# PROCEDURES FOR COMPLEX CASES
# IN THE SOUTHERN DISTRICT OF TEXAS

**(Effective September 18, 2024)**

Pursuant to BANKR. LOC. R. 1075-1, these procedures apply to the administration of complex chapter 11 and 15 cases (a "Complex Case"). A Complex Case is a case or group of affiliated cases in which (i) the total liabilities of the debtors[1] and their non-filing affiliates exceed $10 million; (ii) there are more than 50 parties-in-interest; or (iii) any claims against or interests in the debtors are publicly traded. A Complex Case includes a case that meets the foregoing criteria and is initiated by the filing of an involuntary petition under 11 U.S.C. § 303.

If the debtors and their non-filing affiliates have less than $200 million in liabilities, the debtors may elect the Complex Case designation. For cases where the debtors and their non-filing affiliates have $200 million or more in liabilities, the Complex Case designation is mandatory.

The Texas Procedures for Complex Chapter 11 cases do not apply in a Complex Chapter 11 Case. The Bankruptcy Local Rules shall apply unless they conflict with these procedures.

## A. FIRST-DAY HEARINGS AND COMPLEX CASE DESIGNATION

1. Tyler Laws, case manager for Judge Alfredo R. Pérez, and Rosario Saldaña case manager for Judge Chris Lopez, are designated as the initial points of contact for all pre-filing matters for anticipated Complex Cases. Mr. Laws may be contacted at (713) 250-5421 (office), (713) 542-3863 (mobile), or by electronic mail at Tyler_Laws@txs.uscourts.gov. Ms. Saldaña may be contacted at (713) 250-5645 (office), (832) 832-317-5942 (mobile) or by electronic mail at Rosario_Saldana@txs.uscourts.gov. Only one of the two case managers needs to be contacted. The case manager who you contact is authorized to provide first-day hearing settings for both judges.

2. A Notice of Designation of a Complex Case must be filed by the debtors with the petition in a voluntary Complex Case. If the petition is filed under 11 U.S.C. § 303, the notice of designation must be filed by a petitioning creditor or the debtors within 14 days of service of the petition. Petitions must be filed electronically. **When opening a Complex Case, the Office should be selected as "Complex Docket" regardless of the division in which the case is filed. DO NOT SELECT A CITY NAME.** Detailed filing instructions may be found at https://www.txs.uscourts.gov/sites/txs/files/nextgen%20instructions-v2.pdf.

3. Unless otherwise ordered, first-day hearings will be conducted as virtual hearings (no in-person attendance permitted (see **Section I**)); provided, if first-day hearings are combined with the plan confirmation hearing in a prepackaged case or a request for equitable relief in an adversary proceeding, in-person attendance will be permitted but not required.

[1] The term "debtors" is used herein for convenience and includes a single debtor as well as a group of affiliated debtors whose cases are jointly administered.

## B. FINAL ORDERS AT FIRST-DAY HEARINGS

4. Final orders, rather than interim orders subject to final orders at subsequent hearings, may be sought for the following types of relief:

a. 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 for payments outside the ordinary course of the debtors' business. If relief is also sought for payments outside of the ordinary course of business or that implicates § 503(c), a separate motion seeking that additional relief should be filed.

b. Motions to pay pre-petition and post-petition taxes that are (i) secured by property of the estate; (ii) held in trust by the debtors pursuant to state or federal law; or (iii) entitled to priority pursuant to 11 U.S.C. § 507(a)(8).

c. Motions to pay (i) oil and gas royalties; (ii) mineral liens, or mechanic and material liens that meet the criteria of 11 U.S.C. § 546(b); (iii) joint interest billing disbursements to joint interest parties; claims arising under 11 U.S.C. § 503(b)(9); or (iv) claims arising under the Perishable Agricultural Commodities Act of 1930, the Packers and Stockyards Act of 1921, or any state statutes of similar effect.

d. Applications to retain a claims, balloting and/or noticing agent ("Claims Agent");

e. Motions to limit or modify the notice requirements of FED. R. BANKR. P. 2002;

f. Motions to approve adequate assurance procedures under 11 U.S.C. § 366 that (i) do not prejudice the right of a utility to propose alternative procedures; and (ii) provide for a hearing not later than 30 days after the petition date upon any timely filed objection to the adequate assurance procedures.

g. Motions that are procedural in nature and do not affect the substantive rights of creditors and other parties-in-interest.

## C. CASH COLLATERAL AND FINANCING ORDERS

5. On motion by the debtors, a hearing (the "Initial Financing Hearing") will routinely be conducted as a first-day hearing to consider either cash collateral use and/or interim debtor-in-possession financing (the "Initial Financing").

6. At the Initial Financing Hearing, the debtors must introduce a cash flow projection showing sources and uses of cash necessary for ongoing operations on a weekly basis for not less than the first 3 weeks of the case (a "First Budget").

a. 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.

b. The debtors must provide a copy of the First Budget in native file format upon request.

7. At the Initial Financing Hearing, the Court will consider the Initial Financing pursuant to 11 U.S.C. §§ 363, 364 and FED. R. BANKR. P. 4001, subject to the following:

a. The Court will set a hearing to consider permanent financing through use of cash collateral and/or debtor-in-possession financing in accordance with 11 U.S.C. §§ 363, 364 and FED. R. BANKR. P. 4001 (a "Permanent Financing Hearing").

b. If further interim financing relief is appropriate prior to a Permanent Financing Hearing, notice of a Permanent Financing Hearing is adequate notice of a request for further interim relief.

c. At the Permanent Financing Hearing, the debtors must introduce a cash flow projection for sources and uses of cash for the period of cash collateral use or debtor-in-possession financing that is proposed (a "Permanent Financing Budget").

d. The Permanent Financing Budget must be filed on the Exchange Date provided in BANKR. LOC. R. 9013-2. The debtors must provide a copy of the Permanent Financing Budget in native file format upon request.

8. If a motion to approve financing under 11 U.S.C. §§ 363 or 364 seeks to include any of the following terms, the motion must list all such provisions in a separate section or chart and provide specific reasons why each such provision should be approved:

a. Sale or plan confirmation milestones;

b. Cross-collateralization;

c. Roll ups (including (i) provisions deeming pre-petition debt to be post-petition debt; and (ii) provisions requiring the proceeds of post-petition loans to be used to repay pre-petition debt);

d. Liens on avoidance actions or proceeds of avoidance actions;

e. Default provisions and remedies that are self-executing or preclude court oversight, including: (i) provisions terminating the automatic stay without further order; (ii) provisions waiving rights to challenge lenders' ability to exercise post-default remedies; and (iii) provisions limiting required proof or altering the burden of proof at post-default hearings;

f. Releases of claims;

g. Limitations on the use of cash collateral or DIP proceeds (other than general "carve-outs") to pay approved fees and expenses of advisors to official committees or future trustees;

h. Non-consensual priming liens;

i. Any other provision that limits the ability of estate fiduciaries to fulfill their duties under the Bankruptcy Code and applicable law.

The inclusion of these types of provisions in an interim or emergency order will require an extraordinary showing.

9. Cash collateral and financing orders that contain a release of claims against lenders and other third parties by the debtors should provide that an official committee of unsecured creditors (the "Committee") has at least 60 days from the date of the Committee's formation to investigate claims against the lenders and to challenge the extent and validity of any liens or the appropriateness of such release, with such 60-day period subject to extension by agreement of the Committee and the lenders and other third parties, as the case may be, or by order of the Court.

## D. DISFAVORED PROVISIONS

10. These provisions are disfavored in any motion or order:

a. The inclusion of a provision in any cash collateral, DIP loan or other financing order that (i) provides for the termination of the automatic stay without notice and hearing; (ii) alters the evidentiary burden with respect to the termination of the automatic stay; or (iii) limits the range of remedies that the Court may order upon a default.

b. The inclusion of a provision in any cash collateral, DIP loan or other financing order that terminates or limits the debtors' exclusive rights under § 1121.

c. 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 the debtors' actual performance under a plan support agreement, including without limitation, the debtors' post-petition agreement to include performance deadlines in various financing orders and the debtors' reimbursement of the reasonable and necessary professional fees of parties to the plan support agreement.

## E. MASTER SERVICE LIST

11. The debtors must maintain a consolidated master service list identifying the parties that must be served whenever a motion or other pleading requires notice. Unless otherwise required by the Bankruptcy Code or Rules, notices of motions, applications and other matters will be limited

to the parties on the master service list. The master service list must initially include (a) the Office of the United States Trustee for the Southern District of Texas; (b) the debtors; (c) the attorneys for the debtors; (d) the debtors' secured lenders; (e) the debtors' thirty (30) largest unsecured creditors; (f) those persons who have formally appeared in the chapter 11 case and requested service pursuant to FED. R. BANKR. P. 2002; (g) all applicable government agencies to the extent required by the Bankruptcy Rules and the Local Rules; and (h) any known counsel for (d) – (g). Any party in interest that files a Notice of Appearance will be added to the master service list.

a. Parties on the master service list who appear through counsel or submit a request for service by CM/ECF will be served with pleadings and orders through the CM/ECF notification system. No other form of notice will be required.

b. All other parties on the master service list must be served, at the server's option, by email or regular mail. Each certificate/affidavit of service must include the actual email or regular mail address for each party that is served under this paragraph 6(b) unless otherwise ordered.

c. The initial master service list must be filed within three (3) days after entry of an order granting complex case treatment. A revised list must be filed seven (7) days after the initial master service list is filed. The debtors must update and file a copy of the updated master service list (i) at least every seven (7) days during the first thirty (30) days of the case; (ii) at least every fifteen (15) days during the next sixty (60) days of the case; and (iii) at least every thirty (30) days thereafter. Updated lists need not be filed if there are no changes.

## F. CLAIMS AGENTS AND CREDITOR LISTS

12. Motions seeking to employ a Claims Agent should use the official form of order located on the Court's website.

13. If a Claims Agent has been employed, the creditor matrix required by FED. R. BANKR. P. 1007 should be filed in pdf format using the "Complex Case Creditor Matrix" CM/ECF event code rather than uploading a .txt file using the "Upload List of Creditors File" CM/ECF event code.

14. The lead debtor in a jointly administered Complex Case must:

a. file a single, consolidated list of unsecured creditors on Official Form 204 consisting of the 30 largest unsecured creditors of all jointly administered debtors; and

b. if a Claims Agent has been appointed, use a Court-approved modified version of the Official Form 309F1 (Notice of Chapter 11 Case) to reflect the procedures approved for the services provided by the Claims Agent.

## G. COMPLEX HEARINGS AND HEARING DATES

15. Unless otherwise directed by the Court, hearing dates must be obtained by contacting the Court's case manager.

16. All motions that do not require emergency consideration must state, immediately below the case caption and in lieu of the language required by any Local Bankruptcy Rule, the following:

> **If you object to the relief requested, you must respond in writing. Unless otherwise directed by the Court, you must file your response electronically at https://ecf.txsb.uscourts.gov/ within twenty-one days from the date this motion was filed. If you do not have electronic filing privileges, you must file a written objection that is actually received by the clerk within twenty-one days from the date this motion was filed. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.**
>
> **[IF A HEARING DATE HAS BEEN OBTAINED, INCLUDE THE FOLLOWING PARAGRAPHS:]**
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> **A hearing will be conducted on this matter on ___, 202____ at _: am/pm in Courtroom ___, ____ floor, _____(courthouse address)_____. [INCLUDE ONE AS APPLICABLE: You may participate in the hearing either in person or by an audio and video connection [OR] Participation at the hearing will only be permitted by an audio and video connection] [OR] You are required to appear in person at the hearing pursuant to the Court's order.**
>
> **Audio communication will be by use of the Court's dial-in facility. You may access the facility at 832-917-1510. Once connected, you will be asked to enter the conference room number. Judge __'s conference room number is ___. Video communication will be by use of the GoToMeeting platform. Connect via the free GoToMeeting application or click the link on Judge ___'s home page. The meeting code is "Judge___". Click the settings icon in the upper right corner and enter your name under the personal information setting.**
>
> **Hearing appearances must be made electronically in advance of both electronic and in-person hearings. To make your appearance, click the "Electronic Appearance" link on Judge _____'s home page. Select the case name, complete the required fields and click "Submit" to complete your appearance.**

17. All motions seeking relief on less than 21-days' notice must be filed as "emergency" motions. An emergency motion must contain the word "emergency" in the title of the motion and must be filed using the CM/ECF code for an emergency motion.

18. Emergency motions may be filed without a designated hearing date. Alternatively, an emergency motion may be calendared for hearing on a date obtained from the Court's case manager. For motions that seek emergency consideration, the Court will determine at the

scheduled hearing as an initial matter whether to allow emergency consideration. Motions that require emergency consideration must state, just below the case caption and in lieu of the language required by any Local Bankruptcy Rule, the following:

> **Emergency relief has been requested. Relief is requested not later than [ a.m./p.m. on _____, 202__].**
>
> **If you object to the relief requested or you believe that emergency consideration is not warranted, you must appear at the hearing if one is set, or file a written response prior to the date that relief is requested in the preceding paragraph. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.**
>
> **[IF A HEARING DATE HAS BEEN OBTAINED, INCLUDE THE FOLLOWING PARAGRAPHS:]**
>
> **A hearing will be conducted on this matter on ___, 202____ at _: am/pm in Courtroom __, ____ floor, ____(courthouse address)____.**
>
> **[INCLUDE ONE AS APPLICABLE AS DIRECTED BY THE CASE MANAGER: You may participate in the hearing either in person or by an audio and video connection [OR] Participation at the hearing will only be permitted by an audio and video connection] [OR] You are required to appear in person at the hearing pursuant to the Court's order.**
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> **Audio communication will be by use of the Court's dial-in facility. You may access the facility at 832-917-1510. Once connected, you will be asked to enter the conference room number. Judge___'s conference room number is ___. Video communication will be by use of the GoToMeeting platform. Connect via the free GoToMeeting application or click the link on Judge ___'s home page. The meeting code is "Judge___". Click the settings icon in the upper right corner and enter your name under the personal information setting.**
>
> **Hearing appearances must be made electronically in advance of both electronic and in-person hearings. To make your appearance, click the "Electronic Appearance" link on Judge _____'s home page. Select the case name, complete the required fields and click "Submit" to complete your appearance.**

19. Appearances in a main case matter must be made by completing an Electronic Appearance Form. The Electronic Appearance Form is accessible from the Judge's home page:

https://www.txs.uscourts.gov/page/united-states-bankruptcy-judge-christopher-m-lopez

https://www.txs.uscourts.gov/page/united-states-bankruptcy-judge-alfredo-r-perez

Electronic Appearance Forms should be completed prior to the beginning of each in-person or electronic hearing for which the appearance is being made. Electronic Appearances are not available in adversary proceedings unless otherwise ordered.

20. Continuances or adjournments of scheduled hearings must be coordinated with the Court's case manager by email with a copy to all anticipated hearing participants, including all parties that have filed any pleadings regarding the matters for which the hearing is being adjourned. Scheduled hearings will be continued or rescheduled only upon the case manager's filing of a notice on the case docket. The movant must promptly file and serve a notice of any continuance or new setting in accordance with these procedures.

## H. PROCEDURES FOR REMOTE PARTICIPATION

21. Unless a hearing is a virtual hearing as set forth below in **Section I;** or otherwise ordered by the Court, parties may appear for a hearing in person or by remote participation. No motion is required for remote participation. Audio participation will be through the Court's dial-in facility as follows:

The dial-in number for Judge Lopez is **832-917-1510**; conference room number 590153.

The dial-in number for Judge Pérez is **832-917-1510**; conference room number 282694.

You will be asked to enter the conference room number. Once the conference room number is entered, you will be connected 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.

At each hearing, the Court will either (i) unmute all participants' lines; or (ii) selectively unmute participants' lines once they indicate that they wish to address the Court by pressing 5*.

22. Video participation is available via GoToMeeting. To use GoToMeeting, the Court recommends that you download the free GoToMeeting application prior to the hearing. A mobile version of the application is also available for IOS and Android devices. If a browser connection is used, Chrome is generally recommended as the preferred browser. The meeting code is either "JudgeLopez" or "JudgePerez." You may also connect directly by clicking the link on either Judge Lopez's or Judge Pérez's home page on the Southern District of Texas website. Once connected, click the icon in the upper right corner of your personal video box and enter your name.

23. Absent extraordinary circumstances, witnesses (whether appearing voluntarily or by subpoena) must appear by both audio and video. However, counsel is advised that FED. R. CIV. P. 43 applies to the taking of testimony. If the Court determines that emergency consideration of a matter is required, witness testimony will be allowed remotely. In all other instances, the party choosing to call a witness to testify remotely must first demonstrate that good cause in compelling circumstances exists and that appropriate safeguards have been established.

a. At a minimum, appropriate safeguards will include assurances that the witness will be giving testimony independently and with no assistance or coaching by others.

b. Good cause in compelling circumstances may be shown:

(1) At the scheduled hearing or trial, by a demonstration of the good cause in compelling circumstances;

(2) By filing of a "Notice of Intent to Call Live Witness by Telephone and Video Technology" in the form published on the Court's website at least 7 days prior to the scheduled hearing or trial. Any party-in-interest may object to the Notice within 3 days of the filing of the Notice. If no party-in-interest files a timely objection, the witness will be allowed to testify remotely using the Court's audio and video connections. If a party-in-interest files a timely objection, the Court will rule on the objection prior to or at the scheduled hearing or trial.

(3) If the Court does not authorize the testimony to be taken remotely, the Court will schedule a date for the witness's testimony. Both the witness and the objecting party-in-interest must appear in person at the scheduled date.

24. Absent extraordinary circumstances, attorneys who intend to make arguments or examine witnesses must appear by both audio and video.

25. The Court may allow parties-in-interest to utilize GoToMeeting to present documents or other presentations.

26. Parties may stipulate that they will only participate remotely at a hearing. The stipulating parties will be bound by any such stipulation that is filed on the record prior to the commencement of the hearing.

## I. ADDITIONAL PROCEDURES FOR VIRTUAL HEARINGS

27. The Court may authorize virtual hearings. For clarity, a "virtual hearing" differs from "remote participation" in that a virtual hearing will be conducted with ***none*** of the parties or being physically in the courtroom. Virtual hearing settings may be obtained by filing a motion in the form contained on the Court's website. Personal attendance at virtual hearings is not authorized. Witnesses may appear in the Courtroom if required by paragraph 23 of these procedures.

28. The balance of the Procedures for Remote Participation apply.

## J. AUDIO RECORDINGS

29. Audio recordings of hearings will normally be made available on CM/ECF using CourtSpeak. The audio file will be reflected on the docket as an .mp3 file embedded within a .pdf document. The .pdf document will contain basic instructions for accessing the audio file.

## K. AUTOMATIC BRIDGE ORDER FOR EXTENSIONS OF TIME

30. Unless otherwise provided in the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, or Court order, if a motion is filed that complies with these procedures to extend the time to take any action before the expiration of the period prescribed by the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, or a confirmed plan, the time for taking the action is automatically extended until the Court rules on the motion. An automatic extension under this rule does not require the issuance or entry of an order extending the time.

## L. SETTLEMENT

31. If a matter is properly noticed for hearing and the parties reach a settlement of the dispute prior to the hearing on the matter, the parties should promptly notify the Court's case manager 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 the settlement, (i.e., that the terms of the settlement are not materially different from what parties-in-interest could have expected if the dispute were fully litigated) the Court may approve the settlement at the hearing without further notice.

## M. PROOFS OF CLAIM AND OMNIBUS CLAIM OBJECTION PROCEDURES

32. 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) for all other entities, 90 days after the first date set for the meeting of creditors under 11 U.S.C. § 341(a). The debtors must promptly provide notice of the bar date to all creditors.

33. Omnibus claim objections must conform with FED. R. BANKR. P. 3007(d) and (e) and BANKR. LOC. R. 3007-1 absent further order.

34. Parties may file a motion to approve procedures for handling omnibus claim objections. Such procedures may not shift the burden of proof, discovery rights or burdens, or pleading requirements.

35. Parties may obtain claim objections hearing dates consistent with the above **Section G**. Adjournments or continuances of claim objections hearings must either (i) be agreed and reflected in a claims objection hearing agenda that is filed at least 24 hours prior to the scheduled hearing; or (ii) ordered by the Court on motion of any party.

## N. SALE ORDERS AND BID PROCEDURES

36. Any party-in-interest opposing a sale motion on the basis that the proposed sale constitutes a *sub rosa* plan must identify with specificity what rights or protections under 11 U.S.C. §§ 1121-1129 are being violated. The proponents of a sale motion must respond specifically to any objection asserting that a proposed sale pursuant to 11 U.S.C. § 363 will constitute a *sub rosa* plan.

37. Bid procedures motions should provide for 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.

## O. PLAN CONFIRMATION

38. If the debtors 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.

39. If the debtors 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.

40. If a proposed plan seeks consensual pre- or post-petition 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.

## P. JOINT HEARINGS ON APPROVAL OF DISCLOSURE STATEMENTS AND CONFIRMATION OF PLANS/CONDITIONAL APPROVAL OF DISCLOSURE STATEMENTS

41. A plan proponent may combine the disclosure statement and plan into a single document. 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.

42. All motions requesting a joint disclosure statement and confirmation hearing must:

a. identify the proposed balloting agent; and

b. identify any voting procedures in addition to those required in these procedures; and

c. identify the proposed hearing date for final approval of the disclosure statement and confirmation of the proposed plan (the "Combined Hearing").

43. The motion must include a proposed order that, in addition to setting the Combined Hearing date: (A) finally approves the balloting and voting procedures to be utilized; (B) finally approves the form of notice to be provided to creditors and interest holders; (C) finally approves the form of ballot which will be provided to creditors and interest holders entitled to vote on the proposed plan; (D) establishes a record date pursuant to FED. R. BANKR. P. 3017(d) and 3018(a); and (E) establishes a voting deadline.

## Q. SUBMISSION OF PROPOSED ORDERS, CERTIFICATE OF NO OBJECTION AND CERTIFICATE OF COUNSEL

44. After a response deadline has passed, and with no response filed, counsel for the movant may file a Certificate of No Objection ("CNO"), stating that no objection/response was filed. By filing the CNO, counsel for the movant represents to the Court that the movant is unaware of any objection to the motion or application and that counsel has reviewed the Court's docket and no objection/response appears thereon. Upon receipt of the CNO, the Court may enter the order without further notice or hearing. Once the order is entered, the hearing scheduled on the motion is canceled.

45. Objections to a motion, application, objection to claim or other pleading filed with the Court may be resolved by filing an agreed form of order filed with a Certificate of Counsel ("CoC") consistent with this paragraph. The CoC must be signed by counsel with a certification that all known objections have been resolved by the agreed form of order. A CoC should not be filed if it resolves less than all filed objections. If there is an applicable objection deadline, the CoC may not be filed until after that deadline. Upon receipt of the CoC, the Court may enter the order attached to the CoC without further notice or hearing.

46. **Every motion, CNO and CoC should include a proposed form of order**. Proposed orders should be filed as a separate attachment and have no cover page. Proposed orders should also attach copies of any referenced exhibits. Any CNO or CoC that includes a proposed form of order that varies from the original proposed order must include (a) a redline of the revised form of order against the order filed with the subject motion and (b) a clean copy of the form of order without a cover page.

## R. PROFESSIONAL RETENTION

47. Applications to retain professionals pursuant to FED. R. BANKR. P. 2014 are governed by BANKR. LOC. R. 2014-1. Proposed orders may be effective as of the original retention date if the application is filed within 30 days after the later of (i) the date the order for relief is entered and (ii) the commencement of work by the professional. BANKR. LOC. R. 9003-1 does not apply to applications to retain professionals in a Complex Case. No hearing should be self-calendared for an application to retain a professional.

## S. MEDIATION

48. Matters Subject to Mediation. The Court may order mediation of any dispute arising in an adversary proceeding, contested matter or otherwise. Parties may agree to mediate any dispute without Court approval. No matter may be mediated by a sitting judge without first obtaining an order from the Court.

49. 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.

50. 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 recover any alleged avoidable transfer of less than $25,000.00 per defendant pursuant to 11 U.S.C. §§ 544, 547, 548 or 550, the plaintiff in the adversary proceeding will pay the fees and costs of the mediator and (2) in all other matters, the fees and costs of the mediator will be shared equally by the parties.

51. Time and Place of Mediation. The mediator will schedule a time and place for the mediation and any pre-mediation conferences.

52. Submission Materials. Each party must submit directly to the mediator such materials (the "Submission") in form and content as the mediator directs. Prior to the mediation, the mediator may talk with the participants to determine what materials would be helpful. The Submission must not be filed with the Court.

53. 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 the 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: (A) views expressed or suggestions made by a party with respect to a possible settlement of the dispute; (B) the fact that another party had or had not indicated willingness to accept a proposal for settlement made by the mediator, (C) proposals made or views expressed by the mediator; (D) statements or admissions made by a party in the course of the mediation; and (E) documents prepared for the purpose of, in the course of, or pursuant to the mediation. Without limiting the foregoing, the parties are bound by (i) FED. R. EVID. 408, and (ii) 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 in evidence, merely by being used by a party in the mediation.

54. Discovery from Mediator. The mediator may not be compelled to disclose to the Court or to any person 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 (i) the status, but not the substance, of the mediation effort to the Court; or (ii) whether a party failed to participate in good faith in the mediation.

55. Protection of Proprietary Information. The parties, the mediator and all mediation participants shall protect proprietary information.

56. 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.

57. 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.

## T. AGENDAS

58. Hearing agendas should be filed using the CM/ECF "agenda" code at least 24 hours prior to the scheduled hearing. Hearing agendas must include instructions for remote or virtual participation, as appropriate.

## U. EXHIBITS

59. In addition to the requirements of Bankruptcy Local Rule 9013-2, exhibits must be filed on CM/ECF in advance of the hearing. Each exhibit must be filed as a separate attachment to an Exhibit List. The Court will review the exhibits from CM/ECF. Exhibits must be offered into evidence by reference to the CM/ECF docket number of the filed exhibit.

## V. REQUESTS FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES

Applications for interim compensation and reimbursement of expenses filed by professionals will consist of (i) the Complex Case Fee Application Coversheet; (ii) a copy of the invoices for the interim application period (if hourly) or a calculation of the fee due for the interim application period (if non-hourly); (iii) an itemized list of expenses for which reimbursement is requested (if not contained in the copies of the invoices); and (iv) a proposed order in the form located on the Court's website.

Applications for final compensation must include a (i) Complex Case Fee Application Coversheet; (ii) a complete analysis of entitlement to compensation under the applicable provisions of the Bankruptcy Code and relevant case law; and (iii) a proposed order in the form located on the Court's website. An application for final compensation may include a period for which interim compensation has not been requested.

The Court may reconsider interim awards when the final application is considered. Parties-in-interest may object to a final fee application on any basis allowed by law and will not be estopped by failing to object to an interim application. The Complex Case Fee Application Coversheets should not be altered.