

## **Chief Judge John W. Kolwe Chambers Procedures**

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## 1. Court Address

- **Chambers Location.** Judge Kolwe's chambers are located in the John M. Shaw United States Courthouse, 800 Lafayette Street, Suite 3900, Lafayette, Louisiana.
- **Lafayette Courtroom.** His courtroom in Lafayette is located on the 3rd floor of the John M. Shaw United States Courthouse, Courtroom #5.
- **Lake Charles Courtroom.** His courtroom in Lake Charles is located on the first floor of the United States Courthouse, 611 Broad Street, Lake Charles, Louisiana.
  - **Note:** The Lake Charles Courthouse was severely damaged by Hurricane Laura in August 2020. Until further notice all court dates in Lake Charles are being held in Lafayette using the Court's WebEx videoconferencing facilities. Please see the section entitled "Video/Telephonic Appearances" for access information.
  - **Requesting in-person Hearings.** Any party in a Lake Charles proceeding may contact chambers to request an in-person hearing, but the hearing will be held in the Lafayette courtroom.

## 2. Communications with the Court

- **Scheduling**. Parties may contact Judge Kolwe's judicial assistant, Karen Hess, or law clerk, Stuart Welch, by telephone or email, for all matters concerning scheduling and for general information regarding proceedings before the Court. The following is the telephone number and email address for Chambers' Staff:

Karen Hess:	(337) 262-6383 / Karen_Hess@lawb.uscourts.gov
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Stuart Welch:	(337) 262-6383 / Stuart_Welch@lawb.uscourts.gov
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- **Continuances**. Please refer to the "Continuances" section for continuing matters set for hearing.
- **Settlement**. Please refer to the "Settlement" section if a matter set for hearing has been resolved.
- **Procedural matters**. Parties may contact Judge Kolwe's law clerk, Stuart Welch, regarding procedural matters only.
- **The preferred method of communication is email**. To insure a prompt response, all emails should be addressed to both Ms. Hess and Mr. Welch.
- ***Note: Court Staff are prohibited from giving legal advice or answering questions regarding the merits of a particular matter. It is also inappropriate to ask Court staff how or when the Court may rule on a matter, or to seek an advisory opinion.***

### 3. Chapter 13 Practice

- **Chapter 13 Plan**. The Western District of Louisiana has promulgated a mandatory Uniform Chapter 13 plan. See LR 3015-1. The Form can be found here: [https://www.lawb.uscourts.gov/forms/all-forms/chap\\_13](https://www.lawb.uscourts.gov/forms/all-forms/chap_13).
- **Motions to Extend Automatic Stay**. See "Extension/Imposition of Stay" in these procedures.
- **Preconfirmation Plan Amendments**. Preconfirmation amendments must be served on all *adversely affected* creditors, and all such creditors must be given notice in accordance with the applicable Bankruptcy Rules and Local Bankruptcy Rules. Amendments that reduce the percentage distribution to creditors under the plan or increase the plan's duration are deemed to adversely affect all creditors. Failure to properly serve and notice affected creditors will delay confirmation of a plan.
- **Chapter 13 Trustee**. The Standing Chapter 13 Trustee assigned to the Lafayette and Lake Charles Divisions of the WDLA is **Keith Rodriguez**. He may be contacted by telephone at **(337) 233-4413**. The Chapter 13 practice before Judge Kolwe is significantly influenced by the policies and procedures of the Chapter 13 Trustee. For this reason, questions regarding the Chapter 13 practice in the Lafayette and Lake Charles divisions should be directed to Mr. Rodriguez.
- **Calendar Resolution**. Generally speaking, the Trustee utilizes an email system with the Chapter 13 bar to determine whether the Trustee's pending objections to confirmation, motions to dismiss and other miscellaneous motions by or against the Debtor will be resolved by agreement, come before the court, or be continued. Please contact the Trustee with questions concerning the Chapter 13 calendar resolution procedures he employs.
- **Motions not involving the Trustee**. For all motions other than those filed by the Trustee, or which do not involve the Trustee, please see the sections entitled "Continuances" to request a continuance, or "Settlement/Resolution" to report a settlement or resolution of the motion.
- **The Chapter 13 hearing calendar**. The final Chapter 13 hearing calendar is posted to the Court's website by noon on the day prior to the hearings. This calendar can be found here: <https://www.lawb.uscourts.gov/judges-info/hearing-dates/daily-hearing-calendars-chief-judge-kolwe>
  - The first page of the calendar will give any instructions for attending the hearing by video, if court is being held virtually.

- *Note: If you use the CM/ECF calendar instead of the calendars posted to the Court's website, the order in which the cases are called may be different.*

## 4. Continuances

- **If by Agreement.** Matters set for hearing before the Court may be continued without a motion if **ALL** parties are in agreement by sending an email to **KolweChambers@lawb.uscourts.gov** and **copying ALL involved parties.** **The subject line should reflect the following (see example below):**
  - Date of the hearing;
  - Debtor's name (last name or company name); and
  - Case number

(Example: 1/1/2010; Doe; 21-12345).

The body of the email should state that **ALL** involved parties request a continuance and provide a date and time for the new hearing. If the Court grants the requested continuance, a reply will be sent to all parties with the new date and time. An agreed order is not needed. A minute entry will be entered on the docket stating that the trial/hearing will be continued and set forth the new date and time.

- **If Contested.** If all the parties **DO NOT** agree to a continuance, the party seeking to continue a matter must file a motion as soon as practicable prior to the scheduled hearing date. The motion must set forth the reason for the continuance **and** the reason it is opposed.
- **At the time of hearing.** At the Court's discretion, a matter may be continued in open court if all involved parties agree.
- **Reminder: Counsel must notify their respective clients of any continuance. Should counsel fail to notify their clients and an appearance is made by the client, sanctions may be imposed.**

## 5. Settlements/Resolutions

- **Email of Settlements/Resolutions.** The resolution or settlement of a pending matter should be immediately reported to the Court via email so that the Court may readjust resources accordingly. Please use the following email when reporting a resolution or settlement: KolweChambers@lawb.uscourts.gov.

The email should also copy all involved parties.

- **Contents of email.** To insure prompt processing, the hearing date **and** the last name or company name of debtor(s) must appear in the subject line (*example*: 1/1/2020; Doe; 21-12345). The body of the email should set forth the following:

Case Number:

Case Name:

Your Name:

Firm Name:

Party Represented:

Date of Hearing:

Matter(s) being heard (e.g., relief from stay, trial etc.):

Resolved by (e.g., agreed order, withdrawal, settlement agreement, etc.):

**Please submit or file appropriate document(s) resolving the matter no later than ten (10) days after the scheduled hearing date.**

- **Settlement on the Record.** If a proposed settlement has not been reduced to writing and signed by all parties prior to a scheduled hearing, all parties must appear and announce the terms of the settlement on the record. Once the settlement terms are announced, the Court will consider the parties bound by the agreement subject to court approval under Bankruptcy Rule 9019 and LR 9019-1, if required. Telephonic or video attendance *is permitted* for purposes of placing the terms of a settlement on the record.
- **Court Approval of Settlements.** If a settlement requires approval under Federal Rule of Bankruptcy Procedure 9019 and LR 9019-1, the motion seeking approval of the settlement should be filed in the main bankruptcy case only. *See* LBR 9019-1. Parties should submit a proposed form order approving the settlement in the main bankruptcy case and a proposed form of judgment or order of dismissal in the adversary proceeding (if applicable).
- **Chapter 13.** In Chapter 13 matters, the parties generally communicate resolutions of the Trustee's objections to plans and Trustee's Motions to Dismiss through the Chapter 13 Trustee who then communicates those resolutions to the court through the use of "proceeding memos." With respect to resolutions of

matters that do not involve the Chapter 13 Trustee, the parties should email resolutions to **KolweChambers@lawb.uscourts.gov**. See the section above entitled "Email of Settlements/Resolutions."

- ***Reminder: Counsel must notify their respective clients of the settlement/resolution. Should counsel fail to notify their clients and an appearance is made by a client, sanctions may be imposed.***

## 6. Courtroom Conduct

- **Podiums**. Please stand at one of the podiums when addressing the Court or a witness.
- **Use Microphones**. All proceedings in the courtroom are electronically recorded. To maximize the clarity of the recording, and the quality and accuracy of the record, all parties must speak from a microphone on one of the podiums, or from a microphone on one of the counsel tables. Please refrain from moving about the courtroom while speaking.
- **Supply name to ECRO**. Prior to the beginning of a hearing or trial, counsel must provide the Electronic Court Reporting Officer (ECRO) with his or her business card, if the ECRO is not familiar with the name and spelling. Counsel must also provide the spelling of the names of any witnesses to be called.
- **Proceedings are broadcast to other offices within the courthouse**. Microphones are activated approximately fifteen (15) minutes prior to the hearings to ensure that the sound system is functioning properly. *Use discretion when discussing matters close to the microphones.*
- **Appearing by Video/Telephone**. Please see the section entitled "Video/Telephone Appearances" for the requirements of all persons appearing before the Court by Video or Telephone.

## 7. Video/Telephonic Participation

- **During the Pandemic.**

- Judge Kolwe is providing remote access to hearings through the Court's WebEx videoconference facilities. Parties, counsel, and other parties in interest are permitted to attend and participate in hearings by telephone and videoconference ***without prior permission of the Court*** subject to compliance with the Court's procedures and requirements set forth below. Those who plan to actively participate in a hearing are encouraged to attend the hearing in the WebEx video mode using the WebEx video link below. Those who will not be seeking to introduce any evidence at the hearing and who wish to attend in a telephonic only mode may attend the hearing in the WebEx telephonic only mode using the WebEx dial-in and meeting ID below.

- **For WebEx Video Participation/Appearance:**

Link: <https://us-courts.webex.com/meet/kolwe>

- **For WebEx Telephonic Only Participation/Attendance:**

Dial In: 1-650-479-3207

Access Code: 180 551 9492

- **Examination of Witnesses.** Witnesses *may not* be examined by telephone alone (i.e., without the WebEx video function activated) except in rare, emergency situations in which the Court determines that cause exists to waive the prohibition or where such form of testimony has been preauthorized by the Court.
- **Protocol for Joining Hearing/Conduct During Hearing.** Attendees should join the WebEx hearing at least 10 minutes prior to the hearing start time. Please be advised that a hearing may already be in progress and the Court's telephonic and videoconference lines are live. **During hearings, attendees are required to keep their lines on mute at all times that they are not addressing the Court or otherwise actively participating in the hearing.** The Court reserves the right to disconnect or place on permanent mute any attendee who causes any disruption to the proceedings before the Court. For general information and tips with respect to WebEx participation and attendance, please see the documents

entitled "Participating in Bankruptcy Court Hearings by Videoconference in the Lafayette and Lake Charles Divisions of the WDLA" which can be accessed through the following link: <https://www.lawb.uscourts.gov/sites/lawb/files/WebEx%20Basic%20Information.pdf>

- **Exhibits.** Any party intending to introduce documentary evidence at the hearing must file an exhibit list in the case with a true and correct copy of each designated exhibit filed as a separate, individual attachment thereto so that the Court and all participants have ready access to all designated exhibits. For any witness who is to be called to testify remotely, the party calling the witness is responsible for supplying the witness with all designated exhibits for the hearing.
- **Disclaimer.** The Court cannot and does not guarantee that telephonic/video service and computer connectivity will not be interrupted during the course of a hearing. Those who elect to participate in a hearing by remote means do so at their own risk understanding that except in extremely rare circumstances the Court will not entertain a request for continuance of the hearing based upon technological failure or any disadvantage experienced on account of an election to attend remotely instead of in person.
- **After the Pandemic.**
  - Judge Kolwe plans to continue using the WebEx videoconference facilities after his Court fully reopens, utilizing the same procedure and protocols provided above. However, the Court will not allow witnesses to be examined, nor evidence offered by video/telephone, except in emergency situations in which the Court determines sufficient cause exists to waive the prohibition. Put another way, parties will be allowed to participate in hearings by video/telephone without first obtaining Court permission, but they will be limited to making legal arguments only.

## 8. Courtroom Technology/Presentation of Evidence

- **Document Camera.** The Lafayette courtroom is equipped with a document camera which allows the presentation of hardcopy evidence to be shown to all participants on stationary monitors located at the Judge's bench, law clerk's desk, ECRO's desk, lecterns, attorney's tables and witness stand. If the hearing is also being held by video, images are also viewable over videoconference.
- **Laptop Connections.** There are laptop connections located at each lectern and at the attorney's tables to allow the presentation of evidence stored on an attorney's laptop to be shown to all participants on stationary monitors located at the Judge's bench, law clerk's desk, ECRO's desk, each lectern, attorney's tables and witness stand. If the hearing is also being held by video, images are also viewable over videoconference.
- **Connections by HDMI Cable.** Each lectern and attorney's table has a HDMI cable that can be plugged into the attorney's laptop. *Counsel are responsible for providing any and all adapters that may be necessary to connect his or her laptop to the Court's HDMI cable.*
- **Annotation Monitors.** The monitors located on each lectern and the witness stand, and one of the two monitors on each attorney's table, allow for annotations to be drawn on the image displayed on the screen. The feature is activated by tapping the screen with your finger for a stationary pointer, or by moving your finger around while pressed against the screen to draw.
- **Testing of Equipment.** Courtroom equipment testing and setup of counsel-provided laptop computers or other devices are the responsibility of counsel. Please make sure to arrive early enough before the start of court to ensure proper testing. Please contact Ms. Hess or Mr. Welch to schedule other times for testing of equipment.

## 9. Courtroom Equipment Quick Reference



### LAWB LAFAYETTE COURTROOM EVIDENCE PRESENTATION EQUIPMENT QUICK REFERENCE GUIDE



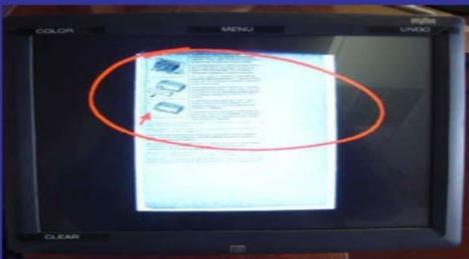
**DOCUMENT CAMERA:** The document camera allows the presentation of hardcopy evidence to be shown to all participants on stationary monitors located at the Judge's bench, law clerk's desk, court reporter's desk, attorney's tables, lectern and witness stand. The images are also viewable over videoconference.



**LAPTOP CONNECTIONS:** There are laptop connections located at the lectern and at the attorney's tables to allow the presentation of evidence stored on an attorney's laptop to be shown to all participants on stationary monitors located at the Judge's bench, law clerk's desk, court reporter's desk, attorney's tables, lectern and witness stand. The images are also viewable over videoconference. Please note: Laptop must be HDMI capable or attorney must bring appropriate adapter.



### LAWB LAFAYETTE COURTROOM EVIDENCE PRESENTATION EQUIPMENT QUICK REFERENCE GUIDE



**ANNOTATION MONITORS:** The monitors located at the lectern and the witness stand allow for annotations to be drawn on the image displayed on the screen. You can tap the screen with your finger for a stationary pointer, or move your finger around while pressed against the screen to draw.

**QUESTIONS?** Please contact Judge Kolwe's Chambers. 337-262-6383

## 10. Exhibits

- **Filing of Exhibits on CM/ECF.** In addition to the requirements of LBR 9014-1(c), exhibits must be filed in CM/ECF in advance of the hearing. Each exhibit must be filed as a separate attachment to the Exhibit List, and each exhibit must correspond to its item number on the Exhibit List. The Court will review the exhibits from CM/ECF. Exhibits may be offered into evidence by reference to the CM/ECF docket number of the filed exhibit.
- **Pre-marking of Exhibits.** Each party must pre-mark all exhibits in accordance with LBR 9014-1, **prior to exchanging them and prior to filing them into CM/ECF.** Also, the Court will not provide exhibit stickers and, absent unusual circumstances, the Electronic Court Reporting Officer will not mark exhibits during the course of a hearing or trial.
- **LBR 9014-1(c) Inapplicable in Certain Circumstances.** LBR 9014-1(c) shall not apply to (i) objections to claims to which no response has been filed or (ii) contested matters and trials covered by a separate scheduling order that specifically provides alternative deadlines for the exchange of exhibits, exhibit lists and witness lists.

## 11. Trial Docket Call/Adversaries

- **New Procedure.** Beginning in April 2021, Judge Kolwe implemented a new procedure for setting trial dates and entering scheduling orders in Adversary Proceedings, which works as follows:
  - **The Standing Scheduling Order.** At the time an adversary complaint is filed, the Court will generate an "Order Regarding Adversary Proceedings, Trial Setting and Alternative Scheduling Order" (referred to herein as the "Standing Scheduling Order"). The Standing Scheduling Order will set forth the month of trial, which is generally approximately six months after the complaint is filed. It will also set the exact date for the Docket Call for the case, which is typically held in the month prior to the month in which the trial is to be scheduled.
  - **Plaintiff's Attorney Serves the Standing Scheduling Order.** The plaintiff's attorney must serve all parties with the Standing Scheduling Order with the summons and complaint.
  - **Scheduling Options.** The Standing Scheduling Order offers the parties the option of submitting their own proposed scheduling order, or they may choose to adopt the "Alternative Scheduling Order" which is set forth in Part III of the Standing Scheduling Order issued in each case. **Note that if the parties do not submit a proposed scheduling order or do not schedule a status conference with the Court to discuss its provisions and deadlines of a scheduling order within 45 days of the filing of the adversary proceeding, they will be deemed to have consented to the terms of the Alternative Scheduling Order.**
- **The Docket Call.** Typically, Judge Kolwe's trial docket call will be scheduled on the last Wednesday of the month at 1:30 p.m. For example, if the Standing Scheduling Order indicates a trial month of November 2021, the Docket Call will be scheduled on the last Wednesday of October 2021, and the trial will be set on a specific date in November, beginning with the first week of that month. **Substantive discussions regarding compromise, settlement, and stipulations are expected to have occurred prior to the docket call.**
- **Continuances.** Trial docket call and trial settings may be reset or removed from the Court's docket by agreement of the parties via an email to chambers at [kolwechambers@lawb.uscourts.gov](mailto:kolwechambers@lawb.uscourts.gov). Opposing counsel must be copied on email correspondence.

## 12. Expedited/Emergency Hearings

- **Compliance with LBR 9014-1(f)**. Parties requesting a hearing on an expedited or emergency basis must comply with LBR 9014-1(f)(1). Additionally, any and all responses to matters that the Court has allowed to be considered on an expedited or emergency basis must comply with LBR 9014(f)(2).
- **Order must be submitted with Motion**. All Motions to Expedite or for Emergency Consideration should be filed with an order uploaded immediately for Judge Kolwe's review and consideration. Failure to do so may result in a delay in the Court considering the motion.
- **Actual Notice Required**. If the Court grants a motion to expedite, or for emergency consideration of, a matter, the party requesting the hearing must immediately give **actual notice** to opposing parties. "Actual notice" may be accomplished by telephone, email or facsimile. **Mailed notice is not adequate.**
- **Certificate of Service of Order**. The party giving the actual notice must file a certificate/affidavit of service in the record prior to the hearing on the expedited matter setting forth the name of each party provided actual notice, and the method used to give actual notice.
- **Expedited hearings on Motions to Extend/Impose Automatic Stay**. Please see the section of Judge Kolwe's Procedures pertaining to the Extension/Imposition of Stay.

### **13. Extension/Imposition of Stay**

- Motions to Expedite a Hearing on Extend Stays can be done by combined Motion and Notice. Exhibit A - required form Motion/Notice
- Please verify that there is not an appropriate hearing date available before automatically filing a motion to expedite a hearing on a motion to extend stay.
- Motions to Extend Stay that are not expedited, that have a sworn verification/affidavit, and to which no objections have been filed may be granted without hearing.
- If a Motion to Extend Stay is removed from the calendar, debtor's counsel is responsible for informing their clients that they do not need to appear.
- If a Motion to Extend Stay is continued by entry into CM/ECF, debtor's counsel is responsible for informing their clients that they do not need to appear.

## **14. Oral Rulings**

The Court may issue oral rulings either immediately following a hearing or trial or on matters under advisement. When issuing an oral ruling, the Court reserves the right, without changing its final ruling, to correct the transcript, not only as to inaccuracies in transcription, but also as to content. In order to ensure that the oral ruling fully and clearly states the Court's rationale for its decision, the Court may: (1) add, alter or delete any language in the transcript of the oral ruling; (2) correct grammar or punctuation; and/or (3) add or delete any citations to authority. If the Court's edits to the transcript of the oral ruling go beyond the correction of transcription errors, then the document filed by the Court will no longer be a transcript at that point. Instead, the Court will docket it as a corrected and modified bench ruling, although the Court's holdings on the issues before it will not change.

## 15. Submission of Orders

**E-order format required.** All orders must be submitted electronically and be in the e-orders format as outlined in the Court's Administrative Procedures located on the Court's website:

All proposed orders must be submitted electronically. The first page of each order must contain a four-inch (4') top margin to accommodate the judge's electronic signature. Do not provide a date line or a signature line or block for the judge's signature. Each order must contain three (3) pound signs (###) centered at the end of the order. Do not submit an electronic order containing blanks. **PDF's created by scanning or imaging are difficult to process, unless expressly authorized by the Court scanned or imaged orders are prohibited.** Attorneys must include the following information at the bottom of each order:

This order was prepared and is being submitted by:

Firm name

By \_\_\_\_\_

Attorney for \_\_\_\_\_

Bar Number \_\_\_\_\_

Mailing Address

Telephone Number



**WHEREFORE, DEBTOR PRAYS** that the notice on the Motion of Debtor for Continuation of Automatic Stay be expedited and the motion heard on \_\_\_\_\_ at \_\_\_\_\_.

**This is the only notice of the expedited hearing on the Motion to Extend the Automatic stay that will be mailed out.**