

Procedures Manual for
Honorable Letitia Z. Paul
United States Bankruptcy Judge
(Updated 8/3/2009)

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I. Sources of case information

A. General questions about procedure, status of docket entries, orders, or filings, should be directed to the Bankruptcy and District Clerk's Office, at **(713) 250-5112**. Such questions may also be directed to the personnel at the reception counter on the 5th Floor of the Courthouse in Houston.

B. Copies of orders, pleadings, and docket sheets may be purchased from the copy service, at **(713) 250-5500**. Such documents are available at the intake counter, on the fifth floor of the Courthouse in Houston, and are available on the court's electronic case filing system.

C. Recordings or transcripts of hearings may be ordered from the Electronic Recording Operators, at **(713) 250-5404**. Order forms are available at the intake counter, on the fifth floor of the Courthouse in Houston.

D. Copies of the Local Bankruptcy Rules, Administrative Procedures for Electronic Filing, Chapter 13 Trustee Procedures for Payment of Home Mortgages, general orders, standing orders, Judge Paul's calendar, selected required or suggested forms of motion and order, selected opinions, and the most recent version of this procedure manual may be obtained from the court's web site at **<http://www.txs.uscourts.gov>**.

E. Information regarding cases may be obtained from the court's electronic filing system, the trustee of a particular case, or from the office of the United States Trustee. The telephone numbers for the case trustee, in cases in which there is a trustee, and of the trustee's counsel, if any, are listed on the case docket sheet. In addition, information regarding the Houston office of the United States Trustee (which governs practice in both Houston and Galveston) is available on the U.S. Trustee's web site at **<http://www.usdoj.gov/ust/r07/houston.htm>**.

II. Contact with court personnel

A. Contact with Judge Paul

Judge Paul does not accept communication concerning a case or court procedure by mail, e-mail, telephone, or fax. Such contact is ex parte contact, prohibited by Bankruptcy Rule 9003.

B. Contact with Judge Paul's Law Clerks

Counsel and the public are not permitted to contact the Law Clerks. At Judge Paul's direction, Law Clerks may contact counsel as the need arises. However, please refrain from engaging the Law Clerk in discussions regarding legal matters which are not the subject of the call. Absent exceptional circumstances, calls from counsel to the Law Clerks will be re-directed to Judge Paul's Case Manager.

C. Contact with Judge Paul's Case Manager

Judge Paul's Case Manager, **Maria Rodriguez**, is the primary contact for matters involving Judge Paul's cases. The Case Manager may be reached by dialing **(713) 250-5410**, or by email addressed to **cmA330@txs.uscourts.gov**. If the Case Manager is unavailable, **Tracey Campbell**, the Courtroom Deputy Clerk, can assist with some matters, as directed by the court. The Courtroom Deputy Clerk may be reached by dialing **(713) 250-5772**.

D. Written communications

Do not request action on any case matter or attempt to inform the court of case issues by letter. Any information or requests for relief regarding cases must be set forth in a pleading filed and served as required in the Federal Rules of Bankruptcy Procedure, Federal Rules of Civil Procedure, Bankruptcy Local Rules, and Administrative Procedures for Electronic Filing. When Judge Paul's staff receives a communication regarding a case by letter addressed to Judge Paul, the communication is returned to the sender, with a letter advising the sender that a pleading must be filed as set forth above.

E. Contact with Clerk's Office Personnel other than the Judge's Staff

For general questions, please contact the clerk's switchboard, at **(713) 250-5112**. For matters requiring the assistance of management, please contact **Nathan Ochsner**, the Deputy in Charge of Houston Operations, at **(713) 250-5146**.

F. Courtesy Copies

Unless ordered otherwise by the court, whenever a courtesy copy is required under the Bankruptcy Local Rules, the Administrative Procedures for Electronic Filing, or is requested by the court, the courtesy copy should be delivered to the Case Manager.

III. Getting Matters Before the Court

A. Pleadings

Counsel and pro se litigants who wish to obtain relief from the court must first file a pleading setting forth the relief requested. There are several types of pleadings:

1. Motions

A motion is a general request for relief. Most of the types of relief sought in bankruptcy cases are sought by motion.

a. Routine Administration

When a motion (or application) is filed, the motion (along with the proposed form of order the person filing the motion is required to submit pursuant to the Local Rules) goes into the electronic case file maintained by the Clerk. If the motion does not require emergency or expedited treatment, the case manager prints a copy of the proposed form of order, and places it in a "diary" for review by Judge Paul's staff and Judge Paul. Ordinarily, motions are submitted to Judge Paul's Law Clerks 23 days after they are filed. Ordinarily, Judge Paul either issues a ruling or sets a hearing within about 40 days of the date a motion is filed. If a response has been filed, Judge Paul may issue a ruling without a hearing, or may direct the Case Manager to set a hearing. If the motion is properly brought before the court, and the relief requested is unopposed, Judge Paul may grant the relief requested. If Judge Paul has questions regarding the relief requested, or decides that evidence must be adduced, Judge Paul may direct the Case Manager to set a hearing. Unless otherwise stated, a hearing set by the Case Manager is an evidentiary hearing.

b. Emergency and Expedited Motions

If the motion requires emergency or expedited treatment, Judge Paul's Case Manager brings the motion to the attention of the Law Clerks, or directly to Judge Paul. The Case Manager usually checks the electronic case filing system for emergency motions once per day. A party who files an emergency motion should notify the Case Manager

by email and/or telephone that the motion has been filed.

c. Motions for Continuation of Automatic Stay or for Imposition of Stay

The Case Manager Attempts to schedule hearings on motions for continuation of stay on or before 30 days after the petition date. The Case Manager attempts to schedule hearings on motions for imposition of stay on the first available court date.

2. Adversary Proceedings

An adversary proceeding is a separate lawsuit within the bankruptcy case. Certain types of matters must be brought as adversary proceedings. An adversary proceeding is initiated by the filing of a complaint. The electronic filing system requires the Plaintiff to use the event code to open an adversary proceeding, rather than the "Complaint" event code in the main bankruptcy case. To open an adversary proceeding, click on "Adversary" in the top navigation bar, and choose the link to "Open an AP Case."

a. Routine Administration

When an adversary complaint is filed, the Case Manager prepares a Scheduling Order. The adversary Scheduling Order sets forth deadlines to file a status report, complete discovery, file any dispositive motions (e.g. motion for default judgment, motion for summary judgment), and file a joint pretrial statement. In addition, the adversary Scheduling Order sets a status conference to determine default, dismissal, or possible settlement, and sets a pretrial conference. The adversary Scheduling Order also sets a trial week. Although the adversary scheduling order designates a trial week, the actual date and time of the trial will ordinarily be set at the pretrial conference.

b. Emergency Matters (including requests for Temporary Restraining Orders)

A request for a temporary restraining order must be made in an adversary proceeding. If emergency consideration of an adversary complaint is necessary, the Plaintiff must immediately notify the Case Manager.

3. Claim Objections

Claim Objections are filed in the main bankruptcy case. When a Claim Objection is filed, the Case Manager will prepare a Scheduling Order, setting forth a deadline to file an answer, and setting an initial pretrial hearing on the claim objection. If no defense to the Claim Objection is raised, the claim may be adjudicated at the Initial Hearing on affidavit filed by the objecting party. If a defense is raised, the Case Manager will schedule an evidentiary hearing.

4. Motions for Relief from Stay

Bankruptcy Local Rule 4001 requires that a movant confer with opposing counsel or parties, and obtain a hearing date from the Judge's web page, before filing a motion for relief from stay. **Please check the dates daily. They are subject to change.**

The contents required of a motion for relief from stay are set forth in Local Rule 4001. Relief from stay must be sought, with respect to exempt residences or exempt vehicles, on a standard form of motion promulgated by the court.

5. Fee Applications

When a Fee Application is filed, the Fee Application will be placed into "diary" as if it were a routine motion. If the court has questions regarding the Fee Application, it will ordinarily be set for hearing. If the court has questions regarding a Fee Application in a Chapter 13 case, it will ordinarily be set for hearing on a date on which the Chapter 13 Trustee has hearings set.

6. Chapter 13 Plans

Debtors must use the uniform "Chapter 13 Plan and Motion for Valuation of Collateral" and "Chapter 13 Plan Summary" in the forms promulgated by the court, unless a motion is filed with the petition seeking variance from the uniform plan and plan summary. The Chapter 13 Trustee will give notice of a date for a confirmation hearing on the plan.

7. Motions to Modify Chapter 13 Plans

Debtors should use the form of motion to modify promulgated by the court, and must attach a revised uniform "Chapter 13 Plan and Motion for Valuation of Collateral" and "Chapter 13 Plan Summary" in the forms promulgated by the court. This is true, whether the case was filed before or after October 17, 2005.

8. Reaffirmation Agreements

The Local Rules require the filing of a reaffirmation agreement. Ordinarily, if a reaffirmation agreement is accompanied by an affidavit sufficient to satisfy Sections 524(c)(3) and 524(k) of the Code, no hearing will be set. If the presumption of undue hardship under Section 524(m) of the Code applies, or if the court has questions regarding a reaffirmation agreement, the reaffirmation agreement will be set for hearing.

B. Obtaining Hearings

1. Motions (other than motions for relief from stay)

Ordinarily, unopposed motions are not set for hearing, unless Judge Paul determines that a hearing is necessary. Unless otherwise provided in this Procedures Manual, stated by the case manager, or stated in an order setting a hearing, a hearing set by the Case Manager is an evidentiary hearing. If a response is filed, a hearing may be set. Hearings are ordinarily set when there is time available on the court's calendar, as determined by the Case Manager.

2. Adversary Proceedings

The adversary Scheduling Order governs deadlines for joinder, discovery, and dispositive motions, and sets the initial status conference and pretrial hearing.

Motions filed within adversary proceedings are typically submitted to chambers and adjudicated without hearing, or set for hearing in the same manner as motions filed in the main bankruptcy case.

3. Claim Objections

The claim objection scheduling order sets a pretrial hearing. At the pretrial hearing, unless the parties consent to an immediate hearing, and there is court time available, Judge Paul will ordinarily set an evidentiary hearing for a later date, and set discovery and other deadlines.

4. Motions for Relief from Stay

The movant on a motion for relief from stay must obtain a date for the preliminary hearing from the Judge's web page.

5. Chapter 11 Disclosure Statement

When a Chapter 11 Disclosure Statement is filed, the Case Manager will prepare an order setting the hearing on the disclosure statement.

6. Motion to use Cash Collateral

Ordinarily, motions to use cash collateral will be submitted to chambers on an expedited basis, and will be set for hearing. However, because the process of submission to chambers depends on the periodic review of the electronic filings by the Case Manager, a movant on a cash collateral motion is urged to notify the Case Manager of the filing of a cash collateral motion.

7. Matters Set With or Without Response

The following matters are set by the Case Manager, whether or not a response is filed: Objections to Exemptions; Applications to Pay Filing Fee in Installments; Applications for Waiver of Filing Fee; Motions for Continuation or Imposition of Stay.

8. Chapter 13 Confirmation Hearing

Ordinarily, the Chapter 13 Trustee will determine a date for a confirmation hearing, and will provide notice of that date.

9. Reaffirmation Agreements

Ordinarily, if a reaffirmation agreement is accompanied by an affidavit sufficient to satisfy Sections 524(c)(3) and 524(k) of the Code, no hearing will be set. If the presumption of undue hardship under Section 524(m) of the Code applies, or if the court has questions regarding a reaffirmation agreement, the reaffirmation agreement will be set for hearing.

C. Matters Initiated by the Court

1. Automatic Dismissal

The court will issue a notice of deficiency and will dismiss a case on the 16th day after the date of filing of the petition if no mailing list has been filed. The court will issue a notice of deficiency and will dismiss a case on the 46th day if the Debtor has not filed all documents required to be filed under Section 521(a)(1) of the Code.

2. Initial Orders

In each Chapter 13 case, the court enters initial orders for case management, outlining Debtors' initial responsibilities, and authorizing use of vehicles conditioned on the provision of adequate protection.

3. Orders to Show Cause

The court routinely enters orders to show cause when it appears that documents ordered to be filed have not been filed, counsel fail to appear for hearings, parties have failed to prosecute contested matters or adversary proceedings, or Trustees have failed to file final reports. In addition, the court may raise issues in a case sua sponte by order to show cause.

IV. Hearings

A. General courtroom demeanor

1. Punctuality

Counsel must be present at the time a hearing is scheduled. Failure to appear is not excused by counsel's having an appearance scheduled in another courtroom in the building at the same time. Counsel must arrive in sufficient time before the hearing to give appropriate identifying information to the Electronic Court Recording Operator.

2. Attendance

The court enforces the Standing Order on Court Appearances, (Standing Order No. 91-11) which requires that counsel must attend all court proceedings involving the interest of the client, or send a fully informed attorney with authority to bind the client, unless excused by the court. Non-payment of fees by client is not a basis for non-attendance.

3. Avoiding Disruption

If other matters are proceeding in the courtroom, other persons in the courtroom should remain quiet and avoid disrupting the court until their matter is called. Cell phones and other disruptive devices should be turned off.

4. Courtesy to Court's Staff

At times, matters will be called on the record by the Courtroom Deputy Clerk, without the judge in the courtroom. Persons in the courtroom should avoid disruption of matters in the courtroom, as if the judge were present, when the Courtroom Deputy Clerk calls matters on the record.

B. Hearing and Trial Practice

1. Electronic Recording

Hearings are recorded electronically. The Electronic Recording Operator (ERO) prepares a log of the proceedings, which is stored along with the electronic recording. Prior to the start of each hearing, the ERO will request that any attorneys who intend to make an

appearance give the ERO a business card, or fill out an appearance sheet, marked with the name of the party the attorney represents.

2. Appearances by Telephone

a. When permitted

In cases other than Complex Chapter 11 cases, counsel may appear by telephone, only upon the granting of a motion seeking leave to appear by telephone. Such a motion should be filed more than three business days in advance of the hearing, unless the hearing was set on an emergency basis. In Complex Chapter 11 cases, counsel may appear by telephone, upon arrangement with the Case Manager.

b. Connecting to the hearing by telephone

When counsel is permitted to appear by telephone, the counsel appearing by telephone should contact the Case Manager for instructions. Counsel who wish to appear by telephone will be required to dial the designated telephone number several minutes prior to the commencement time for the hearing, in order to allow the caller to give appearance information to the ERO before the hearing commences.

c. Conduct of the hearing

While appearance on the telephone is permitted, Judge Paul will not take evidence over the telephone (including the questioning of witnesses present in the courtroom). In order to make a proper record, counsel appearing by telephone should state the counsel's name each time the counsel speaks.

3. Appearances

When a matter is called, Judge Paul will take appearances. Counsel (or parties, if not represented by counsel) should state their names, and all parties they represent. Counsel should not begin argument until all parties have entered their appearance.

4. Witnesses and Exhibits

Unless otherwise provided in the Local Rules or ordered by the court (e.g. scheduling orders on adversary proceedings or claim objections), prior to the commencement of an evidentiary hearing, parties should provide copies of completed witness and exhibit lists to Judge Paul, opposing parties, and the Courtroom Deputy Clerk. Admitted original exhibits will be kept by the Courtroom Deputy Clerk. In addition, it is helpful to have copies for Judge Paul, the witness, and opposing parties. Remember to retain a copy for yourself.

5. Argument

Argument is generally permitted, if at all, prior to the taking of evidence. Closing argument is rarely permitted.

C. Continuances

Continuances are granted only upon motion, and only for good cause shown. Many motions for continuance are denied. Parties should prepare for a hearing as if a motion for continuance will be denied. If a motion for continuance is filed on an emergency basis, the movant should notify the Case Manager, and, if the Case Manager cannot be reached, the Courtroom Deputy Clerk.

D. Particular matters

1. Motions for Relief from Stay

Preliminary Hearings on Motions for Relief from Stay will ordinarily be called first by the Courtroom Deputy Clerk. When the Courtroom Deputy Clerk calls the matter, the movant and any respondents should make an appearance on the record. The parties may announce agreement, request continuance to a final hearing, or request a hearing before the judge. If an agreement is announced, the parties should electronically file a proposed form of agreed order, and may present a copy of any proposed form of agreed order at the hearing. If the proposed form of agreed order is not approved, the court may deny without prejudice, or may set an evidentiary hearing.

2. Chapter 11 Disclosure Statement

Ordinarily, neither the proponent nor any opponents of a disclosure statement may present evidence. Usually, a disclosure statement either contains adequate information, or does not.

3. Chapter 11 Confirmation

If the proponent of a Chapter 11 plan anticipates a contested confirmation, the proponent should notify the Case Manager. If the time allotted for a hearing appears to be insufficient in light of the anticipated contest, the matter will ordinarily be called on the record at the time originally set, and will be continued to a time when the court has sufficient time to conduct the hearing.

4. Chapter 13 Panels

Chapter 13 Confirmation and Dismissal panels will ordinarily be called first by the Courtroom Deputy Clerk. When the Courtroom Deputy Clerk calls the matter, the Chapter 13 Trustee will announce a recommendation. Unless a party disagrees with the Chapter 13 Trustee's recommendation, the party need not appear on the record. If no party disagrees with the Chapter 13 Trustee's recommendation, the Chapter 13 Trustee will ordinarily submit a proposed form of order, together with a summary for the court's review. If the proposed form of order is not approved, the court will set an evidentiary hearing. If a party disagrees with the Chapter 13 Trustee's recommendation, the court will set an evidentiary hearing.

5. Motion for Summary Judgment

Ordinarily, neither the proponent nor any opponents of a motion for summary judgment may present evidence. Usually, no hearing will be set on a motion for summary judgment. Unless a hearing has been set with respect to a motion for summary judgment, the parties must submit any affidavits supporting or opposing a motion for summary judgment within 20 days after the date of filing of the motion for summary judgment.

6. Default

A motion for default judgment, or a party seeking relief at a hearing against an individual, should present an affidavit sufficient to satisfy the Servicemembers' Civil Relief Act of 2003. An affidavit "on information and belief" is not sufficient.

V. Settlement

A. Announcement on the Record

Ordinarily, parties may announce a settlement on the record, at a hearing on the matter being settled. The parties will be notified if a motion to compromise controversy pursuant to Bankruptcy Rule 9019 must be filed.

B. Motion to Compromise Controversy

When a motion to approve a compromise of controversy is required, the motion must be filed in the main case, and be accompanied by a proposed order in the main case and by a proposed final judgment in the adversary proceeding, if any.

C. Submission of Agreed Orders After Hearings

A party should not submit an agreed form of order unless there is a predicate in the record, either in the form of an announcement of settlement, or a filed motion to compromise. However, a party may submit an agreed form of order prior to a hearing, and then appear at the hearing to announce the settlement.

VI. Chapter 13 Fee Applications

A. Fixed Fee Arrangements

The court has authorized the filing, at the commencement of the case, of fixed fee arrangements. The requirements for use of the fixed fee arrangement are set forth in General Order 2004-5 and Local Rule 2016(c)(1). Counsel should anticipate that approval will be denied as to any fixed fee arrangement which does not meet the requirements set forth in General Order 2004-5. If counsel does not file a fixed fee arrangement at the commencement of the case, fees (including those for post-confirmation services) will be allowed only on traditional fee applications.

B. Traditional Fee Applications

Traditional fee applications are governed by Local Rule 2016(c)(2). General Order 2004-5 sets forth a format for the filing of fee applications in Chapter 13 cases other than those governed by the fixed fee arrangement provisions. No fees will be allowed without a fee application.

Traditional fee applications submitted pursuant to General Order 2004-5 require:

1. A cover sheet in the form set forth in Exhibit B to General Order 2004-5.
2. Detailed time records.
3. A statement setting forth the basis of the retention (e.g. fixed fee or hourly rate).
4. A narrative description setting forth any unique, unusual, or time consuming issues particular to the case.

C. A courtesy copy of the fee application should be provided to the Case Manager. The entire fee application must be filed, including any exhibits.

VII. Chapter 13 Plan Modifications

A. Content

A motion to modify must be in the form specified in the local rules. The motion should be signed by Debtors and Debtors' counsel. The motion should identify the terms of the plan currently in effect, and the terms of the proposed modification. **Note: to properly identify the terms of the existing plan and proposed modification, identify the terms of the existing plan and the terms of any change. For example, if the initial plan calls for 60 payments of \$250, and the first modification calls for the payments to change to \$300 for the last 24 months of the plan, then the existing plan should be identified as \$250, for months 1-60, and the proposed future payments should be identified as \$300, for months 37-60 (and not months 1-24).**

VIII. Motions for Relief from Stay

A. Content

The contents required of a motion for relief from stay are set forth in Local Rule 4001. Relief from stay must be sought, with respect to exempt residences or exempt vehicles, on a standard form of motion promulgated by the court.

B. Proposed Form of Agreed or Default Order

A proposed form of agreed or default order on a motion for relief must use the form promulgated by the court, unless otherwise provided in the Local Rules.

IX. Avoid Common Errors

- A. Sign and date pleadings.
- B. Attach proposed forms of order.
- C. A proposed form of order should contain designated spaces for the judge to sign and date the order, with sufficient space to do so.
- D. Remember to include all attachments to documents electronically filed, such as exhibits to motions and fee applications, and proposed forms of order.
- E. Use the proper form of 362 motion, if relief is sought as to an exempt residence or vehicle.
- F. Include a budget in cash collateral motions.
- G. Avoid unnecessary findings in a proposed form of order.
- H. Avoid overreaching in a proposed form of order (e.g. orders on motions for relief from stay should not grant affirmative relief such as approving repossession and sale of collateral).
- I. A proposed form of order should include a dispositive ruling on the motion.
- J. Make sure certificates of service are complete, and include a list of parties served.
- K. Presume a hearing will go forward, until a continuance has been granted.
- L. Show up for hearings, on time and prepared.
- M. If a motion has been denied without prejudice, file a new motion or a motion for reconsideration. The motion denied without prejudice is no longer pending.
- N. Do not submit a proposed form of order without a motion. (Exception: Chapter 13 wage orders may be submitted without a motion, but must bear the signature of Debtor or counsel).
- O. When required, deliver courtesy copies to the Case Manager.
- P. Forms of order (e.g. on motions to modify, motions to reinstate, motions to sell) should not allow attorney fees as to which there has been no fee application.