

FILED  
U. S. DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

JUL 15 1986

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS

MURRAY L. HARRIS, CLERK  
By

Deputy

*Spencer*

GENERAL ORDER

86-9 Local Rules of the United States Bankruptcy Court

The Judges of this Court having given their unanimous approval to the proposed Local Rules of the United States Bankruptcy Court for the Eastern District of Texas, which are attached hereto and incorporated herein by reference, it is, accordingly:

ORDERED that such proposed Rules shall be, and they are hereby, ADOPTED as the Local Rules of the United States Bankruptcy Court for the Eastern District of Texas. It is further

ORDERED that such Local Rules shall become effective immediately. It is further

ORDERED that all Local Rules for such Bankruptcy Court which were in effect prior to the entry of this order shall be, and they are hereby, RESCINDED.

FOR THE COURT:

July 15, 1986  
Date

*Chas. Wayne Justice*  
Chief Judge

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## I. INTRODUCTORY MATERIALS

### RULE 1

#### SCOPE OF LOCAL RULES

(A) Applicable Procedural Rules. The rules of procedure in any case or proceeding in this court shall be governed by the laws of the United States, the Federal Rules of Bankruptcy Procedure, and where applicable, the Federal Rules of Civil Procedure and these Local Bankruptcy Rules.

(B) Citation of Local Rules. These rules shall be cited as Local Bankruptcy Rules for the Eastern District of Texas and may be amended by the bankruptcy court as necessary to carry out the laws of these United States.

(C) Cases not Covered. When no rule of procedure applies in a case or proceeding, the bankruptcy judge may prescribe one, so long as the rule is one which promotes the interest of justice and is not in conflict with the law, either state or federal, that may control.

(D) Waiver of Rules. The bankruptcy judge may waive any requirement of these local rules when it is determined that the interest of justice will be served and waiver is required to achieve that end; however, the bankruptcy judge shall not waive any provision of the Federal Rules of Bankruptcy Procedure or of the Federal Rules of Civil Procedure unless waiver is provided for within the rules themselves.

(E) Definitions. The definitions of words and phrases in §§101, 902, and 1101, and the rules of construction in §102 of

the Bankruptcy Code and Rule 9001 of the Federal Bankruptcy Rules govern their use in these rules.

RULE 2

TERMS AND LOCATIONS OF COURT

(A) Terms of Court. This court shall be in continuous session in Tyler for the transaction of judicial business on all business days throughout the year except those business days designated as legal holidays by the Congress of the United States.

(B) Location of Court. All cases and proceedings will be filed at the bankruptcy clerk's office in Tyler and the records filed shall be maintained there unless transferred pursuant to an order of this court.

(C) Other Locations. The court shall be in session at designated times in the following locations within the Eastern District. The court shall ordinarily conduct judicial business in Beaumont, Sherman and Tyler. The court may, from time to time, conduct judicial business in Marshall, Paris, Texarkana and Lufkin. The court may, when the interest of justice will be served, hold court in other locations not indicated herein, but the party requesting a hearing shall show cause why the matter may not properly be held in one of the courts in the cities listed above.

(D) Court Reporter Requirements. A court reporter is not provided by the court, but parties may arrange privately to provide a properly certified court reporter at their expense. In every case heard at a location other than those above, it shall be the obligation of the parties to provide for a properly

certified court reporter to transcribe the proceedings and to make available to the court a copy of the transcript.

## II. OFFICERS AND ADMINISTRATION

### RULE 3

#### APPEARANCE AND WITHDRAWAL OF COUNSEL

(A) Notice of Appearance. An attorney appearing for a party in a case or proceeding shall enter an appearance of record by signing and filing a notice of appearance.

(B) New Counsel. In the event a party changes, adds, or substitutes counsel, other than within the same firm, the new counsel shall file a notice of appearance.

(C) Leave of Court Required. Counsel of record for debtor may withdraw only upon leave of the court, and only after reasonable notice is given to the client and all interested parties. The court may condition counsel's withdrawal when it is in the interest of the debtor and justice is served.



RULE 4

BANKRUPTCY COURT BAR

Attorneys who are members in good standing of the bar of the United States District Court for the Eastern District of Texas may practice before this court.

Any attorney admitted to practice before any other court of the United States may appear in a pending case by permission of the court and upon such conditions as the court may set, including association of local counsel. A motion to appear pro hac vice should be presented to the court at least three (3) days prior to the hearing.

RULE 5

TRUSTEES

(A) Role of Trustee. The trustee is the representative of the estate.

Promptly after the order of relief is entered in a case under Chapter 7 of the Bankruptcy Code, the court shall appoint a trustee from the active panel of qualified trustees in both asset and no asset cases. The trustee appointed shall serve as interim trustee until a trustee is elected or designated under §702 of Title 11 and thereafter qualifies as defined in subsection (C) of this rule.

(B) Eligibility. A person may serve as a trustee only if he or she is competent to perform the duties of a trustee under Chapters 7, 11, and 13 of the Bankruptcy Code. A trustee shall either reside or have an office in this judicial district. A corporation authorized by its charter or by-laws may act as a trustee. A corporation acting as a trustee shall have an office in the district. A person who has served as an examiner in the case may not serve as a trustee.

(C) Qualification Required. A person chosen to act as trustee under §§701, 702, 703, 1104, 1163, or 1302 qualifies if, before the expiration of five days after selection, and before beginning official duties, he or she files a bond in favor of the United States, conditioned upon the trustee's faithful performance. The court shall determine the amount of the bond and the sufficiency of the bond's surety.

(D) Liability Under Bond. A trustee is not liable personally on a trustee's bond in favor of the United States for penalty or forfeiture incurred by the debtor. A proceeding against the trustee's bond may not be commenced after two years after the date on which the trustee was discharged.

(E) Duties of the Trustee. The trustee shall:

(1) collect and reduce to money the property of the estate, and close the estate as quickly as possible to the extent compatible with the best interest of parties in interest;

(2) be accountable for all property received;

(3) insure that the debtor files a notice of intent pursuant to §521(2)(B) of the Code;

(4) investigate the financial affairs of the debtor;

(5) examine proofs of claim and object to the allowance of any claim that is improper;

(6) where necessary, oppose the discharge of the debtor;

(7) furnish all information requested by a party in interest concerning the estate and its administration;

(8) make a final report and account of the estate to the court;

(9) conduct the first meeting of creditors in all Chapter 7 cases; and

(10) if the debtor is authorized to operate a business, the trustee shall file monthly reports and summaries of operation with the court and any governmental unit charged with the collection or determination of any tax arising out of such

operation. These reports and summaries shall include a statement of receipts and disbursements, and any other information the court requires.

(F) Removal of Trustee. The court, after notice and hearing, may remove a trustee or examiner for cause.

(G) Report of Funds on Hand. The trustee shall report monthly to the estate administrator the amount of funds deposited in trustee accounts. The report shall include the name of the underwriting surety and the amount of the trustee's bond. It is the trustee's duty to insure that a copy of the bank statement is mailed to the bankruptcy clerk's office.

(H) Monthly Operating Report.

(1) No later than the 15th day of each month, a trustee operating a business in Chapter 11 shall submit to the court a monthly report consisting of the following information:

- (a) Balance Sheet;
- (b) Profit and Loss Statement; and
- (c) Receipts and Disbursements Statement.

This report shall be certified under penalty of perjury.

(2) Non-Operating Cases. In a case where the business is not operating, the trustee shall file an initial report stating that the business has ceased operations, and shall thereafter file quarterly reports with the estate administrator regarding the debtor's current financial condition, together with a statement describing actions which have been or will be taken to administer the case.

(3) Post-Confirmation. Pursuant to §§704 and 1106, within thirty (30) days after the effective date of the plan of reorganization, and quarterly thereafter, the trustee shall file a report with the estate administrator describing any action which has been or will be taken to consummate the plan.

(I) Trustee's Final Report.

(1) The trustee shall file a final report and account which shall include the following:

(a) an accounting of all receipts and disbursements, listing the individual items;

(b) a statement that all non-exempt assets have been reduced to cash or otherwise disposed of;

(c) a statement that the estate is ready for closing;

(d) the compensation requested by the trustee for all other services performed by professional persons and the amounts thereof, including administrative expenses, and amounts that may have been previously paid;

(e) the compensation requested by the trustee, subject to §326(a) of the Bankruptcy Code, and the amount of previous allowances; and

(f) within one hundred fifty (150) days after the final meeting, any supplemental final report.

(2) Conversion from Chapter 11 to Chapter 7. A final report and account shall be filed with the court within 30 days following the entry of the order of conversion, unless the court

directs otherwise, pursuant to Bankruptcy Rule 1019(6). It shall include:

(a) a schedule and master list, listing unpaid debts incurred by the debtor-in-possession after the commencement of the Chapter 11 case;

(b) a balance sheet as of the date of conversion, and a profit and loss statement for the period of the pendency of the case under Chapter 11;

(c) a statement of the money or property paid or transferred, directly or indirectly, during the pendency of the Chapter 11 case: to the debtor, if the debtor is an individual; to each partner, if the debtor is a partnership; or to each officer, stockholder or director, if the debtor is a corporation;

(d) a listing of all matters pending in the case and any adversary proceedings or other litigation pending in which the debtor, debtor-in-possession or trustee is a party; and

(e) a schedule of property acquired by the debtor after the commencement of the Chapter 11 case.

(J) Trustee's Retention of Records. Upon entry of a final decree, the trustee shall notify the debtor in writing, with a copy to the clerk, that all of the debtor's records in the custody of the trustee are available for delivery to the debtor, and that if not retrieved within thirty (30) days, the records may be discarded. Records of the trustee shall be retained for a period of three (3) years, unless otherwise ordered by the court.

(K) Limitation on Compensation of Trustee. Section 326 of the Bankruptcy Code shall control the compensation of trustees.

(L) Removal of Trustee. The court, after notice and hearing, may remove a trustee or examiner for cause.

(M) Death or Resignation of Trustee. If a trustee dies, resigns, or is removed under §324 of Title 11, the creditors may elect a successor trustee in accordance with §702 of the Code. Pending the election of a trustee, if it is necessary to preserve or prevent loss of the estate, the court may appoint an interim trustee in the manner prescribed in §701 of Title 11.

(N) Effect of Vacancy. A vacancy in the office of trustee during a case does not abate any pending action or proceeding, and the successor trustee shall be substituted as a party in the action or proceeding.

## RULE 6

### FINANCIAL REPORTS

All debtors-in-possession, trustees in Chapter 11 cases, or trustees operating in cases pursuant to 11 U.S.C. 21, shall file an initial financial report and a monthly operating report, which shall include a profit and loss statement, and receipts and disbursement statement. The initial financial report shall include a brief history of the business, the circumstances which led to the filing of the Chapter 11 proceeding and a brief statement of the financial condition of the debtor. Finally, the report shall provide an overview of the debtor's plan, if any, for reorganization. The estate administrator may require additional reports as necessary for the proper administration of cases under Chapter 11 of this title.

Chapter 13 debtors engaged in a business under §1304 shall serve and file all reports required by the Chapter 13 Standing Trustee.



RULE 7

INVESTMENT AND DISBURSEMENT OF REGISTRY FUNDS

All funds to be deposited in the registry of the court shall be held in accordance with Bankruptcy Rule 7067.

RULE 8

DUTIES OF DEBTOR

In addition to performing other duties prescribed by the Code and Rules, the debtor shall:

(A) attend and submit to examination at the times ordered by the court, including, but not limited to, the §341(a) first meeting of creditors;

(B) attend the hearing on a complaint objecting to discharge and testify, if called as a witness;

(C) inform the trustee immediately, in writing, as to the location of real property in which the debtor has an interest, and the name and address of the person holding money or property, subject to the debtor's withdrawal, or court order, if a schedule of property remains unfiled pursuant to Bankruptcy Rule 1007;

(D) provide access to the trustee for purposes of making an inventory, the examination of proofs of claim and the administration of the estate, should the trustee so require; (Access shall be given at reasonable hours and the trustee shall give notice of his intent to make an inventory. In no case shall a trustee enter the dwelling or business of another without the permission of the owner or without other authority of law.)

(E) notify the clerk's office immediately, in writing, of any change of address; and

(F) when acting as a debtor-in-possession in a Chapter 11 case (See generally Local Rule 5), the debtor shall perform the following duties:

(1) no later than the 15th day of each month, file a monthly operating report, which shall be a profit and loss statement of receipts and disbursements, which shall be certified under penalty of perjury;

(2) where the business is not operating, file an initial report within 10 days from the filing of the petition, stating that the business has ceased operations, and thereafter file quarterly reports with the estate administrator regarding the debtor's current financial condition, together with a statement describing actions which have been or will be taken to administer the case; and

(3) pursuant to §§704 and 1106, within 30 days after the effective date of the plan of reorganization, and quarterly thereafter, file a report with the estate administrator describing any actions which have been or will be taken to consummate the plan.

(G) Debtor(s)' Statement of Intention:

(1) Notice to Trustee: Debtor(s) shall serve any statement of intention regarding surrender or retention of property made under the provisions of §521(2)(A) on the trustee and the affected creditors, with a certificate of service complying with Local Rule 15.

(2) Performance of Stated Intention: Pursuant to §521(2)(B), the debtor shall advise the trustee, in writing, within 10 days of performance, that the property has been disposed of in accordance with the intention stated.

### III. CLERK'S OFFICE PROCEDURES

#### RULE 9

##### FILING AND REMOVAL OF PAPERS

(A) Place for Filing. For all cases commenced in this court, all papers shall be filed, whether by mail or in person, with the bankruptcy clerk's office at: 211 West Ferguson, Room 109, Tyler, Texas 75702.

(B) Removal of Papers. All papers shall be kept in the custody of the office of the clerk. None may be removed except by written permission of the clerk, or upon written order of the bankruptcy judge. The party removing papers from the office of the clerk shall provide the clerk a signed receipt, describing the papers to be removed and the authority permitting their removal.

(C) Papers Acceptable for Filing. Papers filed with the court shall be plainly and legibly typewritten or printed, on paper 8-1/2 x 11 inches. Papers shall not contain erasures, interlineations or strikeouts materially defacing them. All typewritten papers tendered for filing shall be double-spaced.

The original instrument presented for filing shall be fastened at the top left corner without backs or covers. The upper, lower and side margins of each sheet shall be at least 1 inch wide. Documents which cannot be stapled shall be fastened securely.

(D) Oversized Documents. Absent written permission of the clerk, paper larger than prescribed above is not acceptable for filing and may be refused by the clerk.

(E) Signatures. The name, address and phone number of the party submitting the paper shall appear on the signature page of the pleading filed.

(F) Case Numbers and Captions. The style of every case and adversary proceeding shall appear on the face of the pleading. The chapter under which the case proceeds shall appear below the case number. The caption of adversary proceedings shall comply with official form 34.

(G) Adversary Filings/Special Provisions. In adversary proceedings, all parties shall file with the clerk the original and one copy of the adversary complaint, a cover sheet indicating the parties to the adversary and the identity of the attorneys representing those parties, if known. Where pro se filing is involved, the pleading clearly should be identified as such. All adversaries pleadings shall, upon filing with the clerk, be assigned an adversary proceeding number. Adversary proceeding numbers may not be obtained telephonically until the papers initiating the adversary proceeding are presented to the clerk, along with the appropriate filing fee.

(H) Corporate Petition. The clerk shall refuse to file a corporate bankruptcy proceeding in which the debtor is not represented by an attorney. The clerk shall refuse to file any petition in bankruptcy by an individual doing business as a

corporation. A separate petition shall be filed by each legal entity.

RULE 10

FEEES

(A) Fees: The schedule of fees is as follows:

- (1) Petitions under Chapter 7 : \$ 60.00
- (2) Petitions under Chapter 11: \$200.00
- (3) Petitions under Chapter 13: \$ 60.00.
- (4) Conversion from Chapter  
7 or 13 to Chapter 11 : \$140.00 (Additional)
- (5) Adversary Filings : \$ 60.00
- (6) Appeals : \$ 5.00
- (7) Copy Fees : \$ .50 (per page)
- (8) Search Fees : \$ 2.00
- (9) Certification : \$ 2.00
- (10) Transfer of case for  
discharge hearing only : \$ 3.00
- (11) Issuing out-of-district  
subpoenas : \$ 3.00
- (12) Writ of Execution:
  - (a) Eastern District : No fee
  - (b) Other Districts : \$ 10.00
- (13) Abstract of Judgment:
  - (a) Eastern District : No fee
  - (b) Other Districts : \$ 10.00
- (13) Registration of judgment :  
in other district (See  
28 U.S.C. §1930(b) : \$ 10.00

(B) Fees for Amendments: In any of the above Chapters, a fee of \$10.00 is charged if the first meeting has been held and new creditors are being added. (See Local Rule 13C.)

(C) A filing or miscellaneous fee tendered to the clerk shall be in the form of a cashier's check, money order, or check of the attorney, or may be made in cash if presented in person.



RULE 11

COMMENCING A VOLUNTARY CASE

(A) Petitions and Schedules.

(1) Official Forms: All petitions, lists, schedules and statements shall comply with the Official Forms prescribed by the Federal Rules of Bankruptcy Procedure.

(2) List and Schedules of Creditors: Each list and schedule of creditors shall include the full name and complete and correct mailing address, including box or street number, zip code, and city or town and state of each creditor. Each entry shall be separated by a blank line from the next succeeding entry.

(3) Schedule of Assets:

(a) Description and Valuation of Property: In complying with §§521 and 522 of the Bankruptcy Code, the debtor shall provide a reasonably detailed description and location of all property in which the debtor has an interest. Where applicable, this shall include vehicle identification numbers. The fair market value of the property shall be stated without regard to encumbrances. A complete inventory of household goods, furnishings and wearing apparel is not necessary for compliance with this rule.

(b) Real Estate: Real estate shall be described by a street address, if applicable, and a full and accurate legal description. The extent of the debtor's interest in the property shall also be indicated.

(c) Exempt Property: The property claimed as exempt in Schedule B-4 shall be listed in reasonable detail as to kind, value and location of each item claimed, including legal descriptions of the real property. The schedule shall also note the statute under which the exemption is claimed. The claimed exemptions shall be deemed allowed and excluded from the estate of the debtor unless, within thirty (30) days following the first meeting of creditors, the trustee, interim trustee or party in interest files an objection to the claimed exemptions.

(4) Statement of Affairs [Joint Petitions]: In the case of a joint petition, when one petitioner's debts are business related, the petitioner whose debts are business related shall file a statement of affairs on Official Form 8, and the petitioner whose debts are not business related shall file a statement of affairs on Official Form 7.

(5) Mailing Labels: Debtors and their attorneys are advised that the clerk's office uses mailing labels to notify parties in interest. Consequently, the debtor shall provide the court with a complete and accurate set of mailing labels. These labels shall be "Avery" (or the equivalent Xerox product) self-adhesive address labels for plain paper copiers and shall be 1 x 2-3/4 inches.

The first page of the mailing labels shall list in the top left corner the name and address of the debtor(s). In the box immediately below that it shall list the name and address of the debtor's attorney, if the debtor is represented by counsel. The labels shall then list, in alphabetical order, all creditors

and their addresses, beginning in the box below the attorney for the debtor. The remainder of the labels shall list the parties found in Appendix "A" of these local rules.

(6) Schedules and Statement of Financial Affairs:

The Schedules of Assets and Liabilities and Statement of Affairs are incomplete unless all blank spaces for answers, amounts or totals contain the appropriate information or "none," "not applicable," "(N/A)," or "0".

RULE 11

(B) Assembly of Petition and Papers. Petitions may not be accepted for filing unless the accompanying papers are assembled in the following order:

(1) Chapter 7, Without Schedules and Statement of Affairs:

(a) petition, with debtor's declaration (Official Form 1);

(b) a list containing the name and address of each creditor, as required by Rule 1007(a)(1), Rules of Bankruptcy Procedure;

(2) Chapter 7, With Schedules and Statement of Affairs:

(a) petition with debtor's declaration (Official Form 1);

(b) Schedule "A", if the debtor is a corporation;

(c) corporate declaration, if applicable (Official Form 4);

(d) clerk's notice to individual consumer debtors, if applicable;

(e) Schedule "B" (attorney's declaration in consumer debtor cases) if applicable;

(f) attorney's compensation disclosure statement, signed by the attorney;

(g) schedule of debtor's current income and expenditures;

(h) a mailing matrix, which should not be stapled to the petition;

(i) Schedule of Assets and Liabilities, in the same order as Official Form 6; and

(j) Statement of Financial Affairs, in the same order as on Official Forms 7 and 8;

(3) Chapter 11, Without Schedules and Statement of Affairs:

(a) petition with debtor's declaration (Official Form 1);

(b) list of the creditors holding the twenty (20) largest unsecured claims in the order of amount from largest to smallest, with addresses and amounts, excluding insiders and governmental units and including holders of secured claims to the extent that their unsecured claim may be among the twenty (20) largest (Official Form 9). A motion may be filed requesting an extension of time in lieu of the list required by this subsection.

(4) Chapter 11, With Schedules and Statement of

Affairs:

- (a) petition with debtor's declaration (Official Form 1);
- (b) Schedule "A", if the debtor is a corporation;
- (c) corporate declaration, if applicable (Official Form 4);
- (d) clerk's notice to individual consumer debtors, if applicable;
- (e) Schedule "B" (attorney's declaration in consumer debtor case) if applicable;
- (f) attorney's compensation disclosure statement, signed by the attorney;
- (g) list of the twenty (20) largest unsecured claims, with addresses and amounts, excluding insiders and governmental units and including holders of secured claims, to the extent that their claims may be unsecured and that they may be among the twenty (20) largest (Official Form 9);
- (h) Statement of Financial Affairs, in the same order as Official Form 7 or 8;
- (i) Schedule of Assets and Liabilities, in the same order as Official Form 6;
- (j) schedule of debtor's current income and expenditures; and
- (k) mailing labels, which shall not be stapled to the petition.

(5) Chapter 13, Without Plan and Chapter 13 Statement.

(a) petition with debtor's declaration (Official Form 1) and Chapter 13 Statement;

(b) mailing list of all creditors, complying with Local Rule 11(A)(5);

(6) Chapter 13, With Plan and Chapter 13 Statement.

(a) petition with debtor's declaration (Official Form 1) and Chapter 13 Statement;

(b) attorney's compensation disclosure statement, signed by attorney;

(c) clerk's notice to individual consumer debtor, if applicable;

(d) debtor's plan, with signature(s);

(e) schedule of current income and expenditures, including a budget;

(f) Chapter 13 Statement;

(g) Schedule of Assets and Liabilities, in the same order as Official Form 6;

(h) Statement of Financial Affairs for debtor engaged in business, if applicable;

(i) a summary of debts and property with verification; and

(j) mailing labels complying with Local Rule 11(A)(5), which shall not be stapled to the petition.

(7) Incomplete Petitions. A petition shall be deemed incomplete if the documents necessary to complete it have not been filed within the fifteen (15) days permitted under Rule 1007(c). Incomplete petitions may be dismissed by the court within fifteen (15) days after notice by the clerk's office to the debtor and the debtor's attorney that the petition is incomplete or not in compliance with these rules, unless:

(a) a motion for extension of time to file the necessary documents is filed and approved by the court before the mailing of the clerk's notice; or

(b) the required documents are filed within fifteen (15) days of receipt of clerk's notice.

(8) Installment Filing Fees. An application for paying filing fees in installments shall, when possible, precede the filing of the petition and state the proposed installment payments.

(9) Assignment of Case Numbers. Case numbers may not be obtained telephonically until the papers initiating the case have been presented to the clerk, along with appropriate filing fee.



RULE 11

C. Number of Copies Required for Filing.

(1) Petitions and Accompanying Papers. Unless otherwise ordered by the bankruptcy judge, the number of copies of petitions and accompanying papers shall be:

(a) Chapter 7 -- original and two;

(b) Chapter 11-- original and three;

(c) Chapter 13-- original and two; and

(e) Involuntary Petitions: an original and, in addition to the copies specified above, one copy for the court and one copy for each party to be served.

(2) Motions and Briefs. All motions and briefs shall be accompanied by one copy.

(3) Additional Copies. Upon notice by the clerk, additional copies may be required.

RULE 12

CONVERSION OF CASES

(A) Conversion from Chapter 7 to Chapter 11: Conversion from Chapter 7 to Chapter 11 requires an additional filing fee of \$140.00, an Exhibit A to the schedules, an application and order authorizing employment of debtor's attorney, and, if necessary, an order from the court authorizing the conversion.

(B) Conversion from Chapter 11 to Chapter 7: Conversion from Chapter 11 to Chapter 7 requires a copy of the final report and account, schedule of post-petition debts and other documents required under Bankruptcy Rule 1019(b) to be served on the trustee.

(C) Conversion from Chapter 13 to Chapter 7 or Chapter 11: Conversion from Chapter 13 to Chapter 11 requires an additional filing fee of \$140.00. Conversion from Chapter 13 to Chapter 7 or Chapter 11 shall be accompanied by the following:

(1) schedules required under Bankruptcy Rule 1007(b) if not previously filed, and reports required by Local Rule 6;

(2) a separate schedule listing the names and addresses of any creditors who are entitled to assert claims against the estate under §348(d) of the Bankruptcy Code and Bankruptcy Rule 1019(6); and

(3) if adding new creditors, amended labels and a fee of \$10.00.

(D) Conversion from Chapter 7 or Chapter 11 to Chapter 13:

Conversion from Chapter 7 to Chapter 11 requires an additional filing fee of \$140.00. Conversion from Chapter 7 to Chapter 11 or Chapter 13 shall be accompanied by the following:

(1) a petition and accompanying papers, filed by the debtor, that is in compliance with Local Rule 5; and

(2) if creditors are added, an amended mailing matrix and a \$10.00 filing fee.

RULE 13

AMENDMENTS

(A) Caption Sheet. All amendments to the petition, statements or list of schedules shall have a caption sheet, complying with Official Form 1, and the title "AMENDMENT TO (name of petition, statement, list or schedule being amended)." The caption sheet shall be signed.

(B) Contents of Amendment.

(1) Amendments to the list of creditors should contain only the names of creditors being added.

(2) Amendments to schedules of amount of claims shall be totaled on the amended schedule and on the amended summary of debtors and property.

(3) All amendments shall be signed and verified by the debtor(s) in the same manner as required for the original.

(4) If an amendment contains additional creditors, an amended mailing matrix with the added creditors' names and addresses shall be furnished.

(C) Additional Filing Fee. After the first meeting of creditors, any amendment requiring notice to the creditors shall be accompanied by a \$10.00 filing fee. (See Local Rule 10(B).

(D) Notice Required. Pursuant to Bankruptcy Rule 1009, the debtor(s) shall serve notice of an amendment on the trustee, if any, and on any affected party. The debtor(s) shall attach an appropriate certificate of service to the notice. These documents shall be filed with the clerk in the same number as required of the original.

RULE 14

SUMMONS

Adversary Complaints. Summons shall be prepared by parties or their counsel and issued by the clerk. Upon the filing of an adversary complaint, the moving party shall furnish the original complaint and the original summons and one copy of the summons for each defendant. (Summons forms are available in, and may be requested from, the office of the clerk.) The moving party shall provide a cover sheet indicating the names of the parties to the proceeding, and their counsel if known. A certificate of service shall be filed in compliance with Local Rule 15. In addition, two sets of mailing labels shall be provided in compliance with Local Rule 11(A)(5). Unless otherwise requested by filing an entry of appearance and request for notices, only those parties provided on the labels shall receive notice.

In all particulars, summons, notice and service shall be governed by Bankruptcy Rule 7004 and all parties shall comply with its requirements.

RULE 15

CERTIFICATE OF SERVICE REQUIRED

The clerk shall not accept for filing any paper required to be served upon a party in interest, unless accompanied by a certificate of service. Every certificate of service shall include:

(A) the name and complete mailing address of every person or class of persons to be served;

(B) the date service was effected; and

(C) the manner in which service was effected. (Service, if by mail, shall be by certified or registered mail and the certificate of service shall so state.)

Certificates signed by non-attorneys shall be made under penalty of perjury.

RULE 16

PRESIDING PERSON FOR CREDITORS MEETINGS:

Pursuant to Bankruptcy 2003(b)(1), the court designates the following persons to preside at creditors' meetings:

- (A) in Chapter 7 cases, the interim trustee;
- (B) in Chapter 11 cases, the estate administrator; and
- (C) in Chapter 13 cases, the Chapter 13 trustee.

In the event these persons are not available, the clerk or the clerk's designee shall preside.

Nothing contained in this rule shall be construed as a limitation on the power of creditors to elect a presiding officer in conformity with Rule 2003(b)(1).

## IV. COURT PROCEDURES

### RULE 17

#### GENERAL MOTION PRACTICE:

##### (A) Motions.

(1) Request for Relief Defined. A request for relief other than one required to be commenced under Bankruptcy Rule 7001 may be made by "application" or "motion". A "motion" is a request for relief which requires service upon all parties in interest. A response to a motion may also request relief.

Motions, applications and responses shall specify the statutory or case-law basis for the relief requested. All motions, except motions to lift or modify the automatic stay (See Local Rule 18), shall be accompanied by a proposed order stating the relief requested, and the statutory or case-law basis for that relief. The order shall comply with subsection (B) of this local rule. All motions shall be accompanied by a certificate of service complying with Local Rule 15.

(2) Brief Requirements. Motions, applications and responses may be accompanied by a concise brief.

(3) Copies Required. An original and two (2) copies of any motion are required for filing. An original and two (2) copies of all responses to motions are required for filing. Failure to include sufficient copies may cause the clerk to refuse filing.

(4) Time to Respond. Each party serving a response to a request for relief shall do so no later than ten (10) days



after service of the motion (with an additional three (3) days if service of the motion was made by mail), unless a different time is prescribed by the bankruptcy rules, these local rules, or court order. Upon motion of a party in interest, or upon the court's own motion, the court may reduce or extend the time in which to respond, unless otherwise provided by the Bankruptcy Rules.

RULE 17

(B) Orders:

(1) Proposed Orders. A proposed order shall accompany all motions except motions to lift or modify the automatic stay. All proposed orders shall state the relief requested and the statutory or case-law basis for that relief. All proposed orders shall include the signature and typed name, address, and phone number of the person preparing it. Approval and signature by the attorney or party submitting a proposed order constitutes a certification of the facts.

(2) Orders Where No Response Filed. When submitting a proposed order in cases in which no response has been served, parties shall so state in the proposed order.

(3) Presenting Proposed Orders after Hearings: After a hearing on a motion, proposed orders shall be submitted by the prevailing party within three (3) days, unless otherwise ordered by the court. Proposed orders submitted after a hearing shall state that a hearing was held and specify the place, date and time of the hearing. Additionally, the proposed order shall comply with the requirements of subsection (B)(1) of this rule. Proposed orders submitted after a hearing shall be mailed or delivered directly to the office of the bankruptcy judge.

(4) Ex Parte Orders. In every case of a request for relief presented ex parte, the person presenting the proposed order shall specify the statute or rule which authorizes the court to act and shall specify the reasons why the court should proceed without notice and hearing. (See Local Rule 26.)

(5) Service of Copies of Orders. The clerk shall serve copies of orders in adversary proceedings. In all other cases, the prevailing party shall, upon entry, serve a copy of the court's order on all other parties in interest.

RULE 18

MOTION TO LIFT STAY

No motion to lift or modify the automatic stay shall be filed on the same document containing a request for any other type of relief, save and except requests for adequate protection or abandonment. Motions to lift or modify the automatic stay shall not be accompanied by proposed orders.

(A) No Objection to Relief from Stay. In the absence of a timely response, the motion shall be treated as uncontested. The party seeking relief may obtain a clerk's certificate, setting forth the following facts:

(1) the date of the filing of the motion to lift or modify stay;

(2) the name of the party who filed the motion;

(3) proper service was issued, complying with the requirements of Local Rule 15;

(4) no response to the motion to lift or modify stay has been filed with the clerk; and

(5) the court deems the stay automatically lifted without further order.

(B) Objection to Relief from Stay: Where a motion requesting relief from the automatic stay is filed under §362(d), any party opposing the motion may, within ten (10) days after service of the motion (with an additional three (3) days if service of the motion was made by mail), file an answer or other response as may be appropriate.

In the absence of a timely response, the motion shall be treated as uncontested, under subsection (A) of this rule.

(C) Notice: When a hearing is set, the party requesting relief from the automatic stay shall be responsible for immediately serving a written notice on all parties in interest. The notice shall recite the date, time and place of the hearing. A copy of the notice shall be filed with the clerk, listing all parties noticed. [See Local Rule 21(B).]

(D) Ex Parte Requests: See Local Rule 26.

(E) Agreements: Once the matter is set for hearing, if the parties then reach an agreement, the matter will proceed under provisions of Local Rule 27.

RULE 19

MOTIONS FOR SUMMARY JUDGMENT

A motion for summary judgment (or partial summary judgment) shall be accompanied by a brief. The motion shall include a concise statement of material facts to which the movant contends no genuine issue exists. The facts shall be numbered and refer with particularity to those portions of the record, if any, upon which the movant relies.

The response in opposition to the motion for summary judgment shall begin by reciting a statement of material facts upon which the party contends genuine issue exists. Each fact in dispute shall be numbered and refer to that portion of the record upon which the party relies. The response in opposition shall be accompanied by a brief.

All material facts set forth in the movant's statement will be deemed admitted for the purpose of summary judgment unless specifically controverted by the opposing party.

RULE 20

APPLICATIONS FOR EXTENSION OF TIME

All applications for extension of time shall state:

(A) the new date requested;

(B) whether previous applications for extension of time have been requested, including the number and length of previous extensions; and

(C) when possible, whether the party or parties in interest agree or object to the proposed requested extension.

A proposed order shall accompany the application. An extension shall not be granted if the original time permitted under the bankruptcy rules has expired, unless authorized by Bankruptcy Rule 1007(c).

RULE 21

NOTICE

(A) Certificate of Service. All motions, briefs and other papers filed which require notice to parties in interest shall contain certificate of service. The certificate shall specify the parties served, the method of service and the date of service. It shall be signed by the attorney of record or party submitting it. Failure to include a certificate of service may cause the clerk to refuse filing.

(B) Parties in Interest Served. When a motion is filed which can only be authorized or granted upon notice or "after notice and hearing" as this phrase is defined in §102, the movant shall serve a copy or a summary of the motion upon the following parties at a minimum:

(1) in a Chapter 7 case: the debtor, trustee, their respective attorneys, parties requesting notice, and any other affected party;

(2) in a Chapter 11 case: the debtor; the twenty (20) largest unsecured creditors, or, if a creditors' committee has previously been appointed, all members of the creditors' committee and their attorneys, if any; equity security holders, or any committee representing equity security holders, and their respective attorneys; parties requesting notice; and any other affected party; and

(3) in a Chapter 13 case: the debtor, the Chapter 13 trustee, their respective attorneys, parties requesting notice, and any other affected party.



RULE 22

DEPOSITIONS AND EXAMINATIONS

(A) Depositions: Depositions may be taken after commencement of an adversary proceeding or contested matter and this local rule shall constitute leave as required under Bankruptcy Rule 7030. Reasonable notice shall be not less than five (5) days unless otherwise ordered by the court. Leave of court shall be obtained only if the plaintiff seeks to take a deposition prior to the expiration of 30 days after service of the summons and complaint upon any defendant.

(B) Examinations Pursuant to Bankruptcy Rule 2004: Leave for examination under the provisions of Bankruptcy Rule 2004 shall be requested of the court as provided under Bankruptcy Rule 9013. Unless otherwise ordered, Bankruptcy Rules 7026-7037 apply in examinations under Bankruptcy Rule 2004.

RULE 23

DISCOVERY MATERIALS NOT FILED

Depositions, interrogatories, requests for documents, and requests for admissions may not be filed with the clerk, unless on special order of the court, or unless they are attached to a motion, or response thereto, or are needed for use in trial or hearing.

RULE 24

EXHIBITS

(A) Marking Exhibits. All exhibits that are to be used in a hearing shall be marked for identification prior to the hearing. Plaintiff shall use numbers and defendant shall use letters. Copies shall be provided to each party, the witness, the courtroom deputy clerk and the judge. No exhibit is to be filed with the court until received into evidence. Failure to comply may result in the refusal of the court to admit exhibits into evidence.

(B) Withdrawing Exhibits. Exhibits introduced into evidence may be withdrawn from the custody of the clerk only upon order of the court. Any exhibit not withdrawn thirty (30) days after final disposition of the proceedings may be destroyed.

RULE 25

PRETRIAL PROCEEDINGS

(A) Pretrial Orders. Pretrial orders shall be required one (1) week prior to the trial of all adversary cases. Pretrial orders may be required in contested matters. Unless otherwise ordered, counsel for the plaintiff or movant is responsible for preparing, circulating and filing the pretrial order, which shall contain:

(1) a concise statement of the nature of the dispute, including a summary of factual and legal issues concerned;

(2) a statement of agreed issues of law and fact;

(3) a statement of disputed issues of law and fact;

(4) a list of the names of witnesses who may be called and a concise statement of their proposed testimony;

(5) a numbered list of exhibits upon which the parties intend to rely at the hearing; and

(6) an estimate of the length of time required to hear the matter.

The moving party shall file four (4) copies of the pretrial order with the clerk. After the pretrial order has been submitted, the court may schedule any conference it deems appropriate.

(B) Default: Failure to prepare and file any required orders, or failure to cooperate in good faith shall result in sanctions, including, without limitation, striking pleadings or motions, preclusion of orders, orders staying the proceedings,

default judgment or order, and assessment of expenses and fees against either party or counsel.

(C) Subpoenas: Subpoena forms shall be obtained from the clerk. Subpoenas shall be prepared by the requesting party or counsel. Service of process is the responsibility of the requesting party or counsel and not the court. See Bankruptcy Rule 9016; Rule 45 F.R.Civ.P.

RULE 26

EX PARTE REQUESTS

Whenever a request for relief is presented ex parte, the movant shall specify the statute or rule which authorizes the court to act. The movant also shall certify:

(A) that immediate and irreparable injury, loss or damage will result to the movant before the adverse party or his attorney can be heard in opposition; and

(B) the efforts, if any, which have been made to give notice and the reasons why notice should not be required.

If the matter is or has been a contested matter, as defined in Bankruptcy Rule 9014, the person seeking relief shall certify that despite diligent effort and good faith, service upon the opposing party and counsel was not obtained.

RULE 27

AGREED ORDERS/RESOLUTION OF MATTERS SET

Where a disputed matter has been set for hearing and the parties have resolved the matter, in order to have the matter removed from the court's docket, the agreed order shall be either reduced to writing and filed with the court prior to or at the hearing, or the terms of the agreement shall be read into the record by at least one (1) interested party or the party's attorney, who shall appear at the scheduled hearing .

RULE 28

FINAL HEARINGS IN CHAPTER 7 CASES

Notice and a summary of the Final Report and Account shall be sent to the debtor and all creditors by the clerk in Chapter 7 cases if the net proceeds in the estate exceed \$250.00. The notice shall fully set forth the statutory amount of the trustee's fee and an itemization of trustee expenses for which compensation and reimbursement is sought.

No final hearing shall be held in Chapter 7 cases EXCEPT:

(A) upon timely objection by any interested party to the Trustee's Final Report and Account; or

(B) when there is pending an Application for Compensation and Reimbursement of Expenses totalling in excess of \$100.00 by any person other than the trustee that has not been previously noticed and allowed in full.



RULE 29

DISMISSAL OF RELATED TITLE 11 CASES

Whenever a case under the Bankruptcy Code is dismissed, any related adversary proceeding then pending in which final judgment has not been entered, will likewise be dismissed without prejudice and without further order of the court, except those cases that have been removed from the bankruptcy court may be remanded to the court from which they have been removed; provided, however, such dismissal of the related adversary cases shall not be final until thirty (30) days have elapsed after entry of the dismissal order.

RULE 30

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN

Any objection to confirmation of a Chapter 13 plan shall be filed with the clerk and served upon the debtor, debtor's counsel, and the Chapter 13 trustee on or before seven (7) days prior to the date set for the hearing on confirmation. Any objection that is not served and filed timely may not be considered.

Prior to the hearing on confirmation in Chapter 13 cases, the trustee shall file a report advising the court of his or her recommendations as to whether the proposed plan should or should not be confirmed. After the plan is confirmed and the time for filing claims has passed, the trustee shall file his Recommendation Concerning Claims.

RULE 31

DISMISSAL OF CASES

(A) In cases under Chapters 7, 11, and 13, an order may issue requiring the debtor and his attorney to show cause why the case should not be dismissed when:

(1) a debtor in a voluntary case fails to attend a properly scheduled meeting of creditors, or

(2) the Statement of Affairs and/or Schedules or Chapter 13 Statement or Plan are not timely filed in a voluntary case; or

(3) the debtor in a Chapter 11 case fails to provide monthly operating reports as required by Local Rule 6 or order of this court.

(B) A petition shall be dismissed without prejudice when, an individual debtor has been a debtor in a previous case pending under the United States Bankruptcy Code at any time in the preceding 180 days from the date of filing and:

(1) the case was dismissed by the court for willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case; or

(2) the debtor requested and obtained voluntary dismissal of the case following the filing of a request for relief from the automatic stay provided by §362 of the Bankruptcy Code.

(C) When an adversary proceeding is filed, and the defendant fails to respond within the period required, after proper service of summons and complaint, the plaintiff may move

for a default judgment or request a clerk's entry of default. Alternatively, the plaintiff shall move for voluntary dismissal of the adversary complaint.

RULE 32

APPEALS

(A) Notice of Appeal: The notice of appeal should contain, in addition to the requirements of Bankruptcy Rule 8001(a), a brief summary of the order or judgment from which the appeal arises and the date the order or judgment was filed in the bankruptcy court.

(B) Designation of Record: In addition to the requirements set forth in Bankruptcy Rule 8006, a designation of record filed with the clerk shall state the date of filing for each item to be included in the record on appeal.

APPENDIX "A"

ALL DIVISIONS EXCEPT BEAUMONT DIVISION

In all cases filed in this district, OTHER THAN THE BEAUMONT DIVISION CASES, the mailing matrix described in Rule 12(A)(5) shall include typed labels for the following parties:

(1) One label for the appropriate divisional office of the U.S. District Court of the following:

U.S.District Court  
Sherman Division  
216 Federal Bldg.  
Sherman, Texas 75090

U.S.District Court  
Marshall Divison  
Rm. 125 Federal Bldg.  
Marshall, Texas 75670

U.S.District Court  
Texarkana Division  
P. O. Box 2667  
Texarkana, Tx 75501

(2) Attorney General of Texas  
Taxation Division-Bankruptcy  
Box 12548, Capitol Station  
Austin, Texas 78711

(3) Texas Employment Commission  
T.E.C. Bldg.-Tax Dept.  
Austin, Tx 78778

\* FOR TYLER DIVISION ALSO INCLUDE:

Texas Employment Commission  
Box 4728  
Tyler, Tx 75712

\* FOR SHERMAN DIVISION ALSO INCLUDE:

Texas Employment Commission  
Tax Dept.  
320 N. Travis, Suite 204  
Sherman, Texas 75090

\*\* EXCEPT IN SHERMAN DIVISION, FOR DENTON, TEXAS CASES USE:

Texas Employment Commission  
P. O. Box 1975  
Denton, Tx 76201

- (4) State Comptroller of Public Accounts  
 Capitol Station  
 Austin, Tx 78774
- (5) City Tax Collector \*1)  
 City of \_\_\_\_\_, Tx. \_\_\_\_\_
- (6) Tax Collector \*2)  
 \_\_\_\_\_ School District  
 \_\_\_\_\_ TX \_\_\_\_\_
- (7) Tax Collector  
 County of \_\_\_\_\_  
 \_\_\_\_\_ County Courthouse  
 \_\_\_\_\_, Tx. \_\_\_\_\_
- (8) For all involuntary petitions, include a label to:

District Director, IRS  
 Code 5020 DAL  
 1100 Commerce  
 Dallas, Tx 75242  
 Attn: "Special Procedures:gw"

- (9) In addition, in all cases where a federal agency is involved, in all cases in which the Internal Revenue Service is a creditor, and in all Chapter 11 cases and Chapter 13 cases, the mailing matrix shall also include labels for:

U. S. Attorney  
 Eastern District of Texas  
 Suite 600, Interfirst Plaza Tower  
 Tyler, Texas 75702

District Director, IRS  
 Code 5020 DAL  
 1100 Commerce  
 Dallas, Tx  
 Attn: "Special Procedures:gw"

\*1) Ex: When the City of Tyler, the label shall read: Tax Collector, P.O. Box 2039, Tyler, Tx 75710.

\*2) Ex: When the City of Tyler, the label shall read: Tax Collector, Tyler ISD; c/o Tab Beall, Atty.; 519 Interfirst Plaza Bldg.; Tyler, Tx 75702.

BEAUMONT DIVISION CASES ONLY

IN ALL BEAUMONT DIVISION CASES, the mailing matrix described in Rule 12(A)(5) shall include typed labels for the following parties:

- (1) U. S. District Clerk  
Room 320, U.S.Courthouse & Federal Bldg.  
Beaumont, Tx 77701
- (2) Attorney General of Texas  
Taxation Div.-Bankruptcy  
Box 12548  
Austin, Tx 78711
- (3) Texas Employment Commission  
T.E.C. Bldg-Tax Dept.  
Austin, Texas 78778
- (4) Office of State Comptroller  
Capitol Station  
Austin, Texas 78775
- (5) City Tax Collector  
City of \_\_\_\_\_, Texas \_\_\_\_\_
- (6) Tax Collector  
\_\_\_\_\_ School District  
\_\_\_\_\_, Tx. \_\_\_\_\_
- (7) Tax Collector  
County of \_\_\_\_\_  
\_\_\_\_\_, Tx. \_\_\_\_\_ County Courthouse
- (8) For all involuntary petitions, include a label to:  
  
District Director, IRS  
Special Procedures Staff  
Stop 5022H-BP  
P. O. Box 42837  
Houston, Texas 77242-2837



(9) In addition, in all cases where a federal agency is involved, in all cases in which the Internal Revenue Service is a creditor, and in all Chapter 11 cases and Chapter 13 cases, the mailing matrix shall also include labels for:

United States Attorney  
700 North Street, Suite 102  
Beaumont, Tx 77701

District Director, IRS  
Special Procedures Staff  
Stop 5022H-BP  
P.O.Box 42837  
Houston, Texas 77242-2837