



# Clerk's Notes



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October 2004

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Below are suggestions on ways to avoid some common errors that have been observed lately in pleadings that have been filed.

## Privacy Issues

The Bankruptcy Rules and our local rules have gone to considerable lengths to protect the privacy of debtors' social security numbers as much as possible, including requiring the new Form 21 - Statement of Social Security Number. *See, e.g.*, B.R. 1005 and 1007(f)(amended Dec. 1, 2003); LBR 5005-1(F).

The Statement of Social Security Number, which is filed electronically as a separate document, is a **private** document. Only court users have access to private documents.

We have noticed that some attorneys file the Statement of Social Security Number correctly, but then also include it as the last page of the petition, which negates it as a private document. Form 21 should not be included as an attachment to the petition.

## Include Section Numbers on all Captions

The caption for all pleadings must include the correct section number. Cases before Judge T.M. Brahney, III should state "Section A"; cases before Judge Jerry A. Brown should state "Section B."

The practice of using "TMB" or "JAB" is incorrect. *See, e.g.*, LBR 5005-1(E).

## Motions

### Motion Days

Before setting a motion for hearing, please verify the section number for the case. Motion days for Section A cases are heard by Judge Brahney on Tuesdays. Motion days for Section B cases are heard by Judge Brown on Wednesdays. Please check the website or call the clerk's office for a complete list of available motion days.

### Motions to Reopen

We have added two motion event codes for reopening cases that do not require a fee:

1. motion to reopen to cancel lien; and
2. motion to reopen to enforce discharge.

If you are filing these types of motions, be sure to use the correct event code or you will be charged a filing fee.

### Submitting Proposed Orders

When submitting proposed orders, the following must be included in the text of the order:

1. The name of the party filing the motion;
2. The motion referred to; and
3. The date on which the motion was heard, if applicable.

For example, "In accordance with the hearing held on October 1, 2004 on the motion to dismiss filed by ABC Co., . . ."

Or, "The motion to dismiss filed by ABC Co. came on for hearing on October 1, 2004, . . ."

It is insufficient to state: "The foregoing motion considered," or language to that effect. Also, filers who do not include the date of the hearing may have their orders refused.

Finally, remember to include a description of the property in orders on motions to lift stay, i.e, “the 2004 Toyota Avalon”, or “12345 Poydras St.”

### Notices of Hearing

#### Certificates of Service

We have added a new event code under notices – Notice of Hearing with Certificate of Service. Users may attach a certificate of service directly after the notice of hearing using this code.

#### Courtroom Numbers

Remember to include the number of the courtroom in all notices of hearing. *See* LBR 9013-1(B)(d).

Courtroom for Section A:        Room B-709

Courtroom for Section B:        Room B-705

#### Service of Notices on IRS

Bankruptcy Rule 2002(j) contains specific requirements for serving the IRS. These procedures must be followed for all notices that go to the IRS. It is insufficient to send a copy of the notice to only the return address listed in proofs of claim filed by the IRS.

### Emergency Filings

#### Emergency Petitions

On emergency petitions, an image of the mailing matrix should be attached to the petition, in addition to being separately uploaded.

#### Emergency Motions

When filing a motion to expedite or a motion to shorten notice of hearing date, do not assume that the motion will be granted. Wait until the order is signed

before filing the notice of hearing with the shortened date.

### Notices of Deficiency

The clerk's office issues notices of deficiency when pleadings are filed that are incomplete or incorrect. Counsel should respond and correct the deficiency. The failure to do so may result in delays in the processing of your matter and referral to the appropriate judge for action.

### Finally . . .

Please call the Clerk's Office if you have any questions about filing procedures. We would rather help you file it correctly than have to fix it!

Also, remember to look at our website. Information is added on a regular basis – <http://www.laeb.uscourts.gov>.

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.