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Incorporating Revisions resulting from Public Comments and final comments of Standing Advisory Committee

LOCAL BANKRUPTCY RULES

OF THE UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF LOUISIANA

EFFECTIVE DECEMBER 1, 2019

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PART I: COMMENCEMENT OF A CASE; PROCEEDINGS RELATING TO PETITION AND ORDER FOR RELIEF.

LBR 1001-1 Short Title and Scope.

(a) Title.

These Local Rules of Bankruptcy Procedure of the United States Bankruptcy Court for the Western District of Louisiana (the "Local Bankruptcy Rules") may be abbreviated in citations as "W.D. La. LBR" or "LBR," and the number of the pertinent rule.

(b) Scope.

(1) The Local Bankruptcy Rules govern procedure in the United States Bankruptcy Court for the Western District of Louisiana in cases under Title 11 of the United States Code (the "Bankruptcy Code"). The Local Bankruptcy Rules supplement, but do not replace, the Federal Rules of Bankruptcy Procedure and shall be construed consistently with those rules to secure the just, expeditious and economical administration and determination of every case and proceeding.

(2) In addition to the Local Bankruptcy Rules, the Administrative Procedures, Procedures for Complex Chapter 11 Cases, and the standing and general orders of the Bankruptcy Court govern practice. Further, each Bankruptcy Judge of this District may adopt rules and/or procedures governing proceedings before such Judge by standing order.

(3) On motion of a party in interest or acting sua sponte, and for the convenience of the parties or other good cause, the Presiding Judge may suspend or modify any Local Bankruptcy Rule in a particular case.

(4) Any Appendix to the Local Bankruptcy Rules may be modified by the Bankruptcy Court without the necessity of a formal amendment to these Local Bankruptcy Rules.

(5) All Appendices to the Local Bankruptcy Rules, standing and general orders of the Bankruptcy Court and standing order(s) of a Presiding Judge should be carefully reviewed as they may make important additions or modifications to these Local Bankruptcy Rules.

LBR 1002-1 Commencement of Case.

(a) Individual Filers.

Only an individual may file a voluntary bankruptcy petition or appear in court without being represented by a licensed attorney. All other entities, including

partnerships, corporations and trusts may not, without counsel, appear in court or sign pleadings, including the petition. If a debtor that is not an individual files a petition without legal counsel, the Presiding Judge may dismiss the case without notice, either sua sponte, or on motion of a party in interest.

(b) Responsibility of *Pro Se* Individuals.

Any individual proceeding on the individual's own behalf is considered *pro se.* Individuals proceeding *pro se* should read and must follow the Local Bankruptcy Rules, the Federal Rules of Bankruptcy Procedure, and the Bankruptcy Code.

(c) Identification and Social Security Card.

Unless excused by order of the court, all petitions filed by an individual debtor shall include copies of (1) picture identification card and (2) the debtor's social security card.

LBR 1005-1 Caption of Petition.

In addition to the requirements of Fed. R. Bankr. P. 1005, the caption of the petition and all other pleadings and papers accompanying the petition shall include the division in which it is filed (i.e., Alexandria, Lafayette, Lake Charles, Monroe, or Shreveport).

LBR 1006-1 Filing Fee.

(a) Payment of Filing Fee.

Payments for filing fees must be made either by credit card through the Pay.gov Internet Credit Card Payment System or at the Bankruptcy Clerk's Office by such other form of payment that has been authorized by the Bankruptcy Clerk or supervising representative.

(b) Payment by Check.

Payment by check is permitted only if drawn on the account of the attorney for the debtor or another party, or on the account of a law firm of which the attorney is a member, partner, or associate. Checks shall be payable to "Clerk of Court, U.S. Bankruptcy Court." The check is accepted subject to collection.

(c) Application to Pay in Installments.

(1) Minimum Initial Payment.

The minimum amount of the initial required payment depends on the chapter of the case. The fee schedules are available for reference at www.lawb.uscourts.gov.

(2) Installment Payment Schedule.

An application to pay filing fees in installments shall specify the dates upon which the debtor proposes to make installment payments, and the amount of each payment. The court may schedule the dates and amount of each payment, notwithstanding the payment schedule proposed in the application.

(3) Order on Application.

The court shall prepare the order on all applications to pay filing fees in installments.

(d) Refund of Filing Fee.

The Judicial Conference has approved limited authority of bankruptcy courts to issue refunds of fees due to the implementation of CM/ECF and the payment of filing fees electronically by credit card, which has resulted in an increase in mistakes in payments of filing fees. Although the authority to approve a refund is a judicial determination, the court may delegate this authority to the Bankruptcy Clerk. Accordingly:

(1) Requests for refunds for an erroneous duplicate case must be made by motion or application, and the parties must submit a proposed order.

(2) Without the necessity of obtaining an additional order, the Bankruptcy Clerk is authorized to issue refunds for:

(i) fees collected without authority;

(ii) duplicate credit card payments that result from a failed internet credit card process;

(iii) payments that result from a duplicate petition erroneously filed through CM/ECF; and

(iv) fees collected due to the Clerk's administrative error.

(3) If the Bankruptcy Clerk discovers an erroneous filing for which a fee has not yet been collected, the Bankruptcy Clerk, without motion and order, may correct the erroneous filing administratively and not collect the fee.

(4) If a particular attorney or law firm continues to make repeated mistakes when submitting fees and requesting refunds, the court may consider remedial action.

(5) All other requests for refunds must be made by motion and notice of hearing

for a judicial determination.

LBR 1007-1 Lists, Schedules and Statements.

(a) Master Mailing List.

A mailing list containing the name and address of each entity included or to be included on Schedules D, E/F, G and H (the "Master Mailing List") shall also include those agencies and offices of the United States required to receive notice pursuant to Fed. R. Bankr. P. 2002. Addresses for proper notice to major United States Government agencies are listed on the court's website: http://www.lawb.uscourts.gov/. The Master Mailing List shall be in such form as prescribed from time to time by the Bankruptcy Clerk. The debtor and debtor's attorney [or petitioning creditor or partner, upon order of the court] are responsible for the preparation of the Master Mailing List.

(b) Alphabetical Listing of Creditors.

All creditors listed on Schedules D, E/F must be arranged in alphabetical order.

(c) Extension of Time to File.

By ex parte motion, a debtor may request a single extension of the time for filing schedules and statements pursuant to Fed. R. Bankr. P. 1007(c). The motion must be filed before the original filing deadline and must disclose the original filing deadline, the date of the section 341(a) meeting of creditors, and the reason for the requested extension. If a debtor seeks an additional extension of time, before filing a motion seeking such extension to file any list, schedule or statement, counsel for the debtor shall confer with the Office of the United States Trustee, any committee, trustee, examiner or the standing chapter 12 or 13 trustee (if applicable) to determine whether or not the requested extension will be opposed. If unopposed, the motion for extension shall be accompanied by a certificate of conference certifying that the motion is unopposed in compliance with Local Bankruptcy Rule 9013-1(f). If opposed, the debtor shall request a hearing; however, any hearing on the motion will only be held at the discretion of the Presiding Judge.

LBR 1009-1 Amendments to Lists and Schedules.

(a) Amendments and Supplements to Master Mailing List.

Whenever schedules or amendments add new persons or entities, or make corrections to mailing addresses, including the debtor's mailing address, the debtor shall file with the document an amendment to the Master Mailing List which shall include only the names and addresses of persons or entities to be added or corrected.

(b) Notice to Newly Scheduled or Added Persons.

Within three (3) days of filing, the debtor shall serve copies of amended or late-filed schedules, statements or lists by first class mail, postage prepaid, or by electronic service pursuant to Local Bankruptcy Rule 9036-1, on the U.S. Trustee, the trustee, and all creditors affected by the filed document(s). The entity filing the amended or late filed schedules, statements or lists shall also attach a copy of the Notice of Bankruptcy Case (prepared as prescribed by the appropriate Official Form), "Order of Discharge," "Order Confirming Plan," "Order fixing Date for Filing Claims," and the Chapter 13 Plan if such orders, notices or Plan have been filed in the case. The debtor shall file a certificate of service at the time of serving such documents.

(c) Amendments to Schedule of Exemptions and Deadline for Objections.

If a debtor's schedule of exemptions is amended, within three (3) days of such amendment the debtor shall serve notice of the amendment to all creditors and to any trustee appointed in the case and file a certificate of service with the Bankruptcy Clerk. Objections to the amended schedules must be filed within thirty (30) days from the date of service of the amended schedule of exemptions, or within thirty (30) days from the conclusion of the meeting of creditors held under §341(a), whichever is later.

LBR 1013-1 Hearing and Disposition of a Petition in an Involuntary Case.

(a) Disposition of an Involuntary Petition under 11 U.S.C. § 303(j).

A list of all of the alleged debtor's creditors must be filed with the court prior to or contemporaneously with a motion or other pleading requesting dismissal of an involuntary petition under 11 U.S.C. § 303(j). The list of the debtor's creditors must be verified in accordance with Fed. R. Bankr. P. 1008.

(b) Hearing and Service of a pleading seeking dismissal under § 303(j).

A motion or other pleading requesting dismissal of an involuntary petition under 11 U.S.C. § 303(j) must be set for hearing in accordance with LBR 9013-1 and served, along with the notice of hearing, on all creditors of the alleged debtor in accordance with LBR 9014-1.

LBR 1015-1 Joint Administration.

(a) Motions for Joint Administration.

When a case is filed for or against a debtor related to a debtor with a case pending in the Bankruptcy Court, a party in interest may file a motion for joint administration in each case. Motions for joint administration will be assigned for determination to the bankruptcy judge presiding over the first related case filed in this district, regardless

of the division in which the case is filed.

(b) Joint Petition.

The filing of a joint petition shall be deemed an order directing joint administration for the purpose of Fed. R. Bankr. P. 1015, unless the court orders otherwise.

LBR 1016-1 Procedure Upon the Death or Incapacity of a Debtor During the Pendency of a Bankruptcy Case.

(a) Notice of Death.

In a bankruptcy case which has not been closed, a Notice of Death of the debtor [Fed. R. Civ. P. 25(a), Fed. R. Bankr. P. 7025] shall be filed within sixty (60) days of the death of a debtor by the counsel for the deceased debtor or the person who intends to be appointed as the representative for or successor to a deceased debtor. The Notice of Death shall be served on the trustee, U.S. Trustee, and all other parties in interest. If counsel for the deceased debtor is notified of the death of a debtor more than sixty (60) days after death, counsel shall file a Notice of Death as soon as practicable after being notified of the death.

The Notice of Death may be combined with the single motion permitted by paragraph (b) of this Rule. If so combined, the title to the motion and notice of motion shall be: **"NOTICE OF DEATH AND MOTION FOR** [state relief requested]."

(b) Single Motion for Omnibus Relief Upon Death of Debtor.

When the debtor has died or has become incompetent prior to a closing of a bankruptcy case, the provisions of Federal Rule of Civil Procedure 18(a) [Fed. R. Bankr. P. 7018, 9014(c)] apply to the following claims for relief which may be requested in a single motion:

(1) substitution as the representative for or successor to the deceased or legally incompetent debtor in the bankruptcy case [Fed. R. Civ. P. 25(a), (b); Fed. R. Bankr. P. 1004.1 & 7025];

(2) continued administration or conversion of a case under chapter 11, 12 or 13 [Fed. R. Bank. P. 1016];

(3) waiver of post-petition education requirement for entry of discharge [11 U.S.C. §§ 727(a)(11), 1328(g)];

(4) waiver of the certification requirements for entry of discharge in a chapter 13 case, to the extent that the representative for or successor to the deceased or incompetent debtor can demonstrate an inability to provide such certifications [11 U.S.C. § 1328];

(5) authority of the representative for, or successor to, the deceased/incompetent to testify at the meeting of creditors held pursuant to 11 U.S.C. § 341, if the death or incompetency occurs prior to the meeting of creditors held pursuant to 11 U.S.C. § 341, if permitted by the United States Trustee.

LBR 1017-1 Dismissal for Want of Prosecution or Other Cause; Sua Sponte Dismissal; Ex Parte Dismissal.

(a) Dismissal for Want of Prosecution or Other Cause.

The following is a non-exclusive list of reasons a case may be dismissed for want of prosecution or other cause under Fed. R. Bankr. P. 1017:

(1) incomplete or late schedules filed by the debtor;

(2) the failure of a non-individual debtor to act through counsel in the filing of a bankruptcy petition or the prosecution of a case;

(3) unpaid filing fees by the debtor;

(4) failure by the debtor to timely file mailing lists of creditors in the prescribed format;

(5) failure by the debtor to include the required creditors list with the petition;

(6) the debtor's lack of diligent, prompt prosecution through filing of a plan late, missing or incomplete disclosure statement or other document required by the code, rules, or orders;

(7) the debtor's failure to attend the § 341 creditors meeting;

(8) the debtor's failure to timely amend schedules requested by the trustee or the U.S. trustee; and

(9) unpaid U.S. trustee quarterly fees.

(b) Sua Sponte Dismissals; Order to Show Cause for Dismissals; Ex Parte Dismissals.

(1) Sua sponte dismissal.

Without the necessity of obtaining an order, as soon as practicable, the Bankruptcy Clerk shall enter an order to dismiss a case for failure to file timely a certificate of credit counseling.

(2) Order to show cause for dismissal.

As soon as practicable, without the necessity of obtaining an order, the Bankruptcy Clerk shall enter an order which sets a hearing and requires the debtor(s) to show cause why a chapter 7 or 13 case should not be dismissed for failure of debtor(s) to pay timely filing fees or failure of debtor(s), within fifteen days after the filing of the petition commencing such case or such additional time as the court may allow, to file the information, document, list, schedule, statement or plan required by Fed. R. Bankr. P. 1007 or 3015. The Bankruptcy Clerk must serve the order on the debtor(s), and, if the debtor(s) is (are) represented by an attorney, the attorney, at least twenty-one (21) days before the hearing date. The entry of the order to show cause on CM-ECF shall constitute service on the attorney by electronic service pursuant to Local Bankruptcy Rule 9036-1. Objections should be filed at least seven (7) days before the hearing date. If no response is timely filed or if good cause is not shown with the time prescribed by the order, the court may dismiss the case without the necessity of a hearing.

(3) Ex parte dismissal.

The United States Trustee may seek an ex parte dismissal of a case if a debtor fails to attend a meeting of creditors scheduled pursuant to 11 U.S.C. § 341 by filing a motion accompanied by an affidavit or a declaration in compliance with 28 U.S.C. § 1746 attesting the failure of the debtor(s) to (i) attend the meeting and (ii) request that it be rescheduled within twenty-one (21) days of the date of the meeting debtor(s) failed to attend.

LBR 1019-1 Conversion – Procedure Following.

(a) To Chapter 7.

Within fourteen (14) days after the entry of an order converting a case to chapter 7, the debtor shall file a schedule of those assets remaining in the possession of the debtor as of the date of conversion, a list of abandoned property and property against which the automatic stay of lien enforcement terminated during the case, a schedule of assets and unpaid post-petition obligations or expenses, if any, and if the debtor is an individual, a statement of current monthly income and means test calculation (prepared as prescribed by the appropriate Official Form).

(b) To Chapter 12 or 13.

Within fourteen (14) days after the entry of order converting a chapter 11 case to a case under chapter 12 or 13, the debtor shall serve, in electronic format, the standing chapter 12 or 13 trustee with a copy of the original petition, schedules and statements, and any amendments thereto filed in the superseded case; and where the case is converted to a case under chapter 13, a Statement of Current Monthly Income and

Calculation of Commitment Period and Disposable Income (prepared as prescribed by the appropriate Official Forms).

LBR 1021-1 Health Care Business Case.

In addition to the notice required by Fed. R. Bankr. P. 9013 the movant shall serve any motion to determine whether the debtor is a health care business on the designated representative of the Louisiana state agency responsible for regulating the health care business. A list of Louisiana state agencies is available on the court's website at: http://www.lawb.uscourts.gov/.

LBR 1050-1 Complex Chapter 11 Cases.

Procedures for the administration of complex cases are governed by the Complex Chapter 11 Case Procedures attached to these Local Bankruptcy Rules as Appendix A; these procedures are also posted on the court's website at: http://www.lawb.uscourts.gov/.

PART II: OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS; EXAMINATIONS; ELECTIONS; ATTORNEYS AND ACCOUNTANTS.

LBR 2002-1 Notices to Creditors and Other Interested Parties.

Notices given under Fed. R. Bankr. P. 2002 must be given as ordered by the court. If the court does not enter a separate order directing the method of notice, then notices shall be given as follows:

(a) Twenty-One-Day Notices to Parties in Interest.

(1) The Bankruptcy Clerk, or a separate entity, if so directed by the court, shall give the notice required by Fed. R. Bankr. P. 2002(a)(1) (notice of the meeting of creditors under § 341 or § 1104(b)) utilizing the appropriate Official Forms. In a chapter 12 or 13 case, the notice required by Fed. R. Bankr. P. 2002(a)(1) and the appropriate Official Form shall also provide the time fixed for filing proofs of claim under Fed. R. Bankr. P. 3002(c). In a chapter 7 case, the notice required by Fed. R. Bankr. P. 2002(a)(1) may include a statement to the effect that there are no assets from which a dividend can be paid; that it is unnecessary to file claims; and that if sufficient assets become available for the payment of a dividend, further notice will be given for the filing of claims, as described in Fed. R. Bankr. P. 2002(e).

(2) The proponent of the proposed use, sale, or lease of property of the estate, other than in the ordinary course, shall prepare and give the notice required by Fed. R. Bankr. P. 2002(a)(2).

(3) One (1) of the parties proposing a compromise or settlement of a controversy shall give the notice required by Fed. R. Bankr. P. 2002(a)(3).

(4) The proponent of dismissal or conversion shall prepare and give the notice of hearing on the motion required by Fed. R. Bankr. P. 2002(a)(4).

(5) The proponent of the proposed plan modification shall give the notice of the time fixed to accept or reject the proposed modification of the plan as required by Fed. R. Bankr. P. 2002(a)(5).

(6) The applicant seeking compensation or reimbursement of expenses shall give the notice required by Fed. R. Bankr. P. 2002(a)(6).

(7) Unless otherwise ordered by the court, notice of the time fixed, or "bar date" for filing proofs of claim or interest in chapter 11 cases under Fed. R. Bankr. P. 3003(c), as required by Fed. R. Bankr. P. 2002(a)(7), shall be served by the trustee or debtor in possession.

(8) The proponent of the chapter 12 plan shall provide notices required by Fed. R. Bankr. P. 2002(a)(8) (time fixed for filing objections to the plan and the date of the hearing to consideration confirmation of the plan).

(9) The proponent of the chapter 13 plan shall give the notice required by Fed. R. Bankr. P. 2002(a)(9) (the time fixed for filing objections to a plan).

(b) Twenty-Eight-Day Notices to Parties in Interest.

The notices required by Fed. R. Bankr. P. 2002(b)(1) and (b)(2) shall be given by the party whose disclosure statement is being considered or by the proponent of the plan, as the case may be.

(c) Thirty-Five-Day Notices to Parties in Interest.

The notice required by Fed. R. Bankr. P. 2002(b)(3) (time fixed for the hearing to consider confirmation of a chapter 13 plan) shall be given by the Bankruptcy Clerk or some other person as the court may direct; this notice may be combined with the notice of the time fixed for the meeting of creditors pursuant to LBR 2002-1(a)(1). This notice shall be sent at least thirty-five (35) days prior to the date fixed for the hearing to consider confirmation of a chapter 13 plan.

(d) Notice to Equity Security Holders.

Unless otherwise ordered by the court, notice of the order for relief and of any meeting of equity security holders ordered by the court pursuant to 11 U.S.C. § 341, shall be served by the debtor in possession or trustee in all cases under chapter 11. The notices required by subdivisions (d)(3), (4), (5), (6), and (7) of Fed. R. Bankr. P.

2002 shall be served in accordance with subdivisions (a)(2), (4), (5) and (b) of this LBR 2002-1.

(e) Other Notices.

(1) The notices required by subdivisions (f)(1), (3), (4), and (5) of Fed. R. Bankr. P. 2002 shall be served by the party responsible for serving notice of the § 341 meeting of creditors as provided in subdivision (a)(1) of this Local Bankruptcy Rule.

(2) Notice of the dismissal of a case under chapter 7 or 11 shall be served by the Bankruptcy Clerk or some other person as the court may direct, provided that the debtor in possession shall serve such notice if the order was entered on motion of the debtor in possession. Notice of the dismissal of a chapter 12 or 13 case shall be served by the Bankruptcy Clerk.

(3) The notices required by subdivisions (f)(6), (8), (9), (10) and (11) of Fed. R. Bankr. P. 2002 shall be served by the Bankruptcy Clerk or some other person as the court may direct.

(4) The notice required by subdivision (f)(7) of Fed. R. Bankr. P. 2002 shall be served by the proponent of the confirmed plan.

(f) Debtor to Provide Notice.

Whenever notice is required to be served under this Rule by the Bankruptcy Clerk or a party other than the debtor in possession, such debtor in possession shall serve the notice if the mailing list required by LBR 1007-1(a) has not been filed.

(g) Notices to Creditors Whose Claims Are Filed.

In a chapter 7 case, where notice of insufficient assets to pay a dividend has been given to creditors pursuant to Fed. R. Bankr. P. 2002(e), after ninety (90) days following the mailing of a notice of the time for filing claims pursuant to Rule 3002(c)(5), all notices required by subdivision (a) of this Local Bankruptcy Rule may be mailed only to the debtor, the trustee, all indenture trustees, creditors that hold claims for which proofs of claim have been filed, parties who have filed a request for notices with the Bankruptcy Clerk and creditors, if any, that are still permitted to file claims by reason of an extension granted pursuant to Fed. R. Bankr. P. 3002(c)(1) or (c)(2).

In a chapter 12 case or chapter 13 case, after the expiration of time to file a claim under Fed. R. Bankr. P. 3002(c), all notices required by subdivision (a) of this Local Bankruptcy Rule may be mailed only to the debtor, the trustee, creditors that hold claims for which proofs of claim have been filed, parties who have filed a request for notices with the Bankruptcy Clerk and creditors, if any, that are still permitted to file

claims by reason of an extension granted pursuant to Fed. R. Bankr. P. 3002(c)(1) or (c)(2).

(h) Certificate of Service When Notice Served by Party.

When a party other than the Bankruptcy Clerk is required by this rule to serve notice, such party shall file a copy of the notice with a certificate of service evidencing the names and addresses of the parties served and the date and manner of service.

(i) Other Parties.

The Bankruptcy Court may require notices to be served by the parties other than those specified in these Local Bankruptcy Rules.

(j) Notice of an Extension to File Schedules.

Notice of an extension of time to file schedules and statements shall be given by the debtor to any committee, trustee, examiner, the United States Trustee, standing chapter 12 or 13 trustee, indenture trustees or labor unions (if applicable), and to any other party as the Bankruptcy Court may direct. Transmission of the notice or order of extension of time to a registered user via the CM/ECF system, constitutes service of the notice as permitted by Local Bankruptcy Rule 9013-1(c).

LBR 2003-1 Meeting of Creditors or Equity Security Holders.

Pursuant to 11 U.S.C. § 341, the United States Trustee has the exclusive authority to convene a meeting of creditors or equity security holders. Parties should not seek the entry of an order from the court related to the scheduling or rescheduling of a meeting of creditors or equity security holders. Instead, all such requests should be directed to the United States Trustee.

LBR 2004-1 Examination.

(a) Good Faith Duty to Confer.

Counsel for the parties and any unrepresented individuals shall have a duty to make a good faith effort to resolve by agreement any disputes with regard to an examination and production of documents under Fed. R. Bankr. P. 2004, including its scheduling, scope, length and the extent of documents to be produced. Any objection to an order for a Rule 2004 examination, a motion to enforce compliance with such an order, or with a subpoena, or a motion seeking to modify, limit or quash such an order, shall be accompanied by a statement certifying that counsel for the moving or objecting party or the unrepresented individual have conferred or made a good faith effort to confer in an attempt to resolve the controversy by agreement, but that such efforts were not successful.

(b) Examination by Notice.

The purpose of LBR 2004-1(a) is to encourage agreements on an examination schedule and to avoid a motion and court order for a Rule 2004 examination. Therefore, examination and production of documents under Fed. R. Bankr. P. 2004 may be initiated by notice, if the entity or person to be examined consents. The notice shall:

(1) specify the scope of the examination;

(2) provide the date, time and place of the examination;

(3) describe any documents to be produced;

(4) be filed with the Bankruptcy Clerk; and

(5) be served upon the debtor, the debtor's attorney, the chapter 7, 11, 12 or 13 trustee as appropriate, the United States Trustee, and the entity or person to be examined.

The party seeking the examination shall file the notice with the Bankruptcy Clerk and serve it in accordance with this Local Bankruptcy Rule no later than fourteen (14) days before the date set for the examination.

(c) Rule 2004 Inapplicable to Contested Matters and Adversary Proceedings.

If a contested matter or an adversary proceeding is pending, Fed. R. Bankr. P. 2004 and Local Bankruptcy Rule 2004-1 are inapplicable. Discovery in contested matters and adversary proceedings shall be governed by Fed. R. Bankr. P. 7027 through 7036.

LBR 2007.1-1 Examiners – Chapter 11.

Upon approval of the appointment of an examiner in a chapter 11 case, the examiner shall be given all notices required to be mailed to committees under Fed. R. Bankr. P. 2002(i).

LBR 2014-1 Employment of Professionals.

(a) Statement Required by § 329 and Rule 2016(b).

A motion for employment by an attorney for the debtor or a motion for substitution of counsel for the debtor shall have attached the statement required by 11 U.S.C. § 329 and Fed. R. Bankr. P. 2016(b).

(b) ***Nunc Pro Tunc*** **Employment.**

(1) If a motion for approval of the employment of a professional is made within thirty (30) days of that professional (with the exception of special counsel) commencing work, it is deemed contemporaneous.

(2) If a motion for the approval of the employment of a professional is made more than thirty (30) days after that professional commences work and the motion seeks to make the authority retroactive to the commencement, the motion shall include:

(i) an explanation of why the motion was not filed earlier;

(ii) an explanation why the order authorizing retroactive employment is required; and

(iii) an explanation, to the best of the applicant's knowledge, as to how approval of the motion may prejudice any parties-in-interest.

(3) Motions to approve the retroactive employment of professionals shall be approved only on notice and opportunity for hearing. Unless the court orders otherwise, all creditors in the case shall be served with notice of the motion.

LBR 2015-1 Duty to Keep Records, Make Reports, and Give Notice of Case or Change of Status.

In a chapter 11 case, and in an operating chapter 7 case, the debtor in possession or the trustee shall file a Monthly Operating Report, in the form prescribed by the United States Trustee. The Monthly Operating Report shall be filed on or before the 20th day of each month following the month the subject of the report until a plan is confirmed, or the case is converted or dismissed. A signed copy of the Monthly Operating Report shall be furnished to the United States Trustee.

LBR 2015-2 Chapter 7 Trustees – Authority to Advance Estate Funds.

In any chapter 7 case where the trustee has not been authorized to conduct the business of the debtor, the trustee may advance from estate funds only the following without further order:

(a) expenses payable to unrelated third parties, subject to the subsequent court approval for reasonableness after notice and hearing, provided that no single such expense exceeds $200.00 and the aggregate amount of such expenses does not exceed $1,000.00;

(b) adversary filing fees; and

(c) payment of bond premiums as authorized by the United States Trustee.

LBR 2015-3 Chapter 7 Trustees – Duty to File Notice of Change of Status.

In a chapter 7 case, where notice of insufficient assets to pay a dividend has been given to creditors pursuant to Fed. R. Bankr. P. 2002(e), the trustee shall file in the record of the case, a notice of change of status at any time after the Trustee discovers assets which, when liquidated, may result in a distribution to creditors of the estate. Thereafter, pursuant to Fed. R. Bankr. P. 3002(c)(5), the Bankruptcy Clerk shall give the debtor, all creditors, and the trustee, notice by mail of the need to file proofs of claim.

LBR 2016-1 Compensation of Professionals and Reimbursement of Expenses.

(a) Statement Required by § 329 and Rule 2016(b).

The statement required by 11 U.S.C. § 329 and Fed. R. Bankr. P. 2016(b) (the "Rule 2016(b) Statement") shall be filed by the attorney for the debtor, utilizing a form which conforms substantially to the appropriate Director's Form, within fourteen (14) days after the order for relief, whether or not the attorney seeks to be employed or compensated by the estate; *provided, however*, in chapter 13 cases, the attorney for the debtor shall use the form provided in Appendix H to these Local Bankruptcy Rules.

(b) Form of Application.

An application for compensation and reimbursement of expenses must:

(1) be titled "Application for Compensation;"

(2) set forth the date the debtor filed the petition;

(3) set forth the date the court authorized employment of the applicant;

(4) disclose the retainer received by the applicant and an accounting of the retainer as set forth in subpart (e)(2) of this Local Bankruptcy Rule;

(5) disclose the period covered by the application;

(6) disclose the name, hourly rate and work experience of each professional performing services for which compensation is sought;

(7) disclose the date of approval of all prior applications for compensation and the amounts approved by the court;

(8) comply with the United States Trustee guidelines as set forth in 28 CFR Part 58, Appendix A (for cases in which total assets and total liabilities are less than $50 million, aggregated for jointly administered cases) **[**www.justice.gov/ust/fee-guidelines**]**, or 28 CFR Part 58, Appendix B (for

cases in which total assets and total liabilities are $50 million or more, aggregated for jointly administered cases) **[**www.justice.gov/ust/fee-guidelines**]**;

(9) set forth the total compensation and expense reimbursements requested in the application;

(10) attach exhibits which include the following:

(i) for each professional or paraprofessional seeking compensation for compensable services, a chronological billing summary that provides by date, and by professional and paraprofessional, a description of the services being performed, and the time devoted to performing the described services;

(ii) a summary sheet which shows by project category the time each professional and paraprofessional devoted to working on the case during the applicable time periods;

(iii) a summary sheet which itemizes all expenses, including copies, telephone charges, courier services, witness fees, postage, mileage, etc.; and

(iv) a resume or summary of the professional's and paraprofessional's qualifications;

(11) bill travel time at half-rate unless work was performed during travel, in which case the time may be billed at full rate;

(12) contain the twenty-one (21) day "if and only if" notice language described in LBR 9007-1(b); and

(13) contain a certificate of service reflecting service as required under subsection (d) of this Local Bankruptcy Rule.

(c) Time Records and Documentation of Expenses.

All professionals submitting an application under Fed. R. Bankr. P. 2016 and this Local Bankruptcy Rule, except auctioneers, real estate brokers, appraisers, or professionals retained on a fixed-fee or contingent-fee basis, must keep accurate and contemporaneous time records. Additionally, when possible, receipts should be obtained for all expenditures, and all professionals must retain and make available upon request documentation for all expenditures in excess of $50.00.

(d) Service and Notice.

A complete copy of the application, including all exhibits, must be served on the debtor and the debtor's counsel, the trustee and the trustee's counsel, attorneys for any court-appointed committees, and the United States Trustee. The applicant must serve a summary of the fee application upon the Master Mailing List as constituted by the court on the date of service which:

(1) identifies the applicant and the capacity of such applicant;

(2) identifies the title of the application and the date it was filed;

(3) identifies the amounts sought by the application;

(4) identifies the time period covered by the application;

(5) contains the twenty-one (21) day "if and only if" notice language described in LBR 9007-1(b); and

(6) contains a notice that a complete copy of the application will be sent to any requesting party by the applicant at no charge.

(e) Retainers.

In chapter 9, 11, 12 and 13 cases, all attorneys and accountants employed by a debtor shall deposit any retainer received prepetition, whether received from the debtor or someone else, in a trust account.

(1) Withdrawal from Retainer by Debtor's Attorney in Chapter 13 Cases.

(i) To the extent the debtor's attorney collects a retainer to pay expenses related to the debtor's chapter 13 case, such as the filing fee, the cost of a credit report and fees paid for credit counseling required by 11 U.S.C. § 109(h)(1), the attorney may make a prepetition withdrawal from the retainer in order to cover these expenses.

(ii) Unless the court orders otherwise, and only in those cases where the attorney has elected to be compensated under this court's Standing Order on no-look fees in chapter 13 cases, the entry of a chapter 13 confirmation order shall authorize an attorney for a chapter 13 debtor to withdraw a retainer in full or partial satisfaction of the attorney's outstanding fee without the necessity of a formal order.

(iii) In those chapter 13 cases in which the professional seeks compensation and reimbursement of expenses by application, the retainer must be held in trust pending approval by the court of an

application by the professional for compensation and reimbursement of expenses.

(2) Withdrawal from Retainer in Chapters 9, 11 and 12 Cases.

(i) The attorney for the debtor in a chapter 9, 11 or 12 case may make a post-petition withdrawal from the retainer for the sole purpose of paying the applicable case filing fee. The attorney's initial application for compensation and reimbursement of expenses must disclose the total disbursement made from the retainer to pay the applicable filing fee(s).

(ii) The professional's first application for approval of compensation and reimbursement of expenses should set forth the retainer the applicant received. The retainer shall be applied to payment of the compensation and expenses set forth in the initial application as approved by the court. Subsequent applications for compensation and reimbursement of expenses by the professional shall set forth the amount of the retainer previously applied to payment of approved compensation and expenses of the professional, and the balance of the original retainer remaining.

(3) Post-Petition Retainers.

A professional may not accept or deposit a retainer after the filing of the petition for relief except by court order.

(f) Attorney's Fees in Chapter 13 Cases.

(1) Standing Order Establishing Presumptively Reasonable No-Look Fees.

In chapter 13 cases, the debtor's attorney, by agreement with the debtor, may elect to be paid the presumptively reasonable no-look fee allowed by Standing Order of the court (the court's current Standing Order on no-look fees in chapter 13 cases is posted on the court's website at www.lawb.uscourts.gov/). The election of the no-look fee by the debtor's attorney must be disclosed in the attorney's Rule 2016(b) Statement.

(2) Fee Applications.

If the no-look fee allowed by Standing Order of the court is not elected in the Rule 2016(b) Statement, the debtor's attorney must file a formal fee application in accordance with Fed. R. Bankr. P. 2016 and this Local Bankruptcy Rule.

(3) Review by Chapter 13 Trustee.

In all cases (i.e. in both, cases in which the no-look fee has been elected, and in cases in which the chapter 13 debtor's attorney has elected to file a fee application), the chapter 13 trustee shall review and consider the reasonableness of the attorney's fee requested in each case. If the chapter 13 trustee does not file an objection to the compensation being requested, then it shall be presumed that the trustee recommends payment of the requested fees. Under these circumstances, confirmation of the chapter 13 plan shall constitute court approval of the fees requested. If the chapter 13 trustee objects to the compensation, the reasonableness of the attorney's fee requested will be considered at the same time as the confirmation hearing scheduled in the case.

(4) Hearing on Reasonableness of Attorney Fees.

Any party in interest by motion, or the court on its own motion, may request a hearing to review the reasonableness of the attorney fee requested; unless otherwise ordered by the court, the hearing on the reasonableness of the attorney's fee will be conducted at the same time as the confirmation hearing scheduled in the case.

LBR 2016-2 Bank Service Fees on Chapter 7 Estate Accounts.

(a) Chapter 7 trustees are authorized to incur and pay any actual, necessary expense as contemplated by 11 U.S.C. § 330, for bank fees and charges directly related to the administration of estate accounts.

(b) The court retains authority to review and approve such expenses during the administration of the case.

LBR 2020-1 United States Trustee – Guidelines for Chapter 11 Cases.

The United States Trustee may from time to time publish guidelines on matters such as insurance, operating reports, bank accounts and money of estates and other subjects pertaining to the administration of chapter 11 cases. Failure to comply with the requirements of these guidelines may constitute cause justifying the appointment of a trustee, or dismissal or conversion of the case pursuant to 11 U.S.C. § 1112(b).

LBR 2090-1 Attorneys – Admission to Practice; Discipline.

District Court Local Civil Rule 83.2 and all subparts of the same are applicable to proceedings in this court. As this court is a unit of the United States District Court for the Western District of Louisiana, admission to practice in that Court is required to appear as an attorney in this court. An attorney who is licensed by the highest court of a state, but who is not admitted to practice in the United States District Court for the Western District of

Louisiana, may represent a party in this court *pro hac vice* by permission of the presiding judge. All applications to appear *pro hac vice* must conform to District Court Local Civil Rule 83.2.6. The motion may be filed *ex parte.* Admission to practice is limited to the particular case or adversary proceeding for which it is approved; it is not a general admission to practice before the Bankruptcy Court or the District Court. An attorney admitted *pro hac vice* must comply with all aspects of these Local Bankruptcy Rules. By appearing in any case, an attorney becomes subject to all rules, and general and standing orders, of this court. Discipline of Attorneys is governed by District Court Local Civil Rule 83.2.10.

LBR 2091-1 Attorneys – Withdrawals.

An attorney desiring to withdraw in any case must file a motion to withdraw. This motion must specify the reasons requiring withdrawal and provide the name and address of the succeeding attorney. If the succeeding attorney is not known, the motion must set forth the name, address, and telephone number of the client and either bear the client's signature approving withdrawal or state specifically why, after due diligence, the attorney was unable to obtain the client's signature.

LBR 2092-1 Electronic Filing Required; Change of Contact Information or Name.

(a) Electronic Filing through CM/ECF is Required by the Bankruptcy Court.

Electronic filing through CM/ECF is required by the bankruptcy court. Attorneys are required to register for CM/ECF and can do so by contacting the Bankruptcy Clerk's office.

(b) Change of Contact Information or Name of Attorney

When an attorney changes the attorney's business address, e-mail address, telephone number, facsimile number, or name, the attorney must promptly change this information in CM/ECF, following the procedures set forth in the CM/ECF Administrative Procedures Manual.

PART III: CLAIMS AND DISTRIBUTION TO CREDITORS AND EQUITY INTEREST HOLDERS; PLANS.

LBR 3001-1 Proof of Claim Attachment Required for Claims Secured by Security Interest in the Debtor's Principal Residence.

(a) In General.

This rule applies in all cases and with regard to claims that are secured by a security interest in the individual debtor's principal residence. For chapter 13 cases, this rule applies in addition to the requirements of Fed. R. Bankr. P. 3002 and 3002.1.

(b) Mortgage Proof of Claim Attachment.

The holder of a claim secured by a security interest in the debtor's principal residence shall attach to its proof of claim an exhibit reflecting at least the following details regarding the prepetition claim being asserted:

(1) all prepetition interest amounts due and owing, itemized such that the applicable interest rate is shown, as well as the start and end dates for accrual of interest at such interest rate;

(2) all prepetition fees, expenses, and charges due and owing, itemized to show specific categories (*e.g.*, appraisals, foreclosure expenses, *etc.*) and the dates incurred;

(3) any escrow amount included in the monthly payment and, if there is an escrow account, a supplemental attachment of an escrow statement prepared as of the petition date; and

(4) a statement reflecting the total amount necessary to cure any default as of the petition date, which must show:

(i) the number of missed payments;

(ii) plus the aggregate amount of any fees, expenses, and charges due and owing; and

(iii) less any funds the creditor has received but not yet applied.

(c) Form and Content.

The proof of claim attachment described in this rule shall be prepared as prescribed by the appropriate Official Form.

LBR 3001-2 Proof of Claim – Transferred Claim; Notice Not Required Where Transfer Indicates Agreement by Transferor and Transferee; Transferred Claim Will Not be Filed in Closed Case.

(a) Notice Not Required Where Transfer Indicates Agreement by Transferor and Transferee.

If a claim has been transferred in the manner described in Fed. R. Bankr. P. 3001(e)(4) and where evidence of full or partial transfer of a claim is filed which contains the signatures of both the transferor and transferee and such evidence of transfer is filed, the Bankruptcy Clerk shall not provide notice of the filing of evidence of the transfer and no objection deadline for the transfer of the claim shall be established. The transferor shall be deemed to have waived any objection to the

transfer, and the claim shall be noted as having been transferred in the records of the court.

(b) Transferred Claim Will Not be Filed in Closed Case.

The Bankruptcy Clerk will not process a Transfer of Claim in a closed case. Instead, the case must be reopened by filing a motion to reopen case and the filing fee must be paid in full. If the case is reopened, the Bankruptcy Clerk will process the Transfer of Claim.

LBR 3003-1 Filing Proofs of Claim or Interest in Chapter 9 and Chapter 11 Cases.

In chapter 9 and chapter 11 cases, where no bar date has otherwise been specifically set by the court, a creditor or equity security holder whose claim or interest is not scheduled or is scheduled as disputed, contingent, or unliquidated, must file a proof of claim within ninety (90) days after the first date set for the meeting of creditors pursuant to 11 U.S.C. § 341, except that a proof of claim filed by a governmental unit is timely if it is filed within one-hundred-eighty (180) days after the date of the order for relief.

LBR 3007-1 Objections to Claims.

(a) Contents of the Objection.

Every objection to a claim must identify the claimant, the date the proof of claim was filed, the amount of the claim and the classification of the claim as secured, priority unsecured, or general unsecured. If the amount or classification of the claim is being disputed, the objection to claim shall state the amount of the claim, if any, that is not in dispute and the classification considered proper by the objecting party. The objection must state with particularity the legal and factual basis for the objection; the objection should also include as an attachment an affidavit, a declaration in compliance with 28 U.S.C. § 1746, or other appropriate documentation supporting the objection.

(b) "If and Only If" Notice.

(1) Objections to claims are contested matters which may be made on "if and only if" notice as authorized by LBR 9007-1(d). If the "if and only if" notice procedure is not used, or if a timely response to the objection is filed, a hearing on the objection will be held. If "if and only if" notice is utilized, the objection must state in bold print immediately below the title the following:

> **This is an objection to your claim. This objection asks the court to disallow the claim that you have filed in this bankruptcy case. If you oppose the objection to your claim, you must file a response at least seven (7) days before the date set for the hearing on this objection to your claim. If**

you do not timely file a response, your claim may be disallowed without a hearing.

(2) The hearing on the claim objection must be scheduled at least thirty (30) days after the date of service of the claim objection. A notice of hearing must be served contemporaneously with the objection to claim. If the "if and only if" notice procedure is utilized, the notice must conform substantially to the provisions of LBR 9007-1(d).

(c) Orders.

For any portion of an objection to a claim sustained by the court, the language of the order must track the language of the relief sought in the objection.

LBR 3011-1 Unclaimed Funds.

(a) Searching Unclaimed Funds.

The Bankruptcy Clerk will participate in the U.S. Bankruptcy Unclaimed Funds Locator, available at https://ucf.uscourts.gov/.

(b) Filing Requirements for Application and Disbursement of Unclaimed Funds.

(1) The Bankruptcy Clerk will make the Application for Payment of Unclaimed Funds, instructions, and, if applicable, proposed order(s) easily accessible from its court website. Applicants seeking unclaimed funds must use the standardized application and proposed orders set forth on the Bankruptcy Clerk's website.

(2) Applications for unclaimed funds may be filed electronically through the CM/ECF case management system or by delivering same to the Bankruptcy Clerk's office by United States mail, courier service or hand delivery.

(3) The Application for Payment of Unclaimed Funds must be publicly docketed in CM/ECF. If the supporting documentation accompanying the Application for Payment of Unclaimed Funds contains personal identifiers protected under Fed. R. Bankr. P. 9037, it must be docketed as a private event in CM/ECF.

(4) It is not necessary that a closed case be reopened before a party can file an Application for Payment of Unclaimed Funds.

(5) The Bankruptcy Clerk shall not issue of a payment of unclaimed funds solely in the name of a funds locator. If a funds locator submits an application for payment of unclaimed funds on behalf of the rightful claimant, the Bankruptcy Clerk is authorized to issue payment jointly to the claimant and

the funds locator or to the claimant "in care of" the funds locator. In no event, shall the Bankruptcy Clerk make a separate payment to the funds locator to split out any fee or commission.

(6) A party shall not be required to file a notice of transfer of claim in a closed case where the claimant requesting withdrawal of unclaimed funds is not the owner of record, but rather a successor, assignee, transferee, or purchaser of the claim, who has not filed the notice of transfer of claim.

(c) Attorney Requirements.

(1) Any person (including a business entity) is permitted to file an Application for Payment of Unclaimed Funds *pro se*.

(2) If an attorney files an Application for Payment of Unclaimed Funds, it is not necessary for the attorney to be a member of the bar for this court or be admitted *pro hac vice* to appear in the underlying case.

(d) Post-Filing Process.

(1) The person filing an Application for Payment of Unclaimed Funds should serve the parties designated by Local Bankruptcy Rule 9013-1(b)(4) and the parties shall have twenty-one (21) days thereafter to file an objection thereto. If an objection is filed, the Bankruptcy Clerk shall notice the matter for hearing. If no objection is filed with the court within the objection period after the filing of the application, the application and accompanying documents may be considered by the court without a hearing. The filing and entry of the Application for payment of Unclaimed Funds on the docket of the case in CM/ECF shall constitute notice by electronic service pursuant to LBR 9036-1.

(2) If an Application for Payment of Unclaimed Funds is deficient, the Bankruptcy Clerk shall notify the person filing the application of the deficiency. The Bankruptcy Clerk's office may contact the applicant for additional proof of identity or entitlement to the funds.

(3) To allow the fourteen (14) day appeal period to run following entry of an order for payment of unclaimed funds, the order shall state that the unclaimed funds may be disbursed only after fourteen (14) calendar days from the entry of the court's judgment or disbursement order.

LBR 3015-1 Filing, Objection to Confirmation, Effect of Confirmation, and Modification of a Plan in a Chapter 12 or Chapter 13 Case.

(a) Adoption of Local Form Plan in Chapter 13 Cases.

In accordance with Fed. R. Bankr. P. 3015.1, the court has adopted a Local Form Plan to be utilized in all chapter 13 cases instead of the Official Form Plan. The Local Form Plan, as may be amended from time to time, is posted on the court's website. The Local Form Plan shall be used without alteration, except as otherwise provided in the Local Form Plan or for any change described in Fed. R. Bankr. P. 9009(a).

(b) Service of Plan and Notice – Pre-Confirmation.

Except as otherwise ordered by the court, a debtor filing an original or amended chapter 12 or chapter 13 plan must serve the plan upon the Master Mailing List (as defined in LBR 1007-1) as constituted on the date of service, including the standing trustee. A certificate of service evidencing the proper service of the plan must be filed with the court or the plan may be stricken from the record.

(c) Objections to Confirmation.

(1) Written objections to chapter 12 or 13 plan confirmation by parties other than the chapter 12 or 13 trustees shall be filed and served on the trustee, the debtor and debtor's counsel at least fourteen (14) days before the scheduled confirmation hearing. Written objections to chapter 11 plan confirmation shall be filed and served on the trustee, the debtor and debtor's counsel at least seven (7) days before the scheduled confirmation hearing. The court may refuse to consider an objection that is not filed and served timely or impose other appropriate sanctions.

(2) The chapter 12 trustee and chapter 13 trustee may file written objections to confirmation at any time before the confirmation hearing.

(d) Pre-Confirmation Plan Amendment (Chapter 12).

Unless otherwise directed by the court, if a debtor is permitted to amend a chapter 12 plan pre-confirmation, the debtor shall file the amended plan in its entirety in a single pleading (commonly referred to as a "four corners plan") and it shall be styled: "[insert number] Amended and Restated Plan."

(e) Post-Confirmation Plan Modification (When the Proponent is the Debtor).

(1) Chapter 12.

A debtor requesting the post-confirmation modification of a chapter 12 plan must file a modified plan as an attachment to the motion seeking confirmation

of the modified plan which specifies the precise changes sought by the modification, including without limitation the following:

(i) the purpose of or necessity for the modification; and

(ii) the changes being made to the plan payment, the term of the plan, the distribution to any class, or any other substantive provision.

Unless otherwise directed by the court, if a debtor is permitted to amend or modify a chapter 12 plan, the debtor shall file the amended plan in its entirety in a single pleading (commonly referred to as a "four corners plan") and it shall be styled: "[insert number] Amended and Restated Plan."

(2) Chapter 13.

(i) A debtor requesting modification of a confirmed chapter 13 plan must use the Local Form Plan, which must be clearly designated as a modified plan. Additionally, the modified plan must identify the section or sections of the Local Form Plan which are being changed by the proposed modification, and the reasons for the changes.

(ii) A debtor seeking modification of a confirmed chapter 13 plan must contemporaneously file with the court an amended Schedule I and an amended Schedule J in order to verify current income and expenses unless the Plan payment does not change or, in the alternative, certify under penalty of perjury that the information contained in Schedule I and Schedule J as previously filed with the court remains true and correct. Amendments to Schedule I and J are not required when the changes to income and/or expenses are *de minimis*.

(3) Service of Modification and Notice of Hearing.

(i) In chapter 12 and chapter 13 cases, the proponent seeking modification of a confirmed plan must serve the proposed modification, together with any attachments, on the Master Mailing List (as defined in LBR 1007-1) as constituted by the court on the date of service and file a certificate of service evidencing such service. The modified plan must also set forth the deadline for filing objections and provide notice that the court may confirm the plan without further notice if an objection is not timely filed, utilizing language substantially in compliance with the following:

> **If you oppose the plan's treatment of your claim or any provision of this plan, you must file an objection to confirmation at least fourteen (14) days before the date set for the hearing on confirmation,**

unless otherwise ordered by the Bankruptcy Court. The Bankruptcy Court may confirm this plan without further notice if no objection to confirmation is filed. See Fed. R. Bankr. P. 3015 and LBR 3015-1.

(ii) The hearing on the plan modification must be scheduled at least thirty-five (35) days after the date of service of the proposed modified plan. A notice of hearing shall be served by the debtor contemporaneously with the proposed modified plan. The notice must set forth the specific hearing date, and clearly and conspicuously notify the recipients of the notice that the hearing will only be held if, and only if, an objection to the proposed plan modification is filed within fourteen (14) days of the hearing date, utilizing language substantially in compliance with the following:

IF, AND ONLY IF, NOTICE OF HEARING ON PLAN MODIFICATION

Notice is hereby given that a hearing will be held on the ___ day of _____, ____, at _____ AM/PM in the Bankruptcy Courtroom located at [provide the address] on the modified chapter 13 plan IF, AND ONLY IF, an objection is filed at least fourteen (14) days before the hearing date with the Bankruptcy Clerk of Court.

(f) Post Confirmation Plan Modification (When the Proponent is the Trustee or a Creditor).

The provisions of paragraph (e) apply when the trustee or an unsecured creditor files for post confirmation modification, except that the proponent will not be required to:

(1) use the Local Form Plan,

(2) serve the entire Master Mailing List, or

(3) file an amended Schedule I and J pursuant to the provisions of subparagraph (e)(2)(ii).

Any such modification will clearly state the reason for the amendment and what change is being sought. Further, such modification shall be served on the debtor, debtor's counsel and on all negatively affected parties.

LBR 3015-2 Mortgage Payments Through the Trustee, Adequate Protection Payments Through the Trustee and Sequence of Payments by the Trustee.

Rules concerning mortgage payments through the trustee, adequate protection payments through the trustee and sequence of payments by the trustee are set forth in Appendix G to these Local Bankruptcy Rules.

LBR 3016-1 Chapter 11 – Plan.

(a) Extension of Exclusivity Period.

If the debtor desires an extension of the exclusive period for filing a plan of reorganization, the debtor shall file a motion requesting the extension that includes a statement of the reasons why a plan has not been filed and a detailed timetable of the steps to be taken in order to file a plan. No order extending the periods of exclusivity as provided in 11 U.S.C. § 1121(b) or (e) shall be entered in the absence of such information.

(b) Small Business Cases.

If the debtor desires an extension of the periods provided for filing or confirming a plan of reorganization in a small business case, as provided in 11 U.S.C. § 1121(e)(3), then the debtor shall file and serve a motion requesting the extension, as described in subsection (a), on all parties in interest. The motion should be filed sufficiently in advance of the expiration of the time periods provided in § 1121(e) to provide at least twenty-one (21) day notice of the hearing and for the order extending time to be signed before the existing deadline has expired. Expedited or emergency hearings will be granted only in exceptional circumstances.

LBR 3017-1 Disclosure Statement – Approval.

The transmission and notice required by subsection (d) of Fed. R. Bankr. P. 3017 shall be mailed by the proponent of the plan.

LBR 3017-2 Disclosure Statement – Small Business Cases.

(a) Procedure for Conditional Approval Under Bankruptcy Rule 3017.1.

A plan proponent in a small business case may seek conditional approval of a disclosure statement, subject to final approval after notice and hearing, by filing a motion with the court contemporaneously with the filing of the proposed plan of reorganization. Such motion shall contain a certificate of service evidencing service upon the parties designated by Local Bankruptcy Rule 9013-1(b)(4) and shall be accompanied by a proposed order. The motion may be presented to the court for immediate consideration upon notice to the United States Trustee and any case trustee.

(b) Waiver.

A plan proponent in a small business case may seek to waive the requirement of a disclosure statement because the proposed plan of reorganization itself provides adequate information. Such waiver may be sought by motion to be filed contemporaneously with the proposed plan of reorganization. Such motion shall be served upon the parties designated by Local Bankruptcy Rule 9013-1(b)(4) and may contain fourteen (14) day "if and only if" notice language.

LBR 3018-1 Ballots – Voting on Plans.

Unless the court orders otherwise, at least one (1) day prior to the hearing on confirmation, the proponent of a plan or other party who receives the acceptances or rejections shall file a ballot tabulation and certification which identifies the amount and number of allowed claims of each class accepting or rejecting the plan and the amount of allowed interests of each class accepting or rejecting the plan. A copy of the certification shall be served on the debtor, case trustee, if any, United States Trustee and any committee appointed or elected in the case. On the basis of the certification, the Presiding Judge may find that the plan has been accepted or rejected.

LBR 3020-1 Chapter 11 – Confirmation.

(a) Unless the court orders otherwise, an objection to confirmation shall be filed and served no later than seven (7) days prior to the date set for hearing on confirmation of the plan.

(b) Unless the court orders otherwise, not less than one (1) day prior to the hearing on confirmation, the plan proponent shall file on CM-ECF, the following:

(1) A ballot tabulation and certification as required by Local Bankruptcy Rule 3018-1.

(2) A certification of compliance with the requirements of 11 U.S.C. § 1129(a), or in the alternative, evidence of such compliance at the hearing. If a certification is filed, it must be in the form of an affidavit or a declaration which complies with the requirements of 28 U.S.C. § 1746; and

(3) Any other document necessary for plan confirmation.

LBR 3022-1 Chapter 11 – Final Decree.

A Post-Confirmation Report and Application for Final Decree shall be filed by the proponent(s) of the Plan. The application for final decree shall either be set for hearing or contain the required "if and only if" notice language set forth in Local Bankruptcy Rule 9007-1(b). The application shall be served on the United States Trustee and all creditors and other parties in interest.

PART IV: THE DEBTOR; DUTIES AND BENEFITS.

LBR 4001-1 Automatic Stay – Procedure for Obtaining Relief from the Automatic Stay.

A request for relief from the automatic stay in accordance with § 362 of the Code or the codebtor stay in accordance with § 1201 or § 1301 of the Code, shall be made by motion.

(a) Prima Facie Evidence of Debt.

The motion or its attachments must offer *prima facie* proof of the existence of the debt in the form of either:

(1) reference in the motion to a properly filed proof of claim executed and filed in accordance with Fed. R. Bankr. P. 3001 and, if applicable, LBR 3001-1; or

(2) an affidavit or a declaration in compliance with 28 U.S.C. § 1746 setting forth proof of the existence of the debt.

(b) Prima Facie Evidence of Value of Collateral.

If the value of the collateral is at issue, the Motion or its attachments must offer *prima facie* proof of the value of the collateral in the form of an affidavit or a declaration in compliance with 28 U.S.C. § 1746 executed by a person qualified to value the collateral; *provided, however*, if the collateral is a motor vehicle, subparagraph (d) shall apply to determine the value of the collateral.

(c) Real Estate.

If the motion relates to real estate, the moving party shall attach to such motion a copy of the note(s), mortgage(s) or other evidence of security interests upon which the moving party bases its secured claim; *provided, however*, that a Motion does not need to attach such evidence if it refers to a proof of claim executed and filed in accordance with Fed. R. Bankr. P. 3001 and, if applicable, LBR 3001-1.

(d) Motor Vehicle.

If the motion relates to a motor vehicle, it shall set forth the value of such motor vehicle based upon a valuation from any recognized used motor vehicle guide. The motion shall also state the balance claimed due by the moving party which must be verified by affidavit or declaration. To establish the moving party's secured interest in the motor vehicle, the motion must attach a copy of any document recognized as proper perfection under applicable state law; *provided, however,* that it does not need to attach such evidence if it refers to a proof of claim executed and filed in accordance with Fed. R. Bankr. P. 3001 that contains such.

(e) Personal Property.

If the motion relates to personal property other than a motor vehicle, the moving party shall set forth in such motion a description of the personal property, the estimated value or the appraised value of the personal property, and the balance claimed due for the moving party's secured claim, which must be verified by affidavit or declaration. The moving party shall also attach a copy of the security agreement and/or retail installment contract and, if applicable, copies of financing statements bearing notations of filing with the appropriate public recording agency and indicating proper perfection of such liens under applicable state law.

(f) Commencement or Continuation of Judicial Action.

If the motion seeks authority to commence or continue a judicial, administrative or other action against the debtor that was or could have been commenced before the commencement of the case, the motion should describe the claim or cause of action or, if commenced prior to the commencement of the case, attach a copy of a pleading containing such description; *provided, however*, a motion does not need to attach such documentation if it refers to a proof of claim executed and filed in accordance with Fed. R. Bankr. P. 3001 that contains such documentation.

(g) Parties for Service of Notice of Hearing and Motion.

The moving party must serve a copy of the notice of hearing and a copy of the motion on:

(1) all parties required by Fed. R. Bankr. P. 4001(a)(1);

(2) the debtor, and, if the debtor is represented by an attorney, the attorney;

(3) any applicable codebtor when relief is sought from the codebtor stay;

(4) any party scheduled in the case as holding a lien, when relief is sought from the stay of an act against property;

(5) the United States Trustee; and

(6) all parties who filed a request for notices with the Bankruptcy Clerk.

(h) Required Notice and Response Deadline.

The notice of hearing must comply with Local Bankruptcy Rule 9013-1(b)(1)–(3). If the motion relates to property, the notice of hearing shall provide a concise description of the property. 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 Bankruptcy Clerk's office and mailed to the moving party's

counsel within seventeen (17) days of the mailing date shown on the moving party's certificate of mailing of the motion to lift the stay. This seventeen (17) day period is calculated by using fourteen (14) days from Fed. R. Bankr. P. 4001, plus three (3) days from Fed. R. Bankr. P. 9006(f). 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 Bankruptcy Clerk shall be no less than seven (7) calendar days after the RESPONSE DEADLINE. In addition to any information required by Local Bankruptcy Rule 9013-1(b)(1)-(3), the notice of hearing must contain a statement in substantially the following form:

> **A hearing to consider the [*title of motion*] will be held on [*Month*] [*Day*], [*Year*] at ___ o'clock, __. m. at [*identify courthouse address, floor and courtroom number, if applicable*], IF AND ONLY IF, an objection or response is filed on or before the response deadline noted herein. The motion seeks [*describe with such particularity as appropriate to fairly apprise others of the relief sought, including if applicable, a concise description of the property at issue*]. No hearing will be conducted hereon unless a written response is filed with the Clerk of the United States Bankruptcy Court at [*address of Clerk's office*] before the close of business on [*Month*] [*Day*], [*Year*] (the "Response Deadline") which is a date at least seven (7) days before the hearing date. A copy of the response should be served upon counsel for the moving party by the Response Deadline. The Response Deadline is at least seventeen (17) days from the date of service hereof.**
>
> **IF NO OBJECTION OR RESPONSE IS TIMELY FILED, THE RELIEF REQUESTED SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT OR THE NOTICED ACTION MAY BE TAKEN.**

(i) Relief from the Stay by Default.

If no objection or response is timely filed, the relief requested shall be deemed to be unopposed and the court may enter an order granting the relief sought. Notwithstanding the absence of a timely filed objection, the court may deny the relief requested if the moving party has not established an entitlement to the relief requested.

(j) Extension of Time; Late-filed Responses; Certificate of Conference Required.

The court may, for cause, extend or reduce the time for sending notices, filing responses or setting a hearing. Before filing a motion seeking authority to file a request for an extension of time or an untimely response to a Motion to Lift the Stay, an attorney for the moving party shall confer with an attorney for each party affected

by the requested relief to determine whether the motion is opposed. The attorney for the moving party shall file a certificate of conference to evidence compliance with Local Bankruptcy Rule 9013-1(f).

(k) Response.

Any response to a motion for relief from stay shall state with particularity the reasons that the motion is opposed and, if appropriate, make a specific offer of adequate protection. The response must state, in plain terms, the specific factual or legal basis for denying the relief sought in the motion. Failure to identify a sufficient basis is cause for the court to disregard the response.

(l) Motion for Relief from Co-Debtor Stay.

In addition to the notice provisions outlined in this rule, the moving party shall specifically certify that the co-debtor against whom relief is sought has been properly served with notice according to Fed. R. Bankr. P. 7004.

(m) Hearing Not Timely Proposed.

If the moving party notices a hearing on a Motion for Relief from the Automatic Stay for a date more than thirty (30) days from the date the motion was filed or, in the case of a co-debtor stay, more than twenty (20) days from the date the motion was filed, the party shall be deemed to have waived the automatic termination of the stay under 11 U.S.C. § 362(e) and/or § 1301(d).

LBR 4001-2 Motions to Extend the Automatic Stay Under Section 362(c)(3) and Motions to Impose Automatic Stay Under Section 362(c)(4).

(a) Contents.

Unless otherwise indicated in the motion, a motion to extend the automatic stay under § 362(c)(3) or impose an automatic stay under § 362(c)(4) shall be presumed to apply to all creditors. If the motion seeks only to extend the stay or to impose the stay as to particular creditors, then the motion must identify those particular creditors. The motion also must state with particularity why the later filing has been made in good faith.

(b) Notice of Hearing: Service.

The "if and only if" notice procedure described in Local Bankruptcy Rule 9007-1 does not apply to Motions to Extend the Automatic Stay Under Section 362(c)(3) and Motions to Impose Automatic Stay Under Section 362(c)(4). Instead, a definite hearing must be scheduled. Service of the motion and notice of hearing is governed by Local Bankruptcy Rules 9013-1(b)(4) and 9013-1(e). A notice of hearing for a motion that seeks to extend or impose the stay as to all creditors must be served upon

all creditors. A notice of hearing for a motion that seeks to extend or impose the stay only as to particular creditors must be served upon those particular creditors.

(c) Affidavit or Declaration.

The moving party must file a verified affidavit or a declaration in compliance with 28 U.S.C. § 1746 setting forth the substantial changes in the financial or personal affairs of the debtor since the dismissal of the next most previous bankruptcy case. In the absence of timely filed objections, the court may enter an order extending the automatic stay without testimony where a sufficient affidavit or declaration has been filed.

LBR 4001-3 Payment and Cure of Pre-Petition Judgment of Eviction Involving Residential Property.

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 amended 11 U.S.C. § 362(l). The purpose of this Local Bankruptcy Rule is to establish uniformity in the procedure for the deposit of rent by debtors and the transmittal of rent to lessors under §§ 362(l)(1)(B) and 362(l)(5)(D) of the Code. This Local Bankruptcy Rule, however, has limited application as it applies ***solely*** to cases where an individual debtor is a tenant under a lease or rental agreement where said property is located in a jurisdiction that gives a tenant the right to stay in the residence under state law or other non-bankruptcy law by paying the landlord the entire delinquent amount.

(a) Compliance by the Debtor with § 362(l)(1).

A debtor is deemed to have complied with § 362(l)(1**)** by:

(1) Initial Certification.

The certification required by 11 U.S.C. § 362(l)(1**)**(A) shall be made and designated on the applicable Official Form, Initial Statement About an Eviction Judgment Against You, and filed with the Bankruptcy Clerk.

(2) Filing of Judgment.

The debtor must file a copy of the pre-petition judgment for eviction of the debtor's residence together with applicable the Official Form.

(3) Certification.

The certification required by 11 U.S.C. § 362(l)(1**)** (B)(2) shall be made and designated on the applicable Official Form, Statement About Payment of an Eviction Judgment Against You, and filed with the Bankruptcy Clerk if, within the thirty (30) day period after filing of the petition, the debtor has complied with the requirements of 11 U.S.C. § 362(l)(1**)**(A).

(4) Deposit – Certified Funds.

Any deposit of rent made by or on behalf of a debtor, pursuant to 11 U.S.C. § 362(l)(1**)**(B), shall be made in the form of a certified check or money order payable to the order of the lessor, and delivered to the clerk of court upon filing of a petition.

(b) Transmission to Lessor.

Upon receipt of the deposit and certification tendered pursuant to 11 U.S.C. § 362(l)(1**)**, the Bankruptcy Clerk shall transmit the certified check or money order promptly to the lessor, by certified mail, return receipt requested, to the address listed on the petition.

LBR 4002-1 Duties of a Chapter 11 Debtor-in-Possession.

(a) A debtor-in-possession is responsible for strict compliance with the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, and standing orders. Counsel for the debtor in possession is responsible for instructing the debtor about the U.S. trustee guidelines for a debtor-in-possession and insuring compliance with those guidelines.

(b) The debtor, its officers, and agents hold and manage the debtor's assets as fiduciaries for the estate; they must strictly comply with court orders and Bankruptcy Code §§ 363 and 1107. The debtor must prevent the depletion of the assets of the business during the proceedings, and it must notify its counsel immediately of a depletion or potential depletion.

(c) If the debtor becomes aware of facts indicating that the continued operation of its business may not be in the best interest of the creditors or of the estate, it must immediately notify its counsel, who may immediately notify the court and recommend a solution.

(d) The debtor may not use property of the estate to pay any prepetition unsecured obligation except on order.

(e) The debtor must not transfer (sell, give, move, encumber) an asset outside of the ordinary course of business except on order.

(f) The debtor must not incur administrative and priority expenses unless funds are reasonably expected to be generated to pay them.

(g) The debtor must comply fully with Title 11's tax provisions, with the deposit requirements of the Internal Revenue Code and Regulations, and with all state tax laws.

(h) The debtor must pay on a current basis all obligations incurred by it in operating its

business.

(i) The debtor must not use cash collateral without prior written consent of the secured creditor or an order.

(j) The debtor must not pay compensation to insiders unless it has positive cash flow, all post-petition accounts paid current, including United States Trustee fees, and all monthly operating reports submitted timely.

(k) Counsel must advise the court of any knowing violation by debtor.

(l) A chapter 11 debtor-in-possession shall not compensate any present or former insider within the meaning of 11 U.S.C. § 101(31) from estate assets without prior court approval.

(1) A motion to compensate any present or former insider shall recite:

(i) the necessity for retaining the insider;

(ii) the services that the insider will perform on behalf of the estate;

(iii) the amount (including any benefits) that the debtor proposes to pay to the insider, and the terms and conditions of the employment or other undertaking;

(iv) all compensation, benefits and other payments that the insider has received from the debtor in the six (6) months prior to the petition; and

(v) the insider's salary at the date of the petition.

(2) Every insider to receive compensation shall verify the motion.

(m) This list of duties is not exclusive, and it does not exclude unenumerated obligations imposed by law. Counsel for the debtor in possession is responsible to instruct the debtor of this rule immediately on filing the case.

PART V: COURTS AND CLERKS.

LBR 5003-1 Bankruptcy Clerk – General Authority.

(a) Bankruptcy Clerk Authorized to Amend Form of Mailing List.

The Bankruptcy Clerk shall be authorized to change the form of the mailing list required by Local Bankruptcy Rule 1007-1(a) to meet requirements of any automated

case management system hereafter employed by the Bankruptcy Clerk. The Bankruptcy Clerk shall give appropriate notice to the bar of any such change in form.

(b) Bankruptcy Clerk Authorized to Refuse Certain Forms of Payment.

The Bankruptcy Clerk shall maintain a list of all attorneys and law firms whose checks or credit or debit cards have been dishonored. The Bankruptcy Clerk may refuse future check, credit or debit card payments from such attorneys or firms and require an alternative form of payment.

LBR 5004-1 Disqualification – Recusal.

A Presiding Judge, upon recusal in any case, shall request that the chief bankruptcy judge reassign the case.

LBR 5005-1 Filing Papers – Requirements.

(a) Filing the Petition.

The petition shall be filed in the office of the Bankruptcy Clerk responsible for the division in which the case is to be filed.

(b) Signature Block.

The signature block of every pleading shall include the name, state bar number, if applicable, address, telephone number and email address, if applicable, of the party or attorney filing the pleading.

LBR 5005-2 Electronic Filing.

The Bankruptcy Clerk is authorized to accept documents for filing, issue notices and serve orders and judgments electronically, and to specify practices in electronic case management, subject to the procedures approved by the Bankruptcy Court and consistent with technical standards, if any, that the Judicial Conference of the United States establishes, and to the extent permitted by applicable rules.

LBR 5009-1 Closing Procedures in Chapter 13 Cases.

(a) Notice to Debtor of Completed Plan.

When the chapter 13 trustee determines that the debtor has completed all plan payments, the trustee shall file with the court and serve on the debtor and the debtor's attorney a *Notice of Plan Completion.*

(b) Debtor Certifications to Obtain Discharge.

No later than thirty (30) days after the date of a *Notice of Plan Completion*, if the debtor is eligible to receive a discharge under 11 U.S.C. § 1328, the debtor shall file with the court a *Statement of Chapter 13 Debtor Regarding Domestic Support Obligations and 11 U.S.C. § 522(q) Exemptions*, in a form which conforms substantially to Form B2830.

(c) Notice of Closing Case Without Discharge.

A Notice of Closing Chapter 13 Case Without Discharge will be issued if:

(1) the record does not contain evidence that debtor completed an instructional course concerning personal financial management,

(2) the debtor received a prior bankruptcy discharge within the time periods specified in 11 U.S.C. § 1328(f), or

(3) the record does not contain the certifications required by the *Statement of Chapter 13 Debtor Regarding Domestic Support Obligations and 11 U.S.C. § 522(q) Exemptions* in a form which conforms substantially to Form B2830.

(d) Trustee Final Report.

The chapter 13 trustee shall make a final report and file a final account of the administration of the estate. The final report shall conform substantially to the appropriate form approved by the United States Trustee Program.

LBR 5011-1 Withdrawal of Reference.

District Court Local Civil Rule 83.4 and all subparts of the same shall govern the withdrawal of the reference.

LBR 5072-1 Court Decorum.

All persons present in a courtroom where a trial, hearing, or other proceeding is in progress must dress and conduct themselves in a manner demonstrating respect for the court. The Presiding Judge shall have the discretion to establish appropriate standards of dress and conduct.

LBR 5072-2 Court Security.

Firearms and other weapons are prohibited in areas of buildings designated for court use. Such weapons may be carried by the United States Marshal, the marshal's deputies, courtroom security personnel, and other persons to whom a Presiding Judge has given approval.

LBR 5073-1 Photography, Broadcasting, Recording and Televising.

No person may photograph, electronically record, televise, or broadcast a judicial proceeding. This rule shall not apply to ceremonial proceedings or electronic recordings by an official court reporter or other authorized court personnel.

LBR 5075-1 Bankruptcy Clerk – Delegated Functions.

(a) Authority to Sign Notices and Orders.

Pursuant to 28 U.S.C. §§ 157(b) and 956, the Bankruptcy Court authorizes the Bankruptcy Clerk to sign and/or electronically affix Judge facsimile signatures to and enter various Notices and Orders for the Bankruptcy Court including, but not limited to, Notices and Orders which require appearances at meetings, hearings, conferences or trials, Orders Discharging Cases, Orders Cancelling Discharge Issuance, Orders to Debtor in Possession, Orders Dismissing Case for Failure to Comply, Orders for Distribution, Scheduling Orders, Final Decree Orders, and Other Orders as the Bankruptcy Court may designate by standing order.

(b) Deputy Clerks.

The Bankruptcy Clerk is authorized to delegate this authority to any deputy clerk. On any order or notice signed by the Bankruptcy Clerk or on behalf of the Bankruptcy Clerk.

PART VII: ADVERSARY PROCEEDINGS

LBR 7001-1 Adversary Proceedings – General.

An adversary complaint shall be filed in the division in which the related chapter case is pending, if such chapter case is pending in this district, except as otherwise required by 28 U.S.C. § 1409.

LBR 7003-1 Cover Sheet.

Every adversary proceeding filed in this district shall be accompanied by an adversary proceeding cover sheet.

LBR 7004-1 Service of Summons.

Upon filing of a complaint, a summons, and pretrial order, if applicable, will be issued by the Bankruptcy Clerk and delivered to the plaintiff. The plaintiff is then responsible for serving the summons on all parties in accordance with Fed. R. Bankr. P. 7004.

LBR 7005-1 Service of Pleadings and Other Papers by Electronic Means.

Subject to the administrative procedures approved by the Bankruptcy Court and consistent with technical standards, if any, that the Judicial Conference of the United States establishes, parties are permitted to make service through the Bankruptcy Court's transmission facilities, as permitted by Federal Rule of Civil Procedure 5(b)(2)(E). This rule is not applicable to the service of process of a summons and complaint, which must be served in accordance with Fed. R. Bankr. P. 7004 and must timely file proof of service with the Bankruptcy Court.

LBR 7007-1 Motion Practice.

The parties shall comply with the following:

(a) Conference Required When Seeking Authority to File a Request for an Extension of Time, an Untimely Response or a Discovery Motion.

Before filing a motion seeking an extension of time or authority to file an untimely response or a discovery motion, an attorney for the moving party shall confer with an attorney for each party affected by the requested relief to determine whether the motion is opposed. Conferences are not required for any other motion.

(b) Certificate of Conference Required When Seeking Authority to File a Request for an Extension of Time or an Untimely Response or a Discovery Motion.

(1) A motion seeking an extension of time or authority to file an untimely response or a discovery motion shall include a certificate of conference indicating that the motion is unopposed or opposed.

(2) If a motion seeking an extension of time or authority to file an untimely response or a discovery motion is opposed, the certificate shall state that a conference was held, indicate the date of conference and the identities of the attorneys conferring, and explain why agreement could not be reached.

(3) If a conference was not held, the certificate shall explain why it was not possible or practicable to confer, in which event the motion will be presumed to be opposed.

(c) Proposed Order When No Objection Has Been Timely Filed.

When no objection has been timely filed, counsel for the moving party must upload on CM/ECF a proposed order granting the relief requested in the motion within seven (7) days prior to the proposed hearing date. In the event the parties agree to the terms of a proposed order, it must be signed by the attorneys or parties to the agreement.

(d) Brief or Memorandum.

Except as required by LBR 7056-1, supporting briefs or memoranda of law are optional and are not required unless otherwise ordered by the court. LBR 7007-2 shall govern the form and length of the brief.

(e) Time for Response and Brief.

A response to an opposed motion may be accompanied by brief. If no response deadline is set by the court or set forth in a notice of hearing, a response and brief to an opposed motion shall be filed not later than seven (7) days prior to the proposed hearing date.

(f) Appendix or Exhibit Requirements.

(1) A party who relies on documentary (including an affidavit, declaration, deposition, answer to interrogatory, or admission) or non-documentary evidence (including videotapes and other physical exhibits) to support or oppose a motion shall include such evidence in an appendix or exhibit.

(2) The appendix or exhibit shall be separate from the motion, response, reply, or brief.

(3) The appendix or exhibit shall be submitted in accordance with the court's Administrative Procedures for Electronic Filing; however, non-documentary exhibits and oversized exhibits that cannot be scanned electronically shall be placed in an envelope that measures 9 x 12 inches and filed separately.

(4) Each page of the appendix or exhibit shall be numbered legibly in the lower, right hand corner. Any envelope that contains a non-documentary or oversized exhibit shall be numbered as if it were a single page.

LBR 7007-2 Briefs and Memoranda.

(a) General Form.

A Brief or Memorandum ("Brief") shall be printed, typewritten, or presented in some other legible form.

(b) Amicus Briefs.

An amicus brief may not be filed without leave of the Presiding Judge. The brief shall specifically set forth the interest of the *amicus curiae* in the outcome of the litigation.

(c) Length.

Excluding the cover page, table of contents and authorities, addendum, certificates of counsel, the signature block, and certificate of service (the "excluded text"), the length of a principal brief may not exceed thirty (30) pages, or 13,000 words of non-excluded text and a response brief may not exceed fifteen (15) pages or 6,500 words of non-excluded text. The first brief filed by a party is that party's "principal brief." Permission to file a brief in excess of these page limitations will be granted by the Presiding Judge only for extraordinary and compelling reasons.

(d) Tables of Contents and Authorities.

A brief in excess of ten (10) pages shall contain:

(1) a table of contents with page references; and

(2) an alphabetically arranged table of cases, statutes, and other authorities cited, with page references to the location of all citations.

(e) Citations to Appendix or Exhibit.

If a party's motion or response is accompanied by an appendix or exhibit, the party's brief shall include citations to each page of the appendix or exhibit that supports each assertion that the party makes concerning any documentary or non-documentary evidence on which the party relies to support or oppose the motion.

LBR 7007-3 Confirmation of Informal Leave of Court.

When a Presiding Judge informally grants leave, such as an extension of time to file a response or brief, an attorney for the party to whom leave is granted shall file a document confirming the leave and shall serve the document on all other parties.

LBR 7008-1 Statement Regarding Consent to Entry of Orders or Judgment in Core Proceeding.

In an adversary proceeding before a bankruptcy judge, in addition to statements required by Fed. R. Bankr. P. 7008(a), if the complaint, counterclaim, cross-claim, or third-party complaint contains a statement that the proceeding or any part of it is core, it shall contain a statement that the pleader does or does not consent to the entry of final orders or judgment by the bankruptcy judge if it is determined that the bankruptcy judge, absent consent of the parties, cannot enter final orders or judgment consistent with Article III of the United States Constitution.

LBR 7012-1 Statement in Responsive Pleading Regarding Consent to Entry of Orders or Judgment in Core Proceeding.

In addition to statements required by Fed. R. Bankr. P. 7012(b), if a responsive pleading

contains a statement that the proceeding or any part of it is core, it shall contain a statement that the pleader does or does not consent to the entry of final orders or judgment by the bankruptcy judge if it is determined that the bankruptcy judge, absent consent of the parties, cannot enter final orders or judgment consistent with Article III of the United States Constitution.

LBR 7016-1 Pretrial Procedures.

(a) Joint Pretrial Order.

Unless otherwise directed by the Presiding Judge, a joint pretrial order shall be uploaded on CM/ECF at least seven (7) days prior to trial. All attorneys are responsible for preparing the pretrial order, which shall contain the following:

(1) a summary of the claims and defenses of each party;

(2) a statement of stipulated facts;

(3) a list of contested issues of fact;

(4) a list of contested issues of law;

(5) an estimate of the length of trial;

(6) a list of additional matters that might aid in the disposition of the case; and

(7) the signature of each attorney.

(b) Proposed Findings and Conclusions.

Proposed findings of fact and conclusions of law shall be filed at least seven (7) days prior to trial.

(c) Conflict between Scheduling Order and Local Bankruptcy Rule.

In any conflict between a scheduling order entered in an adversary proceeding and these Local Bankruptcy Rules, the scheduling order controls.

LBR 7026-1 Discovery.

(a) Filing Discovery Materials.

(1) For Use in Discovery Proceedings.

A motion that relates to a discovery proceeding may only contain the portions of the discovery materials in dispute.

(2) For Use in Pretrial Motions.

When discovery materials are necessary for consideration of a pretrial motion, a party shall file only the portions of the discovery on which that party relies to support or oppose the motion.

(b) Depositions Used at Trial.

When a deposition is reasonably expected to be used at trial, it shall be pre-marked for identification as a trial exhibit and exchanged pursuant to the scheduling order.

LBR 7040-1 Assignment of Adversary Proceedings.

Except where considerations for equalization of the docket otherwise dictate, adversary proceedings will be assigned to the bankruptcy judge to whom the related chapter proceeding is assigned.

LBR 7042-1 Consolidation of Adversary Proceedings – Separate Trials.

Motions to consolidate adversary proceedings, and all briefs and other papers concerning consolidation, shall be served on an attorney for each party in each case sought to be consolidated. After consolidation, all pleadings, motions, or other papers shall only bear the caption of the first case filed. All post-consolidation filings shall also bear the legend "(Consolidated with [giving the docket numbers of all the other cases])."

LBR 7055-1 Default Judgment.

(a) Failure to Obtain Default Judgment.

If a defendant has been in default for ninety (90) days, the Presiding Judge may require the plaintiff to move for entry of a default and a default judgment. If the plaintiff fails to do so within the prescribed time, the Presiding Judge may dismiss the proceeding, without prejudice, as to that defendant.

(b) Request for Entry of Default by Bankruptcy Clerk.

Before the Bankruptcy Clerk is required to enter a default, the party requesting such entry shall file with the Bankruptcy Clerk a written request for entry of default, submit a proposed form of entry of default, and file any other materials required by Fed. R. Civ. P. 55(a).

LBR 7056-1 Summary Judgment.

(a) Motion Practice Not Modified Generally.

Except as expressly modified, the motion practice prescribed by Local Bankruptcy

Rules 7007-1 through 7007-3 is not affected by this rule.

(b) Limits on Time for Filing and Number of Motions.

(1) Time for Filing.

Unless otherwise directed by the Presiding Judge, no motion for summary judgment may be filed within forty-five (45) days of the scheduled trial setting.

(2) Number.

Unless otherwise directed by the Presiding Judge, or permitted by law, a party may file no more than one (1) motion for summary judgment.

(c) Content of Motion and Response.

District Court Local Civil Rules 56.1 and 56.2 shall apply in this court.

(d) Notice of Hearing.

The moving party must serve a notice of hearing which contains the twenty-one (21) day "if and only if" notice language described in LBR 9007-1(b). Responses must be filed not later than seven (7) days prior to the scheduled hearing.

(e) Briefing Requirements.

(1) Brief Required.

A summary judgment motion or a response shall be accompanied by a brief that sets forth the argument and authorities on which the party relies in support of or opposition to a motion. The brief shall be filed as a separate document from the motion or response that it supports.

(2) Length of Briefs.

The requirements of Local Bankruptcy Rule 7007-2 apply to briefs filed pursuant to this rule.

(3) Citations to Appendix.

A party whose motion or response is accompanied by an appendix shall include in its brief citations to each page of the appendix that supports each assertion that the party makes concerning the summary judgment evidence.

(f) Appendix or Exhibit Requirements.

(1) Appendix or Exhibit Required.

A party who relies on affidavits, declarations, depositions, answers interrogatories, or admissions on file to support or oppose a motion for summary judgment shall include such evidence in an appendix or exhibit.

(2) Appendix or Exhibit Format.

(i) The appendix or exhibit shall be assembled as a self-contained document, separate from the motion and brief or response and brief.

(ii) Each page of the appendix or exhibit shall measure 8½ x 11 inches. Non-documentary exhibits and oversized exhibits that are included in the appendix shall be placed in an envelope that measures 9 x 12 inches.

(iii) Each page of the appendix or exhibit shall be numbered legibly in the lower, right hand corner.

(g) Limit on Supplemental Materials.

Except for the motions, responses, replies, briefs, and appendixes required by these rules, a party may not, without the permission of the Presiding Judge, file supplemental pleadings, briefs, authorities, or evidence.

LBR 7065-1 Temporary Restraining Orders and Preliminary Injunctions.

An application for a temporary restraining order or for a preliminary injunction shall be made in a document separate from the complaint. An application for a temporary restraining order shall be accompanied by a certificate of the applicant's attorney, or by an affidavit, a declaration in compliance with 28 U.S.C. § 1746, or by other proof satisfactory to the court, stating;

(a) that actual notice of the time of making the application, and copies of all pleadings and other papers filed in the action to date or to be presented to the court at the hearing, have been furnished to the adverse party's attorney, if known, otherwise to the adverse party; or

(b) the efforts made by the applicant to give such notice and furnish such copies.

Except in an emergency, the court will not consider an *ex parte* application for a temporary restraining order.

LBR 7065-2 Sureties and Proceedings Against the Same.

District Court Local Civil Rules 65.1.1 and 65.1.2 apply in this court.

LBR 7067-1 Registry Fund.

Motions to Deposit or Withdraw Funds should be submitted in accordance with the guidance available on the court's website, www.lawb.uscourts.gov.

PART IX: GENERAL PROVISIONS

LBR 9001-1 Definitions.

(a) "*Administrative Procedures*" means the Administrative Procedures for Filing, Signing and Verifying Pleadings and Papers by Electronic Means, As Amended on March 8, 2018, and as amended thereafter.

(b) "*Bankruptcy Rule(s)*" means the Federal Rule(s) of Bankruptcy Procedure currently in effect, and as thereafter amended.

(c) "*Bankruptcy Court*" means the bankruptcy judges of the United States Bankruptcy Court for the Western District of Louisiana, as a collective body.

(d) "*Bankruptcy Clerk*" means Clerk of the Bankruptcy Court for the Western District of Louisiana.

(e) "*District Clerk*" means Clerk of the District Court for the Western District of Louisiana.

(f) "*District Court Local Civil Rule(s)*" means the Local Rules of the United States District Court for the Western District of Louisiana, effective December 1, 2019, and as thereafter amended.

(g) "*Local Bankruptcy Rules*" or "*LBRs*" means these Local Bankruptcy Rules of the United States Bankruptcy Court for the Western District of Louisiana, as hereafter may be amended.

(h) "*Local Form Plan*" means the form Chapter 13 Plan adopted by the Bankruptcy Court in accordance with Fed. R. Bankr. P. 3015.1.

(i) "*Presiding Judge*" means the bankruptcy judge to whom the case, adversary proceeding, or contested matter is assigned.

(j) The phrase "*small business case*" means a case filed under chapter 11 of the Bankruptcy Code in which the debtor is a small business debtor, as defined in 11

U.S.C. § 101(51D).

LBR 9007-1 General Authority to Regulate Notices; "If and Only If" Notice Procedure.

Every notice of hearing (regardless of whether the "if and only if" procedure as described below is utilized) shall conform substantially to Official Form 420A which is intended to provide uniform, plain English explanations to parties regarding what they must do to respond in certain contested matters which occur frequently in bankruptcy cases. The form is intended to make bankruptcy proceedings more fair, equitable, and efficient by aiding parties, who sometimes do not have counsel, in understanding the applicable rules. The form contains optional language that can be used or adapted.

(a) "If and Only If" Notice Procedure Authorized.

When authority to act or relief is sought which can only be authorized or granted upon notice or "after notice and hearing" as defined in 11 U.S.C. § 102, subject to Local Bankruptcy Rule 9014-1 and Local Bankruptcy Rule 3007-1, the party may, with respect to both motions under Fed. R. Bankr. P. 9013 and contested matters under Fed. R. Bankr. P. 9014, serve notice of the relief sought using the "if and only if" notice procedure as set forth in this rule, except as provided in subsection (i) hereof. When this procedure is used with respect to a contested matter, no summons is required but service shall otherwise comply with the Federal Rules of Bankruptcy Procedure.

(b) Notice of Hearing Requirement for "If and Only If" Notice.

A notice of hearing must conform substantially to Official Form 420A. As required by Local Bankruptcy Rule 9013-1(g), in most instances, a twenty-one (21) day notice period is required. A pleading or notice utilizing the "if and only if" notice procedure shall also contain a statement in substantially the following form:

> **A hearing to consider the [*title of motion or application*] will be held on [*Month*] [*Day*], [*Year*] at ___ o'clock, __. m. at [*identify courthouse address, floor and courtroom number, if applicable*], IF AND ONLY IF, an objection or response is filed on or before the response deadline noted herein. No hearing will be conducted hereon unless a written response is filed with the Clerk of the United States Bankruptcy Court at [*address of Clerk's office*] before the close of business on [*Month*] [*Day*], [*Year*] (the "Response Deadline") which is a date at least seven (7) days before the hearing date. A copy of the response should be served upon counsel for the moving party by the Response Deadline.**
>
> **IF NO OBJECTION OR RESPONSE IS TIMELY FILED, THE RELIEF REQUESTED SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER**

GRANTING THE RELIEF SOUGHT OR THE NOTICED ACTION MAY BE TAKEN.

(c) Notice of Hearing Requirement for Sales Free and Clear of Liens or Interests.

A notice of hearing must conform substantially to Official Form 420A. Where sales free and clear are involved, Fed. R. Bankr. P. 6004 shall be complied with by changing the first paragraph above to read substantially as follows:

> **A hearing to consider the [*title of motion or application*] will be held on [*Month*] [*Day*], [*Year*] at ___ o'clock, __. m. at [*identify courthouse address, floor and courtroom number, if applicable*] IF AND ONLY IF, an objection or response is timely filed on or before the response deadline noted herein. The hearing date on the sale is at least twenty-one (21) days from the date of service hereof. No objection to such sale will be considered unless a written response is filed with the Clerk of the United States Bankruptcy Court at [*address of Clerk's office*] before the close of business on [*Month*] [*Day*], [*Year*] (the "Response Deadline") which is a date at least seven (7) days before the hearing date. A copy of the response should be served upon counsel for the moving party by the Response Deadline.**

(d) Notice of Hearing Requirement for Objections to Claims.

A notice of a claim objection must conform substantially to Official Form 420B and Local Bankruptcy Rule 3007-1(b)(1). Where objections to claims are involved, Fed. R. Bankr. P. 3007 shall be complied with by changing the first paragraph above to read substantially as follows:

> **A hearing to consider the Objection will be held on [*Month*] [*Day*], [*Year*] at ___ o'clock, __. m. at [*identify courthouse address, floor and courtroom number, if applicable*], IF AND ONLY IF, an objection or response is timely filed on or before the response deadline noted herein. The hearing date on this Objection to Claim is at least thirty (30) days from the date of service hereof. No hearing will be conducted hereon unless a written response is filed with the Clerk of the United States Bankruptcy Court at [*address of Clerk's office*] before the close of business on [*Month*] [*Day*], [*Year*] (the "Response Deadline") which is a date at least seven (7) days before the hearing date. A copy of the response should be served upon counsel for the moving party by the Response Deadline.**

(e) Exceptions to "If and Only If" Notice Procedure.

The "if and only if" notice procedure described in this Local Bankruptcy Rule may not be used for the following requests for relief, which shall be set for hearing or handled in a manner provided below:

(1) motions to dismiss or convert filed by a party in interest other than the debtor, trustee, or court;

(2) motions for relief from the automatic stay, which are governed by Local Bankruptcy Rule 4001-1(h) (which establishes a seventeen (17) day notice period and prescribes the form of the notice);

(3) motions to extend the automatic stay under Section 326(c)(3) and motions to impose the automatic stay under Section 326(c)(4), which are governed by Local Bankruptcy Rule 4001-2 (which requires a definite hearing);

(4) motions for use of cash collateral or for financing authority;

(5) motions to assume, or to assume and assign, executory contracts or unexpired leases;

(6) motions to extend exclusivity or the time to confirm a plan of reorganization;

(7) motions for substantive consolidation;

(8) confirmation of a plan in a chapter 9, 11 or 12 case, or approval of a disclosure statement;

(9) any motion or application set on an "expedited basis" or "emergency basis" as such terms are defined in Local Bankruptcy Rule 9014-1(f)(1) (defining expedited as any hearing to be held 13 days or less); and

(10) any motion for which the Bankruptcy Rules specifically require a hearing.

LBR 9013-1 Motion Practice.

(a) Application of Local Adversary Rules.

Local Bankruptcy Rules 7007-1 through 7007-3 apply to motion practice before the Bankruptcy Court.

(b) Notice of Hearing-Content and Minimum Service Requirement.

Unless otherwise ordered by the court, notice of a motion shall be provided in the time and manner prescribed by the Federal Rules of Bankruptcy Procedure, and these

Local Bankruptcy Rules (including LBR 9007-1 which governs the form of notice for "if and only if" hearings, sale motions and objections to claims). All notices must conform substantially to Official Form 420A and must provide the following:

(1) Identification of Hearing Date, Time, and Location.

The date, time, and location of the hearing shall be included in the body of the notice.

(2) Identification of How to Obtain Free Copy of Motion and Attachments.

The notice of motion/hearing must clearly indicate that a copy of the motion, supporting affidavit, declaration, application, or exhibit is available, without charge, online or from the movant upon request. The movant must provide a contact name and telephone number and/or email address to which such a request may be made or the online address.

(3) Identification of Relief Sought and Statutory Basis.

The notice of motion shall set forth, in concise, plain terms, the specific relief sought, the party or parties against whom such relief is sought, and the rule or statute upon which the motion or application is predicated. Failure to provide the basis for relief sought is cause for the court to deny the relief requested.

(4) Minimum Service Requirement.

At a minimum, the pleading or notice shall be served upon the following parties in interest:

(i) the debtor, and, if the debtor is represented by an attorney, the attorney;

(ii) any attorney for a committee appointed or elected in the case, or if no attorney has been employed to represent the committee, through service on its members; and if no committee has been appointed in a chapter 9 or 11 case, the creditors included on the list filed pursuant to Fed. R. Bankr. P. 1007(d);

(iii) the United States Trustee;

(iv) any trustee appointed in the case;

(v) all parties who filed a request for notices with the clerk; and

(vi) any entity required to be served by any applicable Bankruptcy Rule.

(c) Notice of Electronic Filing.

When a pleading or other document is electronically filed, the CM/ECF system generates a "Notice of Electronic Filing" that is transmitted to the filing party and all registered users of the CM/ECF system having appeared in the case in which the filing is made.

(1) Service Upon a Registered User Who Has Appeared in the Case.

Transmission of the Notice of Electronic Filing to a registered user via the CM/ECF system, constitutes service of the pleading or other document.

(2) Service Upon a Non-Registered User or a Registered User Who Has Not Appeared in the Case.

A party who is not a registered user of the CM/ECF system must be served with the filed pleading or other document in compliance with the Federal Rules of Bankruptcy Procedure and these rules.

(d) Certificate of Service.

A certificate of service upon both registered and non-registered users of the CM/ECF system is required. The certificate must state the manner in which service or notice was accomplished on each party. The moving party shall file a certificate of service.

(e) Motion, Supporting Affidavit, Application, and Exhibits.

(1) Service Not Required.

Except as provided in the subparagraphs below, where the relief sought is clearly and unambiguously stated in the notice, the motion and any supporting affidavit, declaration, application, or exhibits need not be served on all parties in interest. In such case, the notice of motion must clearly indicate that a copy of the motion, supporting affidavit, declaration, application, or exhibit is available, without charge, online or from the movant upon request. The movant must provide a contact name and telephone number and email address to which such a request may be made or the online address.

(2) Service Required.

A complete copy of a motion, together with any supporting affidavit, declaration, application, and exhibits shall be served upon the United States trustee, the trustee, any official committee, opposing counsel, debtor, and any party that may be directly adversely affected by the granting of the requested relief.

(f) Certificate of Conference Required to file a Request for an Extension of Time, Late Response or Discovery Motion.

Before filing a motion seeking authority to file a request for an extension of time, an untimely response or a discovery motion (including a motion seeking a Rule 2004 examination), an attorney for the moving party shall confer with the trustee, if one is appointed, and an attorney for each party affected by the requested relief to determine whether the motion is opposed. A certificate of conference indicating whether or not a conference was held prior to filing the motion is required. The certificate shall indicate the date of conference and the identities of the attorneys conferring, and explain why agreement could not be reached. If a conference was not held, the certificate shall explain why it was not possible or practicable to confer. A conference is not required to be held when it is reasonably anticipated that the number of responding parties may be too numerous to contact prior to filing the motion. A conference shall not be required before filing a motion to extend the time to file (1) any document required by Fed. R. Bankr. P. 1007 in a chapter 7 or chapter 13 case or (2) a chapter 13 plan.

(g) Timeliness of Filing and Service of a Motion.

Unless otherwise specified in the Federal Rules of Bankruptcy Procedure (particularly Fed. R. Bankr. P. 2002, 3007, and 4007), these rules, the Administrative Procedures, or as ordered by the court, any motion shall be filed and served at least twenty-one (21) days before the hearing date set to consider the motion.

(h) Filing Deadlines.

An electronic filing is considered timely if received by the court before midnight on the date set as a deadline, unless the court or these rules specifically require an earlier filing.

(i) Deadline for Responsive Pleadings (Objections).

Unless otherwise specified in the Federal Rules of Bankruptcy Procedure, these rules (including Local Bankruptcy Rule 3015-1(c) which governs the time fixed for filing objections to a chapter 12 or 13 plan and Local Bankruptcy Rule 9014-1(f)(2) which governs response deadlines for motions or applications set on an expedited or emergency basis), the Administrative Procedures, or as ordered by the court, responsive pleadings and objections must be served and filed so as to be received not later than seven (7) days prior to the hearing date.

(j) Procedure for Notification of Withdrawal.

A motion, pleading or other document may be withdrawn by electronically filing a Notice of Withdrawal. A motion is not required. In addition, unless otherwise ordered by the court, a party may orally notify the court of the withdrawal of a

document during any hearing related to the case.

(k) Notification of Settlement – Generally.

Where movant and opposing counsel have agreed to the terms of an order, movant shall notify the chambers of the Presiding Judge of the settlement as soon as practicable.

LBR 9013-2 Ex Parte Motions.

(a) An ex parte motion is a motion presented to the court with no notice to any other party and which the court may consider without a hearing.

(b) In addition to satisfying the requirements applicable to any motion, an ex parte motion must:

(1) state the legal basis and include admissible evidence of the facts which the moving party contends permit the court to act without notice or hearing;

(2) state specific reasons why the court should proceed without notice or hearing; and

(3) describe any efforts made to confer with the party or parties affected by the motion and whether or not any of them oppose the motion.

(c) Examples of motions properly brought on an ex parte basis include, but are not limited to, the following:

(1) Administrative Motions filed by the Clerk of Court;

(2) Agreed Orders or Unopposed Motions;

(3) Allow Late Filed Response (certificate of conference is required to evidence compliance with Local Bankruptcy Rule 7001-1and 9013-1(f));

(4) Continue Hearing, if unopposed;

(5) Convert Case to a Chapter 7 (if filed by debtor);

(6) Convert Case to a Chapter 13 if not previously converted (if filed by Debtor);

(7) Defer Fee;

(8) Delay Entry of Discharge Order for purpose of filing a reaffirmation agreement (if filed by Debtor or unopposed if filed by creditor);

(9) Disbursement by Chapter 13 Trustee of Administrative Expenses pre-confirmation;

(10) Employ Counsel for Trustee, other than an Application seeking authority to approve a fixed, percentage or contingency fee under 11 U.S.C. § 328;

(11) Enroll Attorney;

(12) Exempt from Credit Counseling or Financial Management Course;

(13) Expedite Hearing;

(14) Extend or Shorten Response Time;

(15) Extend Time to File Schedules and Statement of Financial Affairs;

(16) Fee and expense requests for not more than $1,000.00;

(17) File Documents under Seal;

(18) Limit Notice to Parties;

(19) Pay Filing Fee in Installments;

(20) *Pro Hac Vice* Admission;

(21) Proceed *in Forma Pauperis*;

(22) Reopen Case;

(23) Restrict Public Access or Motion to Redact Identifiers;

(24) Wage Orders;

(25) Waive Local Bankruptcy Rules.

LBR 9014-1 Contested Matters.

(a) Response Required.

Except as set forth in subparagraph (f) hereof, and subject to the requirement that a movant provide proof in support of a motion, a response is required with respect to a contested matter. This rule shall constitute the Bankruptcy Court's direction requiring a response under Fed. R. Bankr. P. 9014. A response is not required to a chapter 13 trustee's Notice of Intent to Dismiss, or an objection to confirmation of a chapter 13 plan.

(b) Service.

The movant shall serve the motion electronically, or by mail, in the manner provided by Fed. R. Bankr. P. 7004. No summons is required.

(c) Exchanging Exhibits, Lists, and Designating Deposition Excerpts.

(1) Exchanging Exhibits.

All exhibits that a party intends to offer at the hearing, except those to be offered solely for impeachment, shall be marked to identify them by the party's initials or name, followed by the exhibit number (not letter) under which they will be offered, and shall be exchanged with opposing parties at least one (1) day prior to the scheduled hearing. In addition to furnishing a copy of the exhibits to opposing counsel, four (4) bound copies shall be furnished at the beginning of the hearing as follows:

(i) two (2) bound copies of such exhibits shall be furnished to the Presiding Judge;

(ii) one (1) bound copy shall be furnished to the electronic court reporting officer; and

(iii) one (1) bound copy shall be furnished to a witness.

(2) Exchanging Exhibit and Witness Lists.

At least one (1) day prior to the scheduled hearing, the parties shall file with the Bankruptcy Clerk and deliver to opposing parties, separate lists of exhibits and witnesses, except those to be offered solely for impeachment. One (1) copy of the exhibit and witness list shall be presented to the electronic court reporting officer at the beginning of the hearing. It is assumed that the debtor(s) will testify and, therefore, it is not necessary to list debtor(s) on the witness list.

(d) Certification of Counsel at Evidentiary Hearing.

In any evidentiary hearing, all counsel shall certify before the presentation of evidence:

(1) that good faith settlement discussions have been held or why they were not held;

(2) that all exhibits (except for those used solely for impeachment), lists of witnesses, and appraisals (if applicable) have been exchanged in advance of the hearing. In any conflict between a scheduling order entered in a contested

matter and these Local Bankruptcy Rules, the scheduling order controls.

(e) Motions to Lift Stay.

Motions to lift the automatic stay pursuant 11 U.S.C. § 362(d) are governed by Local Bankruptcy Rule 4001-1.

(f) Expedited Motions.

(1) Motion for Expedited or Emergency Hearing.

A request for hearing on an expedited or emergency basis shall be made by written motion, setting forth the reason the matter should be considered on an expedited or emergency basis. "Expedited basis" or "emergency basis" is defined as any hearing to be held less than fourteen (14) days (i.e. thirteen (13) days or less) after the filing of the motion on which the hearing is requested. If the court grants a request to set an expedited hearing, the "if and only if" notice procedure described in Local Bankruptcy Rule 9007-1(a) may **not** be used for a hearing on a motion or application set on an expedited or emergency basis.

(2) Response to Expedited or Emergency Matters.

Unless otherwise ordered by the court, a response to a motion or application set on an expedited or emergency basis may be filed not later than twenty-four (24) hours prior to the expedited hearing. Notwithstanding this response deadline, the court reserves the right to waive the response requirement for any hearing set on an expedited basis.

LBR 9019-1 Motions to Approve Compromise.

(a) Filing.

(1) A motion approve a compromise of an adversary proceeding shall be filed in the main bankruptcy case, not in the adversary proceeding. It shall bear the style of the main bankruptcy case, not the adversary proceeding.

(2) A motion to approve a compromise of an adversary proceeding shall, within the body of the motion, set out the style and number of the adversary proceeding.

(3) No motion to approve a compromise of an adversary proceeding need be filed in order to settle a proceeding filed pursuant to 11 U.S.C. §§ 523 or 524.

(b) Notice.

(1) Motions to approve compromises of adversary proceedings are governed by Local Bankruptcy Rule 9007-1 and may include "if and only if" notice language.

(2) Motions to approve compromises and motions that contemplate a dismissal of an objection to discharge under 11 U.S.C. § 727 shall identify the cause of action and any consideration paid or agreed to be paid and shall be served on all creditors and parties in interest.

(c) Order and Judgment.

Counsel for the moving party for a motion to approve a compromise of an adversary proceeding shall upload on CM/ECF two forms of proposed orders. The first form of proposed order shall be one to approve the motion to approve a compromise, bearing the style of the main bankruptcy case. The second form of proposed order shall be a proposed agreed judgment or order of dismissal, bearing the style of the adversary proceeding, for entry in the underlying adversary proceeding.

LBR 9019-2 Alternative Dispute Resolution (ADR).

(a) Referral of a Case or Proceeding to Mediation.

The Presiding Judge, upon the motion of any party or party in interest, may order parties to participate in mediation and may order the parties to bear expenses in such proportion as the Presiding Judge finds appropriate.

(b) Other ADR Methods.

Upon motion and agreement of the parties, the Presiding Judge may submit a case or proceeding to binding arbitration.

LBR 9027-1 Removal – Statement in Notice of Removal Regarding Consent to Entry of Orders or Judgment in Core Proceeding.

If, pursuant to Fed. R. Bankr. P. 9027(a)(1), a notice of removal states that upon removal of the claim or cause of action the proceeding or any part of it is core, the notice shall also state that the party removing the proceeding does or does not consent to the entry of final orders or judgment by the bankruptcy judge if it is determined that the bankruptcy judge, absent consent of the parties, cannot enter final orders or a judgment consistent with Article III of the United States Constitution.

LBR 9027-2 Removal – Statement Regarding Consent to Entry of Orders or Judgment in Core Proceeding.

If a statement filed pursuant to Fed. R. Bankr. P. 9027(e)(3) by a party who filed a pleading in connection with a removed claim or cause of action, other than the party filing the notice of removal, states that the proceeding or any part of it is core, the party shall also state that the party does or does not consent to the entry of final orders or judgment by the bankruptcy judge if it is determined that the bankruptcy judge, absent consent of the parties, cannot enter final orders or a judgment consistent with Article III of the United States Constitution.

LBR 9029-1 Local Rules – District Court.

(a) Applicability of District Court Local Civil Rules.

Other than the District Court Local Civil Rules adopted specifically in these Local Bankruptcy Rules or adopted in a separate order of the Bankruptcy Court, and District Court Local Civil Rules 83.4.1 through and 83.4.4 regarding reference to a bankruptcy judge, bankruptcy appeals, motions seeking relief from a district judge, and the record on appeal, the District Court Local Civil Rules do not apply in the Bankruptcy Court.

(b) Attorney Admission and Conduct.

The District Court Local Civil Rules 83.2.1 through 83.2.15 that govern attorney admission, conduct, suspension, and disbarment control in this district and apply in bankruptcy cases and proceedings. They have generally been adopted as stated in Local Bankruptcy Rules 2090-1, through 2091-2; however, certain terms have been modified where appropriate to distinguish where "judge," "court," or "clerk" means either Presiding Judge, Bankruptcy Court or Bankruptcy Clerk; or district judge, District Court or District Clerk.

LBR 9036-1 Notice by Electronic Transmission.

Subject to the administrative procedures approved by the Bankruptcy Court and consistent with technical standards, if any, that the Judicial Conference of the United States establishes, parties are authorized to serve pleadings and other papers through the Bankruptcy Court's electronic transmission facilities. However, neither the service of process of a summons and complaint in an adversary proceeding under Fed. R. Bankr. P. 7004, nor the service of a subpoena under Fed. R. Bankr. P. 9016 may be made by electronic transmission.

LBR 9037-1 Privacy Protections for Filings Made with the Court – Motions to Restrict Public Access.

(a) Ex Parte Motions to Redact Personal Information.

If a party submits documents to be docketed that contain information that should be

redacted from public access pursuant to Fed. R. Bankr. P. 9037, the party shall file an ex parte motion requesting an order directing the Clerk of Court to restrict the unredacted document and the party shall thereafter tender separately a proposed order granting the same. Simultaneous with the filing of the ex parte motion, the party shall file an amended redacted document. The Clerk may restrict public access to the unredacted document pending entry of an order granting the ex parte motion.

(b) Filing Motions to Redact in Closed Cases; No Fee; Case Will Remain Closed.

The granting of a motion to redact in a closed case is ministerial in nature and does not impact the administration of the case. For that reason, a party seeking redaction in a closed case does not need to file a motion to reopen the case, and no fee for reopening shall be collected by the Clerk. A party seeking redaction may instead just file a motion to redact, with the proposed redaction included in the motion, and the case will remain closed. Pursuant to the provisions of 28 U.S.C. § 1930 and the Miscellaneous Fee Schedule and by enacting this Local Bankruptcy Rule, the court finds "appropriate circumstances" exist for waiving the fee. The redaction of personal information inadvertently filed in a bankruptcy case effectuates the privacy requirements approved by the Judicial Conference of the United States and is in the public interest. Further, the restriction of access to such information and the filing of an amended claim may be accomplished without the case being reopened and that such remedy furthers the purposes of the just, speedy and inexpensive determination of the relief requested.

LBR 9070-1 Exhibits.

(a) Release While Case Pending.

Without an order from the Presiding Judge, no exhibit in the custody of the Bankruptcy Clerk may be removed from the Bankruptcy Clerk's Office while the case is pending.

(b) Removal or Destruction After Final Disposition of Case.

All exhibits in the custody of the Bankruptcy Clerk shall be removed from the Bankruptcy Clerk's office within sixty (60) days after final disposition of a case. The attorney who introduced the exhibits shall be responsible for their removal. Any exhibit not removed within the sixty (60) day period may be destroyed or otherwise disposed of by the Bankruptcy Clerk.

LBR 9071-1 Sealed Documents.

(a) Permitted or Required by Statute or Rule.

A party may file under seal any document that a statute or rule requires or permits to be so filed. The term "document," as used in this rule, means any pleading, motion,

other paper, or physical item that the Federal Rules of Bankruptcy Procedure permit or require to be filed.

(b) Motions to File Documents Under Seal.

If no statute or rule requires or permits a document to be filed under seal, a party may file a document under seal only on motion and by permission of the Presiding Judge.

(c) Procedure.

When a party files a document under seal or a motion for leave to file a document under seal, the party must submit with the motion the original and a judge's copy of the document to be filed under seal, along with an electronic copy of the document on electronic media. The original of the document must be referenced as an exhibit to the motion. If leave to file the document under seal is granted, the Bankruptcy Clerk must file the original of the document under seal.

LBR 9072-1 Disposition of Sealed Documents.

Unless the Presiding Judge otherwise directs, all sealed documents maintained on paper will be deemed unsealed sixty (60) days after final disposition of a case or proceeding. A party that desires that such a document remain sealed must move for this relief before the expiration of the sixty (60) day period. The Bankruptcy Clerk may store, transfer, or otherwise dispose of unsealed documents according to the procedure that governs publicly available court records.

LBR 9073-1 Submission of Files to the District Court.

After the expiration of the time for filing objections under Fed. R. Bankr. P. 9033, or upon receipt of an order by a district judge withdrawing the reference pursuant to 28 U.S.C. § 157(d) and Fed. R. Bankr. P. 5011, or upon the docketing of an appeal in the district court, the Bankruptcy Clerk shall submit the record of the case, proceeding or appeal to the District Clerk.

LBR 9074-1 Criminal Referrals.

(a) The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 created § 158 to Title 18 of the United States Code which requires the designation of both the United States Attorney and agents of the Federal Bureau of Investigation to address abuse and fraud in bankruptcy schedules. In addition, 18 U.S.C. § 158(d) requires that all bankruptcy courts establish procedures for referring any case that may contain a materially fraudulent statement in a bankruptcy schedule to the designated agents of the United States Attorney and Federal Bureau of Investigation.

(b) Pursuant to 18 U.S.C. § 158(d), the court will use the following procedures for referring any case that may contain a materially fraudulent statement in a bankruptcy

schedule:

(1) If a Presiding Judge determines that a case may contain a materially fraudulent statement in a bankruptcy schedule, the judge shall refer the case to the designated United States attorney and the designated agent of the Federal Bureau of Investigation noted on **Appendix F** of these Local Bankruptcy Rules. The referral may be made by completing the notification statement which should conform substantially to the form set forth in **Appendix E** to these Local Bankruptcy Rules, or by otherwise providing the same information in writing.

(2) The Presiding Judge may elect to first transmit the referral to the United States Trustee for further investigation and review. The United States Trustee may elect to make a referral, based upon the further investigation, in which case the referral must be sent to the individuals specified in subparagraph (B)(1) of this Rule.

(3) The Notification Statement set forth in **Appendix E** to these Local Bankruptcy Rules may also be used by the court in carrying out its reporting obligations to the United States attorney pursuant to 18 U.S.C. § 3057.

(4) The Bankruptcy Clerk shall maintain and update, as required, the addendum set forth in **Appendix F**, which sets forth the designations required under 18 U.S.C. § 158, without amendment to this Rule and without further order of the court.

APPENDIX A

PROCEDURES FOR COMPLEX CHAPTER 11 CASES

The following procedures shall be implemented in complex Chapter 11 cases.

1. A complex Chapter 11 case is defined as a case filed in this district under Chapter 11 of the Bankruptcy Code that requires special scheduling and other procedures because of a combination of the following factors:

a. The size of the case (usually total debt of more than $10 million);

b. The large number of parties in interest in the case (usually more than 50 parties in interest in the case);

c. The fact that claims against the debtor and/or equity interests in the debtor are publicly traded (with some creditors possibly being represented by indenture trustees); or

d. Any other circumstances justifying complex case treatment.

2. Expedited means a matter which, for cause shown, should be heard on less than twenty-three (23) days notice. Emergency means a matter which, for cause shown, should be heard on less than seven (7) days notice.

3. If any party filing a Chapter 11 bankruptcy petition believes that the case should be classified as a complex Chapter 11 case, the party shall file with the bankruptcy petition a Notice of Designation as Complex Chapter 11 Case in the form.

4. If a party has "First Day" matters requiring emergency consideration by the court, it should submit a Request for Emergency Consideration of Certain First Day Matters.

5. Each judge shall arrange the judge's calendar so that first day emergency hearings, as requested in the court-approved form entitled Request for Emergency Consideration of Certain First Day Matters, can be conducted consistent with the Bankruptcy Code and Rules, including Rule 4001, as required by the circumstances, but not more than two (2) days after the request for emergency "First Day" hearings.

6. When a party has filed a Chapter 11 case and filed a Notice of Designation as Complex Chapter 11 Case, the Clerk of Court shall:

a. Generally assign the case to a judge in accordance with the usual procedures and general orders of the district or division;

b. Immediately confer with the court about designating the case as a complex Chapter 11 case and about setting hearings on emergency or first day motions. If the court determines that the case does not qualify as a complex Chapter 11 case, the court

shall issue an Order Denying Complex Case Treatment. If the court determines that the case appears to be a complex Chapter 11 case, the court shall issue an Order Granting Complex Chapter 11 Case Treatment; and

c. Notify and serve counsel for the debtor with the order entered by the court relating to the complex case treatment and notify counsel for the debtor regarding the hearing settings for emergency first day matters.

7. Counsel for the debtor, upon receipt of notice of entry of an order regarding complex Chapter 11 case treatment, shall:

a. Serve the order granting or denying complex Chapter 11 case on all parties in interest within seven (7) days.

b. Provide notice of the first day emergency hearings in accordance with the Procedures for Obtaining Hearings in Complex Chapter 11 Cases.

8. Counsel shall follow the Agenda Guidelines for Hearings in Complex Chapter 11 Cases and the Guidelines for Mailing Matrices and Shortened Service Lists.

PROCEDURES FOR OBTAINING HEARINGS IN COMPLEX CHAPTER 11 CASES

I. Hearing on First Day Matters: Official Forms for Request for Expedited Consideration of Certain First Day Matters.

Upon the filing of a complex Chapter 11 case, if the debtor has matters that require expedited consideration ("first day" or "near first day" relief), the debtor should file a "Request for Expedited Consideration of Certain 'First Day' Matters" using the form of Exhibit B to the Procedures for Complex Chapter 11 Cases ("First Day Hearing Request"). The first day hearing request will be immediately forwarded by the clerk of court to the judge who has been assigned the complex Chapter 11 case (or if there are multiple, related debtor cases, to the judge assigned to the first-filed case). The court will hold a hearing within two (2) days of the time requested by the debtor's counsel and the courtroom deputy will notify counsel for the debtor of the time of the setting. If the judge assigned to the complex Chapter 11 case is not available to hold the hearing within two (2) days of the time requested by the debtor's counsel, an available judge will hold a hearing within two (2) days of the time requested by the debtor's counsel and the courtroom deputy will notify counsel for the debtor of the time of the setting. The debtor's counsel should (1) serve by fax and electronically, if the email address is available, (or by immediate hand-delivery) a copy of the first day hearing request on all affected parties, including the U.S. Trustee, simultaneously with its filing; and (2) notify by fax and electronically, if the email address is available, or telephonically (or by immediate hand delivery) all affected parties of the hearing time on first day matters as soon as possible after debtor's counsel has received confirmation from the court. The court will allow parties in interest to participate telephonically at the hearing on first day matters whenever (and to the extent) practicable, and debtor's counsel will be responsible for the coordination of the telephonic participation.

II. Pre-Set Hearing Dates.

The debtor may request (as one of its first day matters or otherwise) that the court establish in a complex Chapter 11 case a weekly/bi-monthly/monthly setting time ("Pre-Set Hearing Dates") for hearings in the complex Chapter 11 case (e.g., every Wednesday at 1:30 p.m.). The court will accommodate this request for pre-set hearing dates in a complex Chapter 11 case if it appears justified. After pre-set hearing dates are established, all matters in the complex Chapter 11 case (whether initiated by a motion of the debtor or by another party in interest) will be set upon approval by the courtroom deputy on the first pre-set hearing date that is at least twenty-three (23) days after the filing/service of a particular motion (unless otherwise requested by a party or ordered by the court) and the movant shall indicate the hearing date and time on the face of the pleading.

III. Notice of Hearing

Notice of hearing of matters scheduled for pre-set hearing dates shall be accomplished by the moving party, who shall file a notice of hearing with a certificate of service that proper notice has been accomplished in accordance with these Procedures.

IV. Case Emergencies (Other than the First Day Matters).

If a party in interest has an emergency or other situation that it believes requires consideration on less than twenty- three (23) days' notice, the party should file and serve, a separate, written motion for expedited hearing, in respect of the underlying motion, and may present the motion for an expedited hearing either (a) *ex parte* at a regular docket call of the presiding judge, or (b) at the next available pre-set hearing date. The court will rule on the motion for expedited hearing within 24 hours of the time it is presented. If the court grants the motion for expedited hearing, the underlying motion will be set by the courtroom deputy at the next available pre-set hearing date or at some other appropriate shortened date approved by the court. Motions for expedited hearings will only be granted under emergency or exigent circumstances.

AGENDA GUIDELINES FOR HEARINGS IN COMPLEX CHAPTER 11 CASES

In complex Chapter 11 cases where five or more matters are noticed for the same hearing date, counsel for the debtor-in-possession, the party requesting the hearings, or trustee shall file and serve an agenda describing the nature of the items set for hearing.

1. Timing of Filing.

Counsel shall file an agenda at least 24 hours prior to the date and time of the hearing. At the same time, counsel shall also serve the agenda (or confirm electronic service has been effectuated) upon all attorneys who have filed papers with respect to the matters scheduled and upon the service list.

2. Sequence of Items on Agenda.

Uncontested matters should be listed ahead of contested matters. Contested matters should be listed in the order in which they appear on the court's docket.

3. Status Information.

For each motion filed in the complex Chapter 11 case, each motion filed in an adversary proceeding concerning the Chapter 11 case, each objection to claim, or application concerning the case, the agenda shall indicate the moving party, the nature of the motion, the docket number of the pleadings, if known, the response deadline, and the status of the matter. The status description should indicate whether the motion is settled, going forward, whether a continuance is requested (and any opposition to the continuance, if known) and any other pertinent information.

4. Information for Motions in the Case.

For each motion that is going forward, or where a continuance request is not consensual, the agenda shall also list all pleadings in support of the motion, and any objections or responses. Each pleading listed shall identify the entity that filed the pleading and the docket number of the pleading, if known. If any entity has not filed a responsive pleading, but has engaged in written or oral communications with the debtor, that fact should be indicated on the agenda, as well as the status or outcome of those communications. For an omnibus objection to claims, responses to the objection which have been continued by consent may be listed collectively (e.g., the following responses have been continued by consent:).

5. Changes in Agenda Information.

After the filing of the agenda, counsel shall notify judge's chambers by phone or letter of additional related pleadings that have been filed, and changes in the status of any agenda matter.

6. The requirements listed above should not be construed to prohibit other information of a

procedural nature that counsel thinks would be helpful to the court.

ALL MOTIONS AND PLEADINGS SHALL CONTAIN THE HEARING DATE AND TIME BELOW THE CASE/ADVERSARY NUMBER.

GUIDELINES FOR MAILING MATRICES AND SHORTENED SERVICE LISTS IN COMPLEX CHAPTER 11 CASES

I. Mailing List or Matrix (a/k/a the Rule 2002 Notice List)

A. Helpful Hints Regarding Whom to Include on the Mailing Matrix in a Complex Chapter 11 Case.

There are certain events and deadlines that occur in a Chapter 11 case which Bankruptcy Rule 2002 requires be broadly noticed to all creditors, indenture trustees, equity interest holders, and other parties in interest ("Rule 2002 notice list"). To facilitate this, Local Bankruptcy Rule 1007-1 requires a debtor to file a mailing list or matrix at the commencement of any case. This list must include all creditors, equity interest holders, and certain other parties in interest (who might be impacted by any relief granted in the bankruptcy case), in order to ensure that parties receive reasonable and adequate notice and are insured due process. When preparing the mailing matrix and after consultation with the clerk of court, debtor's counsel shall evaluate and consider whether the following people are required to be included:

1. Creditors (whether a creditor's claim is disputed, undisputed, contingent, non-contingent, liquidated, unliquidated, matured, unmatured, fixed, legal, equitable, secured or unsecured);

2. Indenture trustees:

3. Financial institutions at which the debtor has maintained accounts (regardless of whether such institutions are creditors);

4. Vendors with whom the debtor has dealt, even if the debtor's records currently indicate no amount is owed;

5. Parties to contracts, executory contracts or leases with the debtor;

6. All federal, state, or local taxing authorities with which the debtor deals, including taxing authorities in every county in which the debtor owns real or personal property with regard to which ad valorem taxes might be owed;

7. All governmental entities with which the debtor might interact (including, but not limited to, the U.S. Trustee and the SEC);

8. Any party who might allege a lien on property of the debtor;

9. Parties to litigation involving the debtor;

10. Parties with which the debtor might be engaged in some sort of dispute, whether or not a claim has formally been made against the debtor;

11. Tort claimants or accident victims;

12. Insurance companies with whom the debtor deals or has policies;

13. Active and retired employees of the debtor;

14. Officers or directors of the debtor;

15. Customers who are owed deposits, refunds, or store credit;

16. Utilities;

17. Shareholders (preferred and common), holders of options, warrants or other rights or equitable interests in the debtor; and

18. Miscellaneous others who, in debtor's counsel's judgment, might be entitled to "party in interest" status or who have requested notice.

B. Flexible ("User-Friendly") Format Rules for Mailing Matrix in a Complex Chapter 11 Case in Which Debtor's Counsel Serves Notices.

In a complex Chapter 11 case, where the mailing matrix is likely to be very lengthy, the following special format rules will apply, in lieu of Local Bankruptcy Rule 1007-1, whenever it is the debtor's responsibility to serve notices in the case. The debtor (since it will typically be the party serving all notices in the Chapter 11 case rather than the clerk of court) may create the mailing matrix in whatever format it finds convenient so long as it is neatly typed in upper and lower case letter-quality characters (in no smaller than 10 point and no greater than 14 point type, in either Courier, Times Roman, Helvetica or Orator font) on 8-1/2 x 11 inch blank, unlined, standard white paper. The mailing matrix, if lengthy, should ideally include separate subheadings throughout, to help identify categories of parties in interest. By way of example the following subheadings (among others) might be used:

Debtor and its Professionals
Secured Creditors
Indenture Trustees
Unsecured Creditors
Governmental Entities
Current and Retired Employees
Officers and Directors
Tort Claimants
Parties to Executory Contracts
Equity Interest Holders
Etc.

Parties in interest within each category/subheading should be listed alphabetically. Also, the mailing matrix may be filed in separate volumes, for the separate categories of parties of interest, if the mailing matrix is voluminous (e.g., Volume 2: Unsecured Creditors). Finally, if there are multiple, related debtors and the debtors intend to promptly move for joint administration of their cases, the debtors may file a consolidated mailing matrix, subject to later being required to file separate mailing matrices if joint administration is not permitted.

C. When Inclusion of Certain Parties in Interest on a Mailing Matrix is Burdensome.

If inclusion of certain categories of parties in interest on the mailing matrix would be extremely impracticable, burdensome and costly to the estate, the debtor may file a motion, pursuant to Bankruptcy Rule 2002(1), requesting authority to provide notice by publication in lieu of mailing certain notices to certain categories of parties interest and may forego including those categories of parties in interest on the mailing matrix in the court grants the motion.

II. Shortened Service List Procedure in a Complex Chapter 11 Case.

A. Procedures/Contents/Presumptions.

If the court has entered an order granting complex Chapter 11 case treatment, the debtor shall provide service as required by ¶1 of that order. If the court has not entered such an order, the debtor may move to limit notice - that is, for approval of a shortened service list - that will be acceptable for noticing most events in the bankruptcy case, other than those events/deadlines that Bankruptcy Rule 2002 contemplates be served on all creditors and equity interest holders. At a minimum, the shortened list should include the debtor and its professionals, the secured creditors, the 20 largest unsecured creditors, any official committees and the professional for same, the U.S. Trustee, the IRS and other relevant governmental entities, and all parties who have requested notice. Upon the court's approval of a shortened service list in a complex Chapter 11 case, notice in any particular situation during a case shall be presumed adequate if there has been service on (1) the most current service list on file in the case; plus (2) any other party directly affected by the relief requested and not otherwise included on the service list.

B. Obligation to Update, File and Serve Service List.

The debtor must update the service list as parties request to be added to it or as circumstances otherwise require. To be added to the list, a party should file a notice of appearance and request for service and serve the notice on debtor's counsel. Parties should include fax or email transmission information if they wish to receive expedited service of process during the case. Additionally, the debtor should file an updated service list and should serve a clean and redlined copy of the updated service list on all parties on the service list weekly for the first month after filing, then bi-monthly for the next sixty (60) days, then monthly thereafter during the pendency of the case.

If, in a particular month, there are no changes to the service list, the debtor should simply file a notice with the court so stating.

APPENDIX B

GUIDELINES FOR COMPENSATION AND REIMBURSEMENT OF PROFESSIONALS IN CHAPTER 11 CASES

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA

GUIDELINES FOR COMPENSATION AND EXPENSE REIMBURSEMENT OF PROFESSIONALS

EFFECTIVE DECEMBER 1, 2019

NOTICE

The following are guidelines governing the most significant issues related to applications for compensation and expense reimbursement. The guidelines cover the narrative portion of an application, time records, and expenses. It applies to all professionals in a chapter 11 case, but is not intended to cover every situation. These guidelines will not apply in chapter 7, 12, or 13 cases. All professionals are required to exercise reasonable billing judgment, notwithstanding total hours spent.

If, a professional to be employed pursuant to section 327 or 1103 of the Bankruptcy Code desires to have the terms of its compensation approved pursuant to section 328(a) of the Bankruptcy Code at the time of such professional's retention, then the application seeking such approval should so indicate and the Court will consider such request after an evidentiary hearing on notice to be held after the United States trustee has had an opportunity to form a statutory committee of creditors pursuant to section 1102 of the Bankruptcy Code and the debtor and such committee have had an opportunity to review and comment on such application. At a hearing to consider whether a professional's compensation arrangement should be approved pursuant to section 328(a), such professional should be prepared to produce evidence that the terms of compensation for which approval under section 328(a) is sought comply with the certification requirements of section I.G(3) of these guidelines.

I. NARRATIVE

A. Employment and Prior Compensation

The application should disclose the date of the order approving applicant's employment and contain a clear statement itemizing the date of each prior request for compensation, the amount requested, the amount approved, and the amount paid.

B. Case Status

With respect to interim requests, the application should briefly explain the history and the present posture of the case, including a description of the status of pending litigation and the amount of recovery sought for the estate.

The information furnished should describe the general operations of the debtor; whether the business of the debtor, if any, is being operated at a profit or loss; the debtor's cash flow; whether a plan has been filed, and if not, what the prospects are for reorganization and when it is anticipated that a plan will be filed and a hearing set on the disclosure statement.

The application should state the amount of money on hand in the estate and the estimated amount of other accrued expenses of administration. On applications for interim fees, the applicant should orally supplement the application at the hearing to inform the Court of any changes in the current financial status of the debtor's estate since the filing of the application. All retainers, previous draw downs, and fee applications and orders should be listed specifying the date of the event and the amounts involved and drawn down or allowed.

With respect to final requests, applications should meet the same criteria.

Fee applications submitted by special counsel seeking compensation from a fund generated directly by their efforts, auctioneers, real estate brokers, or appraisers do not have to comply with the above. For all other application, when more than one application is noticed for the same hearing, they may, to the extent appropriate, incorporate by reference the narrative history furnished in a contemporaneous application.

C. Project Billing

This is required in all cases where the applicant's professional fee is expected to exceed $10,000.00. The narrative should be categorized by subject matter, and separately discuss each Professional project or task. All work for which compensation is requested should be in a category. Miscellaneous items may be included in a category such as "Case Administration." The professional may use reasonable discretion in defining projects for this purpose, provided that the application provides meaningful guidance to the Court as to the complexity and

difficulty of the task, the professional's efficiency, and the results achieved. With respect to each project or task, the number of hours spent and the amount of compensation and expenses requested should be set forth at the conclusion of the discussion of that project or task. In larger cases with multiple professionals, efforts should be made by the professionals for standard categorization.

D. Billing Summary

Hours and total compensation requested in each application should be aggregated and itemized as to each professional and paraprofessional who provided compensable services. Dates of changes in rates should be itemized as well as reasons for said changes.

E. Paraprofessionals

Fees may be sought for paralegals, professional assistants and law clerks only if identified as such and if the application includes a resume or summary of the paraprofessional's qualifications.

F. Preparation of Application

Reasonable fees for preparation of a fee application and responding to objections thereto may be requested. The aggregate number of hours spent, the amount requested, and the percentage of the total request which the amount represents must be disclosed. If the actual time spent will be reflected and charged in a future fee application, this fact should be stated, but an estimate provided, nevertheless.

G. Certification

Each application for compensation and expense reimbursement must contain a certification by the professional designated by the applicant with the responsibility in the particular case for compliance with these guidelines ("Certifying Professional") that 1) the Certifying Professional has read the application: 2) to the best of the Certifying Professional's knowledge, information and belief, formed after reasonable inquiry, the compensation and expense reimbursement sought is in conformity with these guidelines, except as specifically noted in the application; and 3) the compensation and expense reimbursement requested are billed at rates, in accordance with practices, no less favorable than those customarily employed by the applicant and generally accepted by the applicant's clients.

H. Interim Compensation Arrangements in Complex Cases

In a complex case, the Court may, upon request, consider at the outset of the case approval of an interim compensation mechanism for estate professionals that would enable professionals on a monthly basis to be paid up to 80% of their compensation for services rendered and reimbursed up to 100% of their actual and necessary out of pocket expenses. In connection with such a procedure, if approved

in a particular complex case, professionals shall be required to circulate monthly billing statements to the U.S. Trustee and other primary parties in interest, and the Debtor in Possession or Trustee will be authorized to pay the applicable percentage of such bill not disputed or contested by a party in interest.

II. TIME RECORDS

A. Time Records Required

All professionals, except auctioneers, real estate brokers, and appraisers must keep accurate contemporaneous time records.

B. Increments

Professionals are required to keep time records in minimum increments no greater than six minutes. Professionals who utilize a minimum billing increment greater than 1 hour are subject to a substantial reduction of their requests.

C. Descriptions

At a minimum, the time entries should identify the person performing the service, the date(s) performed, what was done, and the subject involved. Mere notations of telephone calls, conferences, research, drafting, etc., without identifying the matter involved, may result in disallowance of the time covered by the entries.

D. Grouping of Tasks

If a number of separate tasks are performed on a single day, the fee application should disclose the time spent for each such task, i.e., no "grouping" or "clumping." Minor administrative matters may be lumped together where the aggregate time attributed thereto is relatively minor. A rule of reason applies as to how specific and detailed the breakdown needs to be. For grouped entries, the applicant must accept the Court inferences therefrom.

E. Conferences

Professionals should be prepared to explain time spent in conferences with other professionals or paraprofessionals in the same firm. Relevant explanation would include complexity of issues involved and the necessity of more individuals' involvement. Failure to justify this time may result in disallowance of all, or a portion of, fees related to such conferences.

F. Multiple Professionals

Professional should be prepared to explain the need for more than one professional or paraprofessional from the same firm at the same court hearing, deposition, or meeting. Failure to justify this time may result in compensation for only the person

with the lowest billing rate. The Court acknowledges, however, that in complex chapter 11 cases the need for multiple professionals' involvement will be more common and that in hearings involving multiple or complex issues, a law firm may justifiably be required to utilize multiple attorneys as the circumstances of the case require.

G. Travel Time

Travel time is compensable at one-half rates, but work actually done during travel time is fully compensable.

H. Administrative Tasks

Time spent in addressing, stamping and stuffing envelopes, filing, photocopying or "supervising" any of the foregoing is generally not compensable, whether performed by a professional, paraprofessional, or secretary.

III. EXPENSES

A. Firm Practice

The Court will consider the customary practice of the firm in charging or not charging non-bankruptcy/insolvency clients for particular expense items. Where any other clients, with the exception of pro-bono clients, are not billed for a particular expense, the estate should not be billed. Where expenses are billed to all other clients, reimbursement should be sought at the least expensive rate the firm or professional charges to any client for comparable services or expenses. It is recognized that there will be differences in billing practices among professionals.

B. Actual Cost

This is defined as the amount paid to a third party provider of goods or services without enhancement for handling or other administrative charge.

C. Documentation

This must be retained and made available upon request for all expenditures in excess of $50.00. Where possible, receipts should be obtained for all expenditures.

D. Office Overhead

This is not reimbursable. Overhead includes: secretarial time, secretarial overtime (where clear necessity for same has not been shown), word processing time, charges for after-hour and weekend air conditioning and other utilities, and cost of meals, or transportation provided to professionals and staff who work late or on weekends.

E. Word Processing

This is not reimbursable.

F. Computerized Research

This is reimbursable at actual cost. For large amounts billed to computerized research, significant explanatory detail should be furnished.

G. Paraprofessional Services

These services may be compensated as a paraprofessional under §330, but not charged or reimbursed as an expense.

H. Professional Services

A professional employed under §327 may not employ, and charge as an expense, another professional (e.g., special litigation counsel employing an expert witness) unless the employment of the second professional is approved by the Court prior to the rendering of service.

I. Photocopies (Internal)

Charges must be disclosed on an aggregate and per-page basis. If the per-page cost exceeds $.20, the professional must demonstrate to the satisfaction of the Court, with data, that the per-page cost represents a good faith estimate of the actual cost of the copies, based upon the purchase or lease cost of the copy machine and supplies therefor, including the space occupied by the machine, but not including time spent in operating the machine.

J. Photocopies (Outside)

This item is reimbursable at actual cost.

K. Postage

This is reimbursable at actual cost.

L. Overnight Delivery

This is reimbursable at actual cost where it is shown to be necessary. The court acknowledges that in complex chapter 11 cases overnight delivery or messenger services may often be appropriate, particularly when shortened notice of a hearing has been requested.

M. Messenger Service

This is reimbursable at actual cost where it is shown to be necessary. An in-house messenger service is reimbursable, but the estate cannot be charged more than the cost of comparable services available outside the firm.

N. Facsimile Transmissions

The actual cost of telephone charges for outgoing transmissions is reimbursable. Transmissions received are reimbursable on a per-page basis. If the per-page cost exceeds $.20, the professional must demonstrate, with data, to the satisfaction of the Court, that the per-page cost represents a good faith estimate of the actual cost of the copies, based upon the purchase or lease cost of the facsimile machine and supplies therefor, including the space occupied by the machine, but not including time spent in operating the machine.

O. Long Distance Telephone

This is reimbursable at actual cost.

P. Parking

This is reimbursable at actual cost.

Q. Air Transportation

Air travel is expected to be at regular coach fare for all flights.

R. Hotels

Due to wide variation in hotel costs in various cities, it is not possible to establish a single guideline for this type of expense. All persons will be required to exercise reasonable discretion and prudence in connection with hotel expenditures.

S. Meals (Travel)

Reimbursement may be sought for the reasonable cost of breakfast, lunch and dinner while traveling.

T. Meals (Working)

Working meals at restaurants or private clubs are not reimbursable. Reasonable reimbursement may be sought for working meals only where food is catered to the professional's office in the course of a meeting with clients, such as a Creditors' Committee, for the purpose of allowing the meeting to continue through a normal meal period.

U. Amenities

Charges for entertainment, alcoholic beverages, newspapers, dry cleaning, shoe shines, etc. are not reimbursable.

V. Filing Fees

These are reimbursable at actual cost.

W. Court Reporter Fees

These are reimbursable at actual cost.

X. Witness Fees

These are reimbursable at actual cost.

Y. Process Service

This is reimbursable at actual cost.

Z. UCC Searches

These are reimbursable at actual cost.

APPENDIX C

GUIDELINES FOR EARLY DISPOSITION OF ASSETS IN CHAPTER 11 CASES, THE SALE OF SUBSTANTIALLY ALL ASSETS UNDER 11 U.S.C. § 363 AND OVERBID AND TOPPING FEES

The following guidelines are promulgated as a result of the increasing use of pre-negotiated or pre-packaged plans and 11 U.S.C. § 363 sales to dispose of substantially all assets of a Chapter 11 debtor shortly after the filing of the petition. The guidelines recognize that parties in interest perceive the need at times to act expeditiously on such matters. In addition, the guidelines are written to provide procedural protection to the parties in interest. The court will consider requests to modify the guidelines to fit the circumstances of a particular case.

I. OVERBIDS AND TOPPING FEES

A. Topping Fees and Break-up Fees.

1. Any request for the approval of a topping fee or break-up fee provision shall be supported by a statement of the precise conditions under which the topping fee or break-up fee would be payable and the factual basis on which the seller determined the provision was reasonable. The request shall also disclose the identities of other potential purchasers, the offers made by them (if any), and the nature of the offer, including, without limitation, any disclosure of their plans as it relates to retention of debtor's employees.

2. Topping fees, break-up fees, overbid amounts and other buyer protection provisions will be reviewed on a case by case basis and approved if supported by evidence and case law. Case law may not support buyer protection provisions for readily marketable assets.

3. In connection with a request to sell substantially all assets under § 363 within sixty (60) days of the filing of the petition, buyer protections may be considered upon motion, on an expedited basis.

II. THE SALE OF SUBSTANTIALLY ALL ASSETS UNDER SECTION 363 WITHIN SIXTY DAYS OF THE FILING OF THE PETITION

A. The Motion to Sell.

In connection with any hearing to approve the sale of substantially all assets at any time before sixty (60) days after the filing of the petition, a motion for an order authorizing a sale procedure and hearing or the sale motion itself when regularly noticed, should include factual information on the following points:

1. Creditors' Committee.

If a creditors' committee existed pre-petition, indicate the date and manner in

which the committee was formed, as well as the identity of the members of the committee and the companies with which they are affiliated.

2. Counsel for Committee.

If the pre-petition creditors' committee retained counsel, indicate the date counsel was engaged and the selection process, as well as the identify of committee counsel.

3. Sale Contingencies.

Statement of all contingencies to the sale agreement, together with a copy of the agreement.

4. Creditor Contact List.

If no committee has been formed, a list of contact persons, together with fax and phone numbers for each of the largest 20 unsecured creditors.

5. Administrative Expenses.

Assuming the sale is approved, an itemization and an estimate of administrative expenses relating to the sale to be incurred prior to closing and the source of payment for those expenses.

6. Proceeds of Sale.

An estimate of the gross proceeds anticipated from the sale, together with an estimate of the new proceeds coming to the estate with an explanation of the items making up the difference. Itemize all deductions that are to be made from gross sale proceeds and include a brief description of the basis for any such deductions.

7. Debt Structure of Debtor.

A brief description of the debtor's debt structure, including the amount of the debtor's secured debt, priority claims and general unsecured claims.

8. Need for Quick Sale.

An extensive description of why the assets of the estate must be sold on an expedited basis. Include a discussion of alternatives to the sale.

9. Negotiating Background.

A description of the length of time spent in negotiating the sale, and which parties in interest were involved in the negotiation, along with a description

of the details of any other offers to purchase, including, without limitation, the potential purchaser's plans in connection with retention of the debtor's employees.

10. Marketing of Assets.

A description of the manner in which the assets were marketed for sale, including the period of time involved and the results achieved.

11. Decision to Sell.

The date on which the debtor accepted the offer to purchase the assets.

12. Relationship of Buyer.

A statement identifying the buyer and setting forth all of the buyer's (including its officers, directors and shareholders) connections with the debtor, creditors, any other party in interest, their respective attorneys, accountants, the U.S. Trustee or any person employed in the office of the U.S. Trustee.

13. Post Sale Relationship with Debtor.

A statement setting forth any relationship or connection the debtor (including its officers, directors, shareholders and employees) will have with the buyer after the consummation of the sale, assuming it is approved.

14. Relationship with Secured Creditors.

If the sale involves the payment of all or a portion of secured debt(s), a statement of all connections between debtor's officers, directors, employees or other insiders and each secured creditor involved (for example, release of insider's guaranty).

15. Insider Compensation.

Disclosure of current compensation received by officers, directors, key employees or other insiders pending approval of the sale.

16. Notice Timing.

Notice of the hearing on the motion to approve the motion to sell will be provided as is necessary under the circumstances.

B. Proposed Order Approving Sale.

A proposed order approving the sale must be included with the motion or the notice

of hearing. A proposed final order and redlined version of the order approving the sale should be provided to chambers twenty-four hours prior to the hearing.

C. Good Faith Finding.

There must be an evidentiary basis for a finding of good faith under 11 U.S.C §363(m).

D. Competing Bids.

Unless the court orders otherwise, competing bids may be presented at the time of the hearing. The motion to sell and the notice of hearing should so provide.

E. Financial Ability to Close.

Unless the court orders otherwise, any bidder must be prepared to demonstrate to the satisfaction of the court, through an evidentiary hearing, its ability to consummate the transaction if it is the successful bidder, along with evidence regarding any financial contingencies to closing the transaction.

F. Hearing and Notice Regarding Sale.

Unless the court orders otherwise, all sales governed by these guidelines, including auctions or the presentation of competing bids, will occur at the hearing before the court. The court may, for cause, including the need to maximize and preserve asset value, expedite a hearing on a motion to sell substantially all assets under §363.

APPENDIX D

CHECKLIST FORM AND COMMENTS FOR MOTIONS AND ORDERS PERTAINING TO THE USE OF CASH COLLATERAL AND POST-PETITION FINANCING

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA
_____ DIVISION

IN RE:	§	
	§	
_____	§	Case Number: _____
	§	
Debtor	§	Chapter __

Attorney Checklist Concerning Motions and Orders Pertaining to Use of Cash Collateral and Post-Petition Financing (Which Are in Excess of Ten (10) Pages)

Motions and orders pertaining to cash collateral and post-petition financing matters tend to be lengthy and complicated. Although the Court intends to read such motions and orders carefully, it will assist the Court if counsel will complete this checklist. All references are to the Bankruptcy Code (§) or Rules. PLEASE NOTE:

* Means generally not favored by Bankruptcy Courts in this District.
** Means generally not favored by Bankruptcy Courts in this District without a reason and a time period for objections.

If your motion or order makes provision for any of the following, so indicate in the space provided:

CERTIFICATE BY COUNSEL

This is to certify that the following checklist fully responds to the Court's inquiry concerning material terms of the motion and/or proposed order:

Yes, at Page/Exhibit Y means yes; N means no, N/A means not applicable (Page Listing Optional)

1. Identification of Proceeding:

(a) **Preliminary** or **final** motion/order (circle one)..... _____
(b) Continuing use of cash collateral (§ 363)..... _____
(c) New financing (§ 364) ..... _____
(d) Combination of §§ 363 and 364 financing ..... _____
(e) Emergency hearing (immediate and irreparable harm)…….. _____

2. Stipulations:

(a) Brief history of debtor's businesses and status of debtor's prior relationships with lender..... _____
(b) Brief statement of purpose and necessity of financing..... _____
** **(c)** Brief statement of type of financing (i.e.) accounts receivable, inventory) ..... _____
(d) Are lender's pre-petition security interest(s) and liens deemed valid, fully perfected and non-avoidable?..... _____

(i) Are there provisions to allow for objections to above? ..... _____

(e) Is there a post-petition financing agreement between lender and debtor?….. _____

(i) If so, is agreement attached?..... _____

** **(f)** If there is an agreement, are lender's post-petition security interests and liens deemed valid, fully perfected and non-avoidable?..... _____
(g) Is lender **under-secured** or **over-secured**? (circle one)..... _____
(h) Has lender's non-cash collateral been appraised?..... _____

(i) If so, insert date of latest appraisal..... _____

(i) Is debtor's proposed budget attached?..... _____
(j) Are all pre-petition loan documents identified?..... _____
(k) Are pre-petition liens on **single** or **multiple** assets? (circle one)..... _____
(l) Are there pre-petition guaranties of debt?..... _____

(i) **Limited** or **unlimited** (circle one)..... _____

Yes, at Page/Exhibit Y means yes; N means no, N/A means not applicable (Page Listing Optional)

3. Grant of Liens:

* **(a)** Do post-petition liens secure pre-petition debts?..... _____
* **(b)** Is there cross-collaterization? ..... _____
** **(c)** Is the priority of post-petition liens equal to or higher than existing liens?.... _____
** **(d)** Do post-petition liens have retroactive effect? ..... _____
* **(e)** Are there restrictions on granting further liens or liens of equal or higher priority?..... _____
** **(f)** Is lender given liens on claims under §§ 506(c), 544-50 and §§ 522? ..... _____

(i) Are lender's attorney's fees to be paid?..... _____
(ii) Are debtor's attorney's fees excepted from § 506(c)?..... _____

* **(g)** Is lender given liens upon proceeds of causes of action under §§ 544, 547, and 548?..... _____

4. Administrative Priority Claims:

(a) Is lender given an administrative priority? ..... _____
(b) Is administrative priority higher than § 507(a)?..... _____
(c) Is there a conversion of pre-petition secured claim to post-petition administrative claim by virtue of use of existing collateral? ..... _____

5. Adequate Protection (§ 361):

(a) Is there post-petition debt service? ..... _____
(b) Is there a **replacement**/**additional** 361(1) lien? (circle one or both)..... _____
** **(c)** Is the lender's claim given super-priority? ..... _____

(i) (§ 364(c) or (d)) [**designate**]..... _____

(d) Are there guaranties? ..... _____
(e) Is there adequate insurance coverage?..... _____
(f) Other?..... _____

6. Waiver/Release Claims v. Lender:

** **(a)** Debtor waives or releases claims against lender, including, but not limited to, claims under §§ 506(c), 544-550, 552, and 553 of the Code?..... _____
** **(b)** Does the debtor waive defenses to claim or liens of lender?..... _____

Yes, at Page/Exhibit Y means yes; N means no N/A means not applicable (Page Listing Optional)

7. Source of Post-Petition Financing (§ 364 Financing):

(a) Is the proposed lender also the pre-petition lender? .....
(b) New post-petition lender? .....
(c) Is the lender an insider? .....

8. Modification of Stay:

** **(a)** Is any modified lift of stay allowed? .....
** **(b)** Will the automatic stay be lifted to permit lender to exercise self-help upon default without further order? .....
(c) Are there any other remedies exercisable without further order of court? .....
(d) Is there a provision that any future modification of order shall not affect status of debtor's post-petition obligations to lender? .....

9. Creditors' Committee:

(a) Has creditors' committee been appointed? .....
(b) Does creditors' committee approve of proposed financing? .....

10. Restrictions on Parties in Interest:

** **(a)** Is a plan proponent restricted in any manner, concerning modification of lender's rights, liens and/or causes? .....
** **(b)** Is the debtor prohibited from seeking to enjoin the lender in pursuit of rights? .....
** **(c)** Is any party in interest prohibited from seeking to modify this order? .....
(d) Is the entry of any order conditioned upon payment of debt to lender? .....
(e) Is the order binding on subsequent trustee on conversion? .....

11. Nunc Pro Tunc:

** **(a)** Does any provision have retroactive effect? .....

12. Notice and Other Procedures:

(a) Is shortened notice requested? .....
(b) Is notice requested to shortened list? .....
(c) Is time to respond to be shortened? .....

Yes, at Page/Exhibit Y means yes; N means no, N/A means not applicable (Page Listing Optional)

(d) If final order sought, have fifteen (15) days elapsed since service of motion pursuant to Rule4001(b)(2)?..... _____

(e) If preliminary order sought, is cash collateral necessary to avoid immediate and irreparable harm to the estate pending a final hearing? ..... _____

(f) Is a Certificate of Conference included?..... _____

(g) Is a Certificate of Service included? ..... _____

(h) Is there verification of transmittal to U.S. Trustee included pursuant to Rule 9034?..... _____

(i) Has an agreement been reached subsequent to filing motion?..... _____

(i) If so, has notice of the agreement been served pursuant to Rule 4001(d)(1)?..... _____

(ii) Is the agreement in settlement of motion pursuant to Rule 4001(d)(4)? _____

(iii) Does the motion afford reasonable notice of material provisions of agreement pursuant to Rule 4001(d)(4)? ..... _____

(iv) Does the motion provide for opportunity for hearing pursuant to Rule 9014?..... _____

SIGNED this the _____ day of _____, 20___.

BY: _____

[Firm Name]
[Attorney's Name]
[Louisiana Bar No.]
[Address]
[Telephone Number]
[Email Address]
[Identification of role in case]

COMMENTS TO CASH COLLATERAL AND DIP FINANCING CHECKLIST

1. Interim vs. Final Orders

a. Stipulations in preliminary or interim orders should be minimized. Notice is generally not adequate to test the validity of stipulations, and they should be avoided to the extent not absolutely necessary to the interim approval process.

b. Simply state the nature of notice given; do not recite notice was "sufficient and adequate" since that is usually not the case particularly on the first day. The order should simply note that the financing is being approved pursuant to Bankruptcy Rule 4001(c)(2) authorizing such financing to avoid immediate and irreparable harm.

c. Adequate protection for the use of pre-petition cash collateral may be granted to the extent of a diminution of collateral. The court will not approve on an interim basis language that adequate protection is granted in the form of replacement liens on post-petition assets based on stipulations that use of cash collateral shall be deemed a dollar for dollar decrease in the value of the pre-petition collateral." At the final hearing, the court will consider evidence to determine the extent to which the lender's pre-petition collateral has or is likely to diminish in value. That evidence will inform the extent to which adequate protection will be granted.

d. The court expects that other parties in interest will be involved in the process of developing an interim cash collateral order to the extent practicable. If the court finds that the debtor and lender have not made reasonable efforts to afford the best notice possible, preliminary relief will not be granted until parties in interest have had a reasonable opportunity to review and comment on any proposed interim order.

e. Bankruptcy Rule 4001(b) and (c) limit the extent to which the court may grant relief on less than fifteen (15) days notice. The debtor and the lender must negotiate interim orders within the confines of that authority. Interim orders shall be expressly without prejudice to the rights of parties in interest at a final hearing.

2. Stipulations

a. The lender may request a stipulation as to the amount, validity, priority and extent of the pre-petition documents. The stipulation will only be approved if the order provides the stipulation is binding on other parties in interest only after the passage of an appropriate period of time (customarily ninety (90) days) during which the parties in interest will have the opportunity to test the validity of the lien and the allowance of the claim.

3. Grant of Liens

a. Liens granted in the cash collateral and DIP financing orders may not secure pre-petition debts. Financing orders should not be used to elevate a pre-petition lender's

collateral inadequacy to a fully secured status.

b. Avoidance actions are frequently one of the few sources of recovery for creditors other than secured lenders. Orders granting liens on these unencumbered assets for the benefit of the lender will require a showing of extraordinary circumstances. In most cases the adequate protection grant will protect the lender since the lender will have a super priority under §507(b) that will give the lender who suffers a failure of adequate protection a first right to payment out of the proceeds from such actions before payment of any other expenses of the Chapter 11 case. Avoidance actions in the event of a conversion to Chapter 7 may be the only assets available to fund the trustee's discharge of his or her statutory duties.

c. Similarly, limitations on the surcharge of the lender's collateral under §506(c) are disfavored. The secured creditor may be the principal beneficiary of the proceedings in Chapter 11. Since the burden to surcharge requires a showing of direct benefit to the lender's collateral, lenders are not unreasonably exposed to surcharges of their collateral. And in light of the decision in *Hartford Underwriter's Insurance Co. v. Union Planters Bank N.A. (In re Hen House Interstate Inc.*), 530 U.S. 1, 120 S.Ct. 1942 (2000), only the DIP or the trustee may recover under §506(c).

4. Modification of Stay

a. Authority for unilateral action by lender without necessity to return to court to establish post-petition default or breach or at least a notice to parties in interest will not be approved. If the cash collateral or financing order provides for a termination of the automatic stay in the event of a default, parties in interest must have an opportunity to be heard before the stay lifts.

5. Restrictions on Plan Process

a. The court will not approve cash collateral orders (or post-petition financing orders that are in substance cash collateral orders that have the effect of converting all the pre-petition liens and claims to post-petition liabilities under the guise of collecting pre-petition accounts and re-advancing them post-petition) that have the effect of converting pre-petition secured debt into post-petition administrative claims that must be paid in full in order to confirm a plan. That type of provision unfairly limits the ability and flexibility of the debtor and other parties in interest to formulate a plan. That type of provision, granted at the outset of a case, effectively compels the debtor to pay off the secured lender in full on the effective date and has the consequence of eviscerating §1129(b).

b. On the other hand, persons who are advancing new money to the debtor post- petition may include in financing orders provisions that the post-petition loans have a §364(c)(1) super-super priority.

6. Loan Agreements

a. If there will be a loan agreement, the language of the financing order does not need to restate all of the terms of the loan agreement. The financing motion should, however, summarize the essential elements of the proposed borrowing or use of cash collateral, such as, amount of loan facility, sublimits on availability, borrowing base formula, conditions to new advances, interest rate, maturity, events of default, limitation on use of funds and description of collateral.

7. Professional Fees

a. To the extent consistent with the market for similar financings, the lender may request reimbursement of reasonable professional fees. The lender should provide reasonably detailed invoices to the debtor and the committees so a proper assessment of reasonableness can be made.

b. The parties may agree on carve-outs for estate professionals. Lenders may exclude from the carve-out payment of professional fees for litigation of the extent, validity or perfection of the lender's claim as well as prosecution of lender liability suits. The carve-out should not, however, exclude the due diligence work by the committee or its professionals to determine whether a challenge to the lender is justified.

8. Work Fees/Loan Fees

a. Underwriting a substantial DIP loan may involve both direct out-of-pocket expenses and, at times, a certain lost opportunity cost. The debtor may move for the reimbursement of its lender's direct out-of-pocket expenses. The debtor and lender must be prepared to establish actual out-of-pocket costs, the reasonableness of the costs, and that the type of costs are actually paid in the market. On a case-by-case basis, the court will consider on an expedited basis the debtor's request to pay a reasonable up-front fee to a prospective DIP lender to reimburse it for direct out-of-pocket costs. In addition, in connection with approving a DIP loan facility, on motion of the debtor, the court will consider evidence of market rates and pricing for comparable loans in determining whether commitment fees, facility or availability fees, and other up-front or periodic loan charges are appropriate. The lender must provide evidence that it actually has provided or will provide the services customarily associated with these fees.

APPENDIX E
United States Bankruptcy Court for the
Western District of Louisiana

NOTIFICATION STATEMENT
REGARDING POTENTIAL
VIOLATION OF 18 U.S.C. § 152 OR 157

TO: _____ POSITION: _____

FROM: _____ TITLE (if applicable): _____

DATE: _____ SIGNATURE _____

1. Background Information

a. Name of Debtor _____

i. Case number _____

ii. Debtor's Address _____

iii. Debtor's Telephone no. _____

b. Debtor's Attorney _____

i. Address _____

ii. Telephone no. _____

c. Name of Trustee (if applicable) _____

i. Address _____

ii. Telephone no. _____

2. Case Chapter

a. Under what chapter was the case originally filed: 7 **( )**; 11 **( )**; 12 **( )**; 13 **( )**

b. Under what chapter is the case now pending: 7 **( )**; 11 **( )**; 12 **( )**; 13 **( )**

c. Type of Case: Voluntary **( )** *or* Involuntary **( )**

3. Report all facts and circumstances of the offense believed to have been committed (provide as much information as possible), including the following:

a. Identify the schedule that contains the materially fraudulent statement.

_____

_____

_____

b. Explain why the statement is materially fraudulent.

_____

_____

_____

c. Provide the names, addresses, and telephone numbers of persons with knowledge of an information relating to the suspected offense.

_____

_____

_____

d. Disclose any other pertinent information regarding the suspected offense.

_____

_____

_____

APPENDIX F
United States Bankruptcy Court for the
Western District of Louisiana

INDIVIDUALS DESIGNATED BY THE ATTORNEY GENERAL OF THE UNITED STATES PURSUANT TO 18 U.S.C. 158(d) TO HAVE PRIMARY RESPONSIBILITY IN CARRYING OUT ENFORCEMENT ACTIVITIES IN ADDRESSING VIOLATIONS OF 18 U.S.C. SECTION 152 OR 157

OFFICE OF THE UNITED STATES ATTORNEY:

David C. Joseph
United States Attorney
Western District of Louisiana
U.S. Attorney's Office
800 Lafayette Street, Suite 2200
Lafayette, LA 70501

and

Alexander Van Hook
Assistant United States Attorney
Tom Stagg United States Court House
United States Attorney's Office
Western District of Louisiana
300 Fannin Street, Suite 3201
Shreveport, LA 71101

FEDERAL BUREAU OF INVESTIGATION:

Special Agent Eric J. Rommal
New Orleans Division
2901 Leon C. Simon Boulevard
New Orleans, LA 70126

APPENDIX G
United States Bankruptcy Court for the
Western District of Louisiana

Rules for Mortgage Payments Through the Chapter 13 Trustee, Adequate Protection Payments Through the Chapter 13 Trustee and Sequence of Payments by the Chapter 13 Trustee

Section 1. Mortgage Payments Through the Trustee, Adequate Protection Payments Through the Trustee and Sequence of Payments by the Trustee.

For the purpose of this Appendix, an "Ongoing Mortgage" is a claim secured by a security interest in real property that is the principal residence of Debtor(s). "Ongoing Mortgage Payments" are all payments due to the holder of the Ongoing Mortgage, including payments of principal, interest, escrow and other amounts authorized by Fed. R. Bankr. P. 3002.1.

(a) For Chapter 13 Cases Pending in All Divisions Except for the Shreveport Division.

Unless otherwise ordered by the court, the Plan must provide for the payment through the chapter 13 trustee of Ongoing Mortgage Payments if the Ongoing Mortgage is in default by two (2) or more mortgage payments on the petition date, exclusive of estimated escrow deficiencies, actual escrow deficiencies, or fees and costs due to the holder of the Ongoing Mortgage. This provision shall not preclude a debtor from making direct Ongoing Mortgage Payments if a default on said payment has been cured by a consensual loan modification. In addition, if an Ongoing Mortgage falls into default during the plan term, as evidenced by the filing of a motion for relief from the automatic stay or a consensual loan modification, the debtor must propose a plan modification to address the mortgage arrears and/or consensual loan modification and, notwithstanding any provision herein to the contrary, unless otherwise permitted by the trustee or ordered by the court, all payments under the said plan or loan modification must be made through the chapter 13 trustee after the expiration of any probationary period established in the loan modification. The trustee is authorized, but not required, to increase or decrease the amount of the monthly contractual installment payment on any Ongoing Mortgage in accordance with a notice of payment change to which no objection has been filed.

(b) For Chapter 13 Cases Pending in the Shreveport Division.

(1) The Plan must provide for the payment through the chapter 13 trustee of Ongoing Mortgage Payments if the Ongoing Mortgage is in default on (i) the petition date, (ii) the date of plan confirmation, or (iii) the date of the filing of a plan modification pursuant to the terms of 11 U.S.C. § 1322(b)(5); ***provided, however***, this paragraph does not preclude the use of direct Ongoing Mortgage Payments if a default on said payment has been cured by a consensual loan modification. In addition, the chapter 13 trustee shall have the discretion to

allow Ongoing Mortgage Payments to be made directly by debtor(s) when the default, excluding any projected escrow shortage, is less than $500.00 due to escrow shortages, late charges or a payment shortfall of less than one (1) month. The trustee must make Ongoing Mortgage Payments pursuant to written procedures prepared by the trustee and posted on the trustee's website. The trustee is authorized, but not required, to increase or decrease the amount of the monthly contractual installment payment on any Ongoing Mortgage in accordance with a notice of payment change to which no objection has been filed.

(2) Pursuant to this court's authority under 11 U.S.C. § 105(a), if a Plan provides for Ongoing Mortgage Payments to be made by the trustee, such payments should begin before a plan is confirmed; *provided, however*, that the trustee is not required to make Ongoing Mortgage Payments until the trustee is satisfied that good funds have been received from the debtor(s). In exercising its authority under § 105(a) to ensure that the monthly payments required by § 1322(b)(2) are made during the time period between the date of the petition and the date of the plan confirmation, this court considered the following: (i) § 1322(b)(2) expressly requires that the holder of an Ongoing Mortgage receive its normal monthly payments, (ii) § 1326(a)(1) states that the debtor "shall" begin making payments not later than thirty (30) days after filing the plan and provides that the court may order "otherwise," which allows the court to require conduit payments through the trustee, (iii) § 1326(a)(2) states that the trustee "shall" retain payments "proposed by the plan" before confirmation, (iv) § 1326(c) states that the trustee "shall" make payments to creditors "under the plan," (v) the Bankruptcy Code prohibits modifying the rights of mortgage lenders and creates a presumption in favor of payments disbursed through the trustee, and (vi) conduit payment of mortgage installments protects debtors, creditors, and the integrity of the bankruptcy process. See, *Perez v. Peake*, 373 B.R. 468 (S.D. Tex. 2007), where the court held that a local rule authorizing trustees to continue making mortgage payments pending confirmation did not violate § 1326(a)(2) because § 1326(a)(2) refers only to payments made under § 1326(a)(1) and not to all payments received by a trustee.

Section 2. Adequate Protection Payments by the Trustee.

(a) For Chapter 13 Cases Pending in All Divisions Except for the Shreveport Division.

For chapter 13 cases pending in all Divisions except for the Shreveport Division, the following applies:

(1) Debtor Must Remit Adequate Protection Payments to Trustee.

A debtor shall commence all payments under §§ 1326(a)(1)(A), (B), and (C)

within thirty (30) days of the date of filing the chapter 13 petition, and all such payments shall be made to the trustee, and the plan payment under § 1326(a)(1)(A) shall not be reduced in the amount of adequate protection payments made for the benefit of lessors or secured creditors under §§ 1326(a)(1)(B) or (C). Such payments shall be distributed by the trustee as set forth in the confirmed plan or as stated in an Order for Adequate Protection.

(2) Creditor Must File Motion to Change Amount.

Any creditor requesting a change in the amount of § 1326(a)(1) pre-confirmation payments pursuant to § 1326(a)(3) must file a motion to same to obtain such change.

(3) Payment on Pre-Confirmation Dismissal.

If the court dismisses the case before plan confirmation, and if the trustee has not disbursed adequate protection payments or Ongoing Mortgage Payment to any lessor and/or secured creditor entitled thereto, funds held by the trustee pursuant to §§ 1326(a)(1)(B) and (C) shall be paid to such lessor and/or secured creditor based on one (1) adequate protection payment for each monthly plan payment received by the trustee prior to refunding any money to the debtor as required. In addition to the payment of adequate protection provided for herein, the trustee shall pay, as a § 503(b) administrative expense, one Ongoing Mortgage Payment for each plan payment received by the trustee if and to the extent that such mortgage payment is provided for by the terms of the last proposed plan filed by the debtor.

(b) For Chapter 13 Cases Pending in the Shreveport Division.

The provisions of paragraph (a) shall apply to Chapter 13 cases pending in the Shreveport Division, except as provided below:

(1) Pending confirmation of a plan, the trustee shall make payments required by 11 U.S.C. § 1326(a)(1)(B) and (C) to a creditor or lessor entitled to such payment in the amount specified in the Plan, absent an order under 11 U.S.C. § 1326(a)(3).

(2) The trustee shall make payments under subparagraph (1) above as soon as practicable after the filing of a proof of claim by the creditor to whom payment is due.

(3) The trustee is entitled to take the percentage fee from all payments received or collected pursuant to 28 U.S.C. § 586(e)(1)(B).

Section 3. Sequence of Payments by the Trustee (Shreveport Division Only).

For chapter 13 cases pending in the Shreveport Division, unless the court enters an Order providing for a different payment sequence, to conform with the requirements of Code § 1325(a)(5)(B)(iii)(I), the trustee must follow the default payment sequence set forth below from payments received by the trustee. Each numbered paragraph in subparagraph (b) is a level of payment. At the time of any disbursement, if there are insufficient funds on hand to pay any allowed claim in full, claims with a higher level of payment shall be paid any unpaid balance owed, in full, before any disbursement to a claimant with a lower level of payment. If multiple claimants are scheduled to receive payments within the same level of payment and there are insufficient funds to make those payments in full, available funds will be disbursed to claimants within that level on a *pro-rata* basis.

(a) The trustee shall collect the percentage fee currently due from all payments under the Plan. *See*, 28 U.S.C. § 586(e).

(b) The trustee must distribute--

(1) payment due under Code § 1326(a)(1)(C) (conduit adequate protection), if the Plan provides for such, which payment shall continue in equal monthly amounts post-confirmation until the trustee has satisfied all claims due under Code § 1326(b)(1);

(2) payment of conduit ongoing monthly mortgage payments of the kind specified in Code § 1322(b)(2), if the Plan provides for such, for all such payments that become due after the commencement of the case and for each month thereafter in equal monthly amounts;

(3) payment due under Code § 1326(a)(1)(B) (conduit lease payment), if the Plan provides for such, and continue each month thereafter;

(4) payment due under Code § 1326(b)(1) (administrative claims), if the Plan provides for such, which payment shall commence as soon as practicable following confirmation until paid in full. If excess funds remain on hand after paying claims with a higher level of payment, then, unless otherwise provided in the Plan or the order confirming the Plan, any excess funds on hand shall be paid toward allowed administrative claims, including any attorney's fee due under the Plan;

(5) payment to the holders of allowed secured claims (exclusive of an arrearage claim), if the Plan provides for such, in the respective amounts shown in the Plan as confirmed or as later modified, and pursuant to Code § 1325(a)(5)(B)(iii)(I), such payments shall continue for each consecutive month thereafter until said claim is paid in full;

(6) payment of home mortgage arrears, if the Plan provides for such;

(7) payment of specially classified claims, if the Plan provides for such, which payment shall be paid in the manner provided in the Plan;

(8) payment of claims entitled to priority under Code § 507, if the Plan provides for such, provided that in any event payment of such claims shall comply with Code § 1322(a)(2) and (4);

(9) payment of any remaining funds, *pro rata* to holders of allowed non-priority, unsecured claims; and

(10) payment of any debt or claim not addressed by the order confirming the Plan shall be administered in accordance with the Plan and applicable laws.

APPENDIX H
UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA

In re:	**§**	**Case No. _____**
	§	**(Chapter 13)**
	§	
Debtor(s)	**§**	

BANKRUPTCY RULE 2016(b) DISCLOSURE AND
APPLICATION FOR APPROVAL OF FIXED FEE AGREEMENT

[NAME OF ATTORNEY] files this Fed. R. Bankr. P. 2016(b) Disclosure and Application for Approval of Fixed Fee Agreement (the "Application"). (Within this Application, "Debtor" means the undersigned sole debtor or, in the case of a joint bankruptcy, the debtor and the joint debtor. "Attorney" means the undersigned counsel for the Debtor. "Fixed Fee" means the "no-look" attorney fee or fees as established by Standing Order of the Bankruptcy Judges for the Western District of Louisiana; the Fixed Fee shall be the "no-look" fee in force at the time this case was filed.)

I. *Attorney services for Fixed Fee*. The Attorney agrees to provide the following services to the Debtor on a Fixed Fee basis:

A. Counsel and advise the Debtor with respect to the above captioned matter on an as needed basis throughout the entirety of the proceeding. This includes without limitation the following: (i) meeting with the debtor to review and discuss the Debtor's objectives in filing a bankruptcy case (including rendering advice with respect to whether and under which chapter to file a petition for relief (ii) meeting with the client to review the Debtor's assets, debts, income and expenses, and (iii) fielding routine phone calls and questions.

B. Assist the Debtor in obtaining and/or preparing, and filing, the documents required by 11 U.S.C. § 521 and any required amendments to those documents. Attorney, or his or her paralegal or assistant as appropriate, shall personally review all such documents with the Debtor and make all necessary changes and additions to such documents, prior to obtaining the Debtor's signature and filing them with the court.

C. Obtain from the Debtor and timely submit to the Chapter 13 Trustee properly documented proof of income for the Debtor, including business reports (i.e, profit and loss statements) for self-employed Debtors.

D. Advise the Debtor with respect to the necessity of filing and providing to the Chapter 13 Trustee any and all tax returns required under 11 U.S.C. § 1308. Assist the Debtor in obtaining such returns and providing them to the Trustee.

E. Promptly prepare a Chapter 13 plan on behalf of the Debtor and review that plan with the Debtor prior to obtaining the debtors signature and filing the plan with the court.

F. Explain to the Debtor how, when, and where to make all necessary payments under the plan, including both payments that must be made directly to creditors and payments that must be made to the Chapter 13 Trustee, with particular attention to housing and vehicle payments.

G. Advise the Debtor of the need to maintain appropriate insurance.

H. Advise the Debtor of the requirement to attend the § 341 meeting of creditors, and notify the Debtor of the date, time, and place of the meeting. In form the Debtor that he or she must be punctual and, in the case of a joint filing, that both spouses must appear at the same meeting.

I. Attend the § 341 meeting of creditors and any rescheduled and/or continuances of the meeting.

J. Prepare and file any and all pleadings that are necessary to protect the Debtor's interest in the case and/or that are required to confirm the Chapter 13 plan.

K. Attend the confirmation hearing (and any continuances of the hearing) if required under the circumstances (such as if there are unresolved objections), or as required by court order or local rules and/or customs.

L. Prior to confirmation, prepare, file and serve any and all amended or modified plans required under the circumstances. To the extent an amended plan is filed in response to an objection to confirmation, such amended plan must address all then pending objections to confirmation of the plan, or the court must consider and rule on any pending objections prior to filing amended plan. For purposes of clarity, if the Trustee has filed more than one objection and/or a creditor or creditors have objected to the plan, the Attorney must obtain a ruling from the court on those objection to which the parties' cannot reach agreement before filing an amended plan to address other objections to which the Attorney has obtained agreement.

M. Review, and when necessary in order for initial plan confirmation, object to, any and all filed claims.

N. Represent the Debtor in any and all motions and other matters filed in this bankruptcy case within 120 days after confirmation of the plan.

O. Prepare, file and represent the Debtor in his or her first post-confirmation motion to lift stay, motion to dismiss or motion to modify filed more than 120 days after confirmation.

P. Advise the Debtor concerning his/her/their obligations and duties pursuant to the Bankruptcy Code, Bankruptcy Rules, applicable court orders and the provisions of the confirmed Chapter 13 plan.

Q. Represent the Debtor regarding any services required after the Debtor makes the final payment required under the Chapter 13 plan, including the preparation and filing of any document, to assist the Debtor in obtaining a Chapter 13 discharge. There will be no additional charge imposed for these services unless the services are extraordinary, in which event counsel may apply for additional fees. Counsel may collect a filing fee if reopening the case is required.

II. *Excluded Services*. The Fixed Fee does not include the following services:

A. Representation of the Debtor in an adversary proceeding, either as a plaintiff or a defendant.

B. Representation of the Debtor in a contested matter, the subject of which is extraordinary in the context of Chapter 13 cases in the United States Bankruptcy Court for the Western District of Louisiana.

C. Representation of the Debtor in any matter in which the Court orders fee shifting pursuant to which fees are to be paid by a person other than the Debtor.

III. *Fixed Fees and Reimbursements*. The Attorney agrees to the following fees and reimbursements (check applicable boxes):

A. [ ] *Fixed Fee*. A Fixed Fee (i.e., the "no-look fee") in the amount of $_____ (insert amount not to exceed $3,600.00). Prior to or at the time this matter was filed, Attorney received $_____ for representing the Debtor in this case. Accordingly, the balance due from the Trustee as an administrative expense in this matter is $_____.

B. [ ] *Advances*. I have advanced the fee for the Debtor to obtain the credit counseling required by 11 U.S.C. § 109(h) in the amount of $_____; I have advanced the costs of a credit report on behalf of the Debtor in the amount of $_____; and/or I have advanced the filing fee and any other fee required to be paid under 28 U.S.C. § 1930 in the amount of $_____ (to the extent the Attorney has not advanced any of these costs, insert $0.00). The Attorney acknowledges and agrees that the Fixed Fee provided in Sections III.A. and III.D. of this Application is inclusive of any and all Advances set forth in this Section III.B.

C. [ ] *Reimbursements*. Reimbursement for noticing the plan and any amendments thereto, and for any and all other expenses incurred after filing of the case (such as copying costs, computer based research costs, telephone expenses, facsimile charges, mail (including overnight and express mail services, etc.) in the amount of $_____

(insert amount not to exceed $250.00). Thus, in addition to the amounts set forth in Section III.A., or if applicable, Section III.D. of this Application, the Trustee shall reimburse the Attorney the sum set forth in this Section III.C. as an administrative expense of the estate.

D. [ ] Notwithstanding Section III.A. of this Application, in a case in which the monthly plan payment is less than $300.00 per month, as reflected in the original proposed Chapter 13 plan, the Fixed Fee will be reduced to 10-times the monthly plan payment. In this case, the monthly plan payment is $_____, thereby making the Fixed Fee in this case $_____ (10 times the monthly plan payment). Prior to or at the time this matter was filed, Attorney received $_____ for representing the Debtor in this case. Therefore, the balance due from the Trustee as an administrative expense in this matter is $_____.

E. Unless otherwise ordered by the court, the Fixed Fee is compensable by the Trustee without fee application upon confirmation of the plan or upon dismissal pre-confirmation.

IV. *Additional Services*. The following services will also be provided, if needed, on a Fixed Fee basis [check applicable boxes]. Payment may be made directly by the Debtor or through the confirmed plan:

A. [ ] The Fixed Fee for motions filed by the Debtor more than 120 days following confirmation of the plan and that are resolved by agreement, or there is no opposition, shall be $_____ (insert an amount not to exceed $350.00).

B. [ ] The Fixed Fee to defend motions for relief from stay and motions to dismiss that are filed more than 120 days following confirmation of the plan shall be $_____ (insert an amount not to exceed $350.00).

C. [ ] The Fixed Fee for plan modifications filed more than 120 days following confirmation of the plan shall be $_____ (insert an amount not to exceed $450.00).

D. [ ] The Fixed Fee for objections to claims that are filed more than 120 days following confirmation shall be $_____ (insert an amount not to exceed $250).

E. Any legal services rendered that are not covered by an agreed Fixed Fee in Section IV.A. through IV.D. of this Application may be provided on an hourly fee basis at a rate not to exceed $_____. All hourly fees are subject to approval by the Bankruptcy Court after the filing and service of a proper fee application.

V. *Debtor Agreements and Certifications*.

A. *Debtor Agreements*. The Debtor agrees to:

1. Provide the Attorney with accurate financial information concerning the Debtor's assets, liabilities, income and expenses;

2. Discuss with the Attorney the Debtor's objectives in filing the case;

3. Keep the Attorney informed of the Debtor's contact information, including physical and mailing address, phone number(s), and email, if applicable;

4. Inform the Attorney of wage garnishments, lawsuits, or attachments (sequestrations) that occur or continue after the commencement of the case;

5. Make the required payments to the Chapter 13 Trustee and to those creditors being paid directly, or, if required payments cannot be made, notify the attorney immediately;

6. Appear punctually at the meeting of creditors (called the § 341 meeting) with recent proof of income and a picture identification card and the Debtor's Social Security Card; the Debtor must be present in time for check-in and when the case is called for actual examination;

7. Inform the Attorney if any tax refunds to which the Debtor is entitled are seized or not received when due from the IRS or the Louisiana Department of Revenue;

8. Promptly provide the Attorney and the Chapter 13 Trustee with signed, dated and filed copies of all tax returns filed while the case is pending;

9. Inform the Attorney promptly of any change in Debtor's financial circumstances, including any change in wages/salary or change in employer; and

10. Inform the Attorney if Debtor desires to buy or sell property of any kind whatsoever or incur new indebtedness or refinance any loan during the case.

B. *Debtor certifications.* The Debtor certifies that:

1. The Debtor has reviewed this Application with the Attorney and understands his or her responsibilities to the Court and to the Attorney;

2. The Debtor understands the services to be provided and the fees to be paid as

set forth in this Application; and

3. The Debtor has met in person with the Attorney (or another attorney supervised by the undersigned Attorney and who is licensed to practice law) for not less than one (1) hour. (The Debtor understands that time spent exclusively with a paralegal or other person not licensed to practice law may not be included in the one (1) hour.)

VI. *Attorney Certification*. The Attorney certifies that:

A. This Application sets forth a true and correct statement of the compensation that the Attorney has been paid or that has been agreed to be paid to Attorney;

B. The Attorney (or another attorney supervised by the Attorney and who is licensed to practice law) met in person with the Debtor for not less than one (1) hour. I understand that time spent exclusively with a paralegal or other person not licensed to practice law may not be included in the one (1) hour;

C. The Attorney has obtained the Debtor's "wet" signature to this Application and provided a copy of this fully executed Application to the Debtor, and, upon request, the Attorney agrees to provide the original copy of this Application to the Trustee or the Court; and

D. The Attorney has not shared or agreed to share any of the compensation paid or to be paid. The following sets forth all of the compensation that is being paid by any person or entity other than the Debtor. Describe:

_____
_____
_____
_____.

Dated: _____ _____
Debtor

Dated: _____ _____
Joint Debtor

Dated: _____ _____
Attorney for the Debtor(s)