COURT PROCEDURES/PRACTICE GUIDE
JEFFREY P. NORMAN
UNITED STATES BANKRUPTCY JUDGE
https://www.txs.uscourts.gov/page/united-states-bankruptcy-judge-jeffrey-p-norman

1. Applicable Rules.

Practice in this Court is governed by the Federal Rules of Bankruptcy Procedure, the Local Rules of the United States Bankruptcy Court for the Southern District of Texas, and these Court Procedures.

All parties appearing before the Court are charged with responsibility for compliance with applicable rules.

2. Contact with Court and Court Personnel.

Communications with the Court should be in the form of pleadings filed with the clerk of court. Attorneys and parties who are not represented by counsel may contact the Court's Case Manager, Mario Rios, at mario_rios@txs.uscourts.gov or (713) 250-5393. If Mr. Rios is out of the office, you may contact Tracey Conrad, at tracey_conrad@txs.uscourts.gov or (713) 250- 5772. The chambers main line number is (713) 250-5252, or you may contact the Clerk's office at (713) 250-5500.

Unless otherwise permitted in these Courtroom Procedures, contact with Judge Norman and his law clerks, other than by pleadings, is strictly prohibited. Letters and telephone calls to Judge Norman and his law clerks are prohibited.

The Court does not require courtesy copies. Other communications by **mail** should be directed to United States Bankruptcy Court, Attn: Mario Rios, 515 Rusk St., Suite 4505, Houston, Texas 77002. Communications via **email** may be directed to mario_rios@txs.uscourts.gov and tracey_conrad@txs.uscourts.gov.

3. Attendance at Hearings.

Unless otherwise set forth in the local rules, these Court Procedures, or an order by this Court, a person with authority to bind the client must attend each hearing. For parties represented by an attorney, this will generally be an attorney with full authority to act on the matter before the Court. If a client represented by counsel does not give full authority to the counsel who will appear, a representative of the client with full authority on the matter to be considered should accompany counsel at the hearing.

The Court provides a schedule of hearings on its website. While the schedule is provided for convenience of the public and the inclusion or omission of any matter from the calendar does not, per se, have any effect on notice to the parties, the Court endeavors to keep the calendar current. Accordingly, it will strike hearings from the calendar as orders are entered. The website, therefore, typically contains the most up to date docket, in the order that cases will be called by the Court.

4. Motions, Applications, Objections, Hearings and Response Deadlines.

Most non-emergency main case motions/applications/objections should be self-calendared for hearing. Adversary motions should not be self-calendared and will always be set by the Court. However, the following motions may be filed in main cases without self-calendaring and may be ruled on by the Court *ex parte*, or alternatively will be set for hearing by the Court. No other *ex parte* motions are permitted.

Administrative Motions and Orders filed by the Clerk of Court
Application to Pay Filing Fee in Installments;
Application to Waive Chapter 7 Filing Fee;
Debtor's Motion for Exemption from Credit Counseling or Financial Management Course;
Debtor's Motion to Extend Time to File Schedules and Statement of Financial Affairs;
Debtor's Motion to Convert Case to a Chapter 7;
Debtor's Motion to Convert Case to a Chapter 13, unless he/she has previously converted;
Debtor's Motion to Dismiss Chapter 13 Case, unless he/she has previously converted from another chapter;
Debtor's Motion to Delay Entry of Discharge Order, for purpose of filing a reaffirmation agreement;
Fee Applications of not more than $1,000.00;[1]
Motion for *Pro Hac Vice* Admission;
Motion for Entry of an Agreed Order;
Motion for Expedited Hearings;
Motion for Temporary Restraining Order;
Motions or Orders authorized by prior Court Order;
Motion Requesting Pre-Confirmation Disbursement by Chapter 13 Trustee of Administrative Expenses;
Motion to Proceed *In Forma Pauperis*;
Motion to Continue Hearing;[2]
Motion to Defer Fee;
Motion to Enroll/Substitute Attorney;
Motion to Extend or Shorten Response Time;
Motion to Limit Notice to Parties;
Motion to Reopen Case under 11 U.S.C. §350;
Motion to Appear at Hearing by Telephone *(if required)*;
Motion to Restrict Public Access or Motion to Redact Identifiers;
Motion to Seal;
Motion to Vacate Dismissal for Non-payment of Filing Fee;
Motion to Waive Local Rules;
Notice/Motion to Withdraw;
Trustee's Application to Appoint Trustee's Law Firm as Attorney for the Trustee;
Trustee's or United States Trustee's Motion for a 2004 Examination of the Debtor *(if required)*;

[1] Fee Applications of not more than a $1,000.00 must contain a certificate of service showing service on both the debtor(s) and Trustee, if the Trustee is not the applicant. This includes fee applications for accountants and appraisers.
[2] Must include an affidavit of conference.

Motion to Dismiss for failure to attend 341 meeting
Wage Orders/Terminations

Any *ex parte* motion, application, or other pleading not provided for by these courtroom procedures may be stricken or denied by the Court without hearing or notice.

Hearing dates for self-calendaring of motions/applications/objections are posted on the Court's website. Make sure to select an appropriate hearing date and time for the division the case is assigned to.

Applications/Objections/Motions (other than motions for relief from the automatic stay) require a minimum of 24 days' negative notice (21 days, plus three extra days if mailed pursuant to Fed. R. Bank. P. 9006(f)); however, claim objections require a minimum of 33 days' negative notice (30 days pursuant to Bankruptcy Rule 3007, plus three extra days for mailing pursuant to Fed. R. Bank. P. 9006(f)). The 21-day response deadline required by BLR 9013-1(b) must be at least seven days prior to the scheduled hearing. In other words, most motions must be scheduled for hearing at least 31 days after filing (21 days pursuant to BLR 9013-1, plus 3 days if mailed pursuant to Fed. R. Bank. P. 9006(f), plus 7 days). Any hearing notice without sufficient negative notice will be stricken by the Court *sua sponte*.

Motions for Relief from the Automatic Stay must comply with BLR 4001-1. In addition, hearings on motions for relief from the automatic stay must be set at least 17 days after the motion is filed. Parties should be ready to proceed at the scheduled hearing. Initial hearings on Motions for Relief are evidentiary hearings. Parties are advised that they may agree to continue an evidentiary hearing on a Motion for Relief or request a specific setting due to case complexity or witness availability by email pursuant to paragraph 7.

Motions for relief filed in Galveston Division cases may be set on either a Houston or Galveston motion for relief calendar. Hearings set in Galveston are evidentiary hearings. Galveston hearings set in Houston are preliminary hearings and will be held by telephone. Other than Galveston Division cases set in Houston, this Court does not conduct preliminary hearings on motions for relief from stay.

Motions to Extend the Automatic Stay or Impose the Automatic Stay, if not self-calendared, will also be set by the Court.

All emergency motions will be set for hearing by the Court pursuant to BLR 9013-1(i). Emergency motions may not be self-calendared. Emergency motion must contain the word "Emergency" in the title of the motion. The motion **must** include a detailed statement why an emergency exists and the date relief is needed to avoid the consequences of the emergency. The motion seeking an emergency hearing must be certified for its accuracy by the party seeking the emergency relief or by its counsel. Emergency motions must include the language required by BLR 9013-1.

"Emergency (or expedited) relief has been requested. If the Court considers the motion on an emergency (or expedited) basis, then you will have less than 21 days to answer. If you object to the requested relief or if you believe that the emergency (or expedited) consideration is not warranted, you should file an immediate response."

The Court requires **strict** compliance with BLR 9013-1 for all Emergency Motions.

Parties may also request by **separate** motion an expedited hearing on any motion/application if a shortened response time is required but the motion/application is not an emergency. In these situations, the initial motion should be self-calendared with a normal notice period as required above. The Court will review any motion for expedited hearing and determine an appropriate hearing date. If the Court denies the request for an expedited hearing, then the normal notice periods in the initial motion shall be applicable. Counsel may **not** unilaterally self-calendar an emergency or expedited hearing.

Notice that an emergency motion or a request for an expedited hearing has been filed may be sent via email to mario_rios@txs.uscourts.gov as they may not be seen by chambers staff until the next business day. The Court may grant or deny any relief sought in any motion/application/objection without hearing based on responsive pleadings. Parties may upload agreed orders granting relief prior to any scheduled hearing and the Court may grant agreed relief without further hearing or notice. Agreed Orders filed within 24 hours of a scheduled hearing may not be seen by the Court prior to the scheduled hearing. Notice of late filed Agreed Orders should be emailed to the Court's Case Manager and Courtroom Deputy for entry prior to the scheduled hearing.

Each motion, application, objection, and response filed with the court must be accompanied by a proposed order pursuant to Bankruptcy Local Rule 9013-1(h). Failure to file a proposed order can be grounds for denial of the motion. Orders should be succinct and not contain unnecessary findings or verbiage. Orders must not contain additional relief that is not requested or included in the pleading. Orders must be one complete document and cannot refer to exhibits or documents not included in the order. For example, if an order references an exhibit, that exhibit must be included in the order itself.

The Court will generally rule on all motions based on responsive pleadings unless the presentation of evidence is required. Hearings that are set may not be heard if the Court can rule on a motion without the necessity of a hearing. If your motion is unopposed, the Court is likely to sign your order after the response deadline but before the hearing date. Motions that are ruled on before the hearing date are stricken from the Court's docket. If your motion does not appear on the Court's docket, then the Court has already entered its order. There may be a delay between the Court ruling on your motion and the docketing of the order, especially if your order is signed the day of your hearing. If an order is not entered prior to the hearing, all parties must assume the hearing is going forward as scheduled.

The Court reviews pleading form and service on every motion. Defective pleading form or incorrect service will lead to denial of your motion. The Bankruptcy Rules create a system of notice and service requirements. The following is a general aid for notice and service:

a. Motions are typically governed by Bankruptcy Rules 9013 and 9014. These rules require pleadings state with particularity the relief requested and the grounds for such relief, and require the pleadings be served in the same manner as a summons and complaint under Bankruptcy Rule 7004.

b. Most applications (e.g., to sell or use property of the estate, professional employment, Rule 9019 settlement or compromise, compensation) must be served in accordance with Bankruptcy Rule 2002.

c. Service of pleadings are additionally governed by BLR 9013-1(d).

All motions, except those made at trial, must be made in writing and state with particularity the grounds supporting the motion and the relief or order sought. Motions should address each issue presented and follow with the pertinent facts, statutory framework, legal arguments, and the specific relief requested.

Motions filed in adversary proceedings are not subject to the negative notice requirements of main bankruptcy cases and shall be governed by the Federal Rules of Civil Procedure and the Federal Rules of Bankruptcy Procedure. The Court will set all motions in adversary proceedings for hearing and will also set a response deadline. At the expiration of the response deadline, the Court may rule without the necessity of a hearing based on responsive pleadings.

With respect to hearings on objections to proofs of claim, this Court intends to deviate from BLR 3007(d). When an objection to a proof of claim and response have been filed, the Court intends to move forward with an evidentiary hearing on the initially set hearing date. If the parties agree that a non-evidentiary status conference pursuant to BLR 3007(d) should initially be held instead, they may contact Judge Norman's case manager via email pursuant to the Court's procedures for continuances. When all parties do not agree to a non-evidentiary status conference, a request for conference may only be requested by motion, and such motion requires an affidavit indicating the efforts the parties took to obtain consent to the conference. Thereafter, the Court will either grant the motion for conference and enter a scheduling order or deny the motion.

5. Chapter 11 Practice.

Employment of Professionals

Pursuant to Federal Rules of Bankruptcy Procedure 2014 and 6003(a), the Court approves attorney employment in Chapter 11 cases on an interim basis, retroactive to the petition date during the 21-day waiting period proscribed by Federal Rule of Bankruptcy Procedure 6003. Therefore, counsel should set any Application to Employ for hearing and seek, if desired, expedited consideration. Thereafter, the Court will grant an interim order approving employment until the scheduled hearing on an *ex parte* basis. Service is governed by Federal Bankruptcy Rule 2014(a) and only requires service on the United States Trustee. Debtors should always request emergency consideration of first day motions. The United States Trustee has reporting requirements in all Chapter 11 cases. The Court requires compliance with the United States Trustee's reporting requirements in all Chapter 11 cases. Questions regarding this reporting should be directed to the office of the United States Trustee.

Guidelines on Chapter 11 Cash Collateral Motions/Orders and Debtor in Possession Financing Orders

The following guidelines are provided to assist chapter 11 debtors with the submission of motions and proposed orders approving motions for emergency use of cash collateral and requests for debtor in possession financing ("Emergency Cash Collateral and DIP Financing Orders"). These guidelines are not intended to limit requests for relief in motions requesting final approval of the use of cash collateral and/or debtor in possession financing where all creditors and parties in interest have been provided appropriate notice and an opportunity for hearing.

Motions for Authorization to Use Cash Collateral

A motion for authorization to use cash collateral must consist of a concise statement of the relief requested and must include:

(i) the name of each entity with an interest in the cash collateral;

(ii) the purposes for the use of the cash collateral;

(iii) the material terms, including duration, of the use of the cash collateral; and

(iv) any liens, cash payments, or other adequate protection that will be provided to each entity with an interest in the cash collateral or, if no additional adequate protection is proposed, an explanation of why each entity's interest is adequately protected [i.e., why additional protection is not required].

(v) Any relationship of the creditor to the debtor, the nature and source of the cash collateral, and budgets or cash flow projections.

General Guidelines

These guidelines provide: (i) general reminders and requirements for Emergency Cash Collateral and DIP Financing Orders, (ii) a general description of factual findings that should be included in a motion for emergency use of cash collateral, (iii) examples of decretal provisions the Court will ordinarily approve in connection with Emergency Cash Collateral and DIP Financing Orders, and (iv) examples of provisions the Court generally will not approve in connection with Emergency Cash Collateral and DIP Financing Orders without providing notice and opportunity for hearing to all creditors and parties in interest.

1. Debtor must provide no less than 48 hours' notice of the motion and any expedited hearing thereon to the United States Trustee and Subchapter V Trustee [if appointed], debtor's twenty largest unsecured creditors, the attorneys for any committee that may be appointed by the Court, any creditor asserting a secured claim or other interest in cash collateral against debtor (and its attorneys if known), and the Internal Revenue Service, any potentially affected taxing authorities, and any other creditor or party in interest directly affected by the relief sought on an emergency or first day basis. At a minimum, such notice should be provided by both by either email, telephone, or fax and in the manner provided under Bankruptcy Rule 7004.
2. Even if parties have agreed and consented to the relief requested, approval of such relief remains subject to the discretion of the Court.

Factual Findings That May Be Included in Emergency Cash Collateral and DIP Financing Orders

1. That debtor has complied with all applicable service requirements.
2. That the secured creditor asserts a lien or interest in cash collateral, the priority of any such lien or the nature of any such interest, and the amount of indebtedness allegedly secured by the cash collateral or the extent of such interest.
3. Identification of the assets that are generating or will generate cash collateral.
4. That debtor has an immediate need for the use of cash collateral or debtor in possession financing, as applicable, including the reason for that immediate need (e.g. to preserve assets of the estate, to fund business operations, to purchase inventory, etc.).
5. That debtor reaffirms the existing terms and conditions of financing documents with secured creditor or other applicable documents establishing an interest in cash collateral.

Provisions That Are Ordinarily Approved in Emergency Cash Collateral and Dip Financing Orders

1. Granting and defining adequate protection to the secured creditor, and its successors and assigns, pursuant to §§ 361 and 363 of the Bankruptcy Code.
2. Granting the secured creditor replacement liens in post-petition assets to the same extent and priority as existed prepetition to the extent of diminution in value.
3. Granting the secured creditor, a super-priority administrative claim to the extent that adequate protection proves inadequate.
4. Providing for creation of a segregated debtor in possession account into which cash collateral shall be deposited.
5. Restricting use of cash collateral to pay specific categories of operating expenses, per budgets to be attached to the order or subsequently filed with the Court.
6. Requiring debtor to maintain insurance.
7. Requiring the submission of periodic reports regarding use of cash, aging of accounts receivable, etc.
8. Providing equality of treatment for carve-outs as between professionals for the debtor and professionals for any committee of unsecured creditors, and limiting the use of carve-outs to exclude the pursuit, but not investigation, of claims against the secured creditor providing financing.
9. Providing that the order is sufficient and conclusive evidence of priority and validity of the security interest in and liens, including replacement liens, on the assets of the estate granted to the secured creditor, without the necessity of filing, recording, or serving any financing statements or other documents which may be otherwise required under federal or state law in any jurisdiction, or the taking of any action to validate or perfect the security interests and liens granted to secured creditor. Providing however, that the secured creditor may, in its discretion, file such financing statements or other documents with respect to such security interest and liens, and that debtor is authorized and directed to execute, or cause to be executed, all such financing statements or other documents upon the secured creditor's reasonable request.
10. Providing a period for which an order authorizing the use of cash collateral is applicable.
11. Providing that even if authorization to use cash collateral expires, adequate protection/liens will continue to be effective unless or until modified by the Court.

12. Providing that upon a material default under an order authorizing the use of cash collateral, the secured creditor is entitled to an expedited hearing.
13. Setting a deadline for the secured creditor to file documents evidencing a perfected security interest with the Court.
14. Setting a further hearing date.

Provisions That Will Generally Not Be Approved on an Emergency Basis

1. Stipulations reducing the time period for parties in interest to challenge the perfection, validity, priority, or amount of secured claims to less than 60 days from the engagement of counsel for the committee of unsecured creditors or to less than 90 days from the commencement of the case if there is no committee of unsecured creditors in the case.
2. Stipulations as to the perfection, validity, or priority of secured claims that are binding on any party other than the debtor.
3. Including a provision in cases where the secured creditor asserts liens on accounts receivable pursuant to asset based revolving credit facilities that recharacterizes the "use of cash collateral" as a "post-petition advance" without regard to whether the "post-petition advance" is a new loan or the use of a prepetition receivable.
4. Provisions which release potential claims or causes of action by the estate against the secured creditor without providing parties in interest the opportunity to challenge any such releases.
5. Provisions which grant automatic relief from stay upon a material default under an order authorizing the use of cash collateral.
6. Provisions which grant cross-collateralization on unencumbered assets, absent extraordinary circumstances.
7. Provisions which authorize a purportedly post-petition credit facility, the proceeds of which satisfy any or all the secured creditor's prepetition debt.
8. Provisions that grant a lien on avoidance actions.
9. Provisions which purport to dictate the terms of any proposed or confirmed plan.

Chapter 13 Practice.

Practice in Chapter 13 cases is largely dictated by the procedures of the Chapter 13 Trustee. The Standing Trustee assigned to this Court is William Heitkamp, 9821 Katy Freeway, Suite 590, Houston, Texas 77024 (713) 722-1200. Counsel may contact the Trustee for assistance regarding any Chapter 13 procedures. The Southern District of Texas has a mandatory Uniform Chapter 13 plan posted on its website.

Attorneys representing debtors on a fixed fee basis must complete and file the required "Bankruptcy Rule 2016(b) Disclosure and Application for Approval of Fixed Fee Agreement" not later than the 20th day following the date of the Chapter 13 petition or conversion to Chapter 13. Attorneys not opting into the "No Look" fee order must file fee applications in order to be compensated. The Court strictly enforces Bankruptcy Rule 2016 across all Chapters. Local Chapter 13 forms are available on the Bankruptcy Court's website.

Motions to Extend the Automatic Stay may be self-calendared and should be filed as soon as a bankruptcy case is filed. Motions not timely filed that do not allow for sufficient negative notice may be denied. Should the Court's calendar not allow for a hearing within the thirty (30) day limit

required by the Bankruptcy Code, the debtor should seek an expedited hearing. Unopposed motions are generally granted after the response deadline, without hearing, with the requirement that the debtor maintain a wage order over the life of the Chapter 13 case. However, the Court may condition the stay on the debtor's pay history in his/her prior case. The Court reviews the pay history of every case dismissed within the last year prior to ruling on any Motion to Extend the Automatic Stay. The Court does not have access to pay records for dismissed cases filed outside the Southern District of Texas. In these cases, unless a pay history is attached to the Motion to Extend the Automatic Stay, the Court will require a hearing and the debtor's testimony.

Motions to Impose the Automatic Stay always require an evidentiary hearing, even if unopposed. The Court will always strictly condition the imposition of the automatic stay in Chapter 13 cases.

Wage orders do not require a motion. Wage orders are required in every Chapter 13 case unless excused by the Court. Termination, amendments, or modifications of wage orders also do not require a motion. Termination, amendments, or modifications of wage orders may be uploaded as a wage order and the Court will sign them *sua sponte*. However, termination of a wage order by the Court is not a defense to dismissal of a Chapter 13 case for nonpayment.

Consent or agreed orders in Chapter 13 cases require the signature of the Chapter 13 Trustee. All consent or agreed orders presented without the Trustee's signature may be denied without prejudice but may be resubmitted.

Unopposed Chapter 13 Plans or plan modifications that meet the standards for confirmation may be recommended for confirmation without actual presentation by the Trustee and are stricken from the docket. Thereafter, the Court conducts an *in camera* review of the debtor's Chapter 13 plan and schedules. Once the Court has conducted its review, it will sign the order confirming the Chapter 13 plan if it has no independent concerns or objections. Where it appears the confirmation standards may not have been met, the Court will typically set the case for an evidentiary hearing or may deny confirmation outright. The Court will thereafter enter an order setting a hearing that sets forth the Court's concerns. Unless that order provides otherwise, the debtor's attendance at the evidentiary hearing is mandatory. Any Chapter 13 plan not in a position to be confirmed at a scheduled confirmation hearing may be dismissed at the Court's discretion. Unopposed confirmation or modification orders may be uploaded by the Chapter 13 Trustee at any time.

7. Continuances.

Continuances may be requested and granted without a motion, if all parties are in agreement. Parties seeking a continuance must jointly email chambers consenting to a continuance. Emails should be addressed to mario_rios@txs.uscourts.gov and tracey_conrad@txs.uscourts.gov. The parties will receive a reply email indicating whether the Court grants or denies the continuance request. If the parties do not receive a reply email, they should assume that the hearing will go forward as scheduled. When all parties do not agree to a continuance, a continuance may only be requested by motion, and such motion requires an affidavit indicating the efforts the parties took to obtain consent to the continuance. The Court may deny a continuance request even if all parties have agreed to the continuance.

8. Fee Applications (All Chapters).

Fee Applications do not require a cover sheet. Fee applications must recite the following:

a. The date the debtor filed the petition;
b. The date the court authorized the employment of the applicant (where required);
c. Whether this is the first, second, etc., or final application;
d. If it is the first application, it shall recite the retainer received by the applicant. If it is a subsequent application, it shall state the date of all prior applications and the amounts approved by the court;
e. A list of extraordinary circumstances involved in the case. *See generally, Johnson v. Georgia Highway Express*, 488 F.2d 714 (5th Cir. 1974),
f. A statement of the legal experience of the attorneys and paralegals involved;
g. Attached to the application shall be a chronological listing of all the time for which the application is requesting compensation,
h. An itemization of expenses.

9. Video and Telephone Participation.

Parties may participate remotely by video pursuant to Bankruptcy Court General Order.[3] Parties may additionally listen by telephone to any hearing. At the expiration of any Bankruptcy Court General Order, parties may seek to appear by video upon motion and order.

Video participation is available at www.gotomeet.me/JudgeNorman conference call participation is also required. The Court's conference call number is (832) 917-1510, conference code 174086.

If technological problems arise, hearings will continue without the participation of the video or telephone participant. The Court will not delay hearings for signal problems or interference. Accordingly, persons choosing to attend a hearing by video or telephone do so at their own risk of technological failure. Parties should not participate by speakerphone. Separate video and audio connections are required for counsel, debtors, and witnesses. Counsel and witnesses must appear by video, debtors may appear by telephone only. Excess background noise is not permitted.

You should mute your phone upon connection. You may unmute should you be required to speak. If you dial in to a hearing, you are participating in a court proceeding and are bound by the normal rules of courtesy and attention. You may be terminated from remote participation, if you fail to abide by these requirements.

10. Exhibits.

Exhibit lists must be filed and exchanged prior to hearings pursuant to BLR 9013-2. If a party-in-interest intends to introduce documents into evidence at a remote or at an in-person hearing, the documents must be filed on CM/ECF. A witness and exhibit list should be filed as a document, with each exhibit being filed as a separate attachment to the witness and exhibit list. For example,

[3] https://www.txs.uscourts.gov/bankruptcy/genord

if there are three exhibits, and the next CM/ECF document sequence is 101, the witness and exhibit list will be ECF document 101, exhibit 1 will be ECF document 101-1, exhibit 2 will be ECF document 101-2, and exhibit 3 will be ECF document 101-3.

11. Adversary Proceedings.

Should a properly served defendant not file an answer, then the plaintiff should file a Motion for Entry of Default pursuant to Federal Rule of Civil Procedure 55(a). Entry of default will be signed and entered by the Clerk as specified in Fed. R. Civ. P. 55(a) upon verification of service and the failure to file an answer. The Clerk may enter a default judgment pursuant to Federal Rule of Civil Procedure 55(b) for a sum certain when accompanied by an affidavit that the person against whom judgment is sought is not an infant, an incompetent person, or serving in the armed forces within the meaning of the Servicemembers Civil Relief Act, 50 U.S.C.A. § 3931. After entry of default by the Clerk, the plaintiff may file a Motion for Default Judgment pursuant to Federal Rule of Civil Procedure 55(b)(2), accompanied by a proposed form of Default Judgment. Thereafter, the Court will set a response deadline and evidentiary hearing date. At the expiration of the response deadline, the Court will consider all the pleadings. Proof may be submitted by affidavit and, if possible, the Court will rule before the scheduled evidentiary hearing date. Should the Court not enter the proposed Default Judgment, the plaintiff should be ready to present evidence at the scheduled default judgment hearing and the Court may grant judgment or order such further hearing as it deems necessary.

Parties should attempt to make their Rule 26(f) disclosures prior to the scheduling conference in every adversary proceeding. The Court will enter a scheduling order after the scheduling conference. Parties should be ready to provide the Court time estimates for discovery and trial. Parties can expect trial settings within six months of the scheduling conference unless there are exigent circumstances, or the case is overly complex. Trial dates as set in the scheduling order are hard settings i.e., the time reserved in the scheduling order is reserved exclusively for trial of the case. **Therefore, trial dates are generally never reset or continued.**

Plaintiffs may avoid appearing at pretrial conferences if the Clerk has entered default against all defendants prior to the scheduling conference, as the Court will remove the case from its docket. Should a plaintiff not appear at a scheduled pretrial conference, the Court will dismiss the adversary without prejudice for lack of prosecution.

12. Discovery Disputes.

Discovery disputes that cannot be resolved between the parties should ordinarily be submitted by written motion. However, if a dispute arises during an oral deposition, a party may contact the Court at (713) 250-5252 during the deposition and request a telephonic hearing.

The Court intends to enforce Federal Rule of Civil Procedure 37 as made applicable to proceedings in this Court by Federal Rule of Bankruptcy Procedure 7037.

13. Settlements.

Settlements are always encouraged. If a case is settled, the parties should promptly contact the Court. The proposed settlement may be presented in the form of a written order prior to the scheduled hearing. If the proposed settlement has been approved in writing by all parties, then only one counsel is required to attend the hearing, though all interested parties are invited to attend. If the Court does not approve of the proposed settlement, the hearing will be reset for a subsequent date.

Settlements submitted prior to the hearing date will normally be signed by the Court prior to the hearing and the hearing canceled. Only when an order is signed and docketed is the hearing canceled.

If a settlement is in an adversary proceeding and requires approval pursuant to Federal Rule of Bankruptcy Procedure 9019, such motion should be filed in the main case only. A proposed form of order in the main case and a proposed form of judgment or order in the adversary proceeding must be attached to the 9019 motion.

14. Mediation

The Court will only order mediation upon the agreement of all of the parties. The parties should file a motion for agreed entry with an accompanying agreed order. No hearing is necessary as motions for entry of agreed order are permitted on an *ex parte* basis (see number 4). The parties should secure a mediator prior to filing the motion and order. The order must designate a mediator and set forth any specific conditions the parties have agreed to and want included in the order.

15. Consent or Agreed Orders in Chapter 12 or 13 Cases

Consent or agreed orders in Chapter 12 or 13 cases require the signature of the Chapter 12 or 13 Trustee. All consent or agreed orders presented without the Trustee's signature may be denied without prejudice and may be resubmitted.

16. Amended Orders.

Parties may only request that a signed order be amended through filing a motion to amend. Merely submitting a proposed amended order is insufficient. The motion to amend should be filed with the proposed amended order. The motion should also state the exact factual or legal grounds for an amended order.

17. Oral Rulings.

The Court may issue oral rulings either immediately following a hearing or trial or on matters under advisement. When issuing an oral ruling, the Court reserves the right, without changing its final ruling, to correct the transcript, not only as to inaccuracies in transcription, but also as to content. In order to ensure that the oral ruling fully and clearly states the Court's rationale for its decision, the Court may: (1) add, alter, or delete any language in the transcript of the oral ruling;

(2) correct grammar or punctuation; and/or (3) add or delete any citations to authority. If the Court's edits to the transcript of the oral ruling go beyond the correction of transcription errors, then the document filed by the Court will no longer be a transcript. Instead, the Court will docket it as a corrected and modified bench ruling, although the Court's holdings on the issues before it will not change.