

# UNITED STATES BANKRUPTCY COURT

## WESTERN DISTRICT OF LOUISIANA

### A MESSAGE FROM THE JUDGES OF THE BANKRUPTCY COURT FOR THE WDLA

Re: COVID-19 Emergency

As you know, we entered several General Orders last week to address issues that have arisen as a result of the COVID-19 Emergency. We are writing now to address some confusion that may exist with respect to court operations and the implementation of those Orders during this Emergency Period.

We begin by wishing you and your family, as well as your employees and clients and their families, the best. We are navigating through extraordinary times that are impacting all aspects of our personal and professional lives. We are not sure when this Emergency will end, but we are confident that we can and will see each other through it.

Turning to court operations, we first address how non-evidentiary hearings are to be conducted. We know from emails and telephone calls that our respective Chambers have been receiving, and from our experiences in conducting hearings the past two weeks, that many of you are trying to determine how to proceed with work, while at the same time abiding Governor Edwards' Order on social distancing. We want to make it clear that by continuing to conduct hearings during this Period, we are not asking that you violate Governor Edwards' Order. Under the Orders this Court entered last week, all non-evidentiary hearings are being conducted telephonically. Each of us has communicated to all participants in these hearings that appearances by Debtors/witnesses are waived. That will continue to be the case until this Emergency Period ends. Accordingly, no clients or other witnesses need appear by telephone or be present with you while we conduct these hearings. Indeed, it should be abundantly clear that no attorney/litigant should feel compelled to meet in person during this Emergency Period, as it certainly is not being required by any of the Bankruptcy Judges of the WDLA.

Second, with respect to evidentiary hearings, counsel must contact Chambers of the Judge assigned to the matter in order to schedule that hearing. Each respective Judge will then provide procedures for the handling of an evidentiary hearing during this Emergency Period. We ask, however, that only emergency matters be scheduled for an evidentiary hearing during this Period.

Third, as you know, we entered a General Order last week which relaxes the wet signature requirement of our rules during this Period. This was done as an accommodation to you with the obvious purpose of allowing you to continue to file matters with the Court that may require a signature of a client without you having to meet in person with anyone. Under the terms of the Order, you will have a time period after the Emergency Period ends to obtain the original signed documents and make appropriate certifications to the court in that regard. All we ask during this Period is that you obtain express consent from your client/witness before filing a document containing their electronic signature. (We recommend that you have the signing party take a picture of the signed document and text or email it back to you to evidence consent. Also, see La. R.S. § 2601, *et seq.* concerning electronic signatures under Louisiana law, and 37 JBE 2020 regarding the signing of notarial documents electronically.)

Fourth, we have also entered a General Order tolling all rule-based and court-imposed deadlines. Thus, if you are unable to get in touch with clients in order to prepare a response to a motion or objection, you are protected by this order such that you will have an opportunity to file any required response once we resume normal operations. If you are still concerned about any deadlines, you are welcome to contact the Chambers of the Judge to which your matter is assigned, preferably by email, copying all interested parties to the matter, requesting a continuance and one will be freely given. (We will consider the email request to be the motion to the extent a formal motion may be required.) If you are unable to email, you may call Chambers, but there may be a delay in responding depending on whether we are in the office working that day. Note, however, that as to motions/applications to which timely responses have been filed, the Court will proceed with scheduled telephonic hearings on those matters. Further, to the extent an order may be entered by default during this time period, including on matters noticed for hearing on an “if and only if” basis, the deadline to file a motion to reconsider or vacate such order is also tolled.

Fifth, with respect to Chapter 13 cases, we understand that many of the debtors have lost their jobs, or they are furloughed. Many of you are filing *ex parte* motions to suspend payments for two months. This is an acceptable way to address the loss of employment faced by the debtors. We simply ask that the motion reference the COVID-19 Emergency as the reason for the suspension.

Sixth, we prepared the General Orders last week under the assumption that most if not all of you would be able to continue practicing remotely and without the necessity of an in-office staff. We now understand that some of the attorneys practicing in our respective courts may not be able to file documents or otherwise operate without the necessity of in-office staff. If that is the case, such that you are unable to conduct operations in compliance with Governor Edwards’ Order, then you should contact the judge assigned to your case and your matters will be continued until after this Emergency Period ends.

Finally, it should go without saying that the procedures outlined in the Court’s General Orders pertaining to the COVID-19 Emergency are temporary. We will return to our normal operations as soon as this Emergency Period ends.

In closing, it has been our collective goal to assist each of you in maintaining some degree of normalcy in your practice, and in our operations, while ensuring that we adhere to the important requirement of social distancing. We are balancing this goal against the equally important goal of adhering to the requirements of the Bankruptcy Code and other applicable law. Reaching this balance requires all of us to remain flexible.

We have a wonderful bar, which has always observed an admirable level of civility. Please let this continue as we navigate through this Emergency Period, and please use good judgment as you move forward in the coming days and weeks.

/s/ Honorable John W. Kolwe

/s/ Honorable John S. Hodge

/s/ Honorable Steven D. Wheelis