



# Clerk's Notes



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July 2005

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Below is an update of recent and upcoming changes, and suggestions for practicing in the United States Bankruptcy Court for the Eastern District of Louisiana.

## I. Bankruptcy Reform Legislation

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 becomes effective October 17, 2005. Initially, there was some confusion as to the effective date of the fee increases set forth in the Act. This issue has been resolved. The filing fee amounts required by 28 U.S.C. § 1930 will become effective on October 17, 2005. The new filing fees due upon the filing of a case are:

- Chapter 7 - increase from \$209 to \$274
- Chapter 13 - decrease from \$194 to \$189
- Chapter 11 - increase from \$839 to \$1,039

(Note: These amounts include the \$15 trustee fee collected in Chapter 7 cases and the \$39 administrative fees collected in all cases.)

There will be many changes to the forms and notices issued by the Clerk's Office as a result of the Act. An updated version of CM/ECF is expected to be released this August. We will begin disseminating information about changes later in the summer.

## II. Advance notice of the motion day calendars

Since mid-May 2005, we have been emailing the motion day calendars the day before motion day to the parties interested in receiving them. If you would like to receive advance notice of the motion day calendars, send an email to

[webmaster@laeb.uscourts.gov](mailto:webmaster@laeb.uscourts.gov) with the email address(es) to be included. Please be sure to indicate if you would like to receive the Section A calendar, the Section B calendar, or both.

Reviewing the calendar before motion day will give you valuable information, including whether your motion will be heard or not and where your motion is on the docket. We have already had one instance in which a motion was inadvertently not listed on the docket. Because of the “sneak preview”, we were able to fix it ahead of time.

### **III. Section Designation**

The court continues to find that pleadings and orders do not contain section designations. The local rules require that pleadings contain the section designation. LBR 5005-1(B). The lack of a section designation or an incorrect section designation causes inefficiencies.

Consequently, on June 1, 2005, the court instituted a policy of denying or continuing motions and rejecting proposed orders that do not have a section designation.

Remember that the section designation is assigned when the case is filed (or subsequently reallocated). Judge Brown handles the Section B docket. The Section A docket is presently vacant. Judges Douglas Dodd and Gerald Schiff are assisting with the Section A docket. Judge Jerry Brown is also a “visiting judge” in the Section A docket. So, merely because Judge Brown handles a case, does not turn a Section A case into a Section B case. In addition, all Chapter 13 cases are Section A cases.

### **IV. Expedited Hearings**

The local rules provide that motions for expedited hearings are not favored. LBR 9013-1(B)(f)(“Motions for expedited hearing are discouraged.”) We often receive motions for expedited hearings when there is no reason to accelerate the hearing date. We also often find that attorneys ask for an expedited hearing, and then when an objection to the motion is filed, move to continue their own motion.

We urge practitioners to abide by the local rule and only ask for expedited hearings when a real need exists. In those rare instances, the cause must be stated in the motion.

Also, the Clerk's Office will no longer issue separate service directives on motions for expedited hearings. Instead, the order will contain the service directive. For example, "IT IS FURTHER ORDERED that counsel serve this order and file a certificate of service in accordance with Local Rule 9013-3."

## V. Certificates of Service

A. Must be filed with all motions and pleadings. Local Rule 9013-3 provides that "A certificate of service of a motion and the notice of hearing must be filed with the motion." The court has started denying motions that do not include a certificate of service filed with the motion.

Bankruptcy Rule 9036 provides that notice sent by electronic transmission is complete when the sender obtains electronic confirmation that the transmission has been received. Effective on December 1, 2005, this rule will be amended to provide that "[n]otice by electronic means is complete on transmission". In the meantime, however, notice by email is not acceptable.

B. May be attached to the motion / pleading. It is not necessary to file certificates of service as separate documents. They may be attached to the applicable motion, notice, or memorandum.

## VI. Notices of Hearing

Frequent mistakes are still being made on notices of hearing, with incorrect motions days and courtroom locations being the most frequent errors. Please remember to check the website for correct hearing dates and addresses before sending out notices of hearing.

## VII. Orders

A. Local Rule 5005-1(E)(b) contains the requirements for the subject line of orders submitted by e-mail. In brief summary:

a) **Matters noticed for hearing:** If the order is in connection with a motion noticed for hearing, the subject line of the e-mail should start with the numeric date of the hearing, a space, then the six or seven digit adversary or bankruptcy case number, a space, then the chapter of the case, e.g.: **5/19/04 05-12345 ch7**

b) **Ex parte orders:** If the order is in connection with an ex parte motion, the subject line of the e-mail should start with the word Ex parte, a space, then the six or seven digit adversary or bankruptcy case number, a space, then the chapter of the case, e.g.:  
**Ex parte 05-12345 ch7**

c) **Expedited orders:** If the order is in connection with a motion for which expedited relief is sought, the subject line of the e-mail should start with the word Expedited, a space, then the six or seven digit adversary or bankruptcy number, a space, then the chapter of the case, e.g.: **Expedited 05-12345 ch7**

B. It is not necessary to have lengthy titles for orders. For example, titles such as “ORDER GRANTING EX PARTE MOTION OF ABC CO. TO WITHDRAW ITS OBJECTION TO DEBTOR'S SECOND AMENDED PLAN OF REORGANIZATION” end up complicating the record unnecessarily. The title “ORDER” is sufficient, or if absolutely required, add only a few more words to the title.

C. We received a suggestion from a practitioner that it would be useful if the pleading number of the motion being ruled upon is included in the order. For example, “The motion to avoid lien filed by John Doe (Pl. 15) came on for hearing on June 28, 2005, . . .” This idea would be particularly helpful in Chapter 11 cases and large cases.

### **VIII. Motions to cancel liens**

If the case has been closed, the debtor must first file a motion to reopen the case. This motion must be served on the U.S. Trustee’s Office and the creditors affected.

The debtor must then file a motion to cancel lien. This motion must be served on the U.S. Trustee's Office, the creditors affected, **AND the appropriate clerk of court or recorder of mortgages.**

#### **IX. CM/ECF - Adobe Acrobat**

Adobe Acrobat 7 has recently been released for making .PDF documents. Many practitioners have started using Adobe Acrobat 7, although the court is still using Adobe Acrobat 6. As a result, we have experienced compatibility issues between the programs. Adobe Acrobat 7 can be configured to be "backward compatible" with earlier versions. Configuration instructions are located on our website. Click on "CMECF Info", "Hardware/Software Setting Recommendations".

#### **X. Finally . . .**

Check our website on a regular basis – <http://www.laeb.uscourts.gov>. We have been making a concerted effort to keep the website updated and we are in a time many changes are being made. Please call the Clerk's Office if you have any questions about filing procedures.

Finally, if you have any suggestions on issues that you would like to see addressed in future newsletters, please call Marla Hamilton, Clerk of Court, 589-7820.