

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS**



**LOCAL COURT RULES**

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## **L. Rule 1001-1. SCOPE OF RULES AND FORMS; SHORT TITLE.**

### **(a) Title.**

The Rules that follow are adopted as the Local Rules to govern procedure of the Bankruptcy Court until further order, and shall be cited as the “Bankruptcy Local Rules” or “L. Rule.”

### **(b) Scope and Effective Date of Rules.**

- (1) These Rules supplement or, as permitted, modify the Federal Rules of Bankruptcy Procedure, and shall be construed consistently with those Rules to promote the just, efficient, and economical determination of every action and proceeding.
- (2) On motion or on the Court’s own initiative, a judge may waive the provisions of these Rules in any case for the convenience of the parties or in the interest of justice. The Appendices may be supplemented or modified from time to time.
- (3) These Rules shall govern all actions and proceedings pending or commenced after the effective date cited in the standing order adopting the changes to the local rules.

### **(c) Adoption of Certain Local Rules of the United States District Court.**

The Local Rules of the United States District Court for the Western District of Texas shall not apply to any proceedings in the United States Bankruptcy Court, except as hereinafter adopted. In the event of a conflict between the Local Rules of the United States District Court for the Western District of Texas and these Rules, these Rules shall control.

### **(d) Definitions.**

The Bankruptcy Code and Federal Rules of Bankruptcy Procedure definitions of words and phrases and rules of construction govern their use in these Rules. In addition, the following words and phrases used in these local rules have the meanings indicated.

- (1) “Bankruptcy Court” or “Court” means the United States Bankruptcy Court for the Western District of Texas.
- (2) “Clerk” means the United States Bankruptcy Clerk for the Western District of Texas.
- (3) “District Court” shall mean the United States District Court for the Western District of Texas.
- (4) “Court” and “Judge” shall mean the United States Bankruptcy Court and bankruptcy judge, except when a matter is pending before a District Court Judge.
- (5) “Trustee” or “trustee” shall mean the trustee appointed in a chapter 7, 11, 12 or 13 case, except where specifically designated as “U.S. trustee.”

(6) The Local Rules of the United States District Court shall be referenced as “District Court Local Rules.”

(7) The Federal Rules of Bankruptcy Procedure shall be referenced as “FRBP”, and the Federal Rules of Civil Procedure shall be referenced as “FRCP.”

(e) Reference.

See the Standing Order of Reference on the Court’s website at:

<https://www.txwb.uscourts.gov/district-court-standing-orders-affecting-bankruptcy-court>.

(f) Standards of Conduct.

The provisions of [Rules AT-4 and AT-5 of the District Court Local Rules](#), which govern Standards of Professional Conduct, are adopted.

(g) Standing Orders.

(1) Standing orders of the Bankruptcy Court apply to practice before and procedures in the Bankruptcy Court for this District. These orders may be modified from time to time and are available at each divisional office and at the Court’s website at: <https://www.txwb.uscourts.gov/standing-orders>.

(2) In the event of a conflict between a standing order of this Court and these Rules, the standing order shall prevail.

(h) Mediation and Alternative Dispute Resolution Provisions.

(1) The Court on its own motion or 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 Court finds appropriate.

(2) The ADR provisions found at [Appendix L-1001-1-h](#) are adopted.

(i) Court’s Website.

The most current local rules and their appendices, standing orders, and forms may be found on the Court’s official website at: <http://www.txwb.uscourts.gov>.

**L. Rule 1002-1. COMMENCEMENT OF CASE.**

(a) All debtors, other than individuals, must be represented by counsel as of the date a case is filed with regard to all pleadings and hearings (including the bankruptcy petition itself).



Petitions filed without counsel by entities other than individuals may be dismissed by the Court without further notice or hearing.

(b) Assignment of Cases.

Cases and proceedings shall be assigned based on the county in which the debtor's domicile, residence, principal place of business, or principal assets were located for the greater part of the 180-day period preceding commencement of the case as follows:

- (i) **Division 1 (Austin):** Bastrop, Blanco, Burleson, Burnet, Caldwell, Gillespie, Hays, Kimble, Lampasas, Lee, Llano, Mason, McCulloch, San Saba, Travis, Washington, and Williamson.
- (ii) **Division 3 (El Paso):** El Paso.
- (iii) **Division 5 (San Antonio):** Atascosa, Bandera, Bexar, Comal, Dimmit, Edwards, Frio, Gonzales, Guadalupe, Karnes, Kendall, Kenney, Kerr, Maverick, Medina, Real, Terrell, Uvalde, Val Verde, Wilson, and Zavala.
- (iv) **Division 6 (Waco):** Bell, Bosque, Coryell, Falls, Freestone, Hamilton, Hill, Leon, Limestone, McLennan, Milam, Robertson, and Somervell.
- (v) **Division 7 (Midland):** Andrews, Brewster, Crane, Culberson, Ector, Jeff Davis, Hudspeth, Loving, Martin, Midland, Pecos, Presidio, Reeves, Upton, Ward, and Winkler.

**L. Rule 1004.1-1 FILING ON INDIVIDUAL DEBTOR'S BEHALF.**

- (a) If a bankruptcy petition is filed on a debtor's behalf by a representative, such as a guardian or conservator appointed by a court of competent jurisdiction before the filing of the petition, a copy of the appointment instrument shall be filed with the petition.
- (b) If a bankruptcy petition is filed on a debtor's behalf by the holder of a power of attorney, proposed guardian ad litem, or proposed next friend (the "Filing Party"), a motion shall be filed with the petition requesting that the Court appoint the Filing Party to be the debtor's representative. The motion shall attach either (1) a copy of the power of attorney that the Filing Party asserts grants the authority to act on the debtor's behalf in the bankruptcy proceeding or (2) a declaration executed by the Filing Party under penalty of perjury that details why a representative should be appointed for the debtor, why appointment of the Filing Party is in the best interests of the debtor, and whether the Filing Party will receive any compensation for assisting the debtor.
- (c) If during the course of a bankruptcy proceeding the debtor becomes incompetent, any party in interest including the proposed "next friend" may file a motion to appoint a representative to act on the debtor's behalf. The motion shall state why a representative should be appointed for the debtor, why the appointment of the proposed "next friend" is in the best interests of the debtor, and whether the proposed "next friend" will receive any compensation for assisting the debtor.

#### **L. Rule 1005-1. CAPTION OF PETITION.**

In addition to the requirements of [FRBP 1005](#), the caption of the petition and all other pleadings and papers accompanying the petition shall include the division in which it is filed (Austin, El Paso, Midland/Odessa, San Antonio, or Waco).

#### **L. Rule 1006-1. PAYMENT OF FILING FEE IN INSTALLMENTS.**

At least 50% of the filing fee must be paid within 7 days of the filing of the petition for debtors applying to pay the filing fee in installments. Noncompliance may result in dismissal of the bankruptcy case without further notice or hearing.

#### **L. Rule 1007-1. LISTS, SCHEDULES, AND STATEMENTS.**

##### **(a) Creditor List.**

###### **(1) General Requirements.**

The master creditor list shall include those agencies and offices of the United States required to receive notice in [FRBP 2002](#). Addresses for proper notice to major United States Government agencies are listed on the Court's website at: <https://www.txwb.uscourts.gov/government-entities-list-addresses>.

###### **(2) Form of Creditor List.**

The creditor list shall be in such form as prescribed from time to time by the Clerk of the Court. The format may be found in the [Style Guide](#) posted to the Court's website at: <https://www.txwb.uscourts.gov/sites/txwb/files/style%20guide%20electronic%20filing.pdf>.

##### **(b) Counseling Certificate Required Under 11 U.S.C. § 521(b)(1).**

If an individual debtor fails to file with the petition commencing the case the certificate, required under [11 U.S.C. § 521\(b\)\(1\)](#), from an approved nonprofit budget and credit counseling agency, the Clerk of the Court shall refer the case to the presiding judge for action, which may include dismissal without further notice or hearing.

##### **(c) Declaration of Evidence of Employer's Payments Within 60 Days.**

An individual debtor must file [Local Form No. 1007-1 Declaration of Evidence of Payments](#) available on the Court's website to comply with [11 U.S.C. § 521\(a\)\(1\)\(B\)\(iv\)](#).

##### **(d) Extension of Time to File Lists, Schedules, Statements, and Other Documents.**

- (1)** A motion for extension of time to file the lists of creditors and equity security holders, or to file the schedules, statements, and other documents required under [11](#)

[U.S.C. § 521\(a\)](#), must: (A) identify the date the petition was filed, and the date of the proposed new deadline; (B) state the date of the 341 meeting of creditors; (C) be supported by a sufficient explanation for the requested extension of time; and (D) contain a proof of service upon the trustee (if any) and U.S. trustee.

(2) The motion may be filed and granted without a hearing pursuant to [L. Rule 9014-1\(d\)](#).

(e) Small Business Financial Report (Monthly Operating Report).

Unless the Court orders otherwise, the filing of a completed [Monthly Operating Report](#) in the form required by the Office of the U.S. Trustee shall be deemed to satisfy the small business debtor's obligation under [11 U.S.C. § 308\(b\)](#) to file periodic financial and other reports as described therein.

(f) Annual Tax Returns in a Chapter 13 Case.

Within thirty days of filing, the debtor shall provide to the chapter 13 trustee a copy of his or her post-petition annual federal income tax return and any applicable state income tax returns until payments under the plan are completed.

(g) Corporate Authorization.

Any person filing a voluntary petition on behalf of a corporation, partnership, or other non-individual shall file with the Court the written resolution or other appropriate corporate document, adopted, and executed by the authorized corporate representative, authorizing the filing of the petition.

#### **L. Rule 1009-1. AMENDMENTS OF VOLUNTARY PETITIONS, LISTS, SCHEDULES, AND STATEMENTS.**

(a) Required Service.

Any amended petition, creditor list, list of 20 largest creditors, or amended or late-filed Schedules or Statements, shall be served by the party filing same on the parties listed in [L. Rule 9013-1\(d\)](#) and as provided below.

(b) Notice to Newly Scheduled or Added Entities.

Copies of amended or late-filed Schedules or Statements shall be served within 3 days of filing, on each entity newly scheduled, newly added, or newly affected. The entity filing same shall also attach a copy of the "Order For and Notice of § 341(a) Meeting," "Discharge of Debtor," "Order Confirming Plan," and "Order Fixing Date for Filing Claims" if such orders have been entered in the case.

(c) Amendment of Creditor Lists.

Whenever schedules or amendments add new entities or correct mailing addresses, the debtor shall file with the document an amended creditor list which shall include only the names and addresses of the entities added, deleted, or corrected.

(d) Notice of Amendment of Exemptions and Deadline for Objections.

If a debtor's schedule of exemptions is amended, notice of such amendment shall be sent by the debtor to all creditors and to any trustee appointed in the case. Objections to the amended schedule must be filed within 30 days from the date of service of such notice.

**L. Rule 1010-1. SERVICE OF INVOLUNTARY PETITIONS AND SUMMONS.**

If service of the summons is not filed by the petitioning entity within the time allowed by [FRBP 7004](#), the Court may dismiss the case without further notice or hearing.

**L. Rule 1014-1. DISMISSAL AND CHANGE OF VENUE.**

By order of the Court or upon motion by any party in interest, the Court may, for cause, transfer venue to another division within the District without notice and a hearing.

**L. Rule 1015-1. JOINT ADMINISTRATION OF CASES PENDING IN SAME COURT.**

To request joint administration of two or more pending bankruptcy cases, a motion setting out the following shall be filed in each case:

- (1) the name and case number of each case sought to be jointly administered;
- (2) the proposed style and case number to be used on subsequent pleadings if joint administration is ordered;
- (3) a summary of any administrative or scheduling orders previously entered in the affected cases which may require modification; and
- (4) the need to propose amendments or consolidation of mailing lists in the affected cases for future noticing requirements.

A party seeking consolidation or joint administration must use the form of order prescribed by the Court on the Court's website at:

<https://www.txwb.uscourts.gov/sites/txwb/files/Joint%20Administration%20Order.pdf>

**L. Rule 1017-1. DISMISSAL OR CONVERSION OF THE CASE.**

- (a) Any motion to dismiss or convert shall state whether the case has been previously converted from another chapter of Title 11.
- (b) A motion to convert a case filed pursuant to [11 U.S.C. § 1112\(a\)](#) shall state whether:
  - (1) the debtor is a debtor in possession;
  - (2) the case was commenced by an involuntary petition; and
  - (3) the case was previously converted to chapter 11 other than on the debtor's request.

(c) Dismissals Under 11 U.S.C. § 521(i)(1).

Pursuant to [11 U.S.C. § 521\(i\)](#), if an individual debtor who filed a voluntary chapter 7 or 13 case does not file all of the documents required under [11 U.S.C. § 521\(a\)\(1\)](#) within 45 days after the petition date, the Court may enter an order dismissing the case without further notice or hearing unless an extension of the deadline has been obtained in accordance with [L. Rule 1007-1\(d\)](#).

(d) Dismissals Under 11 U.S.C. § 521(e)(2)(A).

A party in interest seeking dismissal of a case for failure to comply with [11 U.S.C. § 521\(e\)\(2\)\(A\)](#) must do so by motion. Such motion must be served upon the trustee, the debtor, the debtor's counsel, and the U.S. trustee.

(e) Summary Dismissals Under 11 U.S.C. § 1307(c).

The Court may, without further notice or hearing, enter an order dismissing a chapter 13 case upon submission of a proposed dismissal order by the chapter 13 trustee that details any one of the following "causes" for dismissal:

- (1) Failure of the debtor to timely file a plan (including all extensions of time granted under [L. Rule 3015-1\(a\)](#)) or use the local form plan;
- (2) Failure of the debtor to timely file schedules, statements, and other documents required under 11 U.S.C. § 521(a) (including all extensions of time granted under [L. Rule 1007-1\(d\)](#));
- (3) Unexcused failure of the debtor to appear at the Meeting of Creditors as required by [11 U.S.C. § 341](#);
- (4) Delinquency of the debtor of 60 or more days on payments under a proposed or confirmed plan; and
- (5) Failure of the debtor to comply with a prior Order of the Court that allows for such dismissal.

**L. Rule 1019-1. CONVERSION OF CHAPTER 11 REORGANIZATION CASE, CHAPTER 12 FAMILY FARMER'S DEBT ADJUSTMENT CASE, OR CHAPTER 13 INDIVIDUAL'S DEBT ADJUSTMENT CASE TO CHAPTER 7 LIQUIDATION CASE.**

Within 14 days after the effective date of conversion, the debtor shall file an amended schedule indicating any changes to its creditor list, schedules, and statements of financial affairs, as may be applicable, or amend such items to reflect any changes, including but not limited to the inclusion of any property acquired or disposed of since the entry of the order for relief under the previous chapter. If no amendments are necessary, debtor shall file a certificate to that effect during the 14 day period.

#### **L. Rule 1020.1-1 COMPLEX CHAPTER 11 CASES.**

Procedures for the administration of complex chapter 11 cases are attached to these local rules as [Appendix L-1020.1-1](#) and is also available on the Court's website at: <https://www.txwb.uscourts.gov/appendix-l-10201-procedures-complex-chapter-11-cases>.

#### **L. Rule 1020.2-1 SUBCHAPTER V OF CHAPTER 11 CASES.**

Procedures for the administration of subchapter V of chapter 11 cases are attached to these local rules as [Appendix L-1020.2-2](#) and is also available on the Court's website at: [www.txwb.uscourts.gov/subchapter-v-chapter-11-procedures](http://www.txwb.uscourts.gov/subchapter-v-chapter-11-procedures).

#### **L. Rule 1021-1. HEALTH CARE BUSINESS CASE.**

In addition to the notice required by [FRBP 9014](#), the movant shall serve any motion to determine whether the debtor is a health care business on the designated representative of the Texas state agency responsible for regulating the health care business. A list of Texas state agencies is available on the Court's website at: <https://www.txwb.uscourts.gov/texas-state-regulatory-agency-contacts-noticing-purposes>.

#### **L. Rule 2002-1. NOTICES TO CREDITORS, EQUITY SECURITY HOLDERS, UNITED STATES, AND U.S. TRUSTEE.**

(a) Returned Notices.

Notices of the Meeting of Creditors and Orders of Discharge which are undelivered shall be returned to the debtor or debtor's counsel. The debtor shall be responsible for re-serving such notices and is responsible for attempting to determine the correct address for each returned notice. The debtor shall file a certificate of service and file an amended creditor list with the Clerk, adding corrected addresses for the entities for whom notice was returned. If corrected addresses are unavailable, debtor or debtor's counsel shall file an amended creditor matrix with the Clerk, who is then authorized to remove from the mailing list on file any such address.

(b) Notice to Individual Consumer Debtors Under 11 U.S.C. § 342(b).

The notice required under [11 U.S.C. § 342\(b\)](#) to be given by the Clerk is hereby delegated, and it shall be debtor's counsel's responsibility to give such notice in cases where the debtor is represented by counsel before filing the petition commencing the bankruptcy case.

#### **L. Rule 2004-1. EXAMINATION.**

(a) Inapplicable to Adversary Proceedings.

The provisions for examination under [FRBP 2004](#) shall be inapplicable to adversary proceedings.

(b) Notice.

In connection with a [Rule 2004](#) Examination, a party may include a request for the production of documents under [FRBP 9016](#). Unless the Court orders otherwise, not less than 14 days written notice of a proposed examination, or if documents are requested, 30 days written notice, shall be given to the entity to be examined, and its counsel. The notice shall have a certificate of conference attached indicating what efforts were made to obtain an agreeable date, time, and place for the [Rule 2004](#) examination. The entity to be examined may object to the proposed examination within 7 days after service of the notice as set forth in subsection (d) below. The notice shall describe the scope of the examination and describe any documents requested.

(c) No Order Required.

Unless a motion to quash or for a protective order is granted the noticed examination shall be, by this local rule, deemed ordered by the Court. The notice of intent to conduct Rule 2004 Examination shall be filed. Attendance and production of documentary evidence requested of an entity other than the debtor shall comply with [FRBP 9016](#).

(d) Motions to Quash.

If an entity objects to the examination for any reason, it must file a motion to quash, and request and obtain an expedited hearing on such motion before the scheduled date and time of the examination. Notwithstanding the filing of a motion to quash, the party to be examined must appear for the noticed examination unless otherwise excused by the Court. If the notice provides less than 14 days notice of either the proposed examination or date by which documents are to be produced, the party is not required to attend the examination.

**L. Rule 2007.2-1. APPOINTMENT OF PATIENT CARE OMBUDSMAN IN A HEALTH CARE BUSINESS CASE.**

- (a) In a chapter 7, 9, or 11 case in which the debtor checks the box on the petition indicating the debtor is a health care business, the Court will enter an order no earlier than 22 days and no later than 30 days after commencement of the case directing the U.S. trustee to appoint a patient care ombudsman, unless a party has filed a motion to find the appointment of a patient care ombudsman unnecessary under [FRBP 2007.2](#). The Court will conduct a hearing within 30 days after commencement of the case on any motion to find the appointment of a patient care ombudsman unnecessary. A motion to expedite under [L. Rule 9014-1](#) is required. If the motion to find the appointment of a patient care ombudsman unnecessary is denied, the Court will thereafter enter an order directing the U.S. trustee to appoint a patient care ombudsman.
- (b) For any motion filed under [FRBP 2007.2](#), the movant shall serve the designated representative of the Texas agency(ies) which regulate the health care business at the address designated at the following website:  
<https://www.txwb.uscourts.gov/texas-state-regulatory-agency-contacts-noticing-purposes>

- (c) Unless otherwise ordered by the Court, the patient care ombudsman's appointment will terminate on (i) entry of an order dismissing the case or (ii) the effective date of any chapter 11 plan. If a chapter 11 plan is confirmed, the plan proponent shall notify the patient care ombudsman of the occurrence of the effective date.

#### **L. Rule 2014-1. EMPLOYMENT OF PROFESSIONAL PERSONS.**

- (a) By Whom Application Made.

An application to approve the employment of a professional person shall be made and signed by the entity seeking to employ that person.

- (b) Content of Application.

- (1) In addition to the information required by [FRBP 2014](#), the application must also contain the following:
  - (A) the date the petition was filed, the chapter under which the petition was filed, and (if applicable), the date the case was converted and the chapter under which the application is currently pending;
  - (B) the mailing address, telephone number, and email address of the professional person to be employed; and
  - (C) a disclosure of other persons in the same profession who are already or will be employed by the applicant, and an explanation of the reason an additional professional is required.
- (2) With the exception of an application by a chapter 7 trustee for the employment of (a) an accountant on a flat-fee basis or (b) an auctioneer of personal property with a cumulative, scheduled value of less than \$50,000.00, on a percentage-fee basis, an application to employ any professional under [11 U.S.C. §§ 327, 1103, or 1114](#) shall include a copy of the contract setting forth the terms of compensation. All applications for such employment shall include the FRBP 2016(b) disclosure of compensation. The Court recommends that any proposed form of order granting an application to employ include language stating that settlement funds shall not be disbursed without prior court approval.
- (3) In regards to an application by a chapter 7 trustee for the employment of an accountant on a flat fee basis for the preparation of yearly tax returns for the bankruptcy estate, the trustee needs only to file one application for the accountant's employment as long as (a) all future tax returns will be prepared by the accountant for the same flat fee rate; and (b) the trustee includes a provision in the proposed order that requires that a notice of disbursement be filed for each payment made by the chapter 7 trustee to the accountant within 30 days of each payment.



(c) Time of Filing Application.

An application filed within 30 days after the professional's commencing services is deemed contemporaneous. Any later application is deemed not contemporaneous and may be granted only for cause shown, and after notice and an opportunity for hearing, and shall be effective as of the date the application was filed, unless the Court orders otherwise.

(d) Procedure.

An application to employ a professional person is a contested matter. The application or a summary of the application in the form of [Appendix L-2014-1](#) must be served on entities pursuant to [L. Rule 9013-1](#). The application may be granted by the Court without a hearing. A party in interest who opposes an application for employment may file an objection within 21 days after the date of service of the application summary, and such objection shall be set for hearing notwithstanding the Court's order granting the application to employ.

**L. Rule 2015-1. DUTY TO KEEP RECORDS, MAKE REPORTS, AND GIVE NOTICE OF CASE.**

(a) Maintenance and Disposition of Records.

Unless otherwise ordered by the Court on notice and hearing, a debtor shall maintain all books and records until the entry of an order closing the case. A trustee who is in possession of books and records of the debtor may, on notice and hearing, destroy, abandon, store, or return to the debtor all or a portion of those books and records. Such notice shall include a detailed description of the books and records and the negative notice language as provided in [L. Rule 9014-1\(a\)](#). Notice shall be given to the United States Attorney, the U.S. trustee, and the Special Procedures Office for the Internal Revenue Service, in addition to those persons otherwise entitled to notice under [L. Rule 9013-1](#).

(b) Debtor's Duty to Report.

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 U.S. trustee. The Monthly Operating Report shall be filed on or before the 21st 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 U.S. trustee.

**L. Rule 2015.1-1. PATIENT CARE OMBUDSMAN.**

A patient care ombudsman may satisfy the notice requirements of [FRBP 2015.1\(a\)](#) by stating that after the forthcoming report, the patient care ombudsman will file reports at least every 60 days during his or her appointment and no further notice of such reports will be given, except to new patients who have not received this notice.

#### **L. Rule 2015.2-1. TRANSFER OF PATIENT IN HEALTH CARE BUSINESS CASE.**

Unless the Court orders otherwise, any notice served under [FRBP 2015.2](#) shall at the same time be served on the (i) Texas Health and Human Services Commission, (ii) Texas Medicaid and Healthcare Partnership, and (iii) designated representative of the agency responsible for regulating the debtor at the address designated at the following website:

<https://www.txwb.uscourts.gov/texas-state-regulatory-agency-contacts-noticing-purposes>.

The health care business shall also provide for the orderly transfer to the new facility of all records relating to any affected patients, subject to applicable patient privacy or other law.

#### **L. Rule 2016-1. COMPENSATION OF PROFESSIONALS.**

(a) Statement of Compensation.

Any attorney representing the debtor in their bankruptcy case, or in connection with such case, whether or not such attorney applies for compensation under the Code, shall file with the Court a statement of compensation paid or agreed to be paid, if such payment or agreement was made after one (1) year before the petition date, for services rendered or to be rendered in contemplation of or in connection with the case by such attorney and the source of such compensation as required by [11 U.S.C. § 329](#) and [FRBP 2016\(b\)](#).

- i. The disclosure of compensation shall state whether the fees paid or agreed to be paid are a fixed fee or incurred on an hourly basis.
- ii. If fees are incurred on an hourly basis, the disclosure must state the amount of the prepetition retainer paid, funds applied to prepetition amounts due, and the balance of the retainer as of the petition date.
- iii. Representation of a debtor by an attorney in this Court constitutes an entry of appearance for all purposes in the debtor's bankruptcy case, except as provided in subsection (b) below. While the attorney remains attorney of record for the debtor in the bankruptcy case, the attorney has a duty to advise the debtor on all bankruptcy matters that arise during the course of the bankruptcy case and to represent the interests of the debtor in connection with the bankruptcy case that may affect the debtor, the debtor's property and, in the case of reorganization proceedings, property of the estate. An attorney may not circumvent this Rule by limiting services in his or her client engagement letter or in the attorney's disclosures filed in accordance with [FRBP 2016](#).

(b) Limited Unbundling of Services for Adversary Proceedings and Appellate Work.

A debtor's attorney may expressly exclude adversary proceedings and appellate work from the scope of the engagement; however, if engaged as the attorney in an adversary proceeding, an attorney may not exclude services within that adversary proceeding.

(c) Pro Bono Representation.

An attorney representing a debtor on a pro bono basis must still file a disclosure statement under [FRBP 2016](#) stating that the attorney has agreed to not receive any funds in exchange for representing a debtor. That said, an attorney representing an “assisted person” on a pro bono basis is not a “debt relief agency” and, in regard to that particular matter, is not required to comply with the provisions set forth in [11 U.S.C. §§ 526, 527, and 528](#) of the Bankruptcy Code.

(d) Form of Application.

Unless otherwise ordered by the Court, an application for compensation and reimbursement of expenses for a professional retained pursuant to Court order shall also include:

- (1) A Fee Application Summary in the form of [Appendix L-2016-1-a-2](#); the Summary must include a summary description of the services rendered by category, reflecting the total cost of each category of services and summarizing the nature and purpose of each category of services rendered, and the results obtained;
- (2) A Compensation Support Exhibit reflecting contemporaneous time records itemizing services rendered by category, in a format which reflects a description of each service entry, the amount of time spent rendering that service, the date the service was performed, who performed that service, and the hourly rate of the person performing that service; and
- (3) A Reimbursement Support Exhibit, reflecting invoices, records, and/or receipts for expenses incurred. The date, time, and amount of each expense shall be shown. Any single expense in excess of \$100.00 shall be supported by a receipt or invoice, except for in-house postage, telephone, and photocopying charges.

(e) Procedure for Applying for Compensation in Chapter 11 and Chapter 7 Cases.

- (1) The Fee Application Summary must be served pursuant to [L. Rule 9013-1](#) upon any secured creditor whose cash collateral is used by the estate (and such creditor’s counsel), any committee appointed in the case (and such committee’s counsel), the twenty largest unsecured creditors, any trustee appointed in the case (and such trustee’s counsel), the debtor (and debtor’s counsel), and the U.S. trustee.
- (2) Any party in interest may obtain a copy of the Compensation Support Exhibit and Reimbursement Support Exhibit at no charge by requesting a copy of same from the professional seeking compensation.
- (3) A joint application can be filed for jointly administered cases. The Court reserves the right to order that fees be allocated at the time of the final fee application.

(f) Procedure for Compensation in Chapter 13 Cases.

(1) Hourly Fees.

In a chapter 13 case, counsel for the debtor may elect to receive compensation on an hourly basis, subject to fee applications and court approval in accordance with [L. Rule 2016-1\(d\)](#).

- i. Counsel's election of hourly compensation must be clearly disclosed in the [FRBP 2016](#) disclosure statement and may not be revoked at any time during the course of the bankruptcy proceeding. Such election, however, is not applicable to an adversary proceeding or appellate matters if debtor's counsel properly excludes representation in such matters in accordance with [L. Rule 2016-1\(b\)](#).
- ii. If debtor's counsel agrees to compensation on an hourly basis, counsel shall include in the chapter 13 plan a good faith estimate of the fees to be incurred through plan confirmation. Any fee application must specifically state whether the confirmed plan is sufficiently funded to pay the requested administrative expense.

(2) Benchmark Fee.

Alternatively, in a chapter 13 case, counsel for the debtor may elect to receive compensation based on the benchmark fee system.

- i. If debtor's counsel agrees to compensation under the benchmark fee system, the benchmark fee for basic required services is provided pursuant to the [Standing Order Regarding Benchmark Fees in Chapter 13 Cases](#), as may be amended from time to time. The standing order is available on the Court's website at [www.txwb.uscourts.gov/standing-orders-index](http://www.txwb.uscourts.gov/standing-orders-index).
- ii. The basic, required services that are included in the benchmark fee are as follows:
  - 1) All conferences with the debtor, including budget consultations and timely responses to debtor's inquiries;
  - 2) Preparation of the petition and its associated forms, schedules, statement of affairs, plan, and pre-confirmation amendments to all such documents;
  - 3) Attendance at all 11 U.S.C. § 341 meetings (including adjourned meetings);
  - 4) Attendance at confirmation and discharge hearings (including any adjourned hearings);
  - 5) All motions for moratorium or to modify the plan filed less than 120 days after the confirmation hearing where the plan was confirmed;

- 6) Compliance with the requirements of 11 U.S.C. § 521;
  - 7) Representation of the debtor(s) in connection with two preconfirmation motions under 11 U.S.C. § 362;
  - 8) Representation of the debtor in connection with a preconfirmation motion to dismiss, including trustee's motions to dismiss with or without prejudice;
  - 9) Representation in connection with any Order to Show Cause issued by the Court;
  - 10) Reviewing the claims register and filing objections to any claims, as appropriate, however, counsel may seek additional compensation, as set forth below in subsection (iv), when the objection becomes a contested matter;
  - 11) Preparation of and hearing attendance for the following routine motions: (1) motions to pay filing fees in installments; (2) motions to value collateral and avoid liens; (3) motions for waiver of credit counseling; (4) motions for continuation/imposition of the stay under 11 U.S.C. §§ 362(c)(3)(B) and 362(c)(4)(B); (5) motions to extend filing or other debtor deadlines; (6) preconfirmation motion to reinstate case; (7) motion to waive pay order; and (8) any such other matter as the Court may deem to be routine;
  - 12) Filing of the debtor's financial management course certificate and completed Local Form 4004-1 certificate of eligibility for discharge;
  - 13) Other miscellaneous, normal, customary services including correspondence to clients, review of correspondence from clients, communications with the chapter 13 trustee, the U.S. trustee, and the Clerk's Office; and
  - 14) In a business case, assisting the debtor in complying with the requirements of 11 U.S.C. § 1304.
- iii. All benchmark fees are deemed to include the following expenses and, therefore, counsel may not seek reimbursement of those expenses separately:
- 1) PACER/ECF charges;
  - 2) Westlaw/research fees;
  - 3) Mileage or other travel costs; and
  - 4) Counsel hired to appear with the debtor at the 341 meeting of creditors (commonly referred to as "appearance counsel").
- iv. Counsel for the debtor may apply for supplemental benchmark fees for certain non-basic services to be paid in addition to the benchmark fee. To request such supplemental fees, debtor's counsel must include the request in either a separate application for fees or in the motion that is the basis for the request

for supplemental fees. Counsel shall set forth a concise statement of the services rendered, the hours required, the amount of the fee requested, and the impact such fees will have on disbursements to unsecured creditors. Debtor's counsel shall provide notice of the request for supplemental fees and opportunity for hearing to all parties on the master mailing matrix, in accordance with [L. Rules 9013-1](#) and [9014-1](#). The chapter 13 trustee may denote their approval of the fees requested by signing off on the proposed order approving the fee application. No supplemental fees may be disbursed to counsel except upon Court Order approving such fees.

Supplemental fees may be sought on an hourly fee basis or under the benchmark fees for non-basic services pursuant to the [Standing Order Regarding Benchmark Fees in Chapter 13 Cases](#), as may be amended from time-to-time. The standing order is available on the Court's website at [www.txwb.uscourts.gov/standing-orders-index](http://www.txwb.uscourts.gov/standing-orders-index).

#### **L. Rule 2090-1. ADMISSION *PRO HAC VICE*.**

(a) In General.

An attorney who is licensed by the highest court of a state, but who is not admitted to practice in the Western District of Texas, may represent a party in this Court *pro hac vice* by permission of the judge presiding. 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 read and comply with the Local Court Rules for the Bankruptcy Court for the Western District of Texas. By appearing in any case, an attorney becomes subject to the rules of this Court.

(b) Procedure.

An attorney seeking admission *pro hac vice* should first register to become an Electronic Filer and then must use the form of motion and order prescribed by the Court, which may be found on the Court's website at: <https://www.txwb.uscourts.gov/forms>.

(c) The motion may be filed and granted without a hearing pursuant to [L. Rule 9014-1\(a\)](#).

#### **L. Rule 3001-1. PROOF OF CLAIM.**

For the sole purpose of Part 3 of the 410 official proof of claim form, "creditor" and "debtor" shall include counsel for the creditor and for the debtor.

**L. Rule 3002-1. FILING PROOF OF CLAIM OR INTEREST.**

A copy of each proof of claim or interest shall be served with any attachments on the debtor's attorney (or on the debtor, if the debtor is not represented by counsel) and any trustee appointed in the case.

**L. Rule 3002.1-1. NOTICE RELATING TO CLAIMS SECURED BY SECURITY INTEREST IN THE DEBTOR'S PRINCIPAL RESIDENCE.**

- (a) If the holder of a claim, as defined in [FRBP 3002.1](#), files a response which disagrees with the Notice of Final Cure Payment under 3002.1, or otherwise asserts that unpaid post-petition amounts are outstanding, and neither the debtor nor the trustee timely file a motion pursuant to [FRBP 3002.1](#), the trustee is authorized to close the case.
- (b) The trustee shall be authorized to pay any fees, expenses, and charges based on the notice filed pursuant to [FRBP 3002.1](#). Upon the filing by a mortgage creditor of a notice pursuant to [FRBP 3002.1](#), the trustee may file a Notice of Increase of Plan Payment with the Court if the trustee reasonably believes that, under the circumstances, the increased payment should be the debtor's responsibility. The trustee shall serve the Notice of Increase of Plan payment on the debtor and the debtor's counsel.

**L. Rule 3003-1. TIME FOR FILING PROOF OF CLAIM OR EQUITY SECURITY INTEREST IN CHAPTER 9 MUNICIPALITY OR CHAPTER 11 REORGANIZATION CASE; CLAIMS PROCEDURE FOR ADMINISTRATIVE CLAIMS.**

- (a) Bar Date for Proof of Claim or Interest in Notice of First Meeting.

Proofs of claim or interests in chapter 11 cases shall be filed by the date established in the Official Form 309, *Notice of Chapter 11 Bankruptcy Case*, unless the Court, upon motion and after notice and an opportunity for hearing, orders otherwise.

- (b) Bar Date for Administrative Claims.

The Court, after notice and an opportunity for a hearing, may establish a bar date for filing an application for allowance and payment of an administrative claim, either on its own motion or on motion of a party in interest, filed pursuant to [L. Rules 9013-1](#) and [9014-1](#).

**L. Rule 3004-1. FILING OF CLAIMS BY DEBTOR OR TRUSTEE.**

A proof of claim filed under [FRBP 3004](#) need not comply with [FRBP 3001\(c\)](#).

**L. Rule 3005-1. FILING OF CLAIM, ACCEPTANCE, OR REJECTION BY GUARANTOR, SURETY, ENDORSER, OR OTHER CREDITOR.**

A proof of claim filed under [FRBP 3005](#) need not comply with [FRBP 3001\(c\)](#).

## **L. Rule 3007-1. OBJECTIONS TO CLAIM**

- (a) Unless otherwise ordered by the Court in a particular case: (1) if a timely response is filed to an objection to a proof of claim, then the objecting party and the claimant will be provided with at least 30 days notice of the hearing on the objection, and (2) a hearing will not be automatically set on an objection to claim unless a timely response is filed to the objection. Objections to claims are contested matters and may be made on negative notice as set forth in [L. Rule 9014-1](#).
- (b) All Objections to claims shall specifically set forth all bases for the objection. General denials regarding the accuracy of the claim without specific contentions regarding the disputed items may result the Court denying the Objection.
- (c) An objection to a proof of claim, and the related proposed order, shall be titled “OBJECTION TO CLAIM # (CLAIMS REGISTER NUMBER) OF (NAME OF CLAIMANT), WITH NOTICE THEREOF.”
- (d) An objection to a proof of claim must state in bold print immediately below the title:

**This is an objection to your claim in this bankruptcy case. This objection asks the Court to disallow (eliminate), reduce, or modify your claim as set forth in this objection. If you do not file a written response to this objection within 30 days from the date of mailing of this objection, the Court may disallow (eliminate), reduce, or modify your claim as set forth in this objection, without a hearing being held.**

**Any response to this objection must explain your position and be timely filed with the United States Bankruptcy Clerk, Western District of Texas, mailing address of applicable Clerk’s office. If a timely response is filed, the Court will then set a hearing on the objection, and you will be provided with notice of the date, time, and place of the hearing. If you do not attend the hearing, the Court may decide that you do not oppose the objection to your claim.**

- (e) In a chapter 13 case, and regardless of whether or not the debtor properly schedules a claim, a creditor must file a proof of claim by the applicable deadline to receive a distribution under the plan as confirmed. Upon confirmation of the plan, no objection to a late-filed claim shall be necessary; such late-filed claims are deemed disallowed unless otherwise ordered by the Court. The burden is on the claimant to request allowance of any late-filed claim, by motion with negative notice language as set forth in [L. Rule 9014-1](#).
- (f) Chapter 13 Trustee’s Notice of Intent to Pay Claims.
  - a. After the deadline for filing proofs of claim has passed, the chapter 13 trustee is authorized, but not required, to file a Trustee’s Notice of Intent to Pay Claims



(“NIPC”) and serve a copy upon the debtor, the debtor’s counsel, and all parties listed on the master mailing matrix.

- b. The NIPC shall serve primarily as a reconciliation device between the claims registry, Schedules D, and E/F, and the confirmed chapter 13 plan. Because the NIPC serves as a notice regarding the trustee’s reconciliation process and does not require Court approval, no negative notice language nor any proposed order is required to accompany the NIPC upon filing.

**L. Rule 3011-1. UNCLAIMED FUNDS IN CHAPTER 7 LIQUIDATION, SUBCHAPTER V OF CHAPTER 11 SMALL BUSINESS DEBTOR REORGANIZATION, CHAPTER 12 FAMILY FARMER'S DEBT ADJUSTMENT, AND CHAPTER 13 INDIVIDUAL'S DEBT ADJUSTMENT CASES.**

An application seeking withdrawal of funds held in the court registry must comply with the procedures set forth by the Clerk’s Office, which may be found on the Court’s website at:

<https://www.txwb.uscourts.gov/unclaimed-funds>.

**L. Rule 3012-1. VALUATION OF SECURITY.**

- (a) All motions for valuation shall include the name of the creditor and the claim number, if any, in the title of the motion.
- (b) In a chapter 13 case, a debtor may include a motion for valuation under [11 U.S.C. § 506](#) or a motion to avoid a lien under [11 U.S.C. § 522\(f\)](#) in the debtor’s plan as provided in the district-wide form plan or the debtor may elect to separately file a motion for valuation of collateral or to avoid a lien, independent of the form plan. Any such independent motion must be in writing with notice provided in accordance with [L. Rule 9014-1](#). Responses or objections to motions to value collateral or to avoid liens that are filed separately from the plan must be in writing and filed by the deadline provided in the notice included in such motion, pursuant to [L. Rule 9014-1](#), or filed no later than three business days prior to any hearing scheduled on the motion.

**L. Rule 3015-1. CHAPTER 13 PLAN AND CONFIRMATION HEARINGS.**

- (a) Timely Filing of Plan, Form of Plan.

If the plan is not timely filed, the Court may summarily dismiss the case without notice or hearing. A motion to extend the time for filing the plan must be filed before the expiration of the time provided in [FRBP 3015\(b\)](#).

The local form plan may be found on the Court’s website at <https://www.txwb.uscourts.gov/official-forms-western-district-texas> and must be used instead of the Official Form Plan.

(b) Notice.

The debtor shall serve a copy of the plan and any amended plan on the trustee, all creditors, and all parties requesting notice in accordance with [FRBP 7005](#), and [L. Rule 7005-1](#). Absent leave of the Court, any amended plan must be filed and served at least 28 days prior to the confirmation hearing; however, the Court may consider *de minimis*, non-substantive amendments to the plan at the confirmation hearing. A certificate of service must be filed with the Clerk of the Court reflecting service of any plan or amended plan and should indicate service was made pursuant to [L. Rule 9013-1](#).

(c) Objections to the Plan.

Unless otherwise ordered, any creditor or party in interest, other than the chapter 13 trustee, shall file a written objection to the plan no later than 14 days before the confirmation hearing date. Failure of a creditor to affirmatively and timely object to a proposed plan constitutes acceptance of treatment of such creditor's claim under the plan, including treatment of a secured claim, under [11 U.S.C. § 1325\(a\)\(5\)\(A\)](#). Objections to confirmation must be specific and cite legal authority, if applicable. Once an objection is filed, that objection is not automatically resolved when the debtor files an amended plan and must still be resolved before plan confirmation.

(d) Pay Orders and Waivers of Pay Orders.

Pay orders are required in all chapter 13 cases, except as provided herein or as otherwise ordered by the Court. The chapter 13 trustee may waive the requirement of a pay order at the Meeting of Creditors on request of the debtor. If the chapter 13 trustee declines to waive the requirement of a pay order, then the debtor may request a waiver of the pay order from the Court on motion and notice to the trustee and with opportunity for a hearing. Either the debtor or the chapter 13 trustee may submit the proposed pay order for review and approval by the Court.

(e) Required Certifications by Chapter 13 Debtors.

Not more than seven days prior but at least three days prior to the confirmation hearing, the debtor shall execute and file the local form at Appendix L-3015-1, *Declaration of the Debtor Concerning Confirmation Requirements*.

(f) Modification of Plan After Confirmation.

Any proposed modification to a plan after confirmation, including but not limited to a request for moratorium, to cure payment arrearages, or to temporarily suspend plan payment shall be made by motion. Notice of the motion shall comply with [FRBP 2002\(a\)\(5\)](#) and [L. Rule 9014-1](#) and proof of service of such notice shall be filed within two business days of the filing of the motion.

If filed by the debtor, the motion shall:

- (1) State clearly the reasons for the requested plan modification;

- (2) Indicate if any prior moratorium or plan modification has been granted;
  - (3) Include a statement detailing what material changes there are, if any, to the debtor's monthly income and expense budget. Contemporaneously with the motion to modify, amended Schedules I and J must be filed with the Court as a separate entry on the docket. The requirement to file amended Schedules I and J only applies to the debtor, and not the chapter 13 trustee; and
  - (4) Detail the impact that the proposed modification will have on the proposed distribution to general unsecured creditors.
- (g) Trustee's Recommendation Regarding Confirmation.
- (1) By signing or submitting the proposed confirmation order, the chapter 13 trustee affirms that it is his or her recommendation that the Court should confirm the proposed plan.
  - (2) If the trustee, creditor, or other party in interest objects to confirmation, the debtor shall file a response to pending objections to confirmation no later than three business days prior to the confirmation hearing. If the response indicates the debtor will address an issue in the future, the response should specifically indicate when and how the issues will be addressed. If no response is timely filed, the Court may elect to deny confirmation by default.
- (h) Excused Attendance at Confirmation Hearings.

If all of the following conditions are met, the debtor and the debtor's attorney are excused from attending the scheduled chapter 13 plan confirmation hearing:

- (1) the plan has been filed and requirements imposed by any applicable standing order affecting chapter 13 practice in the division in which the case is pending have been complied with;
  - (2) no party in interest has timely filed an objection or any such objection has been resolved before confirmation;
  - (3) the chapter 13 trustee has recommended confirmation; and
  - (4) the debtor has filed the Declaration Concerning Confirmation Requirements, as required by subsection (e).
- (i) Conduit Mortgage Payments in Chapter 13 Plans.
- (1) In accordance with the terms of the proposed plan, if the trustee has available funds prior to plan confirmation, the trustee may disburse, as if a plan has been confirmed, proposed conduit mortgage payments to a secured mortgage creditor ("Mortgage

Creditor”), who has filed an uncontested proof of claim, which the trustee believes contains sufficient information.

- (2) In accordance with the terms of the proposed plan, the trustee is authorized to establish an additional claim for a Mortgage Creditor for the debtor’s first post-petition mortgage payment due after the filing of the case (“Gap Payment”). The Gap Payment claim will be paid as a secured claim, on a pro-rata basis along with the pre-petition mortgage arrearage claim, unless a Mortgage Creditor has already clearly added such amount to the pre-petition arrearage proof of claim. This allowance shall reimburse the Mortgage Creditor for any post-petition delinquency that may accrue until the trustee begins conduit mortgage payments to that creditor under subsection (i)(1) above.
- (3) If a party in interest objects to the amount of a conduit mortgage payment, the trustee is authorized to hold the portion of plan payment attributable to the conduit mortgage payment in reserve pending a resolution of the objection by an allowed amended claim or a court order.
- (4) After discontinuing conduit mortgage payments through the chapter 13 plan (at or around the completion of a chapter 13 case) the trustee may file a *Notice Deeming Mortgage Current and Directing Debtor to Resume Monthly Mortgage Payments* (“Notice”). A Mortgage Creditor will have 21 days from the filing of the Notice to file an objection to the Notice. Absent a timely objection, the trustee’s Notice will be binding on a Mortgage Creditor and debtor.

#### **L. Rule 3017-1. APPROVAL OF DISCLOSURE STATEMENT IN CHAPTER 11 CASES.**

Unless otherwise ordered by the Court, any objection to a disclosure statement shall be filed and served not less than 7 days before the hearing on the disclosure statement.

#### **L. Rule 3018-1. ACCEPTANCE OR REJECTION OF A PLAN IN CHAPTER 11 REORGANIZATION CASES.**

##### **(a) Voting.**

No ballots shall be filed with the Clerk of the Court, except as provided by this Rule or order of the Court. The notice which is required by [FRBP 3017\(d\)](#) shall direct that all ballots be submitted to the plan proponent at a specified mailing address.

##### **(b) Ballot Summary.**

For all confirmation hearings the plan proponent must prepare a written ballot summary in substantially the same form as [Appendix L-3018-1-b](#). In addition to indicating how each class and each claimant voted, the summary shall attach each ballot. The plan proponent shall file the ballot summary 3 business days before the confirmation hearing, unless the Court orders otherwise.

**L. Rule 3022-1. FINAL DECREE IN CHAPTER 11 CASES.**

Motions requesting the entry of a final decree in chapter 11 cases may be filed using the negative notice language set forth in [L. Rule 9014-1\(a\)](#). Such motions must be served as required under [L. Rule 9013-1](#).

**L. Rule 3023-1. DISPOSITION OF FEDERAL INCOME TAX REFUNDS IN CHAPTER 13 CASES.**

- (a) Except as may be provided by standing order, any tax refund not necessary to pay tax obligations may be first applied to cure any delinquency in the chapter 13 plan, and the balance of the refund shall be remitted to the debtor.
- (b) With respect to all pending chapter 13 bankruptcy cases:
  - (1) the Internal Revenue Service is authorized to apply any tax refunds of debtors to the payment of any tax obligations due and owing by the debtors, regardless of whether such tax obligations or tax refunds arose before or after the filing of the case, so long as such tax claims are entitled to priority status under [11 U.S.C. § 507\(a\)](#);
  - (2) the terms “taxes” and “refunds” include all penalties and interest associated with taxes and refunds; and
  - (3) the Internal Revenue Service shall be entitled to charge its normal rate of interest and penalties for tax obligations arising after the filing of the chapter 13 petition.

**L. Rule 4001-1. RELIEF FROM AUTOMATIC STAY; PROHIBITING OR CONDITIONING USE, SALE, OR LEASE OF PROPERTY; USE OF CASH COLLATERAL; OBTAINING CREDIT.**

- (a) Motions for Relief from Stay under 11 U.S.C. § 362(d).
  - (1) Motions.
    - (A) Motions seeking relief from the automatic stay shall state the specific relief requested, shall state with specificity the facts that support the relief requested, shall state the provision of [11 U.S.C. § 362\(d\)](#) under which relief is sought, and shall state Movant’s belief as to the value of any collateral and the basis for such belief.
    - (B) If the motion is filed in a chapter 11 or chapter 13 case with respect to residential real property and if non-payment of any post-petition payment is a ground for relief, at the time the motion is filed the movant shall serve the debtor, debtor’s counsel, and trustee with an affidavit and a pay history showing, at a minimum, the months in which the default was alleged to have

occurred and the amount and character of the default, in a form substantially in compliance with [Appendix L-4001-1](#).

- (C) By signing the certificate of service on the motion, the movant certifies that the affidavit and pay history required by subsection (B) were served on the debtor, debtor's counsel, and trustee in accordance with this Rule. Failure to serve the affidavit and pay history in accordance with this Rule may be grounds for the denial of the relief requested in the motion.
- (D) If a creditor is moving for relief from stay under [11 U.S.C. § 362\(d\)\(1\)](#), the creditor shall file with the motion a payment history or documentation specifying the month(s) in which the debtor failed to make a payment, any failure to satisfy an escrow shortage (including the amount of the shortage and the period of time involved), and any failure to maintain insurance (including the amount of shortage and the period of time involved).
- (E) Motions for relief from stay shall not be combined with other forms of relief except those allowed by [11 U.S.C. §§ 362](#) and [1205](#). Movants wishing to waive the 30 day hearing requirement of [11 U.S.C. § 362\(e\)](#) must include such waiver in the caption of the motion.

(2) Negative Notice.

A movant may file a motion seeking relief from stay or a motion for adequate protection (if the movant is not being provided adequate protection under the plan or objects to the adequate payment proposed under the plan) using the following 14 day negative notice language:

**This pleading requests relief that may be adverse to your interests.**

**If no timely response is filed within 14 days from the date of service, the relief requested herein may be granted without a hearing being held.**

**A timely filed response is necessary for a hearing to be held. Any response must be timely filed with the United States Bankruptcy Clerk, Western District of Texas, mailing address of applicable Clerk's office. If a timely response is filed, the Court will then set a hearing on the Motion, and you will be provided with notice of the date, time, and place of the hearing. If you do not attend the hearing, the Court may decide that you do not oppose the Motion.**

If this negative notice language is used, the movant will be deemed to have waived entitlement to an initial hearing within 30 days. If negative notice language is not used, then the motion will be set within 30 days of its filing, as provided in [11 U.S.C. § 362\(e\)](#), unless the movant waives the 30 day hearing requirement in the caption of the motion.

(3) Responses.

If the motion includes negative notice language, a hearing will be held only if a timely response is filed, or if the Court decides that a hearing is appropriate. A response shall comply with [L. Rule 9014-1\(b\)](#). Furthermore, if the party filing a response disagrees with the value of collateral set forth in the motion, the party shall state its belief as to the value of any collateral and the basis for such belief.

(4) Use of Affidavits.

- (A) Pursuant to [FRCP 43\(c\)](#), a movant may use affidavits as evidence at the hearing in support of the factual allegations in the motion. If affidavits will be used, the affidavit shall be filed with the Clerk and be served pursuant to [L. Rule 9013-1](#) when the motion is served.
- (B) A respondent may also use affidavits as evidence at the hearing. The affidavits shall be filed with the Clerk and be served pursuant to [L. Rule 9013-1](#) either
  - (i) at the same time the response is filed, if one is required under this Rule or
  - (ii) within 14 days of the date of service of the motion, if no response is required under this Rule.
- (C) The use of affidavits does not preclude the use of witnesses at the hearing.

(5) Value.

The statement of belief as to value of any collateral and the basis for such belief that is required to be included in the motion or response is for notice purposes only, shall not be construed as or deemed to be a judicial admission, shall not be used in any other proceeding, and may be amended by further evidence offered at the hearing on the motion (or any other hearing).

(6) Hearings.

A hearing on a motion for relief from automatic stay under [11 U.S.C. § 362\(e\)](#) shall be consolidated with the final hearing under [11 U.S.C. § 362\(d\)](#) unless the Court, for cause, rules otherwise at the time of the hearing.

(b) Motions for Extensions of Stay under 11 U.S.C. § 362(c)(3)(B).

A party in interest seeking relief under [11 U.S.C. § 362\(c\)\(3\)\(B\)](#) shall file a motion styled “Motion for Extension of Stay Pursuant to 11 U.S.C. § 362(c)(3)(B).” If the motion is filed within 7 days after the petition was filed, the Court will set an expedited hearing and debtor’s counsel shall give notice of the expedited hearing. If the motion is filed more than 7 days after the petition was filed, the motion must be accompanied by a separate motion for expedited hearing.

(c) Motions for Imposition of Stay under 11 U.S.C. § 362(c)(4)(B).

A party in interest seeking relief under [11 U.S.C. § 362\(c\)\(4\)\(B\)](#) shall file a motion styled “Motion for Imposition of Stay Pursuant to 11 U.S.C. § 362(c)(4)(B).” If the motion is filed within 7 days after the petition was filed, the Court will set an expedited hearing and debtor’s counsel shall give notice of the expedited hearing. If the motion is filed more than 7 days after the petition was filed, the motion must be accompanied by a separate motion for expedited hearing.

(d) Motions for Orders Confirming Termination of Automatic Stay under 11 U.S.C. § 362(c).

A party in interest requesting an order under [11 U.S.C. § 362\(j\)](#) shall file a verified motion styled “Motion for Order Confirming Termination of Automatic Stay Under 11 U.S.C. § 362(c).” The verified motion shall specifically allege the grounds for contending that the stay has terminated under the provisions of [11 U.S.C. § 362\(c\)](#). The motion shall be served on the debtor, the trustee, the U.S. trustee, and all creditors and parties in interest.

(e) Incurring Debt in a Chapter 13 Case.

- (1) A motion by a debtor in a chapter 13 case to incur debt shall include the following information:
  - (A) the amount of debt sought to be incurred, and the reasons why the debtor believes it necessary; and
  - (B) the percentage to be paid to unsecured creditors under the plan before and after the proposed debt to be incurred.
- (2) The debtor shall also file a current schedule I and J along with the filing of the motion.
- (3) The motion shall be served upon all creditors and parties in interest and may be served on 14 days negative notice.
- (4) A motion and order to incur debt shall not be required for any debtor wishing to obtain a loan modification of their existing mortgage.
- (5) A motion and order to incur debt shall not be required for debtor(s) for a one-time emergency loan per case in the maximum amount of \$1,000.00. However, after obtaining the emergency loan, debtor must file a notice with the Court within thirty days of obtaining the loan that states the loan amount and circumstances surrounding the emergency loan.

**L. Rule 4002-1. DUTIES OF DEBTOR.**

(a) Redaction.

- (1) Debtors complying with the disclosure requirements of [FRBP 4002](#), or of [11 U.S.C. §§ 521](#) and [1308](#), are required to redact personal information from the documents to



be produced to the trustee, filed with the Court, or given to any creditor, consistent with [FRBP 9037](#) and the [Privacy Policy for Electronic Case Files](#) established by the Director of the Administrative Office of the United States Courts, as they may be amended from time to time.

- (2) A trustee may request authority to review the unredacted versions of any such documents, upon motion setting forth the grounds therefore, and notice to the debtor. The debtor may submit such documents to the Court for *in camera* inspection.

(b) Access to Debtor's Tax and Other Personal Information.

- (1) A creditor or other party in interest desiring access to any tax information filed by the debtor pursuant to [11 U.S.C. § 521](#) must file a motion with the Court, served upon the trustee, the debtor, debtor's counsel, and the U.S. trustee. The motion must state why such information is needed, why such information is not otherwise available to the creditor, and how the movant proposes to protect the privacy of the debtor and others consistent with [FRBP 9037](#) and the [Privacy Policy for Electronic Case Files](#) established by the Director of the Administrative Office of the United States Courts. Any motion filed pursuant to this subparagraph shall be set for hearing.
- (2) A creditor or other party in interest may not directly request from a trustee copies of any materials submitted to the trustee pursuant to the debtor's duties under [11 U.S.C. § 521](#) or [§ 1308](#) or under [FRBP 4002\(b\)](#), and all such materials are privileged from discovery in any Court proceeding. A trustee shall not produce such documents to any creditor or party in interest except on order of the Court. A trustee may produce such documents or materials to any law enforcement officer as part of any criminal investigation.
- (3) A creditor or other party in interest may request from the Court permission to obtain access to materials submitted to a trustee pursuant to [11 U.S.C. § 521](#) or [§ 1308](#) or pursuant to the duties imposed by [FRBP 4002\(b\)](#) or these local rules. Any such motion must set forth why such information is needed, why such information is not otherwise available to the creditor, and how the movant proposes to protect the privacy of the debtor and others, consistent with [FRBP 9037](#) and the [Privacy Policy for Electronic Case Files](#) established by the Director of the Administrative Office of the United States Courts.
- (4) If the Court grants a creditor's request made pursuant to subparagraph (b)(3) of this Rule, then the debtor in responding to the order may redact such materials in accordance with subparagraph (a)(1) of this Rule, unless the Court orders otherwise.

## **L. Rule 4004-1. GRANT OR DENIAL OF DISCHARGE.**

### **(a) Chapter 7.**

In a chapter 7 case, a motion to delay or postpone discharge under [11 U.S.C. § 727\(a\)\(12\)](#) must be filed not later than 30 days before the deadline for filing a complaint objecting to discharge, and must be served on the debtor, any trustee serving in the case, and on the U.S. trustee. An untimely motion will not be deemed to be pending, for purposes of [FRBP 4004\(c\)\(1\)\(I\)](#), unless the Court orders otherwise before the entry of the discharge. To be considered timely, the motion must be accompanied by a separate motion to expedite the hearing in accordance with [L. Rule 9014-1\(e\)](#).

### **(b) Chapter 11.**

To receive a discharge, an individual debtor in a chapter 11 case must file a motion requesting entry of a discharge. The motion must contain a verified statement addressing the requirements of [11 U.S.C. § 1141\(d\)\(5\)\(A\) or \(B\)](#). The motion must also include the statements specified in [FRBP 4004\(c\)\(1\)\(H\) and \(I\)](#). The motion (and all attachments) must be served on all creditors and parties in interest, and must include a conspicuous notice that any objections to the entry of discharge, or any request to delay entry of the discharge under [11 U.S.C. § 1141\(d\)\(5\)\(C\)](#) must be filed with the Clerk and served on the debtor within 21 days after the date of service of the statement. Service of the motion with the required notice in accordance with this Rule shall satisfy the requirements of [FRBP 2002\(f\)\(11\)](#).

If an objection to the entry of discharge, or a request to delay entry of discharge is timely filed, then no discharge will be entered until a hearing has been held under [11 U.S.C. § 1141\(d\)\(5\)\(C\)](#). If no such objection or request is timely filed, then a discharge may be entered without further hearing, unless the Court orders otherwise.

### **(c) Chapter 12.**

In a chapter 12 case, a debtor who completes and timely submits to the trustee a pre-discharge questionnaire in the form specified by the trustee will be deemed to have complied with the filing requirements of [FRBP 1007\(b\)\(8\)](#).

The trustee's motion to enter discharge shall be deemed to be notice under [FRBP 2002\(f\)\(11\)](#) of the time to request delay in the entry of discharge under [11 U.S.C. § 1228\(f\)](#).

### **(d) Chapter 13.**

#### **(1) Trustee Notice of Plan Completion.**

After receipt of all plan payments from the debtor, the trustee shall file a Notice of Completion of Plan Payments which indicates that the debtor has completed all payments under the confirmed plan for which the trustee served as the disbursing agent. The trustee will serve copies of the Trustee's Notice of Completion of Plan Payments on the debtor and the debtor's attorney along with a copy of the required

local form at [Appendix L-4004-1](#) *Certification of Eligibility for Chapter 13 Discharge after Completion of Plan Payments*.

(2) Debtor Certification.

Unless the debtor is not entitled to a discharge, within 30 days after the filing by trustee of the Notice of Plan Completion, the debtor shall file the local form at [Appendix L-4004-1](#), *Certification of Eligibility for Chapter 13 Discharge after Completion of Plan Payments*.

(3) Notice of Opportunity to Object.

Upon the filing by the debtor of the *Certification* required under subsection (d)(2) above, notice of the 30 day opportunity to object to the entry of the discharge order shall be given by the debtor, or at the chapter 13 trustee's option, by the chapter 13 trustee, to all parties on the master mailing list (matrix) as constituted on that date. The notice shall be in a format substantially conforming to the local form at [Appendix L-4004-2](#).

(4) Entry of Discharge.

Unless an objection is filed in a timely manner, and provided the debtor is otherwise entitled, the Clerk of the Court will enter an Order of Discharge. Entry of the Order of Discharge without objection constitutes a finding that [11 U.S.C. § 1328\(h\)](#) has been satisfied by the Debtor.

(5) Failure to Timely File Debtor Certification.

If the debtor fails to timely file the *Certification of Eligibility for Chapter 13 Discharge after Completion of Plan Payments*, the trustee is authorized in the normal course of case administration to file a final report in the case notwithstanding that the debtor has not filed the *Certification* provided for herein or received a discharge, and the case may be closed without a discharge.

(6) Reopening Case to Accord Relief to Debtor.

Any subsequent reopening of a case closed without a discharge to seek relief regarding the granting of a discharge to an otherwise eligible debtor, shall be pursuant to applicable law, and the prior failure to timely comply with subsection (d)(2) above alone shall not be considered grounds for denial of discharge.

**L. Rule 5005-1. ADMINISTRATIVE POLICIES AND PROCEDURES FOR ELECTRONIC FILING.**

The Court has adopted administrative procedures for electronic filing, which are posted on the Court's website at:

<https://www.txwb.uscourts.gov/l-rule-5005-administrative-procedures-electronic-filing>.

#### **L. Rule 5011-1. WITHDRAWAL OF REFERENCE.**

(a) Filing.

A motion to withdraw the reference and any responses thereto shall be filed under the style and number of the bankruptcy case or adversary proceeding in which reference is sought to be withdrawn and shall be filed with the Clerk of the Bankruptcy Court. The Clerk of the Bankruptcy Court will transmit the motion to withdraw the reference and timely filed responses to the District Court.

(b) Contents of Motion.

The motion shall list all pleadings which may be relevant to the Court's disposition of the motion, including docket entry numbers. The motion shall be accompanied by a form of order for entry by the District Court.

(c) Responses.

Any response or objection to a motion for withdrawal of the reference shall be filed within 14 days after the date of service.

(d) Standing Orders of Reference.

The Standing Order of Reference is posted on the Court's website at:

<https://www.txwb.uscourts.gov/district-court-standing-orders-affecting-bankruptcy-court>.

#### **L. Rule 6004-1. USE, SALE, OR LEASE OF PROPERTY.**

(a) Trustee's Use of Estate Funds.

- (1) A chapter 7 trustee may, without prior approval of the Court, pay from funds of the estate routine expenses for preservation of the estate, such as insurance premiums on property, locksmith charges, storage space rental, filing fees for adversary proceedings, and other routine charges. Expenses included within this provision do not include reimbursement of internal operating expenses of the trustee. Payments made under this provision in each case shall not exceed an aggregate of \$2,400.00 in any twelve-month period.
- (2) In addition to the expenses authorized in (a)(1) above, a chapter 7 trustee may, without prior approval of the Court, incur and pay funds of an estate, on an ongoing basis, any actual, necessary expense for bank fees and service charges imposed by third party depositories, related to the administration of the estate's accounts. The Court retains authority to review and approve bank fees and service charges during the administration of an estate.

(b) Notice of Proposed Use, Sale, or Lease of Property.

Notice of a motion to use, sell, or lease property shall contain the negative notice language set forth in [L. Rule 9014-1\(a\)](#). In addition to the requirements of [FRBP 2002\(c\)\(1\)](#), the notice shall contain:

- (1) The name and address of the proposed buyer or lessee and any relationship the proposed buyer or lessee has to the debtor or any insider of the debtor;
- (2) The proposed consideration to be received by the estate, including estimated costs of the sale or lease, including commissions, auctioneer's fees, costs of document preparation and recording, and any other customary closing costs;
- (3) A description of the estimated or possible tax consequences to the estate, if known, and how any tax liability generated by the use, sale, or lease of such property will be paid;
- (4) Based on reasonable inquiry, all entities known or believed to hold legal or equitable interests in the property to be sold or leased;
- (5) Whether the offer is subject to higher and better bids, along with other material terms and conditions of the offer;
- (6) The debtor's opinion of the value of the property and the basis therefor; and
- (7) Whether the sale is free and clear of liens, claims, or interests.

(c) Motions in Chapter 12 and 13 Cases.

In chapter 12 and chapter 13 cases, a motion for proposed use, sale, or lease of property shall indicate consent or lack of consent of the trustee and of any affected secured creditor.

**L. Rule 6008-1. REDEMPTION OF PROPERTY FROM LIEN OR SALE.**

All motions seeking redemption of property under [11 U.S.C. § 722](#) must be verified or accompanied by an affidavit of the debtor which discloses:

- (1) the purchase price of the item(s) sought to be valued;
- (2) a description of the condition of the item(s);
- (3) the movant's opinion of the value of the item(s);
- (4) the basis for that opinion; and
- (5) the last four digits of the account number by which the creditor can identify the loan transaction.

#### **L. Rule 6011-1. DISPOSAL OF PATIENT RECORDS IN HEALTH CARE BUSINESS CASE.**

Any notice served by mail under [11 U.S.C. § 351\(1\)\(B\)](#) shall also be served on the designated representative for the Texas state agency responsible for regulating the health care business at the address designated at the following website:

<https://www.txwb.uscourts.gov/texas-state-regulatory-agency-contacts-noticing-purposes>.

#### **L. Rule 7005-1. SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS.**

Parties are permitted to make service through the Bankruptcy Court's electronic means, as permitted by [FRCP 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 [FRBP 7004](#).

#### **L. Rule 7007-1. PLEADINGS ALLOWED.**

Motions filed in adversary proceedings are governed by [L. Rules 9013-1](#) and [9014-1](#), except as otherwise provided in these Rules. Service of the motion, responses, and replies is limited to all counsel and parties without counsel in the adversary proceeding. If a response is not timely filed, the relief requested may be granted without further notice and hearing.

##### **(a) Motions.**

###### **(1) Dispositive Motions.**

For purposes of this rule, a "dispositive motion" is a motion filed pursuant to [FRBP 7012](#) and [7056](#). Any other motions filed in an adversary proceeding are deemed non-dispositive for purposes of these Rules.

###### **(2) Page Limits.**

A dispositive motion is limited to 20 pages and a non-dispositive motion is limited to 10 pages, unless otherwise authorized by the Court. These page limits are exclusive of the caption, signature block, any certificate, and accompanying documents.

##### **(b) Responses.**

###### **(1) Generally.**

Any party opposing a motion shall file a response and supporting documents as are then available. The response must contain a concise statement of the reasons for opposition to the motion and citations of the legal authorities on which the party relies.

###### **(2) Time Limits.**

A response to a dispositive motion shall be filed not later than 21 days after the filing of the motion. A response to a non-dispositive motion shall be filed not later than 14

days after the motion is filed, except to the extent the Court or these Rules provide otherwise. If there is no response filed within the time period prescribed by this rule, the Court may grant the motion without further notice and hearing.

(3) Page Limits.

A response to a dispositive motion is limited to 20 pages and a response to a non-dispositive motion is limited to 10 pages, unless otherwise authorized by the Court. These page limits are exclusive of the caption, signature block, any certificate, and accompanying documents.

(c) Replies.

(1) Generally.

A party may file a reply in support of a motion. No further submissions on the motion are allowed, absent leave of the Court.

(2) Time Limit.

A reply in support of a motion shall be filed not later than 7 days after the filing of the response to the motion. The Court need not wait for a reply before ruling on a motion.

(3) Page Limits.

A reply in support of a dispositive motion is limited to 10 pages and a reply in support of a non-dispositive motion is limited to 5 pages, unless otherwise authorized by the Court. These page limits are exclusive of the caption, signature block, any certificate, and accompanying documents.

**L. Rule 7012-1. DEFENSES AND OBJECTIONS – WHEN AND HOW PRESENTED – BY PLEADING OR MOTION – MOTION FOR JUDGMENT ON THE PLEADINGS.**

A response to a motion under [FRBP 7012](#) must be filed within 21 days after service of the motion. The failure to timely file a response will be treated as consent to entry of an order granting the motion. The Court may set a motion under [FRBP 7012](#) for hearing or may rule on such motion without a hearing.

**L. Rule 7015-1. AMENDED AND SUPPLEMENTAL PLEADINGS.**

(a) Attachments.

Any motions to amend or to supplement pleadings must attach a complete, redline copy of the amended or supplemental pleading the movant proposes to file. The failure to attach a copy may be grounds for denial of relief, without further hearing.

(b) Filing of Allowed Amendments.

After an order is entered allowing the amendment, the amended or supplemental pleading which conforms with the Court's order must be filed and served by the movant within 7 days after the entry of the order.

(c) Consequence of Failing to Seek Leave.

If leave is required to file an amended pleading, the Court may on its own initiative, strike any amended pleading filed without an order granting such leave.

**L. Rule 7016-1. PRETRIAL PROCEDURES; FORMULATING ISSUES.**

(a) Scheduling Order.

After the filing of an answer or upon motion of a party, the Court shall issue its scheduling order, which will set forth deadlines, hearing dates, and limitations on discovery. Unopposed discovery may continue after the deadline for discovery contained in the scheduling order, provided that discovery does not delay other pretrial preparations or the trial setting.

(b) Pretrial Conferences.

A pretrial conference will not be held, unless otherwise provided in the scheduling order. A pretrial conference may be scheduled upon written motion or upon the Court's own motion.

(c) Joint Pretrial Order.

A joint pretrial order shall be filed at least 7 days before trial docket call, unless otherwise directed by the Court. Counsel shall exchange proposed Pretrial Orders 14 days before docket call, except to the extent counsel agree otherwise. If counsel cannot agree on a joint pretrial order, counsel shall file separate proposed Pretrial Orders on or before the deadline. The Pretrial Order shall contain the following:

- (1) a concise description of the dispute;
- (2) a statement as to jurisdiction, including whether the matter is core or non-core;
- (3) a statement as to whether the parties consent to the entry of a final order or judgment by the Bankruptcy Court;
- (4) a summary of the claims and defenses of each party;
- (5) a statement of stipulated facts;
- (6) a summary of the disputed factual issues;
- (7) a summary of the agreed applicable law;



- (8) a list of contested issues of law. This list shall include specific reference to applicable bankruptcy code provisions, state, or federal statutes and/or regulations, applicable rules of procedure and conflict questions, if any. (Copies of regulations must be attached);
  - (9) a list of witnesses who may be called, accompanied by a concise statement of their proposed testimony. If a witness's testimony will be presented by a deposition, the Pretrial Order must designate by reference to page and line of the testimony to be offered (except those to be used for impeachment only), and if not taken stenographically, a transcript of the pertinent portions of the deposition testimony;
  - (10) an estimate of the length of trial. **If counsel's estimate of trial time is 5 hours or more, a pretrial conference must be requested. It will be the parties' burden to file a written request for the pretrial conference in such instance, within 30 days after the date of the initial scheduling order;**
  - (11) a list of any additional matters that might aid in the disposition of the case;
  - (12) a list and description of each exhibit upon which the parties intend to rely upon at trial of their case in chief; and
  - (13) a signature of an attorney for each party.
- (d) Proposed Findings of Fact and Conclusions of Law.

Proposed findings of fact and conclusions of law shall be filed by each party at least 7 days before trial docket call and emailed to the Courtroom Deputy in word processing format.

- (e) Conflict between Scheduling Order and Local Rule.

In any conflict between a scheduling order and these Local Bankruptcy Rules, the scheduling order controls. If the Pretrial Order is not timely filed, a default judgment may be rendered or the proceeding may be dismissed for want of prosecution.

- (f) Briefs.

Any briefs to be considered by the Court at the trial on the merits of an adversary complaint shall be filed contemporaneously with the pretrial order, but as a separate document with service on all counsel and parties without counsel, unless otherwise provided in the scheduling order or other order of the Court. Unless the Court orders otherwise, trial briefs shall be limited to 25 pages, cumulative of all such trial briefs submitted by a party. These page limits are exclusive of the caption, signature block, any certificate, and accompanying documents.

(g) Exhibits and Number of Copies Required.

- (1) All exhibits shall be appropriately marked and either be provided in an electronic format or be bound in booklet form which will lie flat when opened. Exhibits shall be separately tabbed and identified in numerical order, and shall be indexed at the front of each exhibit book or books. Unless the Court orders otherwise, counsel may file trial exhibits in the ECF docket for the case being tried. Counsel is responsible for notifying all opposing counsel of the filing of electronic exhibits and counsel's intention to use the exhibits at trial in lieu of serving paper copies on opposing counsel. The filing of electronic exhibits does not excuse a party from providing the appropriate number of paper copies per each judge's internal policies. Parties are instructed to consult with each judge's chambers for any specific guidance on the use of electronic or paper exhibits.
- (2) Tabbed and marked copies of exhibits shall be provided to each party not less than 5 days before trial.
- (3) In addition to exhibits exchanged with opposing counsel, and notwithstanding any agreement between counsel to exchange exhibits electronically, a complete set of exhibits shall be provided for the Court, the Law Clerk, the Courtroom Deputy, and the witness stand.
- (4) Failure to comply with these rules may result in the refusal of the Court to admit exhibits into evidence, or in sanctions.

(h) Requests for jury trials are governed by [L. Rule 9015-1](#).

**L. Rule 7026-1. GENERAL PROVISIONS GOVERNING DISCOVERY.**

(a) Relief Under FRCP 26(c) or 37(a)(3).

If relief is sought under [FRCP 26\(c\)](#) or [37\(a\)\(3\)](#), concerning any interrogatories, requests for production or inspection, requests for admissions, answers to interrogatories or responses to requests for admissions, copies of the relevant portions of the interrogatories, requests, answers, or responses in dispute shall be attached to the motion.

(b) Definitions and Rules of Construction.

The full text of the definitions and rules of construction set forth in this paragraph is deemed incorporated by reference into all discovery requests, but shall not preclude (i) the definition of other terms specific to the particular litigation, (ii) the use of abbreviations or (iii) a more narrow definition of a term defined in this paragraph. This rule is not intended to broaden or narrow the scope of discovery permitted by the FRCP.

The following definitions apply to all discovery requests:

- (1) Communication. The term "communication" means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise).
- (2) Document. The word "document" is synonymous - and equal in scope - to the use of this term in [FRCP 34\(a\)](#). A draft of a non-identical copy is a separate document within the meaning of this term.
- (3) Identify (With Respect to Persons). When referring to a person, to "identify" means to give, to the extent known, the person's full name, present or last known address, e-mail address, and telephone number, and when referring to a natural person, additionally, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.
- (4) Identify (With Respect to Documents). When referring to documents, "to identify" means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s), and recipient(s).
- (5) Parties. The terms "plaintiff" and "defendant" as well as a party's full or abbreviated name or pronoun referring to a party mean the party and, where applicable, its officers, directors, employees, partners, corporate parent, subsidiaries, or affiliates. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation.
- (6) Person. The term "person" is defined as any natural person or business, legal, or governmental entity or association.
- (7) Concerning. The term "concerning" means relating to, referring to, describing, evidencing, or constituting.

(c) Protective Orders.

Upon motion by any party demonstrating good cause, the Court may enter a protective order or any other appropriate order.

(d) Authentication of Documents.

A party's production of a document in response to written discovery authenticates the document for use against that party in any pretrial proceeding or at trial unless within 14 days or a longer or shorter period ordered by the Court, after the producing party has actual notice that the document will be used – the party objects to the authenticity of the document, or any part of it, stating the specific basis for objection. An objection must be either on the record or in writing and must have a good faith factual and legal basis. An objection made to the authenticity of only part of a document does not affect the authenticity of the remainder. If objection is made, the party attempting to use the document should be given a reasonable opportunity to establish its authenticity.

(e) Discovery.

Discovery shall not be filed with the Clerk. Absent exceptional circumstances, no motions relating to discovery, including motions under [FRCP 26\(c\)](#), [29](#), and [37](#), shall be filed after the expiration of the discovery deadline, unless they are filed within 7 days after the discovery deadline and pertain to conduct occurring during the final 7 days of discovery. Written discovery is not timely unless the response to that discovery would be due before the discovery deadline. The responding party has no obligation to respond or object to written discovery if the response and objection would not be due until after the discovery deadline. Depositions must be completed before the discovery deadline. Any notices served before the discovery deadline scheduling depositions after the discovery deadline will not be enforced.

**L. Rule 7030-1. DEPOSITIONS UPON ORAL EXAMINATION.**

(a) Notice.

The notice for a deposition shall be in the form prescribed in [FRCP 30](#), and in addition shall state the identity of persons who will attend other than the witness, parties, spouses of parties, counsel, employees of counsel, and the officer taking the deposition. If any party intends to have any other persons attend, that party must give reasonable notice to all parties of the identity of such other persons.

(b) Procedures, Examinations and Objections.

The parties are permitted to stipulate on the record of the deposition any agreement regarding the rules for the deposition. Objections during depositions shall be stated concisely and in a non-argumentative and non-suggestive manner. Absent an agreement by the parties to the contrary, objections to questions during a deposition are limited to “Objection, leading” and “Objection, form.” Objections to testimony during a deposition are limited to “Objection, nonresponsive.” Any objections to the form of the question or responsiveness of the answer are waived if not properly stated during a deposition. All other objections need not be made or recorded during a deposition to be later raised with the court. An attorney shall not, in the presence of the deponent, make objections or statements that might suggest an answer to the deponent. An attorney for a deponent shall not initiate a private conference with the deponent regarding a pending question, except for the purpose of determining whether a claim of privilege should be asserted. An attorney who instructs a deponent not to answer a question shall state, on the record, the legal basis for the instruction consistent with [FRCP 30\(d\)\(1\)](#). If a claim of privilege has been asserted as a basis for an instruction not to answer, the attorney seeking discovery shall have reasonable latitude during the deposition to question the deponent and establish relevant information concerning the appropriateness of the assertion of the privilege, including (i) the applicability of the privilege being asserted, (ii) the circumstances that may result in the privilege having been waived, and (iii) circumstances that may overcome a claim of qualified privilege. A violation of the provisions of this local rule may be deemed to be a violation of a Court order and may subject the violator to sanctions under [FRCP 37\(b\)\(2\)](#).

#### **L. Rule 7033-1. INTERROGATORIES TO PARTIES.**

- (a) All answers to interrogatories must be signed under oath by the party except that, if circumstances prevent a party from signing responses to interrogatories, the attorney may serve the responses without the party's signature if an affidavit is served simultaneously stating that properly executed responses to interrogatories will be served within 21 days. Such time may be extended by order of the Court.
- (b) Each party that chooses to submit written interrogatories pursuant to [FRCP 33](#) may use the following questions. The Court will not entertain any objection to these approved interrogatories, except upon a showing of exceptional circumstances. Each of the following interrogatories counts as one question; as to all interrogatories other than those approved in this rule, subparts count as separate questions.
  - (1) Identify all persons who you believe have knowledge of relevant facts and identify the issues upon which you believe they have knowledge.
  - (2) Identify all persons or legal entities who have a subrogation interest in the cause of action set forth in your complaint [or counterclaim], and state the basis and extent of said interest.
  - (3) If [name of party to whom the interrogatory is directed] is a partner, a partnership, or a subsidiary or affiliate of a publicly owned corporation that has a financial interest in the outcome of this lawsuit, list the identity of the parent corporation, affiliate, partner, or partnership and the relationship between it and [the named party]. If there is a publicly owned corporation or a holding company not a party to the case that has a financial interest in the outcome, list the identity of such corporation and the nature of the financial interest.
  - (4) If the defendant is improperly identified, give its proper identification and state whether you will accept service of an amended summons and complaint reflecting the information furnished by you in answer hereto.
  - (5) If you contend that some other person or legal entity is, in whole or in part, liable to [the plaintiff or defendant] in this matter, identify that person or legal entity and describe in detail the basis of said liability.

#### **L. Rule 7036-1. REQUESTS FOR ADMISSION.**

Requests for admissions made pursuant to [FRCP 36](#), are limited to 30 requests, which will include separate paragraphs and sub-parts contained within a numbered request. The Court may permit further requests upon a showing of good cause.

## **L. Rule 7054-1. CLAIMS FOR ATTORNEY'S FEES AND COSTS IN ADVERSARY PROCEEDINGS.**

### **(a) Claims for Attorney's Fees.**

- (1) All motions for an award of attorney's fees shall be filed and served no later than 14 days after entry of judgment pursuant to [FRCP 54](#). Unless the substantive law requires a claim for attorney's fees and related nontaxable expenses to be proved at trial as an element of damages to be determined by a jury, a claim for fees shall be made by motion not later than 14 days after entry of judgment and pursuant to the following provisions. Counsel for the parties shall meet and confer for the purpose of resolving all disputed issues relating to attorney's fees before making application. The application shall certify that such a conference has occurred. If no agreement is reached, the applicant shall certify the specific reason(s) why the matter could not be resolved by agreement. The motion shall include a supporting document organized chronologically by activity or project, listing attorney name, date, and hours expended on the particular activity or project, as well as an affidavit certifying (1) that the hours expended were actually expended on the topics stated, and (2) that the hours expended, and rate claimed were reasonable. Such application shall also be accompanied by a brief memo explaining how the fees were computed, with sufficient citation of authority to permit the reviewing court the opportunity to determine whether such computation is correct. The request shall include reference to the statutory authorization or other authority for the request. Detailed time sheets for each attorney for whom fees are claimed may be required to be submitted upon further order of the Court.
- (2) An objection to any motion for attorney's fees shall be filed on or before 14 days after the date of filing of the motion. If there is no timely objection, the Court may grant the motion as unopposed.
- (3) The motion shall be resolved without further hearing, unless an evidentiary hearing is requested, reasons therefore presented, and good cause shown, whereupon hearing on the motion may be granted.
- (4) A motion for award of attorney's fees filed beyond the 14 day period may be deemed untimely and a waiver of entitlement to fees.

### **(b) Costs.**

- (1) Costs will be assessed in the final judgment in a proceeding, unless otherwise determined by the Court. A party awarded costs shall prepare and file a proposed bill of costs no later than 14 days after the entry of judgment. The proposed bill of costs shall be served on all parties.

Suggested guidelines can be found at:

<https://www.txwb.uscourts.gov/sites/txwb/files/taxationofcoststxwb%282%29.pdf>.

- (2) Any party opposing a proposed bill of costs must file an objection no later than 14 days after a proposed bill of costs is filed.
- (3) If no objection to the proposed bill of costs is filed, the Clerk shall not tax costs until the expiration of 21 days after the filing of the proposed bill of costs. If the clerk fails to tax costs within 28 days after the proposed bill of costs is filed, and there being no objection filed, then costs will be deemed taxed as proposed.
- (4) If objection to the proposed bill of costs is timely filed by a party, the Clerk will forward the proposed bill of costs and the objection to the presiding judge in the case for final resolution.
- (5) A party objecting to the Clerk's action may file a motion to review the Clerk's action no later than 7 days after the clerk has taxed costs.

#### **L. Rule 7055-1. DEFAULT; DEFAULT JUDGMENT.**

Parties seeking a default judgment should consult [FRCP 55](#).

(a) Request for Clerk's Entry of Default.

A plaintiff seeking default under [FRCP 55\(a\)](#) shall file a Request for Clerk's Entry of Default within 30 days after expiration of a defendant's time to answer, appear, or otherwise defend against a complaint. Failure to do so may result in dismissal for want of prosecution without further notice.

(b) Request for Default Judgment.

Within 30 days after a Clerk's Entry of Default, a plaintiff shall seek a default judgment under [FRCP 55\(b\)](#). Failure to do so may result in dismissal for want of prosecution without further notice.

#### **L. Rule 7056-1. SUMMARY JUDGMENT.**

Motions under [FRCP 56](#) do not require negative notice. However, responses and responsive affidavits must be filed no later than 21 days after the date of service, unless the Court, for cause, extends or shortens the time. The Court may rule on the motion with or without a hearing.

#### **L. Rule 9004-1. GENERAL REQUIREMENTS OF FORM.**

(a) Caption.

The caption of any document filed with the Court must identify:

- (1) The district and division in which the proceeding was filed (Austin, El Paso, Midland/Odessa, San Antonio, or Waco);
- (2) The name of the debtor;

- (3) The bankruptcy case number, including the initials of the judge assigned to the case; and
- (4) The applicable chapter of the bankruptcy proceeding.

(b) Titles of Documents and Proposed Forms of Orders.

The title of a document must designate the relief sought in the document and proposed order. Substantial variance between the title and the relief sought in the document may result in the document being dismissed/stricken.

(c) Non-Conforming Documents.

Any document that fails to conform to the requirements of this or any other applicable rule may be denied by the Court without further notice or hearing.

**L. Rule 9010-1 REPRESENTATION AND APPEARANCES; POWERS OF ATTORNEY.**

(a) Attorneys representing the Debtor or whose retention must be approved.

Any attorney representing the debtor or whose retention must be approved pursuant to [11 U.S.C. §§ 327](#) or [328](#) and who desires to withdraw in any case must file a motion to withdraw. The motion must include the following information:

- (1) The reason for the withdrawal;
- (2) The name and address of the succeeding attorney or, if the succeeding attorney is not known, the name, address, and telephone number of the client;
- (3) Any upcoming deadlines that might affect the client's interests in the case and a certification that the client has been advised in writing of such deadlines;
- (4) The client's signature approving the withdrawal or a specific explanation why, after due diligence, the attorney was unable to obtain the client's signature.

(b) Other Attorneys.

Attorneys who do not represent the debtor and whose retention does not require approval under [11 U.S.C. §§ 327](#) or [328](#) may withdraw by filing a notice stating:

- (1) The name and address of the succeeding attorney or, if the succeeding attorney is not known, the name, address, and telephone number of the client;
- (2) Any upcoming deadlines that might affect the client's interests in the case and a certification that the client has been advised in writing of such deadlines;
- (3) The client's signature approving the withdrawal or a specific explanation why, after due diligence, the attorney was unable to obtain the client's signature.



(c) Attorneys Disassociating with Law Firm or Governmental Entity.

Notwithstanding the applicability of subsection (a) or (b) above, if an attorney representing a client on behalf of a law firm or governmental entity desires to withdraw from the law firm's or governmental entity's representation in a case solely because the attorney will no longer be associated with the law firm or governmental entity representing a party in interest, the attorney may withdraw by filing a notice stating the reason for withdrawal, the effective date for the withdrawal, and the attorney at the law firm or governmental entity replacing the withdrawing attorney.

(d) Service.

A motion to withdraw or notice of withdrawal filed pursuant to this local rule shall be served on (a) counsel for the debtor, (b) counsel for any creditor's committee, (c) counsel for any *ad hoc* committee, (d) any chapter 7, 11, or 13 trustee and his or her counsel, (e) any subchapter V trustee and his or her counsel, (f) the U.S. trustee, and (g) any party that has appeared and requested notice.

**L. Rule 9011-1. SIGNING OF PAPERS.**

All pleadings must be signed and shall include the signer's name, mailing address, email address, and telephone number including area code and, if the signer is an attorney, the attorney's State Bar Number (and the state from which the bar number is issued, if other than Texas). An electronic signature constitutes a signature for the purposes of [FRBP 9011](#).

**L. Rule 9013-1. MOTIONS AND OTHER DOCUMENTS; FORM AND SERVICE.**

(a) Motions.

The Court, in its discretion, may strike multifarious documents on its own motion.

(b) Forms of Orders.

A form of proposed order must be submitted at the time of filing a request for relief, with the following exceptions:

- (1) plans and objections to plans under chapter 11 and chapter 13;
- (2) chapter 11 disclosure statements; and
- (3) motions requesting omnibus relief, such as an omnibus objection to claims.

A form of proposed order must be submitted both (1) attached as an exhibit to the motion and (2) separately uploaded for consideration by the Court.

(c) Certificates of Service.

All motions, applications, objections to claims, and all responses to same must contain a certificate of service reflecting service on affected entities, as specified in paragraph (d) of this local rule, provided that Notices of Appearance shall not require a certificate of service.

- (1) The certificate of service must be signed by an attorney or party (if appearing without counsel), certifying that service has been accomplished in the manner and on the date stated in the certificate and upon the parties required to be served.
  - (2) For parties not served through the Court's electronic transmission facilities, the certificate of service must list each of the entities served and their addresses.
  - (3) With Court approval, a party may serve a summary of a pleading where the pleading is voluminous, or the number of parties to be served is excessively large. In such cases, the summary shall be filed, and the certificate of service shall be appended to the summary.
- (d) Entities to Be Served.
- (1) When a pleading is filed, the following entities, at a minimum, shall be served unless otherwise specifically provided by these Rules, by the FRBP, by standing order, or by order of the Court.
    - (A) In a chapter 7 case (except the chapter 7 trustee's final reports before and after distribution and reports of sale): the debtor, the trustee, any court-approved committees, the counsel for each of these entities, and any other entities adversely affected by the relief requested.
    - (B) In a chapter 11 case (except the plan and disclosure statement): the debtor, any court-approved committee, any chapter 11 trustee, the counsel for each of these entities, the twenty largest unsecured creditors, parties who have filed a notice of appearance, the U.S. trustee, and any other entities adversely affected by the relief requested.
    - (C) In a chapter 12 or 13 case: the debtor, debtor's counsel, the trustee, and any other entities adversely affected by the relief requested.
  - (2) In an adversary proceeding, service shall be made upon all counsel and parties without counsel, unless otherwise specifically provided by these rules, the FRBP, by standing order, or by order of the Court.
  - (3) Whenever a pleading governed by this local rule is to be served on the United States, or an officer or agency thereof, the service provisions of [FRBP 7004\(b\)\(4\)](#) apply.
  - (4) If a movant uses the negative notice language of [L. Rule 9014-1\(a\)](#), the following motions require service upon all creditors and parties in interest:

- (A) motions to dismiss in chapters 7, 9, and 11;
  - (B) motions to modify plans in chapters 11, 12, and 13;
  - (C) motions to incur debt in chapters 11, 12, and 13; and
  - (D) motions for hardship discharge.
- (5) An attorney who is an electronic filer consents to service by electronic means within the meaning of [FRCP 5](#).

#### **L. Rule 9014-1. CONTESTED MATTERS.**

(a) Negative Notice Language.

Notice and an opportunity for hearing is accomplished by including the following form language presented conspicuously, in bold face type (at least 12 pt.) and placed immediately below the caption and before the body of the pleading.

**This pleading requests relief that may be adverse to your interests.**

**If no timely response is filed within 21 days from the date of service, the relief requested herein may be granted without a hearing being held.**

**A timely filed response is necessary for a hearing to be held. Any response must be timely filed with the United States Bankruptcy Clerk, Western District of Texas, mailing address of applicable Clerk's office. If a timely response is filed, the Court will then set a hearing on the Motion, and you will be provided with notice of the date, time, and place of the hearing. If you do not attend the hearing, the Court may decide that you do not oppose the Motion.**

This language should not be used for:

- (1) matters granted without a hearing as set forth in subsection (d);
  - (2) matters set forth in [Appendix L-9014-1](#);
  - (3) matters upon which a hearing is specifically required by the Bankruptcy Code or by applicable rules; or
  - (4) matters that require the Court to act within a shortened time frame.
- (b) Responses to Motions, Applications, and Objections to Claims and any Reply Thereto.
- (1) Time of Filing a Response.

A party who opposes the relief requested must file a responsive pleading within the time set out in the negative notice (if applicable). If negative notice language is not used, a response is not required unless the Court or these rules direct. A responsive pleading shall specifically admit or deny each factual allegation or state that the party lacks knowledge or information sufficient to form a belief about the truth of an allegation. A responsive pleading shall provide the arguments and authorities that is believes should lead the Court to grant or deny the relief requested.

(2) Time of Filing a Reply.

Any reply to a response must be filed within 7 days after service of the response.

(c) Hearings.

If a matter requires a hearing, the Clerk shall send notice of the hearing, unless otherwise directed by the Court. The Court may set any contested matter for hearing, even if negative notice language has been used and even if no party has requested a hearing.

(d) Matters Granted Without Hearing.

The Court may rule, without further notice or hearing, on certain matters including the following:

- (1) motions for admission *pro hac vice*, pursuant to [L. Rule 2090-1](#);
- (2) motions to shorten notice pursuant to [FRBP 2002](#);
- (3) motions to enlarge time except as provided in [FRBP 9006\(b\)\(3\)](#);
- (4) motions to expedite hearings;
- (5) motions for new trial pursuant to [FRBP 9023](#);
- (6) motions for reconsideration pursuant to [FRBP 9024](#);
- (7) motions for continuance; and
- (8) motions for an extension of time to file required documents under [L. Rule 1007-1\(d\)](#).

(e) Expedited Hearing or Consideration.

A motion for expedited hearing or expedited consideration of a matter, shall be filed as a separate pleading, except as otherwise provided by these Rules or by standing order. Such motions may be granted only for good cause stated in the pleading and shall contain a certificate of conference reflecting efforts to confer with adversely affected parties regarding the relief requested or the reasons

why conferring was not possible or practical. Such motions shall also contain a detailed statement as to the need for an expedited hearing and the date by which relief is needed.

A proposed form of order shall accompany the motion for expedited hearing in substantially the following format:

**ORDER GRANTING  
MOTION OF [movant's name] TO EXPEDITE HEARING  
ON [name of underlying pleading][ Docket No. \_\_]**

On this date came on for consideration the Motion filed by [movant] ("Movant") requesting an expedited hearing on the [name of underlying pleading] filed on [date] [Docket No. \_\_]. The Court finds that the Motion should be granted as set forth below.

IT IS, THEREFORE, ORDERED that the [name of underlying pleading] is scheduled for expedited hearing on the date and time listed above.

The moving party is responsible for notice of hearing on expedited matters. Movant shall file a certificate of notice listing persons served. The certificate should be filed within 7 days of such service but in no event later than the date and time of the hearing.

(f) Continuances.

(1) Time for filing.

No continuance of any hearing will be granted except upon motion filed no later than 3 days before the scheduled hearing and upon good cause shown on the face of the pleading. The Court may consider a motion filed less than 3 days prior, but only if the motion sets forth the emergency that explains why it was not timely filed. The motion shall contain a certificate of conference reflecting efforts to confer with affected parties regarding the relief requested or the reasons why conferring was not possible or practical.

(2) Relief from Stay.

Parties to a motion for relief from stay are excused from filing a motion for continuance if it is their first request for continuance and the debtor, creditor, and any party that filed an objection or response to the motion for relief from stay are in agreement as to the continuance.

(3) Agreement.

An agreement to continue is insufficient. The agreement of the parties to a continuance is not, in itself, good cause for granting a continuance.

(4) Appearance required.

Unless the Court grants the motion for continuance before the hearing, the parties are required to appear at the scheduled hearing. The filing of a motion for continuance of itself does not excuse appearance.

(5) Certificate.

The moving party shall file a certificate signed by the party or the party's attorney reflecting the date of any hearing reset by the Court, and reflecting service of notice that reset hearing, within 7 days of such service.

(g) Exhibits for Hearings in Contested Matters.

(1) [L. Rule 7016-1\(g\)](#) applies in contested matters.

(2) Except as otherwise provided in these rules, witness and exhibit lists shall be exchanged 5 days in advance of the hearing.

(h) [FRBP 7015](#), to the extent that it adopts [FRCP 15\(c\)](#), applies in contested matters.

(i) [FRCP 26\(b\) and \(c\)](#), as implemented by [FRBP 7026](#), apply in contested matters and the remainder of [FRCP 26](#) does not apply unless the Court orders otherwise.

**L. Rule 9015-1. JURY TRIAL PROCEDURES.**

(a) This rule shall apply in adversary proceedings and contested matters.

(b) Consent to Jury Trial Before Bankruptcy Court.

(1) By the Party Demanding Jury Trial.

If a jury trial is requested in a matter pending before the Bankruptcy Court, the requesting party shall file with the Court, in a separate pleading and contemporaneously with the jury demand, a separate pleading entitled "Statement Regarding Consent," setting forth the following:

- (A) whether the requesting party consents to the conduct of the jury trial by the Bankruptcy Court;
- (B) whether the matter is one to which the Seventh Amendment right to jury trial attaches, and the grounds therefor;
- (C) whether the matter is a core or non-core proceeding, and the grounds therefor; and
- (D) if the matter is a non-core proceeding, whether the party consents to the entry of a final order by the Bankruptcy Court.

(2) By the Parties to the Litigation in Response to a Jury Demand.

Within 14 days after the filing of a jury demand and the Statement Regarding Consent required under paragraph (a)(1) of this Rule, each party to the litigation shall file with the Court in a separate contemporaneous pleading, a "Response Regarding Consent," addressing each of the four matters referenced above.

(c) Withdrawal of the Reference in the Event of Non-Consent.

If the Court grants the jury demand and a party has refused to consent to the Bankruptcy Court's conduct of the jury trial, then any party may, within 14 days, file a motion to withdraw the reference, attaching a copy of the Court's order and a copy of the party's refusal to consent. If no party timely files such a motion, the Court shall strike the jury demand.

(d) Application of the District Court Local Rules Relating to Jury Trials.

All rules relating to the conduct of a jury trial in the District Court shall apply to the conduct of such trials in Bankruptcy Court.

**L. Rule 9018-1. SECRET OR CONFIDENTIAL MATTERS.**

(a) Filing.

- (1) Documents or proceedings may be sealed only by order of the Court, and on motion with notice to parties in interest.
- (2) Documents to be sealed shall be presented to the Clerk after the order has been entered. The documents shall be contained in an envelope or other secure device, with the initials or signature of the submitting party or attorney written across the edge of the closure, and transparent tape placed on top of the mark for security. The envelope (or other secure device) shall have affixed to it a letter-size sheet of paper bearing the style and caption of the matter with reference to which the documents are being filed.
- (3) The form of order submitted with the motion requesting a matter be sealed shall contain the following recitations:
  - (A) The matter shall remain under seal for no longer than one year from the date of entry of the order, unless the Court orders otherwise.
  - (B) The only entities permitted to review documents or transcripts of proceedings placed under seal are those entities specified in the order, except that the following entities shall also have access to matters placed under seal unless the Court specifically rules otherwise: (1) the judge presiding over the case, (2) the law clerk to whom the matter is assigned internally by the presiding judge, (3) the Courtroom Deputy responsible for the matter, (4) the Clerk of the Court, and (5) the presiding judge and staff of any appellate tribunal.

(b) Disposition of Sealed Documents.

- (1) Documents or transcripts of proceedings under seal may be forwarded to an appellate court without the necessity of unsealing the matter. The matter so forwarded shall be accompanied by a true copy of the order placing the matter under seal. Further motions with regard to the sealing or unsealing of a matter shall be filed with the Court that entered the original order sealing the matter, notwithstanding the pendency of an appeal.
- (2) Upon the entry of an order unsealing a matter (or upon the expiration of the time period specified in paragraph (a)(3)(A), *supra*), the Clerk (or other person responsible for the maintenance of the matter) shall place the document or transcript of proceedings in the file of the case or adversary proceeding.

**L. Rule 9019-1. COMPROMISE.**

(a) Filing.

- (1) An application to compromise 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) An application to compromise an adversary proceeding shall, within the body of the application, set out the style and number of the adversary proceeding.
- (3) No application to compromise an adversary proceeding need be filed in order to settle a nondischargeability action filed pursuant to [11 U.S.C. § 523](#), unless the compromise creates an allowed claim to be paid in the bankruptcy case. The proposed order must set forth the name and address of the payee and the proposed treatment of the claim.

(b) Notice.

- (1) Applications to compromise adversary proceedings are governed by [L. Rule 9014-1](#), and may include the negative notice language there specified.
- (2) Applications to compromise and motions to dismiss an objection to discharge under [11 U.S.C. § 727](#) must identify the cause of action and any consideration paid or agreed to be paid.

(c) Order and Judgment.

An application to compromise an adversary proceeding shall be submitted with both:

- (1) an order to approve the application to compromise, bearing the style of the main bankruptcy case; and



- (2) a proposed agreed judgment or order of dismissal, bearing the style of the adversary proceeding, for entry in the underlying adversary proceeding.

(d) Loan Modification Program.

Debtors in a chapter 13 bankruptcy may participate in the Court's Loan Modification Program when negotiating mortgage loan modification. If a debtor elects to participate in this program, the program's mandatory procedures and forms, which the Court may modify and update from time to time, are available at: [www.txwb.uscourts.gov/chapter-13-loan-modification-program](http://www.txwb.uscourts.gov/chapter-13-loan-modification-program).

**L. Rule 9027-1. REMOVAL OR ABSTENTION.**

(a) Abstention.

A motion to abstain is filed with the Clerk of the Bankruptcy Court.

(b) Removal.

- (1) A party removing a civil action to the bankruptcy court must comply with [FRBP 9027](#) and must (i) list all names and addresses of the parties, (ii) designate on which parties service of process has been accomplished, and (iii) list the name, address, and telephone number of the counsel for every party. A notice of removal grounded on any other federal provision (e.g., diversity of citizenship) shall be filed with the Clerk of the District Court.
- (2) The notice of removal must be accompanied by copies of all papers that have been filed in the court from which the case is removed.
- (3) Removals under [28 U.S.C. § 1452](#) must contain this caption:

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE WESTERN DISTRICT OF TEXAS

\_\_\_\_\_ DIVISION

- (4) If, pursuant to FRBP 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 judgment consistent with Article III of the United States Constitution.
- (5) If a statement is filed pursuant to FRBP 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, stating that the proceeding or any part of it is non-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.

Motion for Remand. Unless the Court orders otherwise, any motion for remand must be filed no later than 30 days after the date of filing of the notice of removal.

#### **L. Rule 9033-1. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW.**

If the Court determines that it cannot enter a final order or judgment consistent with Article III of the United States Constitution in a particular proceeding referred to the Court and designated as core under 28 U.S.C. § 157(b), and the Court hears the proceeding, then [FRBP 9033\(a\), \(b\), and \(c\)](#) shall apply as if it is a non-core proceeding.

#### **L. Rule 9073-1. HEARINGS.**

As directed by the presiding judge in a bankruptcy case or proceeding, trials and hearings will be conducted either (1) in-person, (2) remotely by video conference, (3) remotely by telephone conference, or (4) a combination of in-person and remote appearances. The hearing notice issued by the clerk of court will inform interested parties of the date, time, location, and available participation options for the trial or hearing. Additional information may be found on the presiding judge's webpage located at <https://www.txwb.uscourts.gov/judges-information>.

##### **(a) Members of the Public Permitted to Appear In-Person.**

If a hearing notice allows for in-person appearances, members of the public may observe the trial or hearing in the courtroom unless the presiding judge directs otherwise, such as in sealed, secret, or confidential matters.

##### **(b) Members of the Public Not Permitted to Appear by Video Conference.**

In accordance with federal judiciary policy applicable to bankruptcy courts, only parties in interest, their attorneys, and witnesses may appear remotely by video conference during an evidentiary hearing. Members of the public are prohibited from observing a trial or hearing remotely by video conference.

##### **(c) Members of the Public Permitted to Appear Telephonically in Non-Evidentiary Hearings.**

If a hearing notice allows for telephonic appearances, members of the public may call in and observe a non-evidentiary hearing remotely by telephone. A non-evidentiary hearing for these purposes is one in which a witness is not expected to testify.

##### **(d) Photographs and Recording of Court Proceedings Prohibited.**

Recording, broadcasting, televising, or taking photographs in the courtroom and in adjacent areas, including the offices of the clerk of court, is strictly prohibited, unless authorized in writing by the presiding judge. This prohibition applies to all court proceedings regardless of whether the trial or hearing is in-person, remote, or a combination thereof. The clerk of court maintains an audio recording of every proceeding, which constitutes the official record of the proceeding. Information for ordering a copy of an audio recording or transcript is available on the court's website at <https://www.txwb.uscourts.gov/transcript-and-cd-requests>.

**APPENDICES**  
**to the Local Court Rules of the**  
**United States Bankruptcy Court for the Western District of Texas**

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**ALTERNATIVE DISPUTE RESOLUTION**

It is the intent of the Court to facilitate the use of alternative dispute resolution (“ADR”) in all matters, including specifically contested matters and adversary proceedings, to the extent practicable, helpful, and appropriate.

**(a) ADR REPORT**

Upon order of the Court entered in any contested matter or adversary proceeding, the debtor and/or trustee, and all parties (as well as all parties-in-interest affected thereby, including official Committees(s)) shall submit a report addressing the status of settlement negotiations, disclosing the identity of the person responsible for settlement negotiations for each party, and truthfully, candidly and realistically evaluating whether alternative dispute resolution is appropriate in the contested matter or adversary proceeding. Counsel shall certify in the report that their clients have been informed of the ADR procedures available in this district. In the event the parties conclude that ADR is appropriate and agree upon a method of ADR and a neutral, they should identify both the method of ADR and the neutral they have selected, the method by which the neutral was selected, and how the neutral will be compensated. If the parties agree upon an ADR method and neutral, the Court will defer to the parties' agreement, unless the Court finds that another ADR method or neutral is better suited to the contested matter, adversary proceeding or the parties.

**(b) REFERRAL TO ADR**

The Court on its own motion or upon the motion of any party or party-in-interest may order the participation in a non-binding alternative dispute resolution proceeding, including non-binding arbitration, early neutral evaluation, mediation, or mini-trial in accordance with [L. Rule 1001-1-h](#). The order may further direct the parties to bear all expenses relating to alternative dispute resolution proceedings in such proportions as the Court finds appropriate, and may direct that portions thereof be allowed as an administrative expense entitled to priority in the case, but in no event should apportioning of costs constitute a penalty for failing to arrive at a settlement. The alternative dispute resolution proceeding shall begin at a date and time selected by the parties, subject to the schedule of the neutral or neutrals, but in no event later than forty-five (45) days after the entry of the order compelling participation in the proceeding.

**(c) ATTENDANCE**

Party representatives with authority to negotiate a settlement and all other persons necessary to negotiate a settlement must attend and participate in good faith in the alternative dispute proceeding, subject to the Court's power to assess appropriate sanctions.

**(d) SELECTION OF NEUTRAL**

Upon entry of an order compelling participation in alternative dispute resolution, or upon agreement of the parties where they have not selected a neutral or neutrals from the roster, the Clerk shall

forthwith furnish to each party a list of neutrals. If the compelled procedure is non-binding arbitration or moderated settlement conference, the list shall include five neutrals whose names have been selected from the roster of arbitrators maintained in the District Clerk's Office. If the compelled procedure is other than nonbinding arbitration or moderated settlement conference the list shall include three neutrals selected from general neutral roster. The parties shall then confer with each side entitled to strike one name from the three neutral list (two names from the five neutrals list). The person remaining shall be designated the neutral. The parties may by agreement reject the list furnished by the Clerk and instead unanimously select a neutral or neutrals from either roster. Failure of counsel to timely notify the Clerk of their strikes or selection shall result in the selection of the neutral or neutrals by the Clerk. The Clerk shall promptly notify the neutral or neutrals selected. If any person selected is unable or unwilling to serve the Clerk shall submit an additional list of names to the parties until a neutral or complete panel of neutrals is selected. When a neutral or full panel of neutrals have been selected and have agreed to serve, the Clerk shall promptly notify the neutral or neutrals and the parties of the selection. No person shall serve as a neutral if any of the circumstances specified in 28 U.S.C. § 455 of the Judicial Code of Conduct exist, or if the neutral believes in good faith that such circumstances exist. Any person whose name appears on the roster maintained in the Clerk's Office may ask at any time to have his or her name removed, or, if selected to serve in any case, decline to serve but remain on the roster.

Upon its own motion or upon motion and showing of good cause by any party, the Court may order appointment of a neutral or neutrals from outside the roster of qualified neutrals maintained by the Clerk's Office.

#### **(e) CONFIDENTIALITY**

Except as otherwise provided herein, a communication relating to the subject matter of any case under Title 11, contested matter or adversary proceeding made by a participant in an alternative dispute resolution procedure, whether before or after the institution of formal judicial proceedings, is confidential, is not subject to disclosure, and may not be used as evidence against the participant in any judicial or administrative proceeding.

- (1) Any record made at an alternative dispute resolution procedure is confidential, and the participants or the third party neutral(s) facilitating the procedure may not testify, or be required to testify, in any proceedings relating to or arising out of the matter in dispute or be subject to process requiring the disclosure of confidential information or data relating to or arising out of the matter in dispute.
- (2) An oral communication or written material used in or made a part of an alternative dispute resolution procedure is only admissible or discoverable if it is admissible or discoverable independent of the procedure.
- (3) If this section conflicts with other legal requirements for disclosure of communications or materials, the issue of confidentiality may be presented to any Court having jurisdiction of the proceedings to determine, in camera, whether the facts, circumstances, and context of the communications or materials sought to be disclosed warrant a protective order of the Court or whether the communications or materials are subject to disclosure.

#### **(f) SUMMARY TRIAL OR JURY TRIAL**

In cases where other alternative dispute resolution procedures have proved unsuccessful and a complex and lengthy trial is anticipated, the Court may conduct a summary trial or jury trial, provided that the Court finds that a summary trial or jury trial may produce settlement of all or a significant part of the issues and thereby effect a saving in time, effort, and expense for all concerned. The Court should develop procedures, which may include referral to one or more neutrals on the roster of arbitrators (for report and recommendation), for such summary trial or jury trial with the advice of counsel.

#### **(g) REPORT**

At the conclusion of each ADR proceeding, the neutral or panel of neutrals shall submit to the Court a notice of outcome, including the style and number of the case, the date(s) of the ADR proceeding, the names of the participants and only whether the case has settled or not.

#### **(h) SANCTIONS**

All sanctions available under [FRCP 16\(f\)](#), [FRBP 7016](#) and/or any local rule or previous order of the Court shall apply to any violation of this rule.

#### **(i) COURT AUTHORIZATION NOT REQUIRED**

Nothing in this rule should be interpreted as limiting parties' ability to agree to a form of alternative dispute resolution or the selection of a neutral without a court order, through mutual consent. In fact, consent is preferred.

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS**

In re:

[Click or tap here to enter DEBTOR NAME\(S\),](#)

Debtor(s).

Chapter [Click or tap here to enter Chapter](#)

[Number](#)

Case No. [Click or tap here to enter Case Number](#)

**Declaration of Evidence of Employers' Payments Within 60 Days**

Attached hereto are copies of all payment advices, pay stubs or other evidence of payment received by the Debtor from any employer within 60 days prior to the filing of the petition;

Debtor has received no payment advices, pay stubs or other evidence of payment from any employer within 60 days prior to the filing of the petition; or

Debtor has received the following payments from employers within 60 days prior to the filing of the petition: \$[Click or tap here to enter amount. If none, enter "0.00"](#) but, after making a good faith effort, Debtor does not have copies of employer pay advices to be produced.

Debtor declares the foregoing to be true and correct under penalty of perjury.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Debtor

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Co-Debtor

If attaching pay stubs or other payment advices, it is your responsibility to redact (black out) any social security numbers, names of minor children, dates of birth or financial account numbers before attaching them to this document.



**Procedures for Complex Chapter 11 Cases filed in the  
Western District of Texas (All Divisions)**

The following procedures shall govern the administration of complex Chapter 11 cases. These Procedures for Complex Chapter 11 Cases filed in the Western District of Texas (All Divisions) may be referred to as the “Complex Case Procedures.”

The Complex Case Procedures do not alter the requirements of the Bankruptcy Code (“Bankruptcy Code”), the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules” or “FRBP”), or the Western District Bankruptcy Local Rules (“Local Rules”). If there is a conflict between the Complex Case Procedures herein and the Bankruptcy Code, Bankruptcy Rules, or Local Rules that is unable to be reconciled, then the Code, Bankruptcy Rules, or Local Rules shall govern unless otherwise ordered by the Court.

**The forms included in the Appendix are required** to be used in all Complex Chapter 11 Cases filed in the Western District of Texas **after**, 2024. The forms in the Appendix may be revised periodically or supplemented by standing order. The Clerk shall make available to the public the then applicable Complex Chapter 11 Case forms on the court’s website.

The forms in the Appendix are not an exhaustive list of the forms, documents, and/or pleadings that may be required to administer a Complex Chapter 11 Case.

**I. Designation of a Complex Chapter 11 Case.**

**A. Definition of a "Complex Chapter 11 Case".** 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 based on consideration of the following factors:

1. the size of the case (usually total debt of more than \$10 million);
2. the large number of parties in interest in the case (usually more than 50 parties in interest in the case);
3. 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
4. any other circumstances justifying complex case treatment.

**B. Designation of a Complex Chapter 11 Case.** 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 using the form notice, provided below as **Appendix CC11-1** and available at [www.txwb.uscourts.gov/complex-chapter-11-procedures](http://www.txwb.uscourts.gov/complex-chapter-11-procedures), and shall include as an attachment the

proposed Order Granting Complex Chapter 11 Case Treatment using the form order, provided below as **Appendix CC11-2** and available at [www.txwb.uscourts.gov/complex-chapter-11-procedures](http://www.txwb.uscourts.gov/complex-chapter-11-procedures).

C. Counsel for the debtor, upon receipt of notice of entry of an order regarding complex Chapter 11 case treatment, shall serve the order granting or denying complex Chapter 11 case on all parties in interest within 7 days.

## **II. FIRST DAY HEARINGS.**

### **A. Procedures Related to First Day Hearings.**

1. If a party has “First Day” matters requiring emergency consideration by the Court, it should file a Motion for Emergency Consideration of Certain “First Day” Matters using the form motion, provided below as **Appendix CC11-3** and available at [www.txwb.uscourts.gov/complex-chapter-11-procedures](http://www.txwb.uscourts.gov/complex-chapter-11-procedures).

2. If possible, prior to filing First Day Motions, Movant shall contact the Courtroom Deputy or Deputies for the applicable Division, which may be found at [www.txwb.uscourts.gov/clerks-office-information](http://www.txwb.uscourts.gov/clerks-office-information), advising of the filing and providing a time estimate for the hearing. The Courtroom Deputy or Deputies will advise the movant of an available hearing date and time.

3. The debtor’s counsel should (1) serve electronically, if the e-mail address is available (or by facsimile or 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 electronically, if the e-mail address is available, or by fax, 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 of a hearing date and time.

4. Unless otherwise ordered, first-day hearings will be conducted as virtual hearings. Parties may only participate remotely and any party that attends in-person will not be permitted to address the Court; provided, if first-day hearings are combined with the plan confirmation hearing in a prepackaged case or a request for equitable relief in an adversary proceeding, in-person attendance will be permitted but not required. Non-Parties may attend first day hearings only in-person, but will not be permitted to address the Court. Non-Parties may not attend any hearing remotely without prior Court permission.

5. Instructions for accessing the virtual courtroom are available at [www.txwb.uscourts.gov/txwbvirtualhearings](http://www.txwb.uscourts.gov/txwbvirtualhearings). To minimize technical difficulties, parties are encouraged to utilize telephone landlines rather than computer audio where possible. Parties who are merely observing should not appear on camera during the proceedings.

### **B. Setting First Day Hearings on an Emergency Basis.**

1. Each judge shall arrange the judge's calendar so that “first day” emergency

hearings, as requested in the Court-approved form entitled Motion 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 business days after the request for emergency “first day” hearings.

2. If the assigned judge is not available to hold the emergency first day hearings within 2 business days of the time requested by the debtor’s counsel, an available judge will hold a hearing within 2 business 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.

### **C. Final Orders at First-Day Hearings.**

1. Final orders, rather than interim orders subject to final orders at subsequent hearings, may be sought for the following types of relief:

a. Motions to pay employee wages and benefits that do not include relief of the nature specified in 11 U.S.C. § 503(c) or that do not otherwise contain a request for payments outside the ordinary course of the debtors’ business. If relief is also sought for payments outside of the ordinary course of business or that implicates § 503(c), a separate motion seeking that additional relief should be filed.

b. Motions to pay pre-petition and post-petition taxes that are (i) secured by property of the estate; (ii) held in trust by the debtors pursuant to state or federal law; or (iii) entitled to priority pursuant to 11 U.S.C. § 507(a)(8).

c. Motions to pay (i) oil and gas royalties; (ii) mineral liens, or mechanic and material liens that meet the criteria of 11 U.S.C. § 546(b); (iii) joint interest billing disbursements to joint interest parties; claims arising under 11 U.S.C. § 503(b)(9); or (iv) claims arising under the Perishable Agricultural Commodities Act of 1930, the Packers and Stockyards Act of 1921, or any state statutes of similar effect.

d. Applications to retain a claims, balloting and/or noticing agent.

e. Motions to limit or modify the notice requirements of FRBP 2002.

f. Motions to approve adequate assurance procedures under 11 U.S.C. § 366 that (i) do not prejudice the right of a utility to propose alternative procedures; and (ii) provide for a hearing not later than 30 days after the petition date upon any timely filed objection to the adequate assurance procedures.

g. Motions for authority to pay insurance premiums.

h. Motions to establish bar dates and the form of bar date notices.

i. Motions that are procedural in nature and do not affect the substantive

rights of creditors and other parties-in-interest.

### **III. HEARINGS AND HEARING DATES.**

#### **A. Pre-Set Hearing Dates.**

1. 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/bimonthly/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 on pre-set hearing dates that are at least 21 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. Movant shall advise the Courtroom Deputy of all such settings before filing, and the Courtroom Deputy will advise the movant whether there is enough time on the docket that day to accommodate the matter.

2. Notice of hearing of matters scheduled for pre-set hearing dates shall be accomplished by the moving party. The moving party shall file its notice of hearing on the docket, including a certificate of service.

#### **B. Expedited and Emergency Matters.**

1. “Expedited” means a matter which, for cause shown, should be heard on less than 21 days’ notice. “Emergency” means a matter which, for cause shown, should be heard on less than 7 days’ notice. An emergency motion must contain the word “emergency” in the title of the motion and must be filed using the CM/ECF code for an emergency motion.

2. If a party in interest has an expedited or emergency situation that it believes requires consideration on less than 21 days’ notice, the party must file and serve a separate, written motion for expedited or emergency hearing, with respect to the underlying motion, which must comply with the usual Court requirements for explanation and verification of the need for expedited or emergency hearing. The Court will make its best effort to rule on the motion for expedited or emergency hearing within 24 hours of the time it is presented. If the Court grants the motion for expedited or emergency 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 and emergency hearings will only be granted for clear cause shown and presented with particularity in the body of the motion.

3. Emergency motions shall contain the following language just below the caption, in lieu of any language required by these rules:

**Emergency relief has been requested. Relief is requested not later than [\_\_\_\_ a.m/p.m. on \_\_\_\_\_, 202\_\_].**

**If you object to the relief requested or you believe that emergency consideration is not warranted, you must appear at the hearing if one is set, or file a written response prior to the date that relief is requested in the preceding paragraph. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.**

**[IF A HEARING DATE HAS BEEN OBTAINED, INCLUDE THE FOLLOWING PARAGRAPHS:] A hearing will be conducted on this matter on \_\_\_\_\_, 202\_ at : am/pm in Courtroom , floor, (courthouse address) .**

**[INCLUDE ONE AS APPLICABLE AS DIRECTED BY THE CASE MANAGER: You may participate in the hearing either in person or by an audio and video connection [OR] Participation at the hearing will be permitted only by an audio and video connection] [OR] You are required to appear in person at the hearing pursuant to the Court's order.**

**Instructions for accessing the virtual courtroom are available at [www.txwb.uscourts.gov/sites/txwb/files/Zoom Video Hearing Guide for Participants txwb.pdf](http://www.txwb.uscourts.gov/sites/txwb/files/Zoom_Video_Hearing_Guide_for_Participants_txwb.pdf). To minimize technical difficulties, parties are encouraged to utilize telephone landlines rather than computer audio where possible. Parties who are merely observing should not appear on camera during the proceedings. Non-Parties may not attend a hearing remotely without prior Court permission.**

#### **C. Checklist for Lengthy Motions and Orders Pertaining to Cash Collateral and Post-Petition Financing.**

With respect to any motions or order pertaining to cash collateral and post-petition financing in excess of ten (10) pages counsel shall file as a separate document the Attorney Checklist for Lengthy Motions and Orders Pertaining to Use of Cash Collateral and Post-Petition Financing (Which Are in Excess of Ten (10) Pages), provided below as **Appendix CC11-4**, and available at [www.txwb.uscourts.gov/complex-chapter-11-procedures](http://www.txwb.uscourts.gov/complex-chapter-11-procedures).

### **IV. AGENDA GUIDELINES FOR HEARINGS IN COMPLEX CHAPTER 11 CASES**

#### **A. Guidelines for Agenda, Mailing Matrices, and Shortened Service Lists.**

1. **Agenda required prior to each hearing.** In complex Chapter 11 cases, counsel for the debtor-in-possession or Chapter 11 Trustee as applicable, in consultation with any other party whose motion is set on the same date, shall file, and serve an agenda describing the nature of the items set for hearing. The agenda shall be filed at least 24 hours before the date and time of the hearing. At the same time, counsel shall also serve the agenda on all attorneys who have filed papers with respect to the matters scheduled and upon the service list, including the United States Trustee.

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 matter set for hearing 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 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 emailing the Courtroom Deputy 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.

## **V. GUIDELINES FOR SERVICE LISTS AND SHORTENED SERVICE LISTS IN COMPLEX CHAPTER 11 CASES**

### **A. Bankruptcy Rule 2002 Notice/Service List**

1. **Parties to be Included on the Service List in a Complex Chapter 11 Case.** There are certain events and deadlines that occur in a Chapter 11 case which FRBP 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, debtor’s counsel shall evaluate and consider whether the following persons and entities need to be included on the Rule 2002 notice list:

a. creditors (whether a creditor’s claim is disputed, undisputed, contingent, noncontingent, liquidated, unliquidated, matured, unmatured, fixed, legal, equitable, secured or unsecured);

b. indenture trustees;

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

d. vendors with whom the debtor has dealt, even if the debtor’s records currently indicate no amount is owed;

- e. parties to contracts, executory contracts or leases with the debtor;
- f. 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;
- g. governmental entities with which the debtor might interact (including, but not limited to, the U.S. trustee and the SEC);
- h. any party who might assert a lien against property of the debtor;
- i. parties to litigation involving the debtor;
- j. 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;
- k. tort claimants or accident victims;
- l. insurance companies with whom the debtor deals or has policies;
- m. active and retired employees of the debtor;
- n. officers or directors of the debtor;
- o. customers who are owed deposits, refunds, or store credit;
- p. utilities;
- q. shareholders (preferred and common), holders of options, warrants or other rights or equitable interests in the debtor;
- r. miscellaneous others who, in debtor counsel's judgment, might be entitled to "party in interest" status or who have requested notice.

2. Also, the mailing matrix or creditor list may be filed in separate volumes, for the separate categories of parties in interest, if the mailing matrix or creditor list is voluminous. 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 or creditor list, subject to later being required to file separate mailing matrices if joint administration is not permitted.

3. **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 or creditor list would be extremely impracticable, burdensome and costly to the estate, the debtor may file a motion, pursuant to FRBP 2002(l), and on notice to the affected categories of parties in interest,

requesting authority to provide notices to certain categories of parties in interest and may forego including those categories of parties in interest on the mailing matrix if the Court grants the motion.

**B. Shortened Service List Procedure in a Complex Chapter 11 Case.**

**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 FRBP 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 professionals 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.

**C. 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 must file a notice of appearance and request for service and serve the notice on debtor’s counsel. Parties should include e-mail transmission information if they wish to receive expedited service of process during the case. Additionally, the debtor must file an updated service list and must serve the updated service list on all parties on the service list weekly for the first month after filing, then every 14 days for the next 60 days, then at least every 30 days thereafter during the pendency of the case.

**VI. GUIDELINES FOR COMPENSATION AND EXPENSE REIMBURSEMENT OF PROFESSIONALS IN COMPLEX CHAPTER 11 CASES**

**A. Applicability and Scope.**

1. The following are guidelines governing the most significant issues relating 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 but is not intended to cover every situation. All professionals are required to exercise reasonable billing judgment, notwithstanding total hours spent.

2. If, in a chapter 11 case, 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 had 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 24.g. of these guidelines.

**B. Narrative.**

1. **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.

2. **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.

a. In chapter 11 cases, 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.

b. In chapter 7 cases, the application should contain a report of the administration of the case including the disposition of property of the estate; what property remains to be disposed of; why the estate is not in a position to be closed; and whether it is feasible to pay an interim dividend to creditors.

c. In both chapter 7 and chapter 11 cases, 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.

d. With respect to final requests, applications should meet the same criteria except where a chapter 7 trustee's final account is being heard at the same time, the financial information in the final account need not be repeated.

e. 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 applications, 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.

3. **Project Billing.** 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.

4. **Billing Summary.** Hours and total compensation requested in each application should be aggregate 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.

5. **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.

6. **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.

7. **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 expenses 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.

8. **Interim Compensation Arrangements in Complex Cases.** In a complex case, the Court may, upon motion and notice, 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 US 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.

## C. TIME RECORDS

1. **Time Records Required.** All professionals, except auctioneers, real estate brokers, and appraisers must keep accurate contemporaneous time records.

2. **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.

3. **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.

4. **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 “block billing”. Case management matters may be grouped 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. Improperly grouped entries may be reduced or disallowed at the Court’s discretion.

5. **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.

6. **Multiple Professionals.** Professionals 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.

7. **Travel Time.** Travel time is compensable at one-half normal hourly rates, but work actually done during travel is fully compensable.

8. **Administrative Tasks.** Time spent in addressing, stamping, and stuffing envelopes, file organization or management, filing photocopying or “supervising” any of the foregoing is generally not compensable, whether performed by a professional, paraprofessional, or secretary.

## D. EXPENSES

1. **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.

2. **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.

3. **Documentation.** This must be retained and made available upon request for all expenditures in excess of \$100.00. Where possible, receipts should be obtained for all expenditures.

4. **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.

5. **Word Processing.** This is not reimbursable.

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

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

8. **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 before the rendering of service.

9. **Photocopies (Internal).** Charges must be disclosed on an aggregate and per page basis. If the per-page cost exceeds \$0.20, 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 therefore, including the space occupied by the machine, but not including time spent in operating the machine.

10. **Photocopies (Outside).** This item is reimbursable at actual cost.

11. **Postage.** This is reimbursable at actual cost.

12. **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 of a hearing has been requested.

13. **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.

14. **Facsimile Transmission.** 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 \$0.20, 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 therefore, including the space occupied by the machine, but not including time spent in operating the machine.

15. **Telephone Charges.** Telephone charges that are assessable to the estate such as conferencing services are reimbursable at actual cost.

16. **Parking.** This is reimbursable at actual cost.

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

18. **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.

19. **Meals (Travel).** Reimbursement may be sought for the reasonable cost of breakfast, lunch and dinner while traveling. For purposes of this section, “travel” is deemed to mean any time when the applicant is not in their primary office location.

20. **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.

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

22. **Filing Fees.** These are reimbursable at actual cost.

23. **Court Reporter Fees.** These are reimbursable at actual cost.

24. **Witness Fees.** These are reimbursable at actual cost.

25. **Process Service.** This is reimbursable at actual cost.

26. **UCC Searches.** These are reimbursable at actual cost.

## **VII. GUIDELINES FOR DISPOSITION OF ASSETS IN CHAPTER 11 CASES, THE SALE OF SUBSTANTIALLY ALL ASSETS UNDER SECTION 363, AND OVERBID AND TOPPING FEES**

### **A. Applicability.**

The following guidelines apply to pre-negotiated or pre-packaged plans and 11 U.S.C. § 363 sales to dispose of substantially all assets of a Chapter 11 debtor. 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.

### **B. Sale Motions – General Terms.** Sale Motions shall attach or include the following:

1. The proposed purchase agreement, or a form of such agreement substantially similar to the one debtor reasonably believes it will execute in connection with the proposed sale;
2. A proposed form of sale order;
3. A disclosure of all material terms of the transaction, including those listed in paragraph D.1. below; and
4. A request, if necessary, for the appointment of a patient care or consumer privacy ombudsman under 11 U.S.C. §§ 332 or 333.

### **C. Overbids and Topping Fees**

1. **Topping Fees and Break-up Fees.** Any request for the approval of a topping fee or a 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. Unless ordered otherwise, the request shall also contain a description of any offers received, including, without limitation, any disclosure of their plans as it relates to retention of debtor's employees.
2. Buyer protection provisions, including, topping fees, break-up fees, and overbid amounts should be requested in the relevant bid or sale procedures motion and should be conspicuous and summarized on the cover sheet.

### **D. The Sale of Substantially All Assets Under Bankruptcy Code Section 363**

1. **The Motion to Sell.** In connection with any hearing to approve the sale of substantially all assets, 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. The first page of the applicable motion include a summary of the required information in a chart format in substantially the form motion provided below at **Appendix CC11-5** and available at [www.txwb.uscourts.gov/complex-chapter-11-procedures](http://www.txwb.uscourts.gov/complex-chapter-11-procedures). The balance of the motion must:

- a. **Creditors' Committee.** State whether the Creditors' Committee supports the proposed sale. 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. If the pre-petition creditors' committee retained counsel or other advisors, indicate the date counsel was engaged and the identity of committee counsel or advisors.
- b. **Sale Contingencies.** State all contingencies to the sale agreement and citations to the provisions of the proposed sale agreement.
- c. **Good Faith Deposit.** Specifically describe whether the proposed purchaser has submitted or will be required to submit a good faith deposit and, if so, the conditions under which such deposit may be forfeited.
- d. **Closing and Other Deadlines.** Specifically describe any deadlines for the closing of the proposed sale or deadlines that are conditions to closing the proposed transaction.
- e. **Administrative Expenses.** Itemize and estimate administrative expenses relating to the sale to be incurred before closing and the source of payment for those expenses.
- f. **Proceeds of Sale.** Estimate of the gross proceeds anticipated from the sale, together with an estimate of (i) all costs of sale (e.g., auctioneer or broker fees), (ii) all proceeds to be distributed directly to non-debtor parties (i.e., payment of pre- or post-petition taxes), (iii) any other deductions from the gross proceeds and (iv) the net proceeds to be remitted to the estate. Itemize all deductions that are to be made from gross sale proceeds and include a brief description of the basis for any such deductions.
- g. **Debt Structure of Debtor.** Provide a brief description of the debtor's debt structure, including the amount of the debtor's secured debt, priority claims and general unsecured claims.
- h. **Need for Quick Sale.** Provide, if applicable, a description of why the assets of the estate must be sold on an expedited basis. Include a discussion of alternatives to the sale.
- i. **Private Sale/No Competitive Bidding.** Specifically disclose whether an auction is contemplated and specifically describe any provision which limits the solicitation of competing offers for the property subject to the Sale Motion or otherwise limits marketing of the property in any material way.
- j. **Negotiating Background.** Describe the length of time spent in negotiating the sale, and which parties in interest were involved in the negotiation, along with any other offers to purchase, including, without limitation, the potential

purchaser's plans in connection with retention of the debtor's employees.

k. **Marketing of Assets.** Describe the manner in which the assets were marketed for sale, including the period of time involved and the results achieved.

l. **Relationship of Buyer.** Provide a statement identifying the buyer and identifying the buyer's officers, directors, shareholders/members (or in the case of publicly traded companies, any controlling shareholders), as well as all of the buyer's (including its officers, directors and shareholders/members) connections with the debtor, creditors, any other party in interest, their respective attorneys, accountants, the United States Trustee or any person employed in the office of the United States Trustee.

m. **Sale to Insider.** If the proposed sale is to an insider, as defined in 11 U.S.C. § 101(31), (i) identify the insider; (ii) describe the insider's relationship to the debtor; and (iii) set forth any measures taken to ensure the fairness of the sale process and the proposed transaction.

n. **Post Sale Relationship with Debtor.** Provide a statement setting forth any agreement, relationship, or connection the debtor (including its officers, directors, shareholders/members and employees) will have with the buyer after the consummation of the sale, assuming it is approved.

o. **Relationship with Secured Creditors.** Provide 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).

p. **Insider Compensation.** Disclose current compensation received by officers, directors, key employees, or other insiders pending approval of the sale.

q. **Interim Arrangements with Proposed Buyer.** Specifically describe any provision pursuant to which a debtor is entering into any interim agreements or arrangements with the proposed purchaser, such as interim management arrangements (which, if out of the ordinary course, also must be subject to notice and a hearing under 11 U.S.C. § 363(b)) and the terms of such agreements.

r. **Releases, Exculpations, and Indemnifications.** Specifically describe any provisions pursuant to which an entity is being released, exculpated, or indemnified, or claims against any entity are being waived or otherwise satisfied.

s. **Record Retention.** If the debtor proposes to sell substantially all of its assets, specifically describe whether the debtor will retain, or have reasonable access to, its books and records to enable it to administer its bankruptcy case.

t. **Sale of Avoidance Actions.** Specifically describe any provision



pursuant to which the debtor seeks to sell or otherwise limit its rights to pursue avoidance claims under Chapter 5 of the Bankruptcy Code.

u. **Requested Findings as to Successor Liability.** Specifically describe any provision limiting the proposed purchaser's successor liability.

v. **Sale Free and Clear of Unexpired Leases.** Specifically describe any provision by which the debtor seeks to sell property free and clear of a possessory leasehold interest, license, or other right.

w. **Sale Free and Clear.** Specifically describe any provision by which the debtor seeks to sell property free and clear of interests pursuant to section 363(f) of the Bankruptcy Code.

x. **Credit Bid.** Specifically describe any provision by which the debtor seeks to allow, disallow, or affect in any manner, credit bidding pursuant to 11 U.S.C. § 363(k).

y. **Relief from Bankruptcy Rule 6004(h).** Specifically describe any provision whereby the debtor seeks relief from the fourteen-day stay imposed by Bankruptcy Rule 6004(h).

z. **Notice Timing.** File notice of the hearing on the motion to approve the motion to sell.

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

3. **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.

4. **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.

5. **Objection that proposed sale is a sub rosa plan.** Any party-in-interest opposing a sale motion on the basis that the proposed sale constitutes a sub rosa plan must identify with specificity what rights or protections under 11 U.S.C. §§ 1121-1129 are being violated. The proponents of a sale motion must respond specifically to any objection asserting that a proposed sale pursuant to 11 U.S.C. § 363 will constitute a sub rosa plan.

## **VIII. GUIDELINES FOR CASH COLLATERAL AND DIP FINANCING MOTIONS AND ORDERS**

### **A. Interim vs. Final Orders**

1. 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.

2. 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.

3. 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.

4. 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.

5. Bankruptcy Rule 4001(b) and (c) limit the extent to which the Court may grant relief on less than 14 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.

**B. Stipulations requested by lender.** The lender may request a stipulation as to the amount, validity, priority, and extent of the pre-petition loans or liens. 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 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.

**C. Grant of Liens.**

1. Liens granted in the cash collateral and DIP financing orders may not secure prepetition debts. Financing orders should not be used to elevate a pre-petition lender’s collateral inadequacy to a fully secured status.

2. 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 superpriority under 11 U.S.C. § 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.

3. Similarly, limitations on the surcharge of the lender's collateral under 11 U.S.C. § 506(c) are disfavored. The secured creditor may be the principal beneficiary of the proceedings in Chapter. 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 (2000), only the DIP or the trustee may recover under 11 U.S.C. § 506(c).

**D. Modification of Stay.** 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.

**E. Restrictions on Plan Process.**

1. 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 prepetition accounts and readvancing them post-petition) that have the effect of converting prepetition 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 11 U.S.C. § 1129(b).

2. On the other hand, persons who are advancing new money to the debtor postpetition may include in financing orders provisions that the post-petition loans have a 11 U.S.C. § 364(c)(1) super-super priority.

**F. Loan Agreements.** 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.

**G. Professional Fees.**

1. 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.

2. 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.

**H. Work Fees/Loan Fees.** 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 CC11-1 – NOTICE OF DESIGNATION AS  
COMPLEX CHAPTER 11 BANKRUPTCY CASE**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
\_\_\_\_\_ DIVISION

IN RE:

DEBTOR.

§  
§  
§  
§

CASE NO. \_\_\_\_\_

**NOTICE OF DESIGNATION AS COMPLEX  
CHAPTER 11 BANKRUPTCY CASE**

This bankruptcy case was filed on \_\_\_\_\_, 20\_\_\_. The undersigned party in interest believes that this case qualifies as a complex Chapter 11 case because:

- \_\_\_\_\_ The debtor has total debt of more than \$10 million;
- \_\_\_\_\_ There are more than 50 parties in interest in this case;
- \_\_\_\_\_ Claims against the debtor and/or equity interests in the debtor are publicly traded;
- \_\_\_\_\_ Other: (Substantial explanation is required. Attach additional sheets if necessary.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone, and email

**APPENDIX CC11-2 – ORDER GRANTING COMPLEX CHAPTER 11 BANKRUPTCY  
CASE TREATMENT**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
\_\_\_\_\_ DIVISION

IN RE:

§  
§  
§ CASE NO. \_\_\_\_\_  
§  
§  
DEBTOR. §

**ORDER GRANTING COMPLEX  
CHAPTER 11 BANKRUPTCY CASE TREATMENT**

This bankruptcy case was filed on \_\_\_\_\_, 20\_\_\_. A Notice of Designation as Complex Chapter 11 Case was filed. After review of the initial pleadings filed in this case, the Court concludes that this case appears to be a complex Chapter 11 case.

Accordingly, unless the Court orders otherwise,

**IT IS ORDERED THAT:**

1. The debtor shall maintain a service list identifying the parties that must be served whenever a motion or other pleading requires notice. Unless otherwise required by the Bankruptcy Code or Rules, notices of motions and other matters will be limited to the parties on the service list.

- a. The service list shall initially include the debtor, debtor's counsel, counsel for the unsecured creditors' committee, the U.S. trustee, all secured creditors, the 20 largest unsecured creditors of each debtor, any indenture trustee, and any party that requests notice;
- b. Any party in interest that wishes to receive notice, other than as listed on the service list, shall be added to the service list by filing and serving the debtor and debtor's counsel with a notice of appearance and request for service.
- c. The initial service list shall be filed within 3 days after entry of this order. A revised list shall be filed 7 days after the initial service list is filed. The debtor shall update the service list, and shall file a copy of the updated service list, (i) at least every 7 days during the first 30 days of the case; (ii) at least every 14 days during the next 60 days of the case; and (iii) at least every 30 days thereafter throughout the case.

2. [The Court sets \_\_\_\_\_ of [each week] [every other week, commencing [Month and Day] [each month] at \_\_\_\_\_ am/pm as the pre-set hearing day and time for hearing all motions and other matters in these cases.] The Court sets the following dates and times for the next two months as the pre-set hearing date and time for hearing all motions and other matters in these cases [insert dates and times]. Settings for the following months will be published by the Court no later than 30 days before the first hearing date in the said following months. (There may be exceptions; those exceptions will be noted on the Court's internet schedule, available at [www.txwb.uscourts.gov](http://www.txwb.uscourts.gov).)

- a. All motions and other matters requiring hearing, but not requiring expedited or emergency hearing, shall be noticed for hearing, on the next hearing day that is at least 21 days after the notice is served. As a preface to each pleading, just below the case caption, in lieu of the language required by any Local Bankruptcy Rule, the pleading shall state:

**A hearing will be conducted on this matter on \_\_\_\_\_ at  
am/pm in courtroom \_\_, [courthouse name & address], \_\_\_\_\_,  
Texas.**

**If you object to the relief requested, you must respond in writing, specifically answering each paragraph of this pleading. Unless otherwise directed by the court, you must file your response with the clerk of the bankruptcy court within 21 days from the date you were served with this pleading. You must serve a copy of your response on the person who sent you the notice; otherwise, the court may treat the pleading as unopposed and grant the relief requested.**

- b. All motions and other matters requiring expedited or emergency hearing shall comply with the applicable Local Bankruptcy Rule(s) for explanation and verification of the need for emergency or expedited hearing. Specifically, if a party in interest has a situation that it believes requires consideration on less than 21 days' notice, then the party should file and serve a separate, written motion for expedited hearing, with respect to the underlying motion. The Court will make its best effort to rule on the motion for expedited or emergency hearing within 24 hours of the time it is presented. If the Court grants the motion for expedited or emergency hearing, the underlying motion will be set by the Courtroom Deputy at the next available pre-set hearing day or at some other appropriate shortened date approved by the Court. The party requesting the hearing shall be responsible for providing proper notice in accordance with this order and the Bankruptcy Code and Rules.
- c. Not less than 24 hours before each of the pre-set hearing dates, the debtor shall file an agenda listing each matter set for hearing and indicating which of those matters are contested, which have been resolved, and which the parties will seek to continue to a later hearing date.

3. Emergency and expedited hearings (and other hearings in limited circumstances) in this case may be conducted by virtual means. Parties must request permission to participate virtually in accordance with the assigned Judge's procedures, which are available on the Court's website [link]. The Court may, on its own motion and in its sole discretion, order that any hearing be conducted solely by virtual means. In such instances, parties need not seek permission to appear virtually. All "First Day" Hearings shall be conducted only by virtual means.

- 4. If a matter is properly noticed for hearing and the parties reach a settlement of the dispute



before the final hearing, the parties may announce the settlement at the scheduled hearing. If the Court determines that the notice of the dispute and the hearing is adequate notice of the effects of the settlement, (i.e., that the terms of the settlement are not materially different from what parties in interest could have expected if the dispute were fully litigated) the Court may approve the settlement at the hearing without further notice of the terms of the settlement and without requiring a motion under FRBP 9019. Parties should notify the appropriate Courtroom Deputy as soon as practicable if a matter has been resolved consensually.

5. The debtor shall serve this order to all parties in interest within 7 days. If any party in interest, at any time, objects to the provisions of this order, that party shall file a motion articulating the objection and the relief requested. After hearing the objection and any responses the Court may reconsider any part of this order and may grant relief, if appropriate.

# # #

The Clerk shall notice:  
Debtor  
Debtor's Counsel  
U.S. trustee

**APPENDIX CC11-3 – REQUEST FOR EMERGENCY CONSIDERATION OF CERTAIN  
"FIRST DAY" MATTERS**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
\_\_\_\_\_ DIVISION

IN RE:

DEBTOR.

§  
§ CASE NO. \_\_\_\_\_  
§  
§

**REQUEST FOR EMERGENCY CONSIDERATION  
OF CERTAIN "FIRST DAY" MATTERS**

On [date], [Debtor(s)] filed a petition for relief under Chapter 11 of the Bankruptcy Code. Proposed counsel for the debtor believes that the case qualifies as a "Complex Chapter 11 Case" and contemporaneously herewith, has filed a Notice of Designation as a Complex Chapter 11 Case. The debtor seeks emergency consideration of the following initial case matters (check those that apply\*):

\_\_\_\_\_ JOINT MOTION FOR JOINT ADMINISTRATION

\_\_\_\_\_ MOTION FOR ORDER EXTENDING TIME TO FILE SCHEDULES AND  
STATEMENT OF FINANCIAL AFFAIRS

\_\_\_\_\_ MOTION TO LIMIT OR MODIFY THE NOTICE REQUIREMENTS OF FED. R.  
BANKR. P. 2002.

\_\_\_\_\_ MOTION TO PAY INSURANCE PREMIUMS.

\_\_\_\_\_ MOTION TO ESTABLISH BAR DATES AND FOR APPROVAL OF BAR DATE  
NOTICES.

\_\_\_\_\_ MOTION TO ESTABLISH PRE-SET HEARING DATES.

\_\_\_\_\_ MOTION RE MAINTENANCE OF BANK ACCOUNTS AND EXISTING CASH  
MANAGEMENT, ATTACHING NOTICE OF CONFERENCE WITH U.S. TRUSTEE

\_\_\_\_\_ MOTION TO PAY PRE-PETITION WAGES, SALARIES, ET AL., ATTACHING  
NOTICE OF CONFERENCE WITH U.S. TRUSTEE AND DETAILED EXHIBIT  
SHOWING WHO DEBTOR PROPOSES TO PAY AND AMOUNTS

\_\_\_\_\_ MOTION FOR ENTRY OF INTERIM ORDER AUTHORIZING USE OF CASH  
COLLATERAL

\_\_\_\_\_ MOTION FOR INTERIM APPROVAL OF POST-PETITION SECURED AND SUPER  
PRIORITY FINANCING PURSUANT TO SECTION 364(c) OF THE BANKRUPTCY  
CODE

\_\_\_\_\_ MOTION PURSUANT TO 11 U.S.C. § 366, FOR ENTRY OF INTERIM ORDER (1)  
DETERMINING ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE UTILITY  
SERVICES AND (2) RESTRAINING UTILITY COMPANIES FROM  
DISCONTINUING, ALTERING, OR REFUSING SERVICE

\_\_\_\_\_ MOTION TO RETAIN A CLAIMS, BALLOTING, AND/OR NOTICING AGENT

\_\_\_\_\_ MOTION TO ESTABLISH INTERIM NOTICE PROCEDURES

\_\_\_\_\_ MOTION FOR ORDER APPROVING INTERIM RETENTION OF PROFESSIONALS

\_\_\_\_\_ MOTION FOR ORDER APPROVING PAYMENT OF PRE-PETITION CLAIMS OF  
CERTAIN CRITICAL VENDORS

\_\_\_\_\_ MOTION TO PAY PRE-PETITION AND POST-PETITION TAXES

\_\_\_\_\_ MOTION TO PAY OIL & GAS ROYALTIES, MINERAL LIENS, MECHANIC OR  
MATERIALMAN'S LIENS, JOINT INTEREST BILLING DISBURSEMENTS, OR  
CLAIMS UNDER THE PERISHABLE AGRICULTURAL COMMODITIES ACT OF  
1930, THE PACKERS AND STOCKYARDS ACT OF 1921, OR ANY STATE  
STATUTES OF SIMILAR EFFECT.

\_\_\_\_\_ OTHERS (LIST):

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_, 20

\_\_\_\_\_  
[signature block of proposed counsel for the debtor]

\* NOTE: The Court expects the parties to exercise judgment regarding which motions are applicable.

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
DIVISION

DEBTOR. § CASE NO. \_\_\_\_\_  
§  
§ HEARING: \_\_\_\_\_

## 93

**1. Identification of Proceedings:**

(a) Preliminary motion/order or

(b) Final motion/order

(c) Continuing use of cash collateral (§ 363)

(d) New financing (§ 364)

(e) Combination of §§ 363 and 364 financing

(f) 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

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 undersecured?

(h) Is lender or oversecured?

(i) Has lender's non-cash collateral been appraised?

(i) Insert date of latest appraisal

(j) Is debtor's proposed budget attached? \_\_\_\_\_

(k) Are all pre-petition loan documents identified? \_\_\_\_\_

(l) Are pre-petition liens on single or multiple assets? (circle one) \_\_\_\_\_

(m) Are there limited pre-petition guaranties of debt? \_\_\_\_\_

(n) Are there unlimited pre-petition guaranties of debt? \_\_\_\_\_

### **3. Grant of Liens:**

\* (a) Do post-petition liens secure pre-petition debts? \_\_\_\_\_

\* (b) Is there cross-collateralization? \_\_\_\_\_

\*\* (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 361(l) lien? \_\_\_\_\_

(c) Is there an additional 361(1) lien? \_\_\_\_\_

**\*\*** (d) Is the lender's claim given super-priority?  
(§ 364(c) or (d)) [designate] \_\_\_\_\_

(e) Are there guaranties? \_\_\_\_\_

(f) Is there adequate insurance coverage? \_\_\_\_\_

(g) Other? \_\_\_\_\_

**6. Waiver/Release Claims v. Lender:**

**\*\*** (a) Debtor waives or release 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? \_\_\_\_\_

**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 the 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 pursuant 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 time for notice requested? \_\_\_\_\_

- (b) Is notice requested to shortened list? \_\_\_\_\_

- (c) Is time to respond to be shortened? \_\_\_\_\_

- (d) If final order sought, have 14 days elapsed since service of motion pursuant to Rule 4001(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)(4)? \_\_\_\_\_
- (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 \_\_\_\_ day of \_\_\_\_\_, 20\_\_ .

[Enter Firm Name]

By: \_\_\_\_\_

[Enter Attorney's Name]

[Enter Texas Bar No.]

[Enter Address]

[Enter Telephone Number]

[Enter Email Address]

[Enter Identification Role in Case]

## APPENDIX CC11-5 – COVER SHEET FOR MOTION TO SELL ASSETS

[Case Style]

### COVER SHEET FOR MOTION TO SELL ASSETS

The first page of all motions seeking to sell substantial assets under 11 U.S.C. §§ 363(b) or (f) should be this completed coversheet.

	<b>If the answer to any question is “yes”, provide a citation to the relevant section of the Motion describing the topic in detail.</b>
<b>Closing and Other Deadlines</b>	
When must the deal close?	
Other key deadlines?	
<b>Assets to be Sold</b>	
Describe assets to be sold	
Describe important contingencies	
Describe important carveouts	
Auction, private sale, other?	
<b>Good Faith Deposit</b>	
Amount? Percent of Value?	
Conditions for forfeiture?	
<b>Proceeds of Sale</b>	
Gross sales price?	
Costs of sale	
Net proceeds?	
Debt structure paid?	
<b>Buyer</b>	
Buyer and its source of funds?	
Connections with debtor or debtor’s controlling interests?	
Connections with Committee?	
Buyer’s post-sale relationships with debtor’s management or directors?	
<b>Marketing of Assets</b>	
How has/will debtor market the assets?	
Over what time period?	
<b>Creditors Committee Support?</b>	
<b>Releases, Exculpations and Indemnifications?</b>	

<b>Sale of Avoidance Actions?</b>	
<b>Requested Findings as to Successor Liability?</b>	
<b>Sale Free and Clear of Unexpired Leases?</b>	
<b>Credit Bid under §363(k)?</b>	
<b>Sale Process</b>	
Private sale/competitive bidding	
Any provisions/terms limiting solicitation of competing offers	
Open call auction/sealed bid?	

**Procedures for Subchapter V Cases filed in the Western District of Texas (All Divisions)**

The “Subchapter V Procedures” set forth below shall govern the administration of Subchapter V-Small Business Debtor reorganization cases (a “Subchapter V Case”). These Procedures for Subchapter V Cases filed in the Western District of Texas (All Divisions) may be referred to as the “Subchapter V Procedures”.

A Subchapter V Case includes any “debtor” as defined under 11 U.S.C. § 1182 that elects to proceed under Subchapter V.

The Subchapter V Procedures do not alter the requirements of the Bankruptcy Code (“Bankruptcy Code”), the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”), or the Western District Bankruptcy Local Rules (“Local Rules”). If there is a conflict between the Subchapter V Procedures herein and the Bankruptcy Code, Bankruptcy Rules, or Local Rules that is unable to be reconciled, then the Code, Bankruptcy Rules, or Local Rules shall govern unless otherwise ordered by the Court.

**The forms included in the Appendix are required** to be used in all Subchapter V Cases filed in the Western District of Texas after [REDACTED], 2024. The forms in the Appendix may be revised periodically or supplemented by standing order. The Clerk shall make available to the public the then applicable Subchapter V forms on the court’s website.

The forms in the Appendix are not an exhaustive list of the forms, documents, and/or pleadings that may be required to administer a Subchapter V Case.

**I. Petition and Filing**

**A. Notice to Courtroom Deputy for Judge assigned to Case**

Proposed counsel for the debtor in a Subchapter V Case (or the *pro se* individual in a Subchapter V Case) should contact the assigned Bankruptcy Judge’s Courtroom Deputy by email, copying the Office of the U.S. trustee as well as counsel for any known interested parties, as early as possible after the filing of a Subchapter V Case (the “Petition Date”) to obtain a date and time for necessary emergency relief and to request a setting for first day hearings. The Courtroom Deputy will advise of the Court’s available hearing date and time.

**B. Election and Objections under Bankruptcy Rule 1020**

1. When commencing a voluntary Subchapter V Case, the debtor shall check the box(es) designating the case as a Subchapter V Case on the voluntary petition Official Form

101 or 201 and on the CM/ECF PACER filing system in the Western District of Texas Bankruptcy Courts.

2. A debtor that did not elect in the original petition to have Subchapter V of chapter 11 apply, may make the election by filing an amended petition within fourteen days of the date of the order of relief. After the initial fourteen day period, the debtor must file a motion seeking permission to have Subchapter V of chapter 11 apply. If the debtor needs to seek relief from certain deadlines in the Subchapter V proceeding related to the late-filed election to Subchapter V, such request may be included in the same motion, and shall be served on the parties designated in FRBP 1020(c). If no extensions are sought, all relevant Subchapter V deadlines shall run from the date of the order of relief, and not the date of the election to proceed under Subchapter V.

3. For purposes of electing to proceed under Subchapter V or a party's objection to such election, the deadlines set forth in FRBP 1020 shall apply.

4. If a debtor seeks to amend their petition to remove the Subchapter V designation, the Debtor must file a motion seeking permission to withdraw the designation and proceed without such designation. Any proposed order granting the debtor's redesignation must include a provision that discharges the Subchapter V trustee of their duties and directs the Subchapter V trustee to file any final report and application for fees under 11 U.S.C. § 330.

#### **C. Resolution for Nonindividual Debtor Authorizing the Filing of the Petition**

Simultaneously with the filing of the Subchapter V Petition by a nonindividual debtor, the nonindividual debtor shall file with the Court the written resolution adopted and executed by the debtor or the proper party under its governing instruments authorizing the filing of the Subchapter V Petition.

#### **D. Compliance with 11 U.S.C. § 1187 and FRBP 2015.3**

1. Proposed counsel for the debtor, and the debtor or debtor representative should carefully review the Voluntary Subchapter V Petition to ensure that all the materials required by 11 U.S.C. § 1187(a) are included.

2. A debtor in a Subchapter V Case shall comply with FRBP 2015.3 by filing Official Bankruptcy Form B426, the periodic financial report of the value, operations, and profitability of each entity that is not a publicly traded corporation or a debtor in a case under title 11, and in which the estate holds a substantial or controlling interest. Note that this procedure requires reporting with Official Bankruptcy Form B426 to be first filed no later than seven days before the first date set for the meeting of creditors under 11 U.S.C. § 341, and subsequent reports should be filed no less frequently than every six months thereafter. Additionally, the debtor must attach an updated and current Official Bankruptcy Form B426 as an exhibit to any proposed plan.

#### **E. Application to Employ**

An Application to Employ shall be made in accordance with L. Rules 2014-1 and 2016-1. The Application to employ shall be detailed and shall describe (1) any pre-petition advance deposit paid for the bankruptcy matter, draws on such deposit prior to filing, and the balance therein on the petition date; (2) any agreement with the debtor to replenish the funds held by counsel during the course of the bankruptcy case; and (3) any payments made to counsel by the debtor or on the debtor's behalf in contemplation or in connection with the bankruptcy case. An Application to Employ shall include a proposed form of Order, and the Application to Employ and proposed form of Order shall clearly indicate statutory basis for retention, describe whether such retention is hourly, fixed fee, contingency, or some other method, describe in detail any payment procedure that is proposed to be utilized, and provide for the filing of fee applications under 11 U.S.C. §§ 330 and 331, FRBP 2016, and the Local Rules.

#### **F. Notice of Budget**

Within fourteen days after the Petition Date, any nonindividual debtor who has not filed a Motion to Use Cash Collateral shall file a Notice of Preliminary Budget that summarizes the debtor's proposed use of existing cash and postpetition income and/or earnings. The Notice of Preliminary Budget shall include a detailed ninety day budget showing expected income and expenditures from the Petition Date and is **required** to be in the form attached hereto as **Appendix SubV-1**. Any party opposed to the Preliminary Budget may file an appropriate motion to raise any concerns therewith; however, the failure to object to the Notice of Preliminary Budget does not constitute the Court's approval thereof or preclude any future argument by the parties regarding the propriety of the debtor's expenditures.

### **II. Motions and Hearings for First Day Matters, Cash Collateral, and Financing**

#### **A. First Day Matters Motions and Hearings**

1. If the debtor has any matters related to the debtor's transition to chapter 11 (such as those described below in II(B) and II(C)) that require emergency consideration by the Court ("First Day Matters"), the debtor should file a Motion for Emergency Consideration of Certain First Day Matters in the same form set forth in the Complex Chapter 11 Procedures that are available at [www.txwb.uscourts.gov/complex-chapter-11-procedures](http://www.txwb.uscourts.gov/complex-chapter-11-procedures).

2. The debtor should serve electronically, if the e-mail address is available (or by facsimile or immediate hand-delivery) a copy of the notice of hearing on First Day Matters on all affected parties, including the U.S. trustee and Subchapter V trustee, if one has been appointed, simultaneously with its filing.

3. Unless otherwise ordered by the Court, a hearing on First Day Matters will be conducted as a hybrid-hearing in accordance with the local rules. Parties in interest may appear either remotely on the court's videoconferencing platform or in person, in the courtroom for any hearing on First Day Matters. Nonparty observers may only appear in accordance with the local rules. Instructions for accessing the virtual courtroom are available at [www.txwb.uscourts.gov/txwbvirtualhearings](http://www.txwb.uscourts.gov/txwbvirtualhearings). To minimize technical difficulties, parties are required to utilize telephone landlines rather than computer audio where possible.

## **B. Final Orders at Hearings on First Day Matters Hearings**

At the hearing on First Day Matters, a final order, rather than an interim order, may be sought for the following types of relief:

1. Motions to pay employee wages and benefits to the extent all proposed payments are below the limits enumerated in 11 U.S.C. § 507(a)(4), does not include relief of the nature specified in 11 U.S.C. § 503(c), and does not otherwise contain a request for payments outside the ordinary course of the debtor's business. If the debtor seeks to make payments outside of the ordinary course of business or payments that implicate 11 U.S.C. § 503(c), a separate motion seeking that additional relief should be filed.

2. Motions to pay pre-petition and post-petition taxes that are: (i) secured by property of the estate; (ii) held in trust by the debtors pursuant to state or federal law; or (iii) entitled to priority pursuant to 11 U.S.C. § 507(a)(8).

3. Motions to pay: (i) oil and gas royalties; (ii) mineral liens, or mechanic and material liens that meet the criteria of 11 U.S.C. § 546(b); (iii) joint interest billing disbursements to joint interest parties; claims arising under 11 U.S.C. § 503(b)(9); or (iv) claims arising under the Perishable Agricultural Commodities Act of 1930, the Packers and Stockyards Act of 1921, or any state statutes of similar effect.

4. Motions to limit or modify the notice requirements of Bankruptcy Rule 2002.

5. Motions to approve adequate assurance procedures under 11 U.S.C. § 366 that: (i) do not prejudice the right of a utility to propose alternative procedures; and (ii) provide for a hearing not later than thirty (30) days after the petition date upon any timely filed objection to the adequate assurance procedures.

6. Motions to pay insurance premiums.

7. Motions to approve bar dates and bar date notices.

8. Motion to approve payment of monthly deposit to the subchapter V trustee.

9. Motions that are procedural in nature and do not affect the substantive rights of creditors and other parties-in-interest.

## **C. Cash Collateral and Financing Motions and Hearings**

1. On motion by the debtor, a hearing will be conducted as a First Day Matter (or promptly after filing if such motion is not filed as a First Day Matter) to consider interim cash collateral use and/or interim debtor-in-possession financing. The debtor's motion shall contain a summary of all parties that hold a pre-petition lien or security interest in the cash collateral or proposed collateral (including any liens of the Internal Revenue Service or other taxing



authorities). The debtor must introduce a detailed, line-item budget/cash flow projection showing sources of cash and uses of cash necessary for ongoing operations on a weekly basis for not less than thirty days of the Subchapter V Case including, as applicable, adequate protection payments, insurance, taxes, professional fees, and subchapter V trustee deposits. Financing motions shall also include in the body of the motion and in an attached summary all terms and provisions including: amount, rate, payment, adequate protection, cross-collateralization, default provisions, carve-outs, roll-ups, releases, limits on the debtor's rights, priming liens, and any other term or provision that impacts the rights, duties, or obligations of the debtor, the Bankruptcy Estate, the subchapter V trustee, the U.S. trustee, the Court, any secured creditor, and/or any other parties.

2. Simultaneously with the filing of any motion to use cash collateral and/or motion for debtor-in-possession financing, the debtor shall file with the Court a UCC Lien Search conducted within ten days prior to the Petition date. The UCC Lien Search may be a printout from an online search on the applicable state filing database(s) or through a national third-party service.

3. At least five days prior to the final hearing on cash collateral and/or financing, the debtor shall file a detailed, line-item budget/cash flow projection showing sources of cash and uses of cash necessary for ongoing operations on a monthly basis for not less than one hundred twenty days of the Subchapter V Case including, but not limited to, adequate protection payments (if any), insurance, taxes, professional fees, and subchapter V trustee deposits.

4. At least five days prior to the final hearing on cash collateral and/or financing, the debtor shall file a proposed form of final order along with a redline showing edits compared to the interim order.

### **III. Case Scheduling, Status Reporting, and Other Compliance Requirements**

#### **A. Notice of Bankruptcy**

The Court will issue a Notice of Bankruptcy in form approved by the Court. The deadlines set forth in the Notice of Bankruptcy may not be shortened or extended except by further order of the Court.

#### **B. Subchapter V Scheduling Order**

The Court will issue a Subchapter V Scheduling Order in form approved by the Court. The deadlines set forth in the Scheduling Order may not be shortened or extended except by further order of the Court. The deadline to file a Subchapter V Plan may only be extended as set forth in 11 U.S.C. § 1189.

#### **C. Monthly Operating Reports**

A debtor in a Subchapter V Case shall attach to its monthly operating reports: (i) all applicable documents required by Parts 1–8 of Official Bankruptcy Form 425C; (ii) the monthly bank statements for all Controlled Non-Debtor Entities as defined in Official Bankruptcy Form B426; and (ii) the most recently filed periodic report, Official Bankruptcy Form B426, as required

by FRBP 2015.3.

#### **IV. Status Report and Status Conference Requirements**

##### **A. Status Report Form**

The debtor shall timely file a Subchapter V Case Status Report (“Status Report”) in the **required** form attached hereto as **Appendix SubV-2**. The Status Report should not disclose any confidential, secret, and/or privileged information.

##### **B. Status Conference Hearing**

The debtor (if the debtor is an individual) or an authorized debtor representative (if the debtor is a nonindividual), debtor’s counsel, and the subchapter V trustee shall be present for the Subchapter V Case status conference hearing. The debtor, debtor representative, debtor’s counsel, and the subchapter V trustee are required to provide the Court an update on the status of the Subchapter V Case and answer questions regarding the debtor’s assets, liabilities, budget, operations, finances, insurance, communications with creditors, activity in the bankruptcy case, the debtor’s efforts to formulate a plan of reorganization, and status of a proposed plan.

Unless otherwise ordered by the Court, status conference hearings will be conducted as a hybrid-hearing in accordance with the local rules. Parties in interest may appear either remotely on the court’s videoconferencing platform or in person, in the courtroom. Nonparty observers may only appear in accordance with the local rules.

#### **V. Proof of Claims and 11 U.S.C. § 1111(b) Election**

##### **A. Proof of Claim Deadline**

Unless a different date is ordered by the Court, the bar date for the filing of proofs of claim and proofs of interest is the date set forth in the Notice of Bankruptcy issued by the Clerk of the Court.

##### **B. 11 U.S.C. § 1111(b) Election Deadline**

Unless a different date is ordered by the Court, a secured creditor shall make its election under 11 U.S.C. § 1111(b) within twenty days after the filing of the debtor’s first proposed Plan.

#### **VI. Subchapter V Trustee**

##### **A. Verified Statement of Subchapter V Trustee**

Prior to appointment, the subchapter V trustee shall review the debtor’s filings set forth on the docket sheet and provide to the U.S. trustee a verified statement of disinterestedness including

the anticipated rate of compensation and shall accept the appointment as provided in Bankruptcy Rule 2008.

### **B. Monthly Deposit**

Within ten days after appointment of a subchapter V trustee, the debtor shall confer with the subchapter V trustee about the appropriate amount for a monthly postpetition deposit to be paid directly by the debtor to the subchapter V trustee. If an agreement is reached, the debtor shall seek Court approval of the postpetition deposit payment agreement in a cash collateral motion or other appropriate motion and shall file a stipulated motion to obtain approval of the agreed amount of the monthly deposit. The stipulated motion may be granted by the Court without hearing. A party in interest who opposes the stipulated motion may file an objection within 21 days after the date of service, and such objection shall be set for hearing notwithstanding the Court's order granting the stipulated motion.

If no agreement is reached, the subchapter V trustee may file a motion with the Court requesting a monthly postpetition deposit and seek expedited consideration of the same. The subchapter V trustee may seek to increase the amount of the postpetition deposit for cause shown and based on the equities of the case.

### **C. Compensation and Expenses**

The subchapter V trustee shall file fee applications in accordance with 11 U.S.C. § 330, FRBP 2016, and L. Rule 2016-1.

### **D. Discharge of the Subchapter V Trustee**

Any order dismissing, converting, or closing a Subchapter V Case shall include language discharging the subchapter V trustee immediately upon entry of the order.

### **E. Subchapter V Fee Applications Upon Case Dismissal**

If a Subchapter V Case is dismissed, the Court shall retain jurisdiction to consider and to determine the amount and reasonableness of professional fee applications (including the subchapter V trustee's fee application) under 11 U.S.C. § 330 (or other applicable law) and the FRBP, and to enter final orders/judgments on professional fee applications, and to enforce orders/judgments authorizing and awarding professional fees.

## **VII. Subchapter V Plan**

### **A. Disclosure Statement**

Any party in interest may seek an order of the Court for cause requiring the debtor to file a disclosure statement. If a disclosure statement is required by the Court, the debtor may seek conditional approval of a disclosure statement, subject to final approval after notice and hearing, by filing a request with the Court contemporaneously with the filing of the proposed Subchapter

V Plan of Reorganization (the “Plan”).

**B. Plan**

1. Attached hereto as **Appendix SubV-3** is the **required** form Subchapter V Plan.

**2. Debtor as Disbursing Agent**

(a) The debtor shall be the disbursing agent in a Consensual Plan unless otherwise ordered by the Court.

(b) The debtor may be appointed as the disbursing agent under a Nonconsensual Plan for cause shown as determined by the Court after notice and hearing. The Plan must propose to appoint the debtor as the disbursing agent and set forth cause for such requested relief. The debtor’s proposal to serve as the disbursing agent in a Nonconsensual Plan must be included in the Notice of Confirmation Hearing and Related Deadlines.

**C. Notice, Balloting, Objections, and Confirmation Hearing**

1. If the debtor wants to provide a proposed scheduling order regarding the confirmation process dates and confirmation hearing date, then the debtor should file a Motion for Status Conference regarding Confirmation Process simultaneously with the filing of the Plan.

2. If a Motion for Status Conference regarding Confirmation Process is not filed, then the Court will enter its own scheduling order regarding confirmation.

3. The debtor shall file and serve a Notice of Confirmation Hearing and Related Deadlines in the **required** form attached hereto as **Appendix SubV-4**.

**D. Pre-Confirmation Modifications of the Plan**

Any proposed modification of the Plan made before confirmation, shall be filed with the Court as an Amended Plan and the debtor shall also simultaneously file a notice of plan modification that specifies the precise changes sought by the modification including, but not limited to, the following:

1. The purpose of, or the necessity for, the modification, together with a sufficient description of all circumstances, including financial information, that establishes a legitimate need for the modification;

2. The specific changes being made as to any plan payment, the term of the plan; the proposed distribution to any class, and/or any other substantive provision;

3. Whether, in the debtor's opinion, the changes to the modified plan necessitate the re-balloting of the plan and continuation of any scheduled deadlines; and

4. A redline of the proposed modified Plan against the previously filed Plan.

#### **E. Confirmation Order**

Attached here to as **Appendix SubV-5 and Appendix SubV-6** is the required form Confirmation Order for a consensual or nonconsensual Plan, as applicable.

### **VIII. Post-Confirmation Matters**

#### **A. Post Confirmation Requirements for Nonconsensual Plans**

1. The debtor shall provide monthly reporting to the subchapter V trustee to provide status of the debtor's operations and ensure plan compliance as set forth in the plan confirmation order.

2. The debtor shall provide written notice to the subchapter V trustee of any significant after-acquired property within thirty days' of acquiring such property.

3. In cases in which the subchapter V trustee is acting as the disbursing agent, the court may require the trustee to file with the court periodic post-confirmation reports. The form, content, and frequency of any post-confirmation reports may vary depending upon the reporting requirements that are specified in the confirmed plan, the plan confirmation order, and/or local rule or practice. Any such reports should be served on the parties as required by the plan and a copy should be submitted to the U.S. trustee.

4. After confirmation of a nonconsensual Plan, the subchapter V trustee may file with the court a monthly notice of post-confirmation fees and expenses related to the trustee's services under the confirmed plan. If no objection is filed within fourteen days of the filing of the fee notice, the debtor shall promptly pay the balance due to the subchapter V trustee.

#### **B. Post-Confirmation Modifications of the Plan**

The debtor requesting the modification of a confirmed plan of reorganization in a Subchapter V Case must file the modified plan, together with a motion seeking confirmation of the modified plan which specifies the precise changes sought by the modification including, but not limited to, the following:

1. the purpose of, or the necessity for, the modification, together with a sufficient description of all circumstances, including financial information and related information, that establishes a legitimate need for the modification;

2. the specific changes being made as to any plan payment, the term of the plan, the proposed distribution to any class, and/or any other substantive provision; and

3. a redline of the proposed modified Plan against the Confirmed Plan.

### **C. Notice of Substantial Consummation**

The debtor shall file a Notice of Substantial Consummation and serve it upon the subchapter V trustee, the U.S. trustee, and all parties-in-interest within fourteen days following substantial consummation as required under 11 U.S.C. §§ 1183(c)(1) and (2).

### **D. Discharge and Case Closure Process-Consensual Plan**

1. Within ninety days of the debtor filing a Notice of Substantial Consummation, the subchapter V trustee shall file (a) a final application for compensation and (b) the applicable Report of No Distribution (“NDR”) or Final Report (“TFR”).

2. Within thirty days of the filing of the subchapter V trustee’s NDR or TFR, the debtor shall file a motion for final decree.

3. Upon entry of a final decree, the subchapter V trustee is discharged as the trustee of the estate, the subchapter V trustee’s bond is cancelled, and the case may be closed.

### **E. Discharge and Case Closure Process-Nonconsensual Plan**

1. Upon completion of Plan payments, the disbursing agent as set forth in the confirmed Plan or confirmation order shall file a notice of completion of plan payments.

2. Within ninety days of the filing of the notice of Plan completion, the subchapter V trustee shall file (a) a final application for compensation and (b) the applicable Report of No Distribution (“NDR”) or Final Report (“TFR”).

3. Within thirty days of the filing of the subchapter V trustee’s NDR or TFR, the debtor shall file a motion for entry of discharge and a motion for final decree. In the motion for entry of discharge, the debtor shall certify that (1) all payments required under the confirmed plan have been made, (2) all administrative expenses, including the approved fees and expenses of the subchapter V trustee have been paid in full, and (3) that the debtor is entitled to entry of discharge.

4. Upon entry of a final decree, the subchapter V trustee is discharged as the trustee of the estate, the subchapter V trustee’s bond is cancelled, and the case may be closed.

**Appendix SubV-1 – Notice of Budget**

**UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
\_\_\_\_\_ DIVISION**

**IN RE:**

**DEBTOR**

§  
§  
§  
§

**CASE NO:**

**(Chapter 11, Subchapter V)**

**DEBTOR’S NOTICE OF NINETY DAY PRELIMINARY BUDGET**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, \_\_\_\_\_, Debtor and Debtor-in-Possession in the above-styled and numbered chapter 11 case (the “Debtor”) and, in accordance with Section I(F) of the Procedures for Subchapter V Cases filed in the Western District of Texas, files its Notice of Preliminary Budget. Attached hereto as **Exhibit A** is a proposed ninety day budget for the Debtor’s proposed use of existing cash and postpetition income and/or earnings from the Petition Date.

Any party opposed to the attached Preliminary Budget may file an appropriate motion to raise any concerns therewith; however, the failure to object to the Notice of Preliminary Budget does not constitute the Court’s approval thereof or preclude any future argument by the parties regarding the propriety of the Debtor’s expenditures.

/s/ \_\_\_\_\_

Attorney for the Debtor

**CERTIFICATE OF SERVICE**

**[Add certificate of service]**

Appendix SubV-2 – Status Report

UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
\_\_\_\_\_  
DIVISION

IN RE:

DEBTOR

§  
§  
§  
§

CASE NO:

(Chapter 11, Subchapter V)

**DEBTOR’S SUBCHAPTER V STATUS REPORT PER 11 U.S.C. § 1188(c)**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, \_\_\_\_\_, Debtor and Debtor-in-Possession in the above-styled and numbered Chapter 11 case (the “Debtor”) and, in accordance with the provisions of 11 U.S.C. § 1188(c), files this *Debtor’s Subchapter V Status Report* (the “Report”) and would respectfully show the Court as follows:

1. **Nature of Business:**
2. **Location:**
3. **Ownership Structure:**
4. **Type and Number of Employees:**
5. **Primary Cause of the Necessity to File Bankruptcy:**
6. **Filing of Required Documents and Compliance Matters:**
  - a. Reviewed Local Sub V Procedures and Mandatory Forms: Yes ☐ No ☐
  - b. All Schedules and Statements filed: Yes ☐ No ☐
  - c. Bankruptcy Rule 2015.3 documents filed: Yes ☐ No ☐
  - d. Current on all required tax returns: Yes ☐ No ☐
  - e. Required insurance in place and provided to U.S. trustee: Yes ☐ No ☐



f. Notice of Budget or Cash Collateral Motion filed: Yes ☐ No ☐

g. Commenced payment of Sub V Trustee deposit: Yes ☐ No ☐

**h. If you answered “No” to any subsection, briefly explain why the Debtor is not in compliance and the date by which you anticipate resolution of the issue:**

**7. General Information about Secured, Priority and Unsecured Debt:**

a. Secured Debt estimated total:

b. Priority Debt estimated total:

c. General Unsecured estimated total:

**8. Status of Employment of Professionals:**

**9. Status of Discussions with Subchapter V Trustee:**

**10. Status of Any Cash Collateral, Adequate Protection, or Stay Relief Issues:**

**11. Goals of Reorganization of the Business:**

**12. Financial Projections Summary: [attach exhibits of current financial statements]**

**13. Efforts Taken to Date and Status of Achieving Consensual Plan Confirmation:**

**14. Any Other Pertinent Information that Should be Brought to the Court’s Attention:**

*s/* \_\_\_\_\_  
Attorney for the Debtor

**CERTIFICATE OF SERVICE**

[Add certificate of service]

UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
\_\_\_\_\_ DIVISION

IN RE:

§  
§  
§  
§

CASE NO:

DEBTOR

(Chapter 11, Subchapter V)

**SUBCHAPTER V DEBTOR'S PLAN DATED [DATE]**

This is the plan of reorganization in the chapter 11, subchapter V case of [Debtor name] (the "Debtor"). You are encouraged to carefully review the full text of this document, including all exhibits and attachments, before deciding how to vote on the Plan. You may wish to consult an attorney about your rights and your treatment under the Plan.

**NONSTANDARD PROVISIONS**

☐ If this box is checked, the Plan contains nonstandard provisions in Article 6.

**SUMMARY OF THE PLAN AND DISTRIBUTIONS TO CREDITORS**

[A concise summary of the Plan should be stated here.]

**ARTICLE 1**

**RELEVANT BACKGROUND AND FINANCIAL INFORMATION FOR DEBTOR**

☐ If this box is checked, this Article is impacted by a nonstandard provision. Please **review Article 6 of the Plan for further details.**

**1.1 Nature of the Debtor's Business.**

[Describe the Debtor's Business here.]

**1.2 History of Business Operations of the Debtor.**

[Describe a brief history of the business operations of the Debtor]

**1.3 Legal Structure and Ownership.**

[Describe the Debtor's legal structure and ownership here.]

**1.4 Events Leading to the Filing of the Bankruptcy Case.**

[Describe what problems compelled the filing of the Chapter 11 petition and, if applicable, how the Debtor has cured those problems for its successful rehabilitation.]

**1.5 Filing of the Debtor's Chapter 11 Case.**

On [the Petition Date], the Debtor filed a voluntary petition for relief under the Bankruptcy Code (the “Code”). The chapter 11, subchapter V case is pending in the Bankruptcy Court in the Western District of Texas. The Debtor’s schedules of assets and liabilities are available at docket number [\_\_\_\_], and the Debtor’s statement of financial affairs is available at docket number [\_\_\_\_].

#### **1.6 Liquidation Analysis.**

To confirm the Plan, the Court must find that all creditors and equity interest holders who do not accept the Plan will receive at least as much under the Plan as such claim and equity interest holders would receive in a chapter 7 liquidation. A liquidation analysis is attached to the Plan as **Exhibit A.**

#### **1.7 Feasibility Analysis.**

The Debtor must also show that it/he/she will have enough cash over the life of the Plan to make the required Plan payments and operate the Debtor’s business. The Debtor has provided projected financial information as **Exhibit B.** Based on the plan projections, the Debtor’s monthly disposable income, as that term is defined by 11 U.S.C. § 1191(d), to be committed to the payment of claims for the period described in 11 U.S.C. § 1191(c)(2) is \$ \_\_\_\_.

#### **1.8 Avoidable Transfers.** [Pick applicable paragraph]

The Debtor does not intend to pursue preference, fraudulent conveyance, or other avoidance actions.

[OR]

The Debtor has not yet completed its investigation with regard to prepetition transactions. The Debtor anticipates completing its investigation by \_\_\_\_\_. If you received a payment or other transfer of property that is fraudulent, preferential, or other avoidable transfer under the Code, the Debtor may seek to avoid such transfer.

[OR]

The Debtor estimates that up to \$ \_\_\_\_ may be realized from the recovery of fraudulent, preferential, or other avoidable transfers. While the results of litigation cannot be predicted with certainty and it is possible that other causes of action may be identified, the following is a summary of the preference, fraudulent conveyance and other avoidance actions filed or expected to be filed in this case:

### **ARTICLE 2 THE PLAN**

☐ **If this box is checked, this Article is impacted by a nonstandard provision. Please review Article 6 of the Plan for further details.**

This Plan of Reorganization (the “Plan”) under chapter 11 of the Bankruptcy Code proposes to pay creditors of the Debtor from [specify source of payments, e.g., future income, infusion of capital, sale of assets, etc.]. Treatment of Creditors’ claims is determined by which

class such claim belongs to. Claims have been classified below in accordance with section 1122 of the Code.

Only Creditors in classes that are impaired may vote on whether to accept or reject the Plan, and only Creditors holding Allowed Claims may vote. A class accepts the Plan when more than one-half (1/2) in number and at least two-thirds (2/3) in dollar amount of the Allowed Claims that actually vote, vote in favor of the Plan. Also, a class of Equity Interest holders accepts the Plan when at least two-thirds (2/3) in amount of the allowed Equity Interest holders that actually vote, vote in favor of the Plan.

A class that is not impaired is deemed to accept the Plan.

## **2.1 Unclassified Claims.**

Certain types of Claims are automatically entitled to specific treatment under the Code. For example, Administrative Expenses and Priority Tax Claims are not classified. They are not considered impaired, and holders of such Claims do not vote on the Plan. They may, however, object if, in their view, their treatment under the Plan does not comply with that required by the Code. As such, the Plan does not place the following Claims in any class:

### **A. Administrative Expenses**

The Debtor must pay all Administrative Expenses in full. If an Administrative Expense is disputed, the Bankruptcy Court must determine the validity and amount of the Administrative Expense, or in other words, “allow” the Administrative Expense. Any Administrative Expense that is undisputed and is due and owing on the Confirmation Date must be paid in accordance with this Plan, or upon such other terms as agreed upon by the Debtor and the Administrative Claimant or court order. If the Administrative Expense is disputed, payment will be made after the Administrative Expense is allowed by the Bankruptcy Court.

The following chart lists the Debtor’s estimated Administrative Expenses, and their proposed treatment under the Plan:

<b>Type</b>	<b>Estimated Amount Owed</b>	<b>Proposed Treatment</b>
Administrative Tax Claim [taxing authority/type of tax]		Payment through the Plan as follows:
Debtor’s counsel fees and expenses		Payment through the Plan as follows:
Other estate professional fees: [name/role]		Payment through the Plan as follows:
Subchapter V Trustee		Payment through the Plan as follows::
Other Administrative Claim: [detail]		
TOTAL		

### **B. Priority Tax Claims.**

Priority Tax Claims are unsecured income, employment, and other taxes described by 11

U.S.C. § 507(a)(8). Unless the holder of such a § 507(a)(8) Priority Tax Claim agrees otherwise, it must receive the present value of such Claim, in regular installments paid over a period not exceeding five years from the order of relief.

Each holder of a Priority Tax Claim will be paid as set forth in the chart below:

<b>Name of Taxing Authority and Type of Tax</b>	<b>Estimated Amount Owed</b>	<b>Date of Assessment</b>	<b>Treatment</b>
			Paid in full with interest of __% per annum in [Monthly/interval] installments of \$ __, beginning on [date] and continuing on the [#] day of each [month] for [term].
			Paid in full with interest of __% per annum in [Monthly/interval] installments of \$ __, beginning on [date] and continuing on the [#] day of each [month] for [term].

## **2.2 Classes of Claims and Equity Interests.**

The following are the classes of claims set forth in the Plan, and the proposed treatment that they will receive under the Plan:

### **A. Classes of Secured Claims**

Allowed Secured Claims are Claims secured by property of the Debtor's bankruptcy estate (or that are subject to setoff) to the extent allowed as secured Claims under 11 U.S.C. § 506. If the value of the collateral or setoffs securing the Creditor's Claim is less than the amount of the Creditor's Allowed Claim, the deficiency will be classified as a general unsecured Claim. In addition, certain claims secured only by the Debtor's principal residence, may require different treatment pursuant to 11 U.S.C. § 1190(3) as set forth below, if applicable.

The following chart lists all classes containing the Debtor's secured prepetition Claims and their proposed treatment under the Plan:

Class #	Description	Insider?	Impairment	Treatment
	<i>Secured claim of:</i> [Creditor Name] Collateral description:  Allowed Secured Amount: \$____	[Yes/No]	[State whether impaired or unimpaired]	Allowed Secured Claim will be paid in full, with interest of __% per annum, paid in [monthly/interval] installments of \$____, beginning on [date] and continuing on the [#] day of each [month] for [term].  Deficiency in the amount of \$____ to be classified and treated as a general unsecured Claim
	<i>Secured claim of:</i> [Creditor Name] Collateral description:  Allowed Secured Amount: \$____	[Yes/No]	[State whether impaired or unimpaired]	Allowed Secured Claim will be paid in full, with interest of __% per annum, paid in [monthly/interval] installments of \$____, beginning on [date] and continuing on the [#] day of each [month] for [term].  Deficiency in the amount of \$____ to be classified and treated as a general unsecured Claim

#### **B. Classes of Priority Unsecured Claims.**

Certain priority Claims that are referred to in 11 U.S.C. §§ 507(a)(1), (4), (5), (6), and (7) are required to be placed in classes. The Code requires that each holder of such a Claim receive

cash on the Effective Date of the Plan equal to the allowed amount of such Claim. However, a class of holders of such Claims may vote to accept different treatment.

The following chart lists all classes containing Claims under 11 U.S.C. §§ 507(a)(1), (4), (5), (6), and (a)(7) and their proposed treatment under the Plan:

Class #	Description	Impairment	Treatment
	[Creditor name] Allowed Priority Claim: \$ _____ Basis: § 507(a) _____	[State whether impaired or unimpaired]	
	[Creditor name] Allowed Priority Claim: \$ _____ Basis: § 507(a)	[State whether impaired or unimpaired]	

### C. Class[es] of General Unsecured Claims

General Unsecured Claims are not secured by property of the estate and are not entitled to priority under 11 U.S.C. § 507(a). A table of all claims, their estimated amounts, whether the claim is allowed or disputed, and their anticipated distribution under the Plan is attached hereto as **Exhibit C**.

The following chart identifies the Plan's proposed treatment of general unsecured Class[es], which contain general unsecured Claims against the Debtor:

Class #	Description	Impairment	Treatment
	1122(b) Convenience Class for claims of an amount less than \$ _____.	[State whether impaired or unimpaired]	
	General Unsecured Class	[State whether impaired or unimpaired]	

### D. Class[es] of Equity Interest Holders.

Equity Interest holders are parties who hold an ownership interest (*i.e.*, equity interest) in the Debtor. In a corporation, entities holding preferred or common stock are Equity Interest holders. In a partnership, Equity Interest holders include both general and limited partners. In a limited liability company, the Equity Interest holders are the members. Finally, with respect to an individual who is a debtor, the Debtor is the Equity Interest holder.

The following chart sets forth the Plan's proposed treatment of the class[es] of Equity Interest holders: [There may be more than one class of Equity Interest holders in, for example, a partnership case, or a case where the prepetition debtor had issued multiple classes of stock.]

Class #	Names & Description	Impairment	Treatment
		[State whether impaired]	

		or unimpaired]	
--	--	----------------	--

### **2.3 Claims Allowance Process.**

Any Claim detailed on the Debtor's schedules for which the Debtor did not select disputed, unliquidated, or contingent is deemed an allowed claim under this Plan. For all other Claims, the Claimant must file a Proof of Claim by the Bar Date in order to receive a distribution under the Plan.

The Debtor may object to the amount or validity of any Claim within sixty days of the Confirmation Date by filing an objection with the Bankruptcy Court and serving a copy of the objection on the holder of the Claim. The Claim objected to will be treated as a Disputed Claim under the Plan.

No partial distributions will be made with respect to a Disputed Claim until the resolution of such dispute by settlement or Final Order. The provisions of this section are not intended to restrict payment of any Allowed Claims which are not disputed. Until a Disputed Claim is resolved, payment distributions to claimants holding disputed claims will be retained by the Disbursing Agent subject to a final resolution of the Disputed Claim. Upon resolution in favor of the Allowed Claim the Disbursing Agent will distribute withheld funds within the next payment period. If the Disputed Claim is disallowed, the Disbursing Agent will make withheld funds available to allowed claim holders within the next payment period in accordance with this Plan.

### **2.4 Treatment of Executory Contracts and Unexpired Leases.**

The Debtor assumes, and if applicable assigns, the following executory contracts and unexpired leases as of the Effective Date: **[List and describe here.]**

Except for the executory contracts and unexpired leases that have been assumed, and if applicable assigned, herein, the Debtor will be conclusively deemed to have rejected all executory contracts and unexpired leases as of the Effective Date.

**A proof of claim arising from the rejection of an executory contract or unexpired lease under this section must be filed no later than thirty days after the date of the order confirming this Plan.**

Any claim based on the rejection of an executory contract or unexpired lease under this section will be barred if the proof of claim is not timely filed unless the Bankruptcy Court orders otherwise.

### **2.5 Means for Implementation of the Plan.**

[Describe how the Plan will be implemented, including how the Plan will be funded, which would generally be through the Debtor's continued operations and then payment to creditors from disposable income. If, however, Plan implementation requires the sale of the Debtor's assets or the creation of a trust or other mechanisms, such provisions should be detailed in then Nonstandard Provisions of Article VI. Reference the nonstandard provisions and direct parties to review them in detail.]

[Then insert the paragraph set forth below, if applicable.]



The Board of Directors of the Debtor immediately prior to the Effective Date shall serve as the initial Board of Directors of the Reorganized Debtor on and after the Effective Date. Each member of the Board of Directors shall serve in accordance with applicable non-bankruptcy law and the Debtor's certificate or articles of incorporation and bylaws, as each of the same may be amended from time to time.

## **2.6 Payments by Disbursing Agent.**

If the Plan is confirmed under 11 U.S.C. §1191(a), payments to Creditors provided for in the Plan will be made by the Debtor.

**If the Plan is confirmed under 11 U.S.C. § 1191(b), the Debtor proposes that [Debtor or Subchapter V Trustee] act as the Disbursing Agent. There is cause to have [proposed disbursing agent] serve as the Disbursing Agent, instead of the Subchapter V Trustee, because [insert cause].**

## **2.7 Post-Confirmation Management.**

The Post-Confirmation Officers/Managers of the Debtor, and their compensation, shall be as follows:

Name	Position	Compensation

## **2.8 Tax Consequences of the Plan.**

*Creditors and Equity Interest Holders Concerned with How the Plan May Affect Their Tax Liability Should Consult with Their Own Accountants, Attorneys, and/or Advisors.*

The following are the anticipated tax consequences of the Plan: [List the following general consequences as a minimum: (1) Tax consequences to the Debtor of the Plan; (2) General tax consequences on Creditors of any discharge, and the general tax consequences of receipt of Plan consideration after Confirmation.]

## **ARTICLE 3 DISCHARGE.**

### **3.1 [Option 1 – If 11 U.S.C. § 1141(d)(3) is not applicable]**

Discharge. **If the Plan is confirmed under 11 U.S.C. § 1191(a)**, on the Confirmation Date of this Plan, the Debtor will be discharged from any debt that arose before confirmation of this Plan, subject to the occurrence of the Effective Date, to the extent specified in 11 U.S.C. § 1141(d) of the Bankruptcy Code; or

**If the Plan is confirmed under 11 U.S.C. § 1191(b)**, as soon as practicable after completion by the Debtor of all payments due under the Plan, unless the court approves a written waiver of discharge executed by the Debtor after the order for relief under this chapter, the court shall grant the Debtor a discharge of all debts provided in section 1141(d)(1)(A) of this title, and all other debts allowed under section 503 of this title and provided for in this Plan, except any debt—

- (1) on which the last payment is due after the first 3 years of the plan, or such other time not to exceed 5 years fixed by the court; or
- (2) if applicable, of the kind specified in section 523(a) of this title.

**[Option 2– If 11 U.S.C. § 1141(d)(3) is applicable]**

**No Discharge.** In accordance with 11 U.S.C. § 1141(d)(3), the Debtor will not receive any discharge of debt in this bankruptcy case.

**ARTICLE 4**  
**GENERAL PROVISIONS.**

- ☐ **If this box is checked, this Article is impacted by a nonstandard provision. Please review Article 6 of the Plan for further details.**

**4.1 Vesting of Property of the Estate.**

If a plan is confirmed under 11 U.S.C. § 1191(a), except as otherwise provided in the Plan or in the order confirming the Plan, (i) confirmation of the Plan vests all of the property of the estate in the Debtor, and (ii) after confirmation of the Plan, the property dealt with by the Plan is free and clear of all Claims and Equity Interests of Creditors, equity security holders, and of general partners in the Debtor.

If a plan is confirmed under 11 U.S.C. § 1191(b), property of the estate includes, in addition to the property specified in § 541, all property of the kind specified in that section that the Debtor acquires, as well as earnings from services performed by the Debtor, after the date of commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13 of the Bankruptcy Code, whichever occurs first. Except as provided in 11 U.S.C. § 1185 of the Bankruptcy Code, the Plan, or the order confirming the Plan, the Debtor shall remain in possession of all property of the estate.

**4.2 Binding Effect.**

If the Plan is confirmed, the provisions of the Plan will bind the Debtor and all Creditors, whether or not they accept the Plan. The rights and obligations of any entity named or referred to in this Plan will be binding upon, and will inure to the benefit of the successors or assigns of such entity.

**4.3 Severability.**

If any provision in this Plan is determined to be unenforceable, the determination will in no way limit or affect the enforceability and operative effect of any other provision of this Plan.

**4.4 Retention of Jurisdiction by the Bankruptcy Court.**

The Bankruptcy Court shall retain jurisdiction of this case with regard to the following matters:

- (i) to make such orders as are necessary or appropriate to implement the provisions of this Plan and to resolve any disputes arising from implementation of the Plan;

- (ii) to rule on any modification of the Plan proposed under 11 U.S.C. § 1193;
- (iii) to hear and allow all applications for compensation to professionals and other Administrative Expenses and enter final orders;
- (iv) to resolve all issues regarding Claims objections, and issues arising from the assumption/rejection of executory contracts or unexpired leases, and
- (iv) to adjudicate any cause of action which may exist in favor of the Debtor, including preference and fraudulent transfer causes of action.

#### **4.5 Captions.**

The headings contained in this Plan are for convenience of reference only and do not affect the meaning or interpretation of this Plan.

### **ARTICLE 5** **DEFINITIONS**

**5.1** The definitions and rules of construction set forth in 11 U.S.C. §§ 101 and 102 shall apply when terms defined or construed in the Code are used in this Plan and they are supplemented by the following definitions:

[Insert supplemental definitions]

### **ARTICLE 6** **NONSTANDARD PROVISIONS**

**6.1** The following nonstandard provisions shall be applicable to the Plan:

[Insert nonstandard provisions, including pinpoint references to the section of the Plan the nonstandard provision impacts]

Respectfully submitted,

By: \_\_\_\_\_  
[DEBTOR]

By: \_\_\_\_\_  
[COUNSEL FOR DEBTOR]

**Appendix SubV-4 – Form Notice of Confirmation Hearing**

**UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
\_\_\_\_\_ DIVISION**

**IN RE:**

§  
§  
§  
§

**CASE NO:**

**DEBTOR**

**(Chapter 11, Subchapter V)**

**NOTICE OF HEARING ON CONFIRMATION OF  
SUBCHAPTER V PLAN AND RELATED DEADLINES**

On \_\_\_\_\_, 202\_, the above-referenced Debtor filed a Plan of Reorganization (“Plan”), which is attached hereto as **Exhibit A**. The Debtor hereby provides each creditor entitled to vote with the applicable Ballot, which is attached hereto as **Exhibit B**, to vote whether to accept or reject the Plan. In addition to casting your vote to accept or reject the plan, any party in interest may also object to confirmation of the Plan. Parties in interest must submit their ballot and file any objection to confirmation of the Plan by the deadlines set forth below.

On \_\_\_\_\_, 202\_, the Court entered the Scheduling Order attached hereto as **Exhibit C** setting the following deadlines:

1. \_\_\_\_\_, 202\_ at 5:00 p.m. (CT), at the U.S. Bankruptcy Court, Courtroom #\_, \_\_\_\_\_, is fixed as the time and place of the hearing on confirmation of the Plan and any objections thereto.

2. \_\_\_\_\_, 202\_ at 5:00 p.m. (CT) is fixed as the last day for holders of claims and interests to accept or reject the Plan by submitting a ballot. Such ballots shall be sent to counsel for the Debtor at the mailing or email address set forth in the Plan. Ballots shall not be filed with the Court.

3. \_\_\_\_\_, 202\_ at 5:00 p.m. (CT) is also fixed, pursuant to Bankruptcy Rule 3020(b)(1), as the last day for filing and serving written objections to confirmation of the Plan. Any objections to the Plan shall be accompanied by a memorandum of legal authorities supporting such objection.

4. \_\_\_\_\_, 202\_ at 5:00 p.m. (CT) is the record date by which an equity security holder or creditor whose claim is based on a security must be the holder of record of the security to be eligible to accept or reject the Plan under Bankruptcy Rule 3017.2.

5. By \_\_\_\_\_, 202\_, counsel for the Debtor will file with the Court (a) a ballot summary in the form required by L. Rule 3018-1(b) with a copy of the ballots; (b) a memorandum of legal authorities addressing any unresolved objections filed to the Plan; and (c) under a notice coversheet, a proposed order confirming the Plan (and if such proposed order confirming the Plan

is a modification of the Local Required Form Order then counsel for the Debtor shall also file a redline comparing the revised order to the Local Required Form Order).

6. By \_\_\_\_\_, 202\_, counsel for the Debtor will transmit by first class mail, a copy of this Notice, the Plan, the Scheduling Order, and a ballot conforming with Official Form 314, to all creditors, equity security holders, the trustee, the debtor, and all other parties in interest. Counsel for the Debtor shall promptly file a Certificate of Service with the Court reflecting such mailing.

**You are encouraged to carefully review the Plan, including all exhibits and attachments, before deciding how to vote on the Plan. You may wish to consult an attorney about your rights and your treatment under the Plan.**

**BE ADVISED: If the Plan is confirmed under 11 U.S.C. § 1191(b): [select applicable provision]**

- ☐ The Subchapter V Trustee will act as the Disbursing Agent.
- ☐ The Debtor is requesting that the Court allow the Debtor to act as the Disbursing Agent, instead of the Subchapter V Trustee, for cause described in the Plan.

/s/ \_\_\_\_\_  
Attorney for the Debtor

### **CERTIFICATE OF SERVICE**

[Add certificate of service]

**Appendix SubV-5 – Form Confirmation Order – Consensual (under 11 U.S.C. § 1191(a))**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
\_\_\_\_\_ DIVISION**

**IN RE:**

§

§

§

**CASE NO. xxxxxxxxxx**

§

§

**DEBTOR**

§

**CHAPTER 11, Subchapter V**

**ORDER CONFIRMING DEBTOR'S  
PLAN OF REORGANIZATION UNDER 11 U.S.C. § 1191(a)**

On \_\_\_\_\_, the Court held a hearing (the “Confirmation Hearing”) to consider confirmation of the Plan of Reorganization for a Small Business under Subchapter V of chapter 11 (the “Plan”)<sup>1</sup> filed herein by \_\_\_\_\_ (the “Debtor”) on \_\_\_\_\_ (Docket No. \_\_\_\_\_). Present or making appearances at the hearing were counsel for the Debtor, the Debtor’s representative, \_\_\_\_\_, the Subchapter V Trustee appointed in the case (hereinafter “Sub V Trustee”), counsel for certain creditors who have entered an appearance in the case, and the United States Trustee. The Court has reviewed the Plan, considered the documents admitted into evidence and the testimony of witnesses present at the hearing, considered the statements and arguments of counsel, the docket of the Bankruptcy Case, and considered any other relevant factors affecting the case as set forth on the record.

**Based upon the foregoing, the Court finds and determines as follows:**

A. The Debtor filed this case on \_\_\_\_\_ (the “Petition Date”), and was qualified to be a Debtor under 11 U.S.C. § 109. The Debtor was also qualified and elected to

---

<sup>1</sup> Capitalized terms used herein without definition shall have the meanings provided for in the Plan. In addition, any term used in the Plan or this Order that is not defined in the Plan or this Order, but that is used in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules.

proceed as a small business debtor under Subchapter V of the Bankruptcy Code as that term is defined by 11 U.S.C. § 1182(1).

B. This Court has jurisdiction over the case pursuant to 28 U.S.C. §§ 157(a) and 1334. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A), (L) and (O), and this Court has exclusive jurisdiction to determine whether the Plan complies with the applicable provisions of the Bankruptcy Code and whether it should be confirmed. Venue in the Western District of Texas was proper on the Petition Date and continues to be proper under 28 U.S.C. §§ 1408 and 1409.

C. Every person or entity required to receive notice of the hearing on confirmation of the Plan, as well as the Plan voting and Plan objection deadlines set by the Court, received timely and adequate notice as required by the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”) 2002 and 9014 and the Bankruptcy Code.

D. The contents of the Plan (with any modifications as set forth below) satisfy the applicable requirements of 11 U.S.C. § 1190 and any other applicable requirements of the Bankruptcy Code.

E. The Plan (with any modifications as set forth below) and the Debtor have satisfied all applicable requirements for confirmation of the Plan under 11 U.S.C. § 1191(a).

F. The Plan (with any modifications as set forth below) and the Debtor have satisfied all other requirements of the Bankruptcy Code and Bankruptcy Rules necessary to confirm the Plan.

**THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, DECREED, AS FOLLOWS:**

1. The Plan of Reorganization for a Small Business under Subchapter V of Chapter

11 filed by the Debtor on \_\_\_\_\_ (Docket No. \_\_\_\_\_) and attached hereto as **Exhibit A**, is hereby **CONFIRMED** and approved in each and every respect as a consensual plan pursuant to 11 U.S.C. § 1191(a), with the modifications set forth below. The terms of the Plan are incorporated by reference into, and are an integral part of, this Confirmation Order.

2. To the extent any objections to confirmation of the Plan have not been resolved or withdrawn, any such objections are hereby denied.

3. The effective date of the Plan shall be \_\_\_\_\_, 20\_\_ (“Effective Date”), notwithstanding anything to the contrary in the Plan.

4. In the event of a conflict between provisions of the Plan and this Confirmation Order, the terms of this Confirmation Order shall control.

5. Within three days after the Effective Date, the Debtor shall serve notice of (i) entry of this Confirmation Order; (ii) the occurrence of the Effective Date; and (iii) any bar dates and any other deadlines set by the Plan (“Notice”), pursuant to Bankruptcy Rule 3020(c). The Notice shall be sent to all creditors and parties-in-interest by first class mail, postage prepaid. The Debtor shall thereafter promptly file a copy of such Notice with proof of mailing with the Court.

6. The provisions of the Plan, and any documents executed in conjunction with the Plan, and this Confirmation Order are, as of the Effective Date, effective and binding on the Debtor, all creditors of the Debtor, and any other parties-in-interest, as well as their respective heirs, successors, assigns, or other persons claiming through them. The failure to specifically describe or include any particular provision of the Plan in this Confirmation Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Plan be approved and confirmed in its entirety subject to the modifications set forth herein. Each



provision of the Plan shall be deemed authorized and approved by this Confirmation Order, subject to the modifications set forth herein, and shall have the same binding effect of every other provision in the Plan, whether or not mentioned in this Confirmation Order.

7. The Debtor and its respective agents and attorneys are hereby authorized, empowered, and directed to carry out the provisions of the Plan and to perform the acts and execute and deliver the documents as are necessary or appropriate in connection with the Plan and this Order.

8. Nothing in this Confirmation Order or the Plan shall in any way operate to, or have the effect of, impairing or extinguishing in any respect any causes of action disclosed on Debtor's schedules or arising under chapter 5 of the Bankruptcy Code or any other claims or defenses owned by the Debtor on the Effective Date, and the Debtor shall retain such claims as provided in the Plan, including any claims or defenses that may not have been defined in the Plan but are nonetheless owned by the Debtor on or before the Effective Date. After the Effective Date, the Debtor may, in accordance with the provisions of the Plan, evaluate and determine whether to pursue any such retained claims.

9. Except as otherwise expressly provided in the Plan, all payments and other distributions to be made under the Plan shall be timely and proper if mailed by first class mail on or before the date of distribution provided for in the Plan to the address listed in the creditor's proof of claim filed in this case, or, if no proof of claim is filed, to the creditor's last known mailing address.

**10. [Pick correct option]**

**[option 1]** On the Effective Date, Debtor shall be and is hereby discharged to the extent

and as provided by 11 U.S.C. § 1141(d)(1), except that Debtor will not be discharged of any debt or obligation: (i) imposed by this Plan; (ii) excepted from discharge under 11 U.S.C. § 523 as provided by 11 U.S.C. § 1141(d)(2) if the Debtor is an individual; and (iii) to the extent provided in 11 U.S.C. § 1141(d)(6) if the Debtor is a corporation.

**[option 2]** In accordance with § 1141(d)(3) of the Bankruptcy Code, the Debtor will not receive any discharge of debt in this bankruptcy case.

11. The Debtor and all holders of Claims and Interests are bound by the Plan within the meaning of 11 U.S.C. § 1141.

12. The Court shall retain jurisdiction of this case for all purposes provided in 11 U.S.C. §§ 1193 and 1142, and Bankruptcy Rule 3020(d).

13. Pursuant to 11 U.S.C. § 1141(b), except as otherwise provided in the Plan or in this Confirmation Order, as of the Effective Date, all the property of the Estate vests in the Debtor. Except as provided in 11 U.S.C. §§ 1141(d)(2) and (3), and except as otherwise provided in the Plan or in this Confirmation Order, after Confirmation of the Plan, the property dealt with by the Plan is free and clear of all Claims and Interests of creditors. If the Debtor's bankruptcy case is subsequently converted to chapter 7, all property of the Debtor shall automatically revert and become property of the bankruptcy estate of the Debtor in the converted chapter 7 case.

14. The services of the Subchapter V Trustee shall terminate upon substantial consummation of the Plan, and the Debtor is to file and serve a Notice of Substantial Consummation upon the Subchapter V Trustee, the U.S. trustee, and all parties-in-interest within fourteen days following substantial consummation as required under 11 U.S.C. §§ 1183(c)(1) and (2).

15. This Confirmation Order is a final order and effective and enforceable immediately upon entry and the period in which an appeal must be filed shall commence upon the entry hereof.

16. The following Nonmaterial Plan Modifications are hereby approved:

[insert any applicable nonmaterial plan modifications; note that if nonstandard provisions were already detailed in the Plan itself, they do not need to be repeated here]

# # #

**Appendix SubV-6 – Form Confirmation Order – Non-Consensual (under 1191(b))**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
\_\_\_\_\_ DIVISION**

**IN RE:**

§  
§  
§  
§  
§  
§

**CASE NO. xxxxxxxxxxxx**

**DEBTOR**

**CHAPTER 11, Subchapter V**

**ORDER CONFIRMING DEBTOR'S  
PLAN OF REORGANIZATION UNDER 11 U.S.C. § 1191(b)**

On \_\_\_\_\_, the Court held a hearing (the “Confirmation Hearing”) to consider confirmation of the Plan of Reorganization for a Small Business under Subchapter V of chapter 11 (the “Plan”)<sup>2</sup> filed herein by \_\_\_\_\_ (the “Debtor”) on \_\_\_\_\_ (Docket No. \_\_\_\_\_). Present or making appearances at the hearing were counsel for the Debtor, the Debtor’s representative, \_\_\_\_\_, the Subchapter V Trustee appointed in the case (hereinafter “Sub V Trustee”), counsel for certain creditors who have entered an appearance in the case, and the United States Trustee. The Court has reviewed the Plan, considered the documents admitted into evidence and the testimony of witnesses present at the hearing, considered the statements and arguments of counsel, the docket of the Bankruptcy Case, and considered any other relevant factors affecting the case as set forth on the record.

**Based upon the foregoing, the Court finds and determines as follows:**

G. The Debtor filed this case on \_\_\_\_\_ (the “Petition Date”), and was qualified to be a Debtor under 11 U.S.C. § 109. The Debtor was also qualified and elected to

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<sup>2</sup> Capitalized terms used herein without definition shall have the meanings provided for in the Plan. In addition, any term used in the Plan or this Order that is not defined in the Plan or this Order, but that is used in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules.

proceed as a small business debtor under Subchapter V of the Bankruptcy Code as that term is defined by 11 U.S.C. § 1182(1).

H. This Court has jurisdiction over the case pursuant to 28 U.S.C. §§ 157(a) and 1334. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A), (L) and (O), and this Court has exclusive jurisdiction to determine whether the Plan complies with the applicable provisions of the Bankruptcy Code and whether it should be confirmed. Venue in the Western District of Texas was proper on the Petition Date and continues to be proper under 28 U.S.C. §§ 1408 and 1409.

I. Every person or entity required to receive notice of the hearing on confirmation of the Plan, as well as the Plan voting and Plan objection deadlines set by the Court, received timely and adequate notice as required by the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”) 2002 and 9014 and the Bankruptcy Code.

J. The contents of the Plan (with any modifications as set forth below) satisfy the applicable requirements of 11 U.S.C. § 1190 and any other applicable requirements of the Bankruptcy Code.

K. The Plan (with any modifications as set forth below) and the Debtor have satisfied all applicable requirements for confirmation of the Plan under 11 U.S.C. § 1129(a), except for 11 U.S.C. § 1129(a)(8) and/or 1129(a)(10). Thus, the Plan cannot be confirmed under 11 U.S.C. § 1191(a). However, the Plan can and should be confirmed under 11 U.S.C. § 1191(b), as the Plan (with any modifications as set forth below) does not discriminate unfairly and is fair and equitable with respect to each impaired class of claims and interests that have not accepted the Plan as required by 11 U.S.C. § 1191(c).

L. The Plan (with any modifications as set forth below) and the Debtor have satisfied

all other requirements of the Bankruptcy Code and Bankruptcy Rules necessary to confirm the Plan.

M. **[optional if the Debtor is acting as the Disbursing Agent]** The Court specifically finds that there is cause under 11 U.S.C. § 1194(b) for the Debtor to serve as the Disbursing Agent under the Plan.

**THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, DECREED, AS FOLLOWS:**

1. The Plan of Reorganization for a Small Business under Subchapter V of chapter 11 filed by the Debtor on \_\_\_\_\_ (Docket No. \_\_\_\_\_) and attached hereto as **Exhibit A**, is hereby **CONFIRMED** and approved in each and every respect as a nonconsensual plan pursuant to 11 U.S.C. § 1191(b), with the modifications set forth below. The terms of the Plan are incorporated by reference into, and are an integral part of, this Confirmation Order.

2. To the extent any objections to confirmation of the Plan have not been resolved or withdrawn, any such objections are hereby denied.

3. The effective date of the Plan shall be \_\_\_\_\_, 20\_\_ (“**Effective Date**”), notwithstanding anything to the contrary in the Plan

4. In the event of a conflict between provisions of the Plan and this Confirmation Order, the terms of this Confirmation Order shall control.

5. Within three days after the Effective Date, the Debtor shall serve notice of (i) entry of this Confirmation Order; (ii) the occurrence of the Effective Date; and (iii) any bar dates and any other deadlines set by the Plan (“**Notice**”), pursuant to Bankruptcy Rule 3020(c). The Notice shall be sent to all creditors and parties-in-interest by first class mail, postage prepaid. The Debtor

shall thereafter promptly file a copy of such Notice with proof of mailing with the Court.

6. The provisions of the Plan, and any documents executed in conjunction with the Plan, and this Confirmation Order are, as of the Effective Date, effective and binding on the Debtor, all creditors of the Debtor, and any other parties-in-interest, as well as their respective heirs, successors, assigns, or other persons claiming through them. The failure to specifically describe or include any particular provision of the Plan in this Confirmation Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Plan be approved and confirmed in its entirety subject to the modifications set forth herein. Each provision of the Plan shall be deemed authorized and approved by this Confirmation Order, subject to the modifications set forth herein, and shall have the same binding effect of every other provision in the Plan, whether or not mentioned in this Confirmation Order.

7. The [Debtor or Trustee] shall make the payments to creditors required by the Plan under 11 U.S.C. § 1194(b) ("Disbursing Agent"). The Debtor shall make all required plan payments to the Disbursing Agent before the [] of each [month, quarter, year]. After receipt of the plan payments, the Disbursing Agent will distribute plan payments in accordance with the terms of this Order and the Plan before the [] of each [month, quarter, year] until all required payments have been made. If the Debtor fails to make all required plan payments to the Disbursing Agent by the deadline, the Disbursing Agent shall provide notice to Debtor and Debtor's counsel and request payment within seven days of the notice. If Debtor fails to make the required plan payment to the Disbursing Agent within seven days of the notice, the Disbursing Agent shall file a notice of default with the Court.

8. The Disbursing Agent shall file a report six months after the Effective Date and

every six months thereafter detailing payment payments made by the Debtor and disbursements made under the Plan.

9. Within fourteen days of entry of this Order, the Debtor shall provide the Disbursing Agent with a list of allowed claims, associated account numbers, the amount of such claims, and the correct mailing address for the Disbursing Agent to send plan payments. If there are any disputed claims, the Debtor shall provide a separate list of such disputed claims and an estimated date of resolution. The Debtor shall file a certificate of service indicating that the claim information required by this paragraph has been timely served on the Disbursing Agent.

10. Except as otherwise provided in the Plan, no distributions will be made with respect to a disputed claim until the resolution of such dispute by settlement or final order. The provisions of this section are not intended to restrict payment of any allowed claims which are not disputed. Until a disputed claim is resolved, the Disbursing Agent shall hold any portion of plan payments that would be disbursed to the claimant if the claim were allowed in full, subject to a final resolution of the disputed claim. Upon resolution in favor of the allowed claim, the Disbursing Agent will distribute withheld funds to the claimant within the next payment period. If the disputed claim is disallowed, the Disbursing Agent will make withheld funds available to allowed claim holders in accordance with the terms of the Plan within the next payment period.

11. Disbursements may be delivered by the Disbursing Agent to (i) the address list provided by the Debtor under paragraph 8; (ii) the address for payment set forth on a proof of claim filed by the claimant or its authorized agent; or (iii) at the address set forth in any written notices of change of address delivered to the Disbursing Agent. If any distribution to a claimant of an allowed unsecured claim is returned to the Disbursing Agent as undeliverable, no further



distributions shall be made to such claimant unless and until the Disbursing Agent is notified in writing of such claimant's correct mailing address, at which time all currently due distributions shall be made to such claimant as soon as practicable. Undeliverable distributions shall remain in the possession of the Disbursing Agent until such time as a distribution becomes deliverable and shall not be supplemented with any interest, dividends, or other accruals of any kind. If, despite reasonable effort, the Disbursing Agent is unable to obtain the information necessary to deliver a distribution within six (6) months following the return of the undeliverable distribution, the Disbursing Agent shall deposit the amount with the Clerk of the Court in accordance with 11 U.S.C. § 347(a).

12. The Trustee shall file all reports required by 11 U.S.C. §§ 1183(b)(1) and 704(a)(9) in the manner prescribed by the United States Trustee Program. Upon the completion of the Plan, the Trustee shall file their final report and seek a discharge of their duties as Trustee.

13. The Trustee shall be compensated for their post-confirmation duties at their approved hourly rate. The Trustee may file a notice setting forth post-confirmation fees and expenses on a quarterly basis with the Court. All parties in interest will have fourteen days after the notice is filed to object to the Trustee fees and expenses disclosed therein. If no objection is received, the Debtor shall pay the Trustee without further order of the Court.

14. The Trustee shall file a post-confirmation final fee application within ninety days of the notice of completion of plan payments. The final fee application shall include all compensation received and disclosed in the quarterly post-confirmation notices filed with the Court.

15. The Debtor and its respective agents and attorneys are hereby authorized,

empowered, and directed to carry out the provisions of the Plan and to perform the acts and execute and deliver the documents as are necessary or appropriate in connection with the Plan and this Order.

16. Nothing in this Confirmation Order or the Plan shall in any way operate to, or have the effect of, impairing or extinguishing in any respect any causes of action disclosed on Debtor's schedules or arising under chapter 5 of the Bankruptcy Code or any other claims or defenses owned by the Debtor on the Effective Date, and the Debtor shall retain such claims as provided in the Plan, including any claims or defenses that may not have been defined in the Plan but are nonetheless owned by the Debtor on or before the Effective Date. After the Effective Date, the Debtor may, in accordance with the terms of the Plan, evaluate and determine whether to pursue any such retained claims.

17. Except as otherwise expressly provided in the Plan, all payments and other distributions to be made under the Plan shall be timely and proper if mailed by first class mail on or before the date of distribution provided for in the Plan to the address listed in the creditor's proof of claim filed in this case, or, if no proof of claim is filed, to the creditor's last known mailing address.

18. Pursuant to 11 U.S.C. § 1192, within thirty days of the filing of the Sub V Trustee's NDR or TFR, the Debtor shall file a motion for entry of the discharge order. In the motion for entry of discharge, the Debtor shall certify that (1) all payments required under the confirmed plan have been made, (2) all administrative expenses, including the approved fees and expenses of the Subchapter V Trustee have been paid in full, and (3) that the Debtor is entitled to entry of discharge.

19. The Debtor and all holders of Claims and Interests are bound by the Plan within the meaning of 11 U.S.C. § 1141.

20. The Court shall retain jurisdiction of this case for all purposes provided in 11 U.S.C. §§ 1193 and 1142, and Bankruptcy Rule 3020(d).

21. All property of the estate shall remain vested in the estate until the Debtor completes all the payments under the Plan and a discharge is entered herein. In addition, property of the estate shall include all property identified in 11 U.S.C. § 1186.

22. This Confirmation Order is a final order and effective and enforceable immediately upon entry and the period in which an appeal must be filed shall commence upon the entry hereof.

23. The following Nonmaterial Plan Modifications are hereby approved:

[insert any applicable nonmaterial plan modifications; note that if nonstandard provisions were already detailed in the Plan itself, they do not need to be repeated here]

# # #

(STYLE)

NOTICE OF EMPLOYMENT OF PROFESSIONAL

**This pleading requests relief that may be adverse to your interests.**

**If no timely response is filed within twenty-one (21) days from the date of service, the relief requested in the motion may be granted without a hearing being held.**

**A timely filed response is necessary for a hearing to be held.**

Name of client:

Identity of professional: (Name, address, phone)

Nature of profession: (Attorney, accountant)

Conflicts: None or specify

Retainer:

Proposed compensation: (e.g. hourly rates (specified), flat fee, contingency fee)

List of other professionals in case:

Signed: (professional)

(Case No.)

(Case Name)

(Hearing Date, if known)

**FEE APPLICATION SUMMARY**

I. CLIENT - (Name of party represented)

Example: DIP, Bankruptcy Estate

II. REQUESTING APPLICANT/FIRM - (Give attorney/accountant name and nature of representation.)

Example: Collier & Norton, attorneys for the Debtor, on behalf of Penny & Dollar, Court-approved CPA.

III. TOTAL AMOUNT OF FEES REQUESTED -

- a. Fees: \$
- b. Expenses: \$
- c. Pre-petition retainer, if any: \$ \_\_\_\_\_; (of this amount, \$ \_\_\_\_\_ has previously been offset pursuant to prior fee applications)
- d. Time period covered: \_\_\_\_\_ to \_\_\_\_\_.

IV. BREAKOUT OF CURRENT APPLICATION

NAME/CAPACITY	TOTAL HOURS	RATE	TOTAL
(Collier, Atty.	20.00	\$100.00	\$2,000.00)
(Norton, Paralegal	<u>10.00</u>	35.00	<u>350.00)</u>
	30.00		\$2,350.00

MINIMUM FEE INCREMENTS - (Give minimum fee increment. Explain fully fee increments other than. 1 or any other flat or unusual rates).

EXPENSES - (Give total amounts requested for expenses and specifically charge for photocopy and any in-house services such as delivery fees).

AMOUNT ALLOCATED FOR PREPARATION OF THIS FEE APPLICATION: \_\_\_\_\_

V. PRIOR APPLICATIONS:

Date of hearing (e.g., 1/5/87)	Amount requested	Amount authorized
	\$2,510.00	* \$2,400.00)

\* (Explain if any of the previous authorized amounts still remain to be paid.)

VI. OTHER CO-EQUAL OR ADMINISTRATIVE CLAIMANTS IN THIS CASE:

<u>Name</u>	<u>Party Represented</u>
-------------	--------------------------

Explain whether allowance of your Application will or will not result in this estate not being able to pay all co-equal or superior administrative claims in this case.

VII. RESULT OBTAINED -

For the time period covered by this Application, briefly identify the various matters for which services were rendered. For each identified matter, summarize the work performed and estimate the amount of fees allocated to such work during the time period in question. This estimate need not be exactly accurate, however the total of estimated fees must equal the amount of fees sought in this Application.

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
\_\_\_\_\_  
DIVISION

In re:

[Click or tap here to enter DEBTOR NAME\(S\),](#)

Debtor(s).

Chapter 13

Case No. [Click or tap here to enter Case Number](#)

**Declaration of the Debtor Concerning Confirmation Requirements**

I/We, \_\_\_\_\_, being duly sworn upon oath, state as follows:

1. Regarding domestic support obligations (check applicable statement):
  - ☐ Since the filing of this bankruptcy case, I/we have not been required by a judicial or administrative order or by statute to pay any domestic support obligation as defined in 11 U.S.C. § 101(14A); or
  - ☐ I/We have paid all amounts that first became due and payable under a domestic support obligation (as defined in 11 U.S.C. § 101(14A)) that is required by a judicial or administrative order or by statute to pay after the filing of this bankruptcy case.
2. I/We have filed all federal, state, and local tax returns required by law to be filed for all taxable periods ending during the four-year period prior to the filing of this bankruptcy case.
3. I/We have made all post-petition payments to be paid directly to the creditor provided for under the Plan and became due post-petition.

By signing this declaration, I acknowledge that the Court may rely on the truth of each of these statements in determining whether to confirm the Chapter 13 Plan, and that the Court may revoke confirmation of the Plan if the statements herein are not accurate. I understand that, should any of the above declarations change prior to entry of a confirmation order, I am required to file an updated declaration.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature of Debtor

\_\_\_\_\_  
Signature of Co-Debtor

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
DIVISION

DEBTOR(S)

§§§§§

CASE NO. \_\_\_\_\_

## BALLOT SUMMARY (BY CLAIM)

144



**BALLOT SUMMARY (BY CLASS)**

<u>CLASS</u>	<u>TOTAL #</u>	<u>TOTAL AMOUNT</u>	<u>TOTAL – (Y)/(N)</u>		<u>TOTAL AMOUNT (Y)/(N)</u>		<u>CLASS</u>
			(YES)	(NO)	(YES)	(NO)	VOTE

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
DIVISION

IN RE:	§	CASE NO. _____
	§	
_____ ,	§	Chapter _____
	§	
Debtor	§	
_____ ,	§	
	§	
Movant	§	Hearing Date: _____
	§	Time: _____
v.	§	
_____ ,	§	
	§	
Respondent	§	Judge: _____

**AFFIDAVIT OF** [Affiant's name]  
**FOR** [Movant]

STATE OF TEXAS §  
COUNTY OF \_\_\_\_\_ §  
§  
§

“Affiant, being duly sworn, deposes and says that:

1. My name is \_\_\_\_\_, I am of sound mind, capable of making this affidavit, and am personally acquainted with the facts herein stated.
2. I am a custodian of the records of \_\_\_\_\_ (“Movant”).
3. Attached hereto as Exhibit “A” are \_\_\_\_\_ page(s) of the Payment History, prepared by me from records of Movant kept by it in the regular course of its business, and it was the regular course of business of Movant for an employee or a representative of said business, with knowledge of the acts, conditions, or opinions records, to make those records or to transmit the information to be included in such records; and such records were made at or near the time or reasonably soon after the acts, conditions or opinions records.
4. The records summarized in the Payment History, or copies thereof, have been or will be made available to any respondent on Movant’s Motion for Relief from Stay upon request.

Further Affiant sayeth not.”

\_\_\_\_\_  
(Affiant)

Subscribed and sworn to me the undersigned authority of this \_\_\_\_\_ day of \_\_\_\_\_.

My Commission Expires:

\_\_\_\_\_  
Notary Public in and for the  
State of \_\_\_\_\_.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Affidavit was served on \_\_\_\_\_ . Service was accomplished by the method(s) and on the persons indicated below.

\_\_\_\_\_  
/s/  
ATTORNEY FOR MOVANT

BY ELECTRONIC NOTICE OR REGULAR FIRST CLASS MAIL:

Debtor’s Attorney:

Persons filing notices of appearance:

Debtor:

Other persons with an interest in the subject  
matter of the Motion for Relief from Stay:

Trustee:

Exhibit A – “Payment History”

Applied to	Date Rec'd	Amt due	Amt rec'd	Over/short	To Suspend	Suspense Balance	Comments

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
\_\_\_\_\_  
DIVISION

In re:

[Click or tap here to enter DEBTOR NAME\(S\),](#)

Debtor(s).

Chapter 13

Case No. [Click or tap here to enter Case Number](#)

**Certification of Eligibility for Chapter 13 Discharge After Completion of Plan Payments**

I/We, \_\_\_\_\_, being duly sworn upon oath, hereby make the following certifications:

1. I have satisfied all plan requirements.

2. I did not receive a discharge in a bankruptcy case filed under Chapter 7, 11, or 12 during the four-year period or in a case filed under Chapter 13 during the two-year period preceding the date of the order for relief in this case.

3. Regarding domestic support obligations (check applicable statement):

- ☐ Since the filing of this bankruptcy case, I have not been required by a judicial or administrative order or by statute to pay any domestic support obligation as defined in 11 U.S.C. § 101(14A); or
- ☐ I am required to pay a domestic support obligation, as defined in 11 U.S.C. § 101(14A), and certify that all amounts payable under such obligation are paid as of this date, including amounts that were due before the petition was filed, to the extent provided for by the Plan.

4. The provisions of 11 U.S.C. § 522(q)(1) are not applicable to me because I have not been convicted of a felony (as defined in section 3156 of Title 18) which demonstrates or may demonstrate that the filing of this case was an abuse of Title 11, United States Bankruptcy Code.

5. No proceeding is pending in which I may be found guilty of a felony of the kind described in 11 U.S.C. § 522(q)(1)(A) or liable for a debt of the kind described in 11 U.S.C. § 522(q)(1)(B).

6. I have completed a post-petition instructional course concerning personal financial management as described in 11 U.S.C. § 111, pursuant to 11 U.S.C § 1328(g)(1) and have completed and filed Official Form 23 in accordance with Interim Bankruptcy Rule 1007(b)(7).

7. I am entitled to a discharge under 11 U.S.C. § 1328.

I/we declare under penalty of perjury under the laws of the United States of America that the information provided in this certification is true and correct to the best of my/our knowledge.

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Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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Signature of Debtor

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Signature of Co-Debtor

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
\_\_\_\_\_  
DIVISION

In re:  
Click or tap here to enter DEBTOR  
NAME(S),  
Debtor(s).

Chapter 13  
Case No. Click or tap here to enter Case  
Number

**NOTICE REGARDING THE FILING OF OBJECTION(S) TO ENTRY OF DISCHARGE**

NOTICE IS HEREBY GIVEN that the Chapter 13 Trustee has filed a Notice of Completion of Plan Payments which indicates that the Debtor has completed all payments under the confirmed plan for which the Trustee served as the disbursing agent, and Debtor(s) have filed Local Form 4004-1, *Certification of Eligibility for Chapter 13 Discharge after Completion of Plan Payments*.

**Any objection to the entry of an order of discharge to each of the above-referenced Debtor(s) pursuant to 11 U.S.C. §1328(a), including any objection to the *Certification of Eligibility for Chapter 13 Discharge after Completion of Plan Payments* filed by the Debtor(s), must be filed within thirty (30) days of the date of this Notice and served upon each Debtor, the attorney for the Debtor(s) and the Chapter 13 Trustee.**

If an objection is timely filed, then a hearing to consider the objection shall be scheduled under the normal procedures of the Court.

**If no objection to the entry of the discharge order is timely filed, the Court may enter a discharge order without a hearing or further notice.**

Dated: \_\_\_\_\_

**APPENDIX L-7016-1 Form Scheduling Order**

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS

V.

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§

ADVERSARY NO.

**SCHEDULING ORDER**

Pursuant to Rule 16, Federal Rules of Civil Procedure, the Court issues the following scheduling order.

**IT IS ORDERED THAT:**

1. The parties shall file all amended or supplemental pleadings and shall join additional parties on or before [60 days after Scheduling Order]. *See* L. Rule 7015.
2. All parties asserting or resisting claims for relief shall file and serve on all other parties, but not file, the disclosures required by Federal Rule of Civil Procedure 26(a)(1) on or before [14 days after Scheduling Order].
3. The parties shall complete discovery on or before [90 days after Answer]. Counsel may, by agreement, continue discovery beyond the deadline, but there will be no intervention by the Court except in extraordinary circumstances.



4. All dispositive motions shall be filed and served on all other parties on or before [100 days after Answer] and shall be limited to 20 pages. *See* L. Rule 7007(a) for the definition of dispositive motions and page limits. Responses shall be filed and served on all other parties not later than 14 days of the service of the motion and shall be limited to 20 pages. *See* L. Rule 7007(b)(2). Any replies shall be filed and served on all other parties not later than 14 days of the service of the response and shall be limited to 10 pages, but the Court need not wait for the reply before ruling on the motion. *See* L. Rule 7007(c).

5. Motions other than Rule 12 or 56 are governed by L. Rule 7007, 9013, and 9014 where applicable.

6. Docket call for trial is set [125 days after Answer]. Parties will be required to discuss at docket call any objections to the use of deposition testimony and stipulations regarding the use of experts for trial.

7. A Pre-trial order and proposed findings of fact and conclusions of law are due 7 days before docket call. *See* L. Rule 7016(a).

8. Exhibits and a witness list are to be exchanged three business days in advance of trial. *See* L. Rule 7016(f). In addition, counsel are encouraged to present and provide electronic versions of exhibits where practicable. Use and presentation of electronic exhibits should be coordinated through the courtroom deputy.

9. Counsel are reminded that, with regard to any paper that is filed, compliance with Fed. R. Civ. P. 5.2 is mandatory. As such, counsel should ensure that appropriate redactions are made.

10. This Scheduling Order does not specifically address the discovery of electronically stored information (ESI). To the extent the parties believe that ESI is subject to discovery, the

parties are directed to reach an agreement on production of ESI. The parties are encouraged to use the template developed by the Seventh Circuit Electronic Discovery Pilot Program. See [www.discoverypilot.com](http://www.discoverypilot.com). Any party may bring any dispute regarding the discovery of ESI, but it must be brought to the Court's attention by motion 30 days after Rule 26(a)(1) disclosures are made.

11. Counsel residing outside the State of Texas shall designate local counsel in writing, giving the street address, telephone number and mailing address. The designation shall be filed with the Clerk of the Court in this proceeding, and a copy shall be sent to all other counsel of record in this proceeding. This provision may be waived by the Court upon motion of counsel and service upon other parties.

12. **All discovery must be commenced and completed by the discovery deadline provided in this Order.**

- a. Designation of experts shall be an issue at any pretrial conference.
- b. Counsel are encouraged to resolve discovery disputes by agreement. Motions to compel, motions for protective orders and similar motions, while not prohibited, may result in sanctions being imposed on the losing party or both parties as provided in Fed. R. Bankr. P. 7037 & 9011 or 28 U.S.C. section 1927, if a hearing is required thereon.
- c. If applicable, parties may file dispositive motions under Fed. R. Bankr. P. 7012 & 7056 and Fed. R. Civ. P. 12(b) & 56. Such motions, if filed, must be filed by the deadline for dispositive motions in this Order. Responses to motions under FRBP 12 and 56 must be filed within 21 days after the Motion is filed. **All other motions in this adversary proceeding, unless unopposed,**

**require the filing of a written response within 14 days, or the motion may be granted without a hearing.**

- d. All discovery shall be commenced at a time which allows for the full response time provided by applicable rules on or before the discovery deadline.  
  
E.g., if the discovery deadline is July 15, interrogatories must be actually delivered on or before June 15 in order to allow thirty days for answers. If the interrogatories are mailed, then they must be mailed on or before June 12, pursuant to Fed. R. Bankr. P. 9006(f), to allow three additional days for service by mail.
- e. The Court may, upon motion and for cause shown, extend, reduce, or otherwise modify the deadlines set out in the Scheduling Order. Mere agreement of the parties to such extensions or modifications is not of itself sufficient cause.

13. Counsel and unrepresented parties must confer prior to the date the Pre-Trial Order is required to be filed, to fully explore the possibility of settlement, to stipulate to matters not in dispute and to simplify the issues. The Pre-Trial Order shall contain a certificate to the effect that the conference of counsel has been held. Counsel must also confer in an effort to determine whether the original time estimate for trial is correct or should be revised. If the parties wish to have a pre-trial conference with the Court, a pre-trial conference should be requested as early as possible, but at least 60 days prior to the trial.

14. **Docket call is set on the docket call date provided in the scheduling order. The only matters to be considered by the Court at docket call are as follows:**

- a. Date, time and place of trial following docket call.

- b. Properly and timely-filed motions for continuance or for default judgment.
- c. Motions not previously ruled on under Fed. R. Civ. P. 12 and Fed. R. Bankr. P. 7012.
- d. Settlement announcements.

**Failure to attend docket call may result in dismissal or rendition of final judgment.**

**You may, however, authorize any member of the Bar of this Court, including opposing counsel, to make an appearance on your behalf at docket call, if there are no contested motions for continuance, motions for default judgment or motions under Fed. R. Civ. P. 12 and Fed. R. Bankr. P. 7012.**

Dated: \_\_\_\_\_

Barry D. Knight  
Clerk, US Bankruptcy Court

by : \_\_\_\_\_Courtroom Deputy\_\_\_\_\_

**MATTERS DEEMED CONTESTED**

Hearings must be held on the following matters:

1. Reaffirmation Agreements.- (if the Court deems necessary to set)
2. Disclosure statement and confirmation proceedings under Chapters 9, 11 and 12.
3. Adversary proceedings generally, except as provided in Local District Rules or the Bankruptcy Rules.
4. Motions for contempt or sanctions, including motions under Rule 9011.
5. Objections to confirmation in Chapters 9, 11, 12, & 13.
6. Motions to appoint a Trustee or examiner in Chapter 11 cases.