter 13 procedures. The Court has a mandatory Chapter 13 plan posted on its website. This form may not be altered.

Attorney fees in Chapter 13 cases are governed by a district wide “No Look” fee order and an additional Shreveport “No Look” fee order. Counsel must opt into the “No Look” at the date of the filing of the first Chapter 13 Plan. Attorneys not opting into the “No Look” fee order must file fee applications in order to be paid. The Court strictly enforces Bankruptcy Rule 2016 across all Chapters.

Motions to Extend the Automatic Stay should be set on normal twenty-one (21) day negative notice and should be filed as soon as a bankruptcy case is filed. Motions not timely filed that do not allow for twenty-one (21) days negative notice may be denied. Should the Court’s calendar not allow for a hearing within the thirty (30) day limit required by the Bankruptcy Code, the debtor should seek an expedited hearing. Unopposed motions are generally granted after the response deadline, without hearing, with the requirement that the debtor maintain a wage order over the life of the Chapter 13 case. The Court may, however, condition the stay on the debtor’s pay history in his/her prior case. The Court reviews the pay history of every case dismissed within the last year prior to ruling on any Motion to Extend the Automatic Stay. The Court does not have access to pay records for dismissed cases filed outside the Shreveport Division. In these cases, unless a pay history is attached to the Motion to Extend the Automatic Stay, the Court will require a hearing and the debtor’s testimony.

Motions to Impose the Automatic Stay always require an evidentiary hearing, even if unopposed. The Court will always strictly condition the imposition of the automatic stay in Chapter 13 cases.

The Court has numerous Chapter 13 form motions and orders reflected on its website. These are for illustration purposes only, but all motions must conform to the Court’s twenty-one (21) negative notice and service requirements pursuant to the Standing Order Regarding *Ex Parte* Motions or Applications: Response Deadlines, IF and Only IF Motions or Objections and Certificates of Service. There are, however, two mandatory forms of order, which may not be altered: (a.) Order Vacating Dismissal (b.) Hardship Discharge. Again, the Court prefers to rule on all motions based on responsive pleadings. Hearings that are set may not be heard if the Court can rule on a motion without the necessity of a hearing.

The Court has attempted to simplify the process of seeking to employ special counsel in Chapter 13 cases. The Court’s website provides a form motion and a form order for this purpose. While this form is not mandatory, it adheres to the Bankruptcy Code, Bankruptcy Rules, and this Court’s standing orders. Applications to employ special counsel must comply with 11 U.S.C. § 327(a), and proposed counsel must be a “disinterested person” within the definition of Section 101(14) of the Bankruptcy Code. Applications that do not comply with this requirement will be denied without prejudice.

Wage orders do not require a motion. Wage orders are required in every Chapter 13 case unless excused by the Trustee. The Trustee in his discretion may waive a wage order in any case. Any waiver of a wage order will be docketed by the Trustee. Termination, amendments, or modifications of wage orders also does not require a motion. Termination, amendments, or modifications of wage orders may be uploaded as a wage order and the Court will sign them *sua sponte*. However, termination of a wage order by the Court is not a defense to dismissal of a Chapter 13 case for nonpayment.

Consent or agreed orders in Chapter 13 cases require the signature of the Chapter 13 Trustee. All consent or agreed orders presented without the Trustee's signature will be denied without prejudice but may be resubmitted.

Unopposed Chapter 13 Plans that meet the standards for confirmation may be recommended for confirmation without actual presentation by the Trustee and are struck from the docket.¹ Thereafter, the Trustee uploads a confirmation order and the Court conducts an *in camera* review of the debtor's Chapter 13 plan and schedules. Once the Court has conducted its review, it will sign the order confirming the Chapter 13 plan if it has no independent concerns or objections. Where it appears the confirmation standards may not have been met, the Court will typically set the case for an evidentiary hearing or may deny confirmation outright. The Court will thereafter enter an order setting a hearing that sets forth the Courts concerns. Unless that order provides otherwise, the debtor's attendance at the evidentiary hearing is mandatory. Any Chapter 13 Plan not in a position to be confirmed at a scheduled confirmation hearing may be dismissed at the Court's discretion pursuant to standing order. Confirmation orders are uploaded by the Chapter 13 Trustee.

10. ADVERSARY PROCEEDINGS.

Should a properly served defendant not file an answer, then the plaintiff should file a Motion for Entry of Default to Federal Rule of Civil Procedure 55(a). Thereafter, the Clerk of the Bankruptcy Court will enter default against the defendant. After entry of default by the Clerk, the plaintiff may file its Motion for Default Judgment pursuant to Federal Rule of Civil Procedure 55(b). Thereafter, the Court will set a response deadline and evidentiary hearing date. At the expiration of the response deadline the plaintiff should upload its proposed form of Default Judgment. The Court will consider all of the pleadings, including any relevant affidavits and if possible rule before the scheduled evidentiary hearing date. Should the Court not entered the proposed Default Judgment the plaintiff should be ready to present evidence at the scheduled default judgment hearing. A Pretrial Statement is **not** required when no defendant(s) have filed an answer or otherwise appeared and the plaintiff(s) are seeking judgment by default.

Parties should attempt to make their Rule 26(f) disclosures prior to the scheduling conference in every adversary. The Court will enter a scheduling order at the scheduling conference. Parties should be ready to provide to the Court time estimates for discovery and trial. Parties can expect trial settings within six months of the scheduling conference unless there are exigent circumstances or the case is overly complex. Plaintiffs may avoid appearing at pretrial conferences if the Clerk has entered default against all defendants prior to the scheduling conference, as the Court will remove the case from the Court's docket. Should a plaintiff not appear at a scheduled pretrial conference the Court may dismiss the adversary without prejudice for non-prosecution.

¹ Hearing calendars are continually updated and available at <http://www.lawb.uscourts.gov/content/chief-judge-jeffrey-p-norman>

11. EXHIBITS FOR CONTESTED MATTERS AND TRIALS.

The Court has a standing order regarding requirements for exhibits in adversary proceedings and contested matters. Exhibits must conform to the standing order or they will not be admitted. Parties should reference the Standing Order Regarding Requirements for Exhibits in Adversary Proceedings and other Contested Matters before Judge Jeffrey P. Norman entered January 16, 2015. A form Exhibit List is posted on the Judge's website. The Court maintains an electronic evidence presentation system. Evidence may be presented by Elmo Presentation Camera, iPad, computer laptop, and other electronic devices.