

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF LOUISIANA**

IN THE MATTER OF

PROCEDURES FOR COMPLEX
CHAPTER 11 CASES

§
§
§
§

GENERAL ORDER 2019-4

**GENERAL ORDER REGARDING PROCEDURES
FOR COMPLEX CHAPTER 11 CASES**

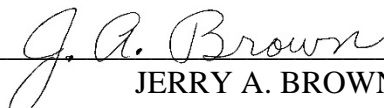
This Order establishes procedures for use in the Bankruptcy Court in the Eastern District of Louisiana in cases that the undersigned have designated as “Complex Chapter 11 Cases.” The procedures set forth in this Order shall apply to all Complex Chapter 11 Cases filed in the Eastern District of Louisiana.

IT IS ORDERED that the Court adopts the attached Procedures for Complex Chapter 11 Cases, effective immediately.

This 4th day of December, 2019.



MEREDITH S. GRABILL
UNITED STATES BANKRUPTCY JUDGE



JERRY A. BROWN
UNITED STATES BANKRUPTCY JUDGE

**PROCEDURES FOR COMPLEX CHAPTER 11 CASES FILED IN THE
UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF LOUISIANA
[AMENDED AS OF APRIL 30, 2020]**

I. FIRST-DAY HEARINGS AND COMPLEX CASE DESIGNATION

- A. A complex Chapter 11 case (“Complex Case”) is defined as a case filed in this District under Chapter 11 of the Bankruptcy Code that requires special scheduling and other procedures because of a combination of one or more of the following factors:
- (1) The size of the case (usually the total debt owed by the debtor(s) exceeds \$10 million);
 - (2) The large number of parties in interest in the case (usually more than 50 parties in interest);
 - (3) The fact that claims against the debtor and/or equity interests in the debtor are publicly traded (with some creditors possibly being represented by indenture trustees); or
 - (4) Any other circumstance justifying complex case treatment.
- B. Chrystal Brooks-Raymond, Courtroom Deputy for Judge Grabill, is designated as the initial point of contact for all pre-filing matters for anticipated Complex Cases in Section A. Ms. Brooks-Raymond may be contacted at (504) 589-7805 or by e-mail at Chrystal_Raymond@laeb.uscourts.gov. Counsel for proposed debtor(s) in a Complex Case should contact Ms. Brooks-Raymond as early as possible prior to filing a Complex Case to obtain a setting for first-day hearings.
- C. Lisa Matrana, Courtroom Deputy for Judge Brown, is designated as the initial point of contact for all pre-filing matters for anticipated Complex Cases in Section B. Ms. Matrana may be contacted at (504) 589-7811 or by e-mail at Lisa_Matrana@laeb.uscourts.gov. Counsel for proposed debtor(s) in a Complex Case should contact Ms. Matrana as early as possible prior to filing a Complex Case to obtain a setting for first-day hearings
- D. If a party filing a Chapter 11 bankruptcy petition believes that the case should be classified as a Complex Case, the party shall file as a separate document on the docket, but contemporaneously with the bankruptcy petition, a *Notice of Designation of a Complex Case* in the form attached as **Exhibit A**.
- E. Upon receipt of notice of entry of an Order regarding Complex Case treatment, counsel for the debtor shall (a) serve the Order granting or denying designation of the case as a Complex Case on all parties in interest within seven days and (b)

provide notice of the first-day emergency hearings in accordance with the Bankruptcy Code, Bankruptcy Rules, and these procedures.

- F. If a debtor(s) has first-day matters requiring emergency consideration (*i.e.*, motions seeking relief on less than required notice periods), it should submit a *Request for Emergency Consideration of Certain "First-Day" Matters* in the form attached as **Exhibit B**. Each judge shall arrange his or her calendar so that first-day emergency hearings can be conducted consistently with the Bankruptcy Code and Rules, including Bankruptcy Rule 4001, as required by the circumstances, with best efforts to hear first-day matters not more than two (2) business days after the request for emergency first-day hearings.
- G. All first-day motions should be accompanied by an affidavit of a corporate officer or chief restructuring officer of the debtor, providing the history of the debtor(s), the debtor(s)'s corporate and capital structure, events leading to bankruptcy, and an overview of evidentiary support for all of the first-day relief requested.
- H. It is expected that debtor(s)'s counsel will have consulted in advance with the United States Trustee regarding all relief to be requested at the first-day hearing.

II. LIMITED SERVICE LIST

- A. The debtor(s) may establish by motion a limited service list (the "Limited Service List") to be used as set forth in these procedures. The proceedings with respect to which notice would be limited to the Limited Service List include all matters covered by Bankruptcy Rule 2002 and any pleadings that may be required to be served upon all parties-in-interest by the Local Rules, with the express exception of the following (collectively, the "Excluded Matters"):
 - (1) Notice of the first meeting of creditors pursuant to 11 U.S.C. § 341;
 - (2) The time fixed for filing proofs of claim pursuant to Bankruptcy Rule 3003(c);
 - (3) The time fixed for filing objections to, and the hearing to consider approval of, a disclosure statement or confirmation of a plan of reorganization; and
 - (4) Notice and transmittal of ballots for accepting or rejecting a plan of reorganization.

Unless otherwise ordered by the Court, notice of the Excluded Matters shall be provided to all known creditors and other parties-in-interest at their last address known or available to the debtor(s).

- B. The Limited Service list must include:
 - (1) the Office of the United States Trustee for the Eastern District of Louisiana;

- (2) the debtor(s);
 - (3) counsel for the debtor(s);
 - (4) counsel for any official committees;
 - (5) the debtor(s)' prepetition and post-petition secured lenders, including any other party asserting a security interest in assets of the debtor or their counsel who has appeared in the case;
 - (6) the debtor(s)' twenty (20) largest unsecured creditors (or, in the case of jointly administered cases, the debtors' thirty (30) largest unsecured creditors);
 - (7) those persons who have formally appeared in the chapter 11 case and requested service pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure;
 - (8) all applicable governmental agencies to the extent required by the Bankruptcy Rules and the Local Rules; and
 - (9) any known counsel for (4)–(8).
- C. Unless the Bankruptcy or Local Rules permit service on fewer parties in interest, any person filing a pleading in a Complex Case shall serve such pleading on (a) all parties-in-interest listed on the most recent Limited Service List and (b) any creditor or other party-in-interest whose interests are likely to be affected directly by the pleadings or proceeding.
- D. Electronic service of pleadings and papers in this District is governed by Bankruptcy Standing Order 2006-4 and any amendments thereto or replacement thereof, and is applicable to Complex Cases; provided, however, that notices required by Bankruptcy Rule 2002(a)(1) and (7), and (b)(1) and (2) are required to be served conventionally in hard copy. Parties on the Limited Service List who are not served electronically pursuant to Bankruptcy Standing Order 2006-4 must be served with a hard copy of the applicable document.
- E. The initial Limited Service List must be filed within three (3) days after entry of an Order granting Complex Case treatment and a revised list must be filed as needed for the duration of the case.

III. COMPLEX CASE HEARING DATES

- A. The Debtor may request (through one of its first-day motions or otherwise) that the Court establish a weekly/bi-monthly/monthly date and time for hearings in a case (*i.e.*, every third Thursday at 9 a.m.) ("Omnibus Hearing Date"). The Court will accommodate this request for Omnibus Hearing Dates if it appears justified and shall adjust the frequency of the dates as necessary based on the progress of the case. After Omnibus Hearing Dates are established and unless otherwise ordered by the Court, all matters in the case (whether initiated by the Debtor or another

party in interest) will be set on Omnibus Hearing Dates that accommodate required notice periods and the movant shall indicate the hearing date and time on the face of the pleading below the case/adversary proceeding number. If the movant believes any motion will require testimony or will otherwise take longer than 30 minutes, movant shall advise the Courtroom Deputy of such matters prior to filing the pleading, and the Courtroom Deputy will either advise the movant that the Omnibus Hearing Date is suitable or propose to the movant alternative dates and times.

- B. Notice of hearing of matters scheduled for Omnibus Hearing Dates shall be prepared and served by the moving party, who shall file a certificate that the notice has been served in accordance with these Procedures, the Bankruptcy Code, and the Bankruptcy Rules.
- C. Motions that do not require expedited consideration must state, just below the case caption and in lieu of the language required by any Local Bankruptcy Rule, the following:

A HEARING WILL BE CONDUCTED ON THIS MATTER ON [MONTH/DATE/YEAR], AT _____ A.M./P.M. IN COURTROOM _____, [COURTHOUSE ADDRESS], OR BY TELEPHONE THROUGH THE DIAL-IN [INSERT DIAL-IN FOR SECTION].¹ IF YOU OBJECT TO THE RELIEF REQUESTED IN THIS PLEADING, YOU MUST RESPOND IN WRITING. UNLESS DIRECTED OTHERWISE BY THE COURT, YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE BANKRUPTCY COURT NO LATER THAN SEVEN (7) DAYS BEFORE THE HEARING DATE. YOU MUST SERVE A COPY OF YOUR RESPONSE ON THE PERSON WHO SENT YOU THE NOTICE; OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED.

- D. All motions seeking relief on less than the required notice periods will be treated as “expedited” motions. An expedited motion must contain the word “expedited” in the title of the motion.
- E. If a party in interest files a motion that it contends requires consideration on less than the required notice period, the party must file and serve a separate, written motion for expedited hearing with respect to the underlying motion which must comply with the Court’s usual requirements for explanation and verification of the need for an expedited hearing. The movant shall also e-mail a copy to the Court’s Courtroom Deputy and call Chambers about the motion. The Court will make its best effort to rule on the motion for expedited hearing within one business day from

¹ See *infra*, Subpart IV. Until further notice and pursuant to General Order 2020-2 dated April 3, 2020, all hearings will be conducted telephonically, so only the dial-in information is required in the notice of hearing.

the time it is presented. If the Court grants the motion for an expedited hearing, the underlying motion will be set for hearing by the Courtroom Deputy on the next available Omnibus Hearing Date or at some other date and time approved by the Court. Motions for expedited hearings will only be granted for good cause shown with particularity in the body of the motion.

- F. Upon the Court granting a motion to expedite hearing and setting a deadline to file responses, the Movant must serve notice of the expedited hearing, including the following language just below the case caption and in lieu of the language required by any Local Bankruptcy Rule, and file a certificate that the notice has been served in accordance with these Procedures, the Bankruptcy Code, and the Bankruptcy Rules:

EXPEDITED RELIEF HAS BEEN REQUESTED. A HEARING WILL BE CONDUCTED ON THIS MATTER ON [MONTH/DATE/YEAR] , AT A.M./P.M. IN COURTROOM , [COURTHOUSE ADDRESS], OR BY TELEPHONE THROUGH THE DIAL-IN INFORMATION [INSERT DIAL-IN AND ACCESS CODE].² IF YOU OBJECT TO THE RELIEF REQUESTED OR YOU BELIEVE THAT EXPEDITED CONSIDERATION IS NOT WARRANTED, YOU MUST FILE A WRITTEN RESPONSE ON OR BEFORE [RESPONSE DEADLINE] . OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED.

- G. Continuances or adjournments of scheduled hearings must be coordinated by e-mail with the Court's law clerk assigned to the case, with a copy to all anticipated hearing participants. Scheduled hearings will be reset upon the Courtroom Deputy's filing of a Memo to Record on the case docket with the new time and date of the hearing. The movant must promptly file and serve a notice of reset hearing in accordance with these procedures.
- H. Notwithstanding Local Rule requirements, applications to retain professionals must be served on all persons on the Limited Service List.

IV. PROCEDURES FOR TELEPHONIC PARTICIPATION

- A. No motion is required to utilize telephonic participation. Dial-in information and participation information is as follows:

² See *infra* Subpart IV. Until further notice and pursuant to General Order 2020-2 dated April 3, 2020, all hearings will be conducted telephonically, so only the dial-in information is required in the notice of hearing.

- (1) The dial-in information for Judge Grabill is **888-684-8852**; Access Code **9318283**. You will be responsible for your own long-distance charges.
 - (2) The dial-in information for Judge Brown **888-684-8852**; Access Code **7058793**. You will be responsible for your own long-distance charges.
- B. Once the dial-in process is completed, 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.
 - C. Parties in interest participating telephonically are instructed to place their line on mute either by pressing the “mute” button on your telephone, or by pressing *6. To unmute your line, press the “mute” button on your telephone, or *6 again. Do not unmute your line until you need to address the Court. Every time you address the Court, state your name for the record. Once you are finished speaking, you must mute your line again.
 - D. Evidentiary hearings and trials will be conducted using the telephonic services described above coupled with videoconferencing provided by www.zoomgov.com. The Court will issue orders in individual cases containing instructions on connecting through www.zoomgov.com and participating in evidentiary hearings.

V. AGENDA PROCEDURES

- A. If three or more matters are noticed in the case for the same hearing date (including, but not limited to, an Omnibus Hearing Date), counsel for the debtor(s) shall file and serve an agenda describing the nature of the items set for hearing on that date.
- B. The agenda must be filed at least 24 hours prior to the date and time of the hearing of the first matter on that day and contemporaneously be served (or confirm electronic service of the agenda has been effectuated) upon all attorneys who have filed papers with respect to the matters scheduled for hearing and upon the Master Service List.
- C. Uncontested matters shall be listed ahead of contested matters in the order in which they appear on the Court’s docket. Contested matters shall also be listed in the order in which they appear on the Court’s docket.
- D. For each matter on the agenda, the agenda shall indicate (1) the moving party; (2) the nature of the matter; (3) the response deadline; (4) the docket number of the motion and any filed response(s) or objection(s); and (5) the status of the matter. The status description shall indicate whether the matter is settled, going forward, whether a continuance is requested (and any opposition to the continuance), and any other pertinent information. If any person has engaged in written or oral communications with counsel for the debtor(s), but has not filed a responsive pleading, that fact shall be indicated on the agenda with the status or outcome of those communications. For an omnibus objection to claims, responses to the objection that have been continued by consent may be listed collectively (*i.e.*, “the following objections and responses have been continued by consent:”).

- E. After the filing of the agenda, counsel shall notify the Courtroom Deputy by e-mail of additional related pleadings that have been filed and changes in the status of any agenda matter.

VI. AUTOMATIC BRIDGE ORDER FOR EXTENSIONS OF TIME

- A. Unless otherwise provided in the Bankruptcy Code, Bankruptcy Rules, Local Bankruptcy Rules, or Court Order, if a motion is filed to extend the time to take any action before the expiration of the period prescribed by the Bankruptcy Code, Bankruptcy Rules, or the Local Rules, the time for taking the action is automatically extended until the Court rules on the motion. An automatic extension under this rule does not requires the issuance or entry of an Order extending the time.

VII. SETTLEMENT

- A. If a matter is properly noticed for hearing, and the parties reach a settlement of the dispute prior to the hearing thereon, **the parties should promptly notify the Court's law clerk assigned to the case that the matter is settled.** The parties may announce the settlement at the scheduled hearing. If the Court determines that the notice of the dispute and the hearing is adequate notice of the effects of settlement, the Court may approve the settlement at the hearing without further notice.

VIII. PROOFS OF CLAIM AND OMNIBUS CLAIM OBJECTION PROCEDURES

- A. Unless a different date is ordered by the Court, the bar date for the filing of proofs of claim and proofs of interest is (i) 180 days after the Petition Date for governmental units; and (ii) 90 days after the first date set for the meeting of creditors under 11 U.S.C. § 341(a) for all other entities. The debtor(s) must provide notice of the bar date to those listed on the mailing matrix on or before the first date set for the meeting of creditors.
- B. Omnibus claim objections must conform with Rules 3007(d) and (e) of the Federal Rules of Bankruptcy Procedure unless otherwise ordered by the Court.
- C. Proposed orders on motions to approve omnibus claim objections procedures may not shift the burden of proof, discovery rights or burdens, or pleading requirements.

IX. CASH COLLATERAL AND FINANCING ORDERS

- A. On motion by the debtor(s), the Court will use best efforts to conduct an interim hearing on a motion to use cash collateral use and/or a motion to obtain interim debtor-in-possession financing ("Initial Financing") not more than two (2) business days after the request (the "Initial Financing Hearing").

- B. At the Initial Financing Hearing, the debtor(s) should introduce a cash flow projection showing its sources and uses of cash necessary for ongoing operations on a weekly basis for not less than the first three (3) weeks of the case (a “First Budget”).
- (1) The First Budget must be filed with the Court and be served no later than noon on the first business day after the filing, or on the date of the filing if the Initial Financing Hearing is to occur before the second business day after the Petition Date.
 - (2) The debtor(s) must provide a copy of the First Budget in native file format upon request.
- C. At the Initial Financing Hearing, the Court will consider the Initial Financing pursuant to 11 U.S.C. §§ 363 and 364 and Bankruptcy Rule 4001, subject to the following:
- (1) The Court will presumptively grant replacement liens on post-petition collateral to secure the Initial Financing on the same types of collateral and to the same extent as the prepetition lender has on the prepetition collateral.
 - (2) The Court will set a final hearing to consider financing through use of cash collateral and/or debtor-in-possession financing in accordance with 11 U.S.C. §§ 363 and 364 and Bankruptcy Rule 4001 (a “Final Financing Hearing”).
 - (3) At the Final Financing Hearing, the debtor(s) should introduce a cash flow projection for sources and uses of cash (“Financing Budget”) for the next thirteen-week period of cash collateral use or debtor-in-possession financing and plan to update the Financing Budget with the Court on a monthly basis or sooner if needed. The Court will consider at the Final Financing Hearing whether it is appropriate to order either long term use of cash collateral or long-term debtor-in-possession financing pursuant to the Financing Budget in accordance with 11 U.S.C. §§ 363 and 364 and Bankruptcy Rule 4001.
 - (4) The Financing Budget must be filed by 5 p.m. on a day that allows two full business days prior to the Final Financing Hearing (*i.e.*, if the hearing is scheduled for Thursday, then the budget must be filed by 5 p.m. on Monday). The debtor(s) must provide a copy of the Financing Budget and all updates of the Financing Budget in native file format upon request.
- D. If a motion to approve financing under 11 U.S.C. §§ 363 and 364 or proposed order seeks to include any of the terms listed in subpart (E) below, the motion should list all such provisions in a separate section or chart and provide specific reasons why each such provision should be approved. The inclusion of these types of provisions will require an extraordinary showing at any interim hearing.

E. Debtor(s)'s counsel should highlight provisions of motions and proposed orders submitted pursuant to 11 U.S.C. §§ 363 and 362 that contain the following:

- (1) Sale or plan confirmation milestones;
- (2) Cross-collateralization protection (other than replacement liens) to the prepetition secured creditors (*i.e.*, clauses that secured prepetition debt by post-petition assets in which the secured creditors would not otherwise have a security interest by virtue of its prepetition security agreement or applicable law);
- (3) Provisions or findings of fact that bind the estate or other parties in interest with respect to the validity, perfection, or amount of the secured creditor's prepetition lien or the waiver of claims against the secured creditor without first giving parties in interest at least seventy-five (75) days from the entry of the Order and the official creditors' committee, if formed, at least sixty (60) days from the date of its formation to investigate such matters;
- (4) Provisions that seek to waive, with or without notice, whatever rights the estates may have under 11 U.S.C. § 506(c);
- (5) Roll-ups;
- (6) Liens on avoidance actions or proceeds of avoidance actions;
- (7) Default provisions and remedies;
- (8) Releases of claims against lender or others;
- (9) Limitation on fees for advisors to official committees;
- (10) Priming liens;
- (11) Provisions that seek to affect the Court's power to consider the equities of the case under 11 U.S.C. § 552(b)(1); and
- (12) Any other provision that limits the ability of estate fiduciaries to fulfill their duties under the Bankruptcy Code and applicable law.

F. Unless otherwise ordered by the Court, cash collateral and financing orders that contain a release of claims against lenders and other third parties by the debtor(s) should provide that an official committee of unsecured creditors has at least 60 days from the date of the committee's formation to investigate claims against the lenders and challenge the extent and validity of any liens or the appropriateness of such release.

X. SALE ORDERS AND BID PROCEDURES

A. The debtor(s) must demonstrate that the requirements of 11 U.S.C. § 363(f) have been satisfied.

- B. Bid procedures motions should provide for input from or consultation with any official committees and secured lenders with liens on the property being sold. Notwithstanding the foregoing, secured lenders or committee members who are potential bidders may not participate in the adoption or implementation of bidding procedures and may not receive information that is not generally available to all potential bidders.
- C. If the proposed sale is to an insider (as defined in 11 U.S.C. § 101), the sale motion must (1) identify the insider, (2) describe the insider's relationship to the debtor(s), and (3) set forth any measures taken to ensure the fairness of the sale process and proposed transaction.
- D. If a proposed buyer has discussed or entered into any agreements with management, insiders, or key employees regarding compensation or future employment, the sale motion must disclose (a) the material terms of any such agreements and (b) what measures have been taken to ensure the fairness of the sale and the proposed transaction in light of such agreements.
- E. The sale motion must disclose whether an auction is contemplated and highlight any provision in which the debtor(s) has agreed not to solicit competing offers for the property subject to the sale motion or to otherwise limit shopping of the assets to be sold.
- F. Any creditor opposing a sale motion on the basis that the proposed sale constitutes a *sub rosa* plan must identify with specificity in its objection what rights or protections under 11 U.S.C. §§ 1121–1129 are being violated.
- G. The proponents of a sale motion must respond specifically to any objection asserting that at proposed sale pursuant to 11 U.S.C. § 363 will constitute a *sub rosa* plan

XI. PLAN CONFIRMATION

- A. If the debtor(s) file a disclosure statement and plan before the Initial Financing Hearing, then at the Initial Financing Hearing, the Court will set the date for the disclosure statement hearing and related objection deadlines and will consider setting a date for the confirmation hearing and related voting and objection deadlines.
- B. If the debtor(s) file a plan and disclosure statement before the Permanent Financing Hearing, then at the Permanent Financing Hearing, the Court will set the date for the disclosure statement hearing and related objection deadlines and will consider setting a date for the confirmation hearing and related voting and objection deadlines.

- C. If a proposed plan seeks consensual releases with respect to claims that creditors may hold against non-debtor parties, then a ballot must be sent to creditors entitled to vote on the proposed plan and notices must be sent to non-voting creditors and parties in interest. The ballot and the notice must inform the creditors of such releases and provide a box to check to indicate assent or opposition to such consensual releases together with a method for returning the ballot or notice.
- D. Parties filing an amended disclosure statement or plan (or any related document thereto that is amended post-filing) shall include in the filing a document showing all changes made to the last version of the document on file in redline or blackline form.

XII. COMBINED HEARING ON APPROVAL OF DISCLOSURE STATEMENTS AND CONFIRMATION OF PLANS/CONDITIONAL APPROVAL OF DISCLOSURE STATEMENTS

- A. A plan proponent may propose to combine the disclosure statement and plan into one document or propose to hear the disclosure statement and plan at one hearing.
- B. Contemporaneously with the filing of a disclosure statement and proposed plan, a plan proponent may file a motion requesting:
 - (1) conditional approval of the disclosure statement;
 - (2) approval of solicitation procedures;
 - (3) the scheduling of a hearing on shortened notice to consider conditional approval of the proposed disclosure statement; and
 - (4) the scheduling of a joint hearing to consider final approval of the adequacy of the disclosure statement and confirmation of the proposed plan.
- C. All motions requesting a joint disclosure statement and confirmation hearing must:
 - (1) identify the proposed balloting agent;
 - (2) identify any voting procedures in addition to those required in these procedures; and
 - (3) identify the proposed hearing date for final approval of the disclosure statement and confirmation of the proposed plan (the “Combined Hearing”).
- D. The motion must include a proposed order that, in addition to setting the Combined Hearing date:
 - (1) finally approves the balloting and voting procedures to be utilized;

- (2) finally approves the form of notice to be provided to creditors and interest holders of the debtor(s);
- (3) finally approves the form of ballot which will be provided to creditors and interest holders entitled to vote on the proposed plan;
- (4) establishes a record date pursuant to Bankruptcy Rules 3017(d) and 3018(a); and
- (5) establishes a voting deadline not less than five (5) days prior to the combined hearing.

XIII. PROFESSIONAL RETENTION, COMPENSATION, AND REIMBURSEMENT OF EXPENSES

- A. Applications to retain professionals pursuant to Bankruptcy Rule 2014 are governed by Local Rule 2014-1. *Nunc pro tunc* relief is not required unless the application is filed later than thirty (30) days after the later of (i) the date the Order for Relief is entered or (ii) the commencement of work by the professional. Local Rule 9013-1 applies generally to applications to retain professionals.
- B. To streamline the professional compensation process and more effectively enable the Court and all other parties to monitor the professional fees incurred, the following procedures shall apply without the need to file a separate motion, unless otherwise ordered by the Court:
 - (1) After the end of a month for which compensation is sought, each professional seeking compensation may serve a monthly statement (the "Monthly Fee Statement") on (a) counsel for the debtor(s); (b) counsel for the prepetition secured lender(s); (c) counsel for any post-petition lender(s); (d) counsel to all official committees; (e) the Office of the United States Trustee; and (f) any other party the Court designates (collectively, the "Professional Fee Notice Parties").
 - (2) Each Monthly Statement shall contain a list of individuals and their respective titles who provided services during the statement period, their respective billing rates, the aggregate hours spent by each individual, contemporaneously maintained time entries for each individual in increments of tenth of an hour, and a reasonably detailed breakdown of disbursements incurred.
 - (3) Any objections to a particular Monthly Fee Statement must be in writing and set forth the nature of the objection with specificity and the amount of fees or expenses at issue, and must be served upon all Professional Fee Notice Parties within fourteen (14) days after service of the Monthly Fee Statement.

- (4) After the expiration of the fourteen (14)-day period described above and subject to subpart (12) below, the debtor(s) shall be authorized to pay 80% of fees and 100% of expenses identified in each Monthly Fee Statement to which no objection has been served.
- (5) If counsel for the debtor(s) receives an objection to a particular professional's Monthly Fee Statement, the debtor shall withhold payment of that portion of the Monthly Fee Statement to which an objection has been lodged, but shall pay after the expiration of the fourteen (14)-day period 80% of the remaining fees and 100% of the expenses to which no objection has been lodged (subject to subpart (12) below).
- (6) If any objecting party resolves a dispute with a professional, the objecting party (or the debtor(s) with the consent of the objecting party) shall serve written notice on the Professional Fee Notice Parties that the objection is withdrawn and shall describe the terms of the resolution. Subject to subpart (12) below, the debtor(s) is authorized to pay that portion of the Monthly Fee Statement at issue that is no longer subject to objection.
- (7) Any objection that is not resolved by the parties shall be preserved and presented to the Court at the next interim or final fee application hearing.
- (8) The service or lack of an objection pursuant to subpart (3) above shall not prejudice the objecting party's right to object to any fee application made to the Court on any ground, whether raised in the objection or not. Furthermore, the decision by any party not to object to a Monthly Fee Statement shall not be a waiver of any kind or prejudice that party's right to object to any fee application subsequently made to the Court.
- (9) Each professional shall serve and file with the Court every 120 days (unless the Court orders otherwise) an application for interim or final approval and allowance of compensation and reimbursement of expenses pursuant to 11 U.S.C. §§ 330 and 331 and Bankruptcy Rule 2016, including compensation previously paid by the debtor(s) on the basis of Monthly Fee Statements.
- (10) Neither the payment of, nor the failure to pay, in whole or in part, monthly compensation and reimbursement as provided herein shall have any effect on this Court's interim or final allowance of compensation or reimbursement of expenses of any professional. All fees and expenses of each professional, whether or not paid or objected to in connection with a Monthly Fee Statement, remain subject to review and approval by the Court in connection with interim and final fee applications.

- (11) Interim payments received in accordance with the procedures outlined above shall be applied to the fees and expenses itemized, subject to disgorgement or offset if such fees are not approved by the Court.
- (12) Notwithstanding the authorization to pay fees and expenses pursuant to these procedures, the payment of fees and expenses as set forth herein shall be paid only to the extent authorized pursuant to an Order granting debtor-in-possession financing and/or authority to use cash collateral, if applicable.

XIV. FINAL ORDERS AT FIRST-DAY HEARINGS

A. Final Orders, rather than interim Orders subject to final Orders at subsequent hearings, should be sought for the following types of relief:

- (1) Motions to pay employee wages and benefits that do not include relief of the nature specified in 11 U.S.C. § 503(c) or that do not otherwise contain a request outside the ordinary course of the debtor(s)'s business. If relief is also sought for payments outside the ordinary course of business or that implicates § 503(c), a separate motion seeking that additional relief should be filed.
- (2) Motions to pay prepetition and post-petition taxes that are (i) secured by property of the estate; (ii) held in trust by the debtor(s) pursuant to state or federal law; or (iii) entitled to priority pursuant to 11 U.S.C. § 507(a)(8).
- (3) Applications to retain a Claims Agent.
- (4) Motions to limit or modify the notice requirements of Bankruptcy Rule 2002.
- (5) Motions to approve adequate assurance procedures under 11 U.S.C. § 366 and (i) do not prejudice the right of a utility to propose alternative procedures after notice and hearing; and (ii) provide for a hearing not later than thirty (30) days after the Petition Date on any timely filed objection to the adequate assurance.

XV. DISFAVORED PROVISIONS

A. The following provisions are disfavored by the Court:

- (1) Except for relief sought under 11 U.S.C. § 362(d), the inclusion of a provision in any Order that (i) provides for the termination of the automatic stay without notice and hearing; or (ii) alters the evidentiary burden with respect to the termination of the automatic stay.

- (2) Except for relief sought under 11 U.S.C. § 1121, the inclusion of a provision in any Order that terminates or limits a debtor(s)'s exclusive right to propose or seek acceptance of a plan.
- (3) Except as contained in a confirmed plan, the assumption of a plan support agreement as an executory contract or otherwise; provided, the Court does not disfavor a debtor(s)'s actual performance under a plan support agreement, including without limitation, the debtor(s)'s post-petition agreement to include performance deadlines in various financing orders.

XVI. MEDIATION

- A. Matters Subject to Mediation. Parties may agree to mediate without Court approval any dispute arising in an adversary proceeding, contested matter, or otherwise, but no matter may be mediated by a sitting judge without first obtaining an Order from the Court. The Court may order *sua sponte* mediation of any dispute.
- B. Effects of Mediation on Pending Matters. Unless otherwise ordered by the Court, the assignment to mediation does not delay or stay discovery, pretrial hearing dates, or trial schedules.
- C. Cost of Mediation. Unless otherwise ordered by the Court, or agreed by the parties, (1) in an adversary proceeding that includes a claim to avoid and recovery any alleged avoidable transfers pursuant to 11 U.S. §§ 544, 547, 548 or 550, the bankruptcy estate (or if there is no bankruptcy estate, the plaintiff in the adversary proceeding) will pay the fees and costs of the mediator, if any and (2) in all other matters, the fees and costs of the mediator, if any, will be shared equally by the parties.
- D. Time and Place of Mediation. The mediator will schedule a time and place for the mediation.
- E. Submission Materials. Each party may submit directly to the mediator such materials (the "Submission") in form and content as the mediator directs, but parties must not file any Submission into the record.
- F. Protection of Information Disclosed at Mediation. The mediator and the participants in mediation are prohibited from divulging, outside of the mediation, any oral or written information disclosed by the parties in the course of mediation. No person may rely on or introduce as evidence in any arbitral, judicial, or other proceeding, evidence pertaining to any aspect of the mediation effort, including, but not limited to: (1) views expressed or suggestions made by a party with respect to a possible settlement of the dispute; (2) the fact that another party had or had not indicated willingness to accept a proposal for settlement made by the mediator; (3) proposals made or views expressed by the mediator; (4) statements or admissions made by a party in the course of the mediation; and (5) documents prepared for the purpose of, in the course of, or pursuant to the mediation. Without limiting the foregoing, the parties are bound by Rule 408 of the Federal Rules of Evidence and

any applicable federal or state statute, rule, common law or judicial precedent relating to the privileged nature of settlement discussions, mediations, or other alternative dispute resolution procedures. Information otherwise discoverable or admissible in evidence does not become exempt from discovery, or inadmissible as evidence, merely by being used by a party in the mediation.

- G. Discovery from the Mediator. The mediator may not be compelled to disclose to the Court or to any person outside the mediation conference any of the records, reports, summaries, notes, communications, or other documents received or made by the mediator while serving in such capacity. The mediator may not testify or be compelled to testify regarding the mediation in connection with any arbitral, judicial, or other proceeding. The mediator will not be a necessary party in any proceedings relating to the mediation. Nothing contained in this paragraph prevents the mediator from reporting the status, but not the substance, of the mediation effort to the Court.
- H. Protection of Proprietary Information. The parties, the mediator, and all mediation participants shall protect proprietary information.
- I. Preservation of Privileges. The disclosure by a party of privileged information to the mediator does not waive or otherwise adversely affect the privileged nature of the information.
- J. Service of process. No party may be served with a summons, subpoena, notice, or other pleading during the mediation or at the location where the mediation is occurring.

XVII. REVISION

- A. These Complex Case Procedures may be revised periodically. These Complex Case Procedures do not apply to a case after it has been converted to a case under chapter 7 of the Bankruptcy Code.

EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF LOUISIANA**

IN RE: §
[INSERT NAME], § **CASE NO:**
§
DEBTOR. § **CHAPTER 11**
§
§ **SECTION:**
§

NOTICE OF DESIGNATION AS COMPLEX CHAPTER 11 BANKRUPTCY CASE

This bankruptcy case was filed on ___[MONTH/DAY]___, 20___. The undersigned party in interest believes that this case qualifies as a complex Chapter 11 case because:

- _____ The debtor has total debt of more than \$10 million;
- _____ There are more than 50 parties in interest in this case;
- _____ Claims against the debtor are publicly traded; and/or
- _____ Other: [List substantial explanation and attach additional sheets if necessary.]

_____/s/_____
[SIGNATURE BLOCK]

EXHIBIT B

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF LOUISIANA**

IN RE: §
[INSERT NAME], § **CASE NO:**
§
DEBTOR. § **CHAPTER 11**
§
§ **SECTION:**
§

**REQUEST FOR EMERGENCY CONSIDERATION OF
CERTAIN “FIRST-DAY” MATTERS**

This bankruptcy case was filed on ____ [MONTH/DAY] ____, 20____, seeking relief under chapter 11 of title 11 of the United States Code. Counsel for the Debtor believes that the case qualifies as a “Complex Case” as defined in the Procedures for Complex Chapter 11 Cases of this Court and has filed a Notice of Designation as Complex Chapter 11 Bankruptcy Case.

The Debtor respectfully requests emergency consideration of the following initial case matters [check all that apply]:

- _____ **Joint Motion for Joint Administration**
- _____ **Motion for Order Extending Time To File Schedules and Statement of Financial Affairs;**
- _____ **Motion To Pay Prepetition Wages and Salaries** [attaching notice of conference with United States Trustee and a detailed exhibit showing who debtor intends to pay and amounts]
- _____ **Motion Regarding Maintenance of Bank Accounts and Existing Cash Management** [attaching notice of conference with United States Trustee]
- _____ **Motion for Entry of Interim Order Authorizing Use of Cash Collateral**
- _____ **Motion for Interim Approval of Post-Petition Secured and Superpriority Financing Pursuant to § 364 of the Bankruptcy Code**

_____ **Motion Pursuant to § 366 of the Bankruptcy Code for Entry of Interim Order (1) Determining Adequate Assurance of Payment for Future Utility Services and (2) Restraining Utility Companies from Discontinuing, Altering, or Refusing Service**

_____ **Motion To Limit Notice Procedures**

_____ **Motion for Order Approving Interim Retention of Professionals**

_____ [Other: List]

_____/s/_____

[SIGNATURE BLOCK]