

COURT PROCEDURES AND PRACTICE TIPS

Judge David R. Jones

January 22, 2013

1) Contact with Court and Court Personnel.

- a) All requests for relief should be in the form of written motions filed with the Clerk of the Court. For procedural questions, parties may contact the Court's case manager: Albert Alonzo at Albert_Alonzo@txs.uscourts.gov or (713) 250-5467. If Mr. Alonzo is unavailable, please contact the courtroom deputy, Diyana Staples at Diyana_Staples@txs.uscourts.gov or (713) 250-5779.
- b) Direct contact with Judge Jones is strictly prohibited. Letters and telephone calls to chambers are prohibited. The Court will not conduct "chamber's conferences" under any circumstances. Parties should not have any contact or communication with Judge Jones about a pending matter except on the record in open court.
- c) At Judge Jones' direction, his briefing attorney, law clerk or judicial assistant may contact counsel as the need arises. If such contact is made, please refrain from engaging in discussions regarding legal matters which are not the subject of the call.
- d) For CM/ECF filing questions, technical assistance, including login problems, blank screens, attachments, errors in document filings, etc, please contact the Helpdesk at (866) 358-6201.

2) Obtaining Settings for Hearings.

Hearings will be set either by self calendaring or at the direction of the Court. **Unless otherwise specifically ordered, all hearings are evidentiary.**

- a) **Self-Calendaring.** Certain motions such as fee applications may (but are not required to) be self-calendared. When an eligible motion is filed in the Court's electronic filing system (CM/ECF), the system will prompt the filer for the date of a hearing. Only a date that is listed as an available date on the Court's website should be selected. You must select a date that is at least 25 days from the date that you file the motion. **All motions for relief from stay (§ 362) and objections to claims must be self-calendared for a hearing.** You must select a date that is designated as available in ECF.
- b) **Settings by the Court.** If a pleading is filed for which self-calendaring is not available or if an eligible motion is not self-calendared, the Court will review the pleading and either rule on the motion or set a hearing. Objections should indicate whether a hearing is requested.

3) **Pending Motions.**

Motions will not ordinarily be considered until at least 25 days after submission. If the Court has not ruled on a motion within 30 days, parties should contact the case manager to inquire about the status of the motion.

4) **Emergency Motions.**

Emergency motions should be filed using the CM/ECF event code for an “emergency motion.” In addition, please contact the case manager if you file a motion requesting emergency consideration. **When filing an emergency motion, please identify the date by which emergency relief is needed just below the language required by Local Bankruptcy Rule 9013(b).**

5) **Expedited Motions.**

Motions that are not emergency motions but which require consideration prior to the standard 25-day review may be styled as an “Expedited Motion for _____.” Expedited motions should be filed using the CM/ECF event code for the requested relief. **When filing an expedited motion, (i) please identify the date by which expedited relief is needed just below the language required by Local Bankruptcy Rule 9013(b); and (ii) include an explanation in the body of the motion setting forth why expedited consideration is required and the harm that will be suffered if expedited relief is not obtained.**

6) **Continuances.**

A continuance may only be requested by motion. Parties are requested to contact the Court’s case manager as soon as the motion is filed. All motions for a continuance should concisely state the reason a continuance is being requested. Until a motion for continuance is granted, all parties should assume that no continuance will occur.

7) **Extensions of Deadlines.**

If the parties wish to modify deadlines that do not impact the Court’s calendar, such as extensions of discovery deadlines or the date for filing an answer in an adversary proceeding prior to an initial scheduling conference, the parties may agree among themselves to such extensions without the necessity of a court order so long as the agreement is embodied in a writing (such as a stipulation) filed with the court. All other extensions, such as a party’s deadline to respond to a pending motion, or a request to change a hearing date, require a written motion and order from the Court.

8) **Telephonic Participation.**

a) Counsel are permitted to participate in hearings by telephone without prior permission of the Court. Counsel who anticipate appearing by telephone should contact the Court’s

case manager at least 24 hours prior to the scheduled hearing to inform the Court that a telephonic appearance is anticipated.

- b) Witnesses may not be examined nor evidence offered by telephone, except in emergency situations in which the Court determines cause exists to waive the prohibition.
- c) Parties participating by phone must assure that no background noise is transmitted. The use of speakerphones is discouraged. Persons choosing to attend a hearing by dial-in do so at their own risk of a technological failure.
- d) The following dial-in instructions should be used:

The dial-in number is **1-712-432-3100**. You will be responsible for your own long-distance charges. This dial-in number is utilized whether Judge Jones is sitting in Houston, Victoria, Laredo or at another location. You will be asked to key in the conference room number. Judge Jones' conference room number is **692273**.

Once entered, you will be connected live to the courtroom. Once you are connected, you will be able to hear persons speaking in the courtroom and other persons on the call addressing the Court. You will be able to address the Court directly. The Court will hear all sound on your line. Please mute your line when you are not speaking so that any background noise does not distract from the proceedings.

If there are multiple parties on the call, the Court may activate the "hand raise" feature. The Court will announce that this feature has been activated. If the hand raise feature has been activated, you will not be able to address the Court until the Court addresses you or you request to speak and the Court grants the request. If you wish to address the Court, you must press 5*. Within 5 seconds, the Court will receive a signal that you wish to speak. When the Court calls on you, you will hear a recorded message that you have been recognized. When you are done, the Court will again mute your call.

The following control options are available to callers:

- 4* - Self-Mute Line
- 5* - Raise Hand for Q&A

Details regarding the use of the Free Conference Calling conferencing system are available at <http://www.freeconferencecalling.com>

9) **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's case manager during the deposition and request a telephonic hearing

with the Court. 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.

10) Settlements.

- a) If a matter is settled, please immediately contact the Court's case manager so that the Court may readjust court resources accordingly.
- b) If reduced to writing and signed by all parties prior to a scheduled hearing/trial, a proposed settlement should be filed with the Clerk of the Court. If the proposed settlement has been filed, then only one counsel is required to attend the scheduled hearing/trial, though all interested parties are invited to attend. If one or more of the parties are acting *pro se*, then all parties must attend the scheduled hearing/trial even if a written settlement has been filed.
- c) If a proposed settlement has not been reduced to writing and signed by all parties prior to a scheduled hearing, all parties must appear and announce the terms of the settlement into the record.
- d) If a settlement requires approval pursuant to Federal Rule of Bankruptcy Procedure 9019, **a motion seeking approval of the settlement should be filed in the main bankruptcy case only.** Along with the motion, parties should submit a proposed form of order approving the settlement in the main case and a proposed form of judgment or dismissal order in the adversary proceeding (if applicable).

11) Courtesy Copies.

The Court does not need to receive copies of documents that have been electronically filed with the Clerk of the Court via CM/ECF.

In chapter 9 and 11 cases, parties should submit proposed confirmation orders in Word format to the Court's case manager at least 24 hours prior to the scheduled confirmation hearing.

12) Courtroom Technology.

- a) The Courtroom is equipped with technology that will allow parties to broadcast exhibits and other documents to opposing parties, witnesses and the Court from the display output on most laptop computers and tablets.
- b) The Court encourages parties to bring copies of proposed forms of order to hearings on a USB device. Counsel tables are equipped with a USB port that is accessible by the Court.

13) Wireless.

The courtroom is equipped with wireless access to the internet. The wireless connection is “401”. The network key is 646168CCEB.

14) Exhibits.

- a) All hard copy exhibits should be clearly marked, tabbed and bound in a 3-ring notebook or another binding method that allows the exhibit book to be opened and lay flat on an even surface. In addition to copies for opposing parties, counsel should bring three hard copies of the exhibits to the scheduled hearing or trial—one for the Court; one for the courtroom deputy; and one for witnesses.
- b) The Court intends to strictly enforce Local Rule 9013-2. **Unless otherwise specifically ordered, all hearings are evidentiary.**

15) Victoria and Laredo.

Judge Jones will be holding hearings in both Victoria and Laredo. Hearing dates in each division will be published on Judge Jones’ home page. If parties in these divisions require expedited or emergency relief, they should contact the Court’s case manager for an alternative setting.

16) Conditional Approval of Disclosure Statements in Certain Chapter 11 Cases.

Under appropriate circumstances, the Court will consider motions for expedited approval of the disclosure statement. The Court will also consider motions requesting conditional approval of a disclosure statement. Expedited consideration/conditional approval may be appropriate regardless of whether the case is designated as a “small business case” under the Bankruptcy Code.

17) Fee Applications.

a) **Fee Applications in cases under chapter 7**

Applications for compensation and reimbursement in cases under chapter 7 shall contain the following table beginning on the first page of the application (a word document containing the table is available on the Court’s website):

Fee Application Summary

Name of Applicant:	
Applicant’s Role in Case:	
Date Order of Appointment Signed:	__/__/__ (Docket No. __)

	Beginning of Period	End of Period
Time period covered by this Application:	__/__/__	__/__/__
Time period(s) covered by prior Applications:	__/__/__	__/__/__
Total amounts awarded in all prior Applications:		
Total fees requested in this Application and in all prior Applications:		
Total fees requested in this Application:		
Total professional fees requested in this Application:		
Total actual professional hours covered by this Application:		
Average hourly rate for professionals:		
Total paraprofessional fees requested in this Application:		
Total actual paraprofessional hours covered by this Application:		
Average hourly rate for paraprofessionals:		
Reimbursable expenses sought in this application:		
Application cost:		
Total of other payments paid to secured claimants		
Total of other payments paid to administrative claimants		
Estimated total for distribution to priority unsecured creditors:		
Estimate percentage dividend to priority unsecured creditors		
Estimated total for distribution to general unsecured creditors:		
Estimate percentage dividend to general unsecured creditors		
Receipts to date:		
Disbursements to date:		
Current balance in the Trustee's accounts:		

In addition, all applications shall (i) include a narrative description of the services performed and the benefits of those services; (ii) address the factors set forth in 11 U.S.C. § 330(a)(3); and (iii) attach copies of all fee statements and a proposed form of order.

b) Fee Applications in cases under chapters 9, 11 or 12.

Applications for compensation and reimbursement in cases under chapters 9, 11, or 12 shall contain the following table beginning on the first page of the application (a word document containing the table is available on the Court's website):

Fee Application Summary

Name of Applicant:		
Applicant's Role in Case:		
Date Order of Employment Signed:	mm/dd/yy [Docket No. __]	
	Beginning of Period	End of Period
Time period covered by this Application:	mm/dd/yy	mm/dd/yy
Time period(s) covered by prior Applications:	mm/dd/yy	mm/dd/yy
Total amounts awarded in all prior Applications:		\$
Total fees requested in this Application:		\$
Total professional fees requested in this Application:		\$
Total actual professional hours covered by this Application:		
Average hourly rate for professionals:		\$
Total paraprofessional fees requested in this Application:		\$
Total actual paraprofessional hours covered by this Application:		
Average hourly rate for paraprofessionals:		\$
Reimbursable expenses sought in this application:		\$
Total to be Paid to Priority Unsecured Creditors:		\$
Anticipated % Dividend to Priority Unsecured Creditors:		%
Total to be Paid to General Unsecured Creditors:		\$
Anticipated % Dividend to General Unsecured Creditors:		
Date of Confirmation Hearing:		
Indicate whether plan has been confirmed:	Y/N (Docket No. __)	

In addition, all applications shall (i) include a narrative description of the services performed and the benefits of those services; (ii) address the factors set forth in 11 U.S.C. § 330(a)(3); and (iii) attach copies of all fee statements and a proposed form of order.

c) **Fee Applications in cases under chapter 13.**

Pursuant to the local rules on fee applications, approved *fixed fee applications* do not require the filing of subsequent applications. Otherwise, applications for compensation and reimbursement in cases under chapter 13 shall contain the following table beginning on the first page of the application (a word document containing the table is available on the Court's website).

Fee Application Summary

Name of Applicant:		
Applicant's Role in Case:		
Pre-Confirmation Services [_____]	Post-Confirmation Services [_____]	
	Beginning of Period	End of Period
Time period covered by this Application:	mm/dd/yy	mm/dd/yy
Time period(s) covered by prior Applications:	mm/dd/yy	mm/dd/yy
Total amounts awarded in all prior Applications:		\$
Amount of retainer received in this case:		\$
Total fees requested in this Application:		\$
Total professional fees requested in this Application:		\$
Total actual professional hours covered by this Application:		
Average hourly rate for professionals:		\$
Total paraprofessional fees requested in this Application:		\$
Total actual paraprofessional hours covered by this Application:		
Average hourly rate for paraprofessionals:		\$
Reimbursable expenses sought in this application:		\$
Amount of Attorney Fees provided in Plan:		\$
Total to be Paid to General Unsecured Creditors:		\$
Anticipated % Dividend to General Unsecured Creditors:		%
Total to be paid to all pre-petition creditors under the Plan		\$
Date of any scheduled dismissal hearing:		mm/dd/yy
Date of Confirmation Hearing:		mm/dd/yy

Indicate whether plan has been confirmed:	Y/N (Docket No. __)
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In addition, all applications shall (i) include a narrative description of the services performed and the benefits of those services; and (ii) attach copies of all fee statements and a proposed form of order.

The proposed order shall contain the following decretal paragraph:

It is ordered that [name of applicant], is awarded fees and costs as an administrative expense for the period _____ through _____ as follows:

Fees: \$ _____
Expenses: \$ _____

Total: \$ _____

[Name of applicant] is authorized to apply its retainer in the amount of \$_____ against the awarded compensation.