

Request for Public Comment

Comment period: December 23, 2024 – January 23, 2025

Send comments to:

bankruptcy_comments@lawb.uscourts.gov

Proposed Revisions to LOCAL BANKRUPTCY RULES OF THE UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF LOUISIANA

Proposed Amendments

LBR 1001-1 Short Title and Scope.

(b) Scope.

- (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.

LBR 1006-1 Filing Fee.

(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) Without the necessity of an order from the court, the Bankruptcy Clerk is authorized to refund filing fees when the remitter of the fee submits to the Bankruptcy Clerk a request for refund using the Bankruptcy Clerk's form available on the court's website, www.lawb.uscourts.gov, if the fee was collected -~~

- ~~(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:~~

- ~~(ia) fees collected~~ without authority;
- ~~(iib) due to~~ duplicate credit card payments ~~that result from a failed internet credit card process~~;
- ~~(iiic) due to payments that result from~~ a duplicate petition erroneously filed

through CM/ECF; ~~and/or~~

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

(2) In all other circumstances, a request for a refund of fees must be made to the court by motion or application.

(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 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/>.~~

LBR 9014-1 Contested Matters.

(c) **Exchanging Filing Exhibits, Exhibit Lists and Witness Lists, and Designating Deposition Excerpts.**

(1) **Exchanging Filing Exhibit Lists and Exhibits.**

Unless the court orders otherwise, All exhibits that a party intends to offer at the hearing, except those to be offered solely for impeachment, must be listed on an Exhibit List and all exhibits must ~~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~~ The Exhibit List and the exhibits must be filed in the record of the case using the court's electronic filing system at least one (1) day prior to the scheduled hearing. Each exhibit must be filed as a separate attachment to the Exhibit List, and each exhibit must correspond to its item number on the Exhibit List. unless otherwise ordered by the court. Unless an electronic alternative is approved by the court, 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 to the Presiding Judge;~~
- ~~(ii) — one (1) bound copy to the electronic court reporting officer; and~~
- ~~(iii) — one (1) bound copy to a witness.~~

(2) Exchanging Exhibit and Filing Witness Lists.

~~Unless the court orders otherwise, all witnesses that a party intends to call, except those to be offered solely for impeachment, must be listed on a Witness List which must be filed in the record of the case using the court's electronic filing system at least one (1) day prior to the scheduled hearing. 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.~~

**INDEX OF
APPENDICES**

Appendix A ~~Proceedures for Complex Chapter 11 Cases~~Intentionally omitted.

APPENDIX A

Intentionally omittedPROCEDURES 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.~~

~~H. — 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.~~