

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF IDAHO**



**PROCEDURAL POLICIES  
OF THE  
BANKRUPTCY JUDGES**

**3rd Edition, Revised June 2004**



# PROCEDURAL POLICIES OF THE BANKRUPTCY JUDGES

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# **UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF IDAHO**

## **U.S. BANKRUPTCY JUDGE PROFILE**

### **JIM D. PAPPAS:**

**Judge Pappas is a native of Idaho. He received his undergraduate degree from Idaho State University in Pocatello in 1974 and his law degree from the University of Idaho College of Law in Moscow in 1977. Prior to his appointment, Judge Pappas engaged in private practice in the area of commercial law, with special emphasis on banking, work-outs, secured transactions, and all aspects of bankruptcy law. He was appointed in 1990 to serve as one of Idaho's two United States Bankruptcy Judges, and in 1993 was elevated to the position of Chief Judge. In 2004, he was reappointed to serve as a Bankruptcy Judge. He is a member of the American Bankruptcy Institute and the National Conference of Bankruptcy Judges. Judge Pappas' chambers are located in Boise and he conducts court throughout the state.**

### **TERRY L. MYERS:**

**Chief Judge Myers was born January 13, 1955, in Caldwell, Idaho, and was raised in eastern Idaho. He received his undergraduate degree from Idaho State University in 1976 and his J.D. from the University of Idaho College of Law in 1980. He served as law clerk to the Honorable Joseph J. McFadden, Justice of the Idaho Supreme Court, and to the Honorable Merlin S. Young, former United States Bankruptcy Judge for the District of Idaho. Judge Myers was engaged in private practice in Boise, Idaho, from 1984 until his appointment as Bankruptcy Judge in 1998. He became Chief Judge June 1, 2004. He is a member of the National Conference of Bankruptcy Judges and the American Bankruptcy Institute.**

## **GENERAL INFORMATION**

**Judge Pappas is assigned, at random, approximately one-half of the bankruptcy cases and related adversary proceedings cases from the Southern Division, and all cases and adversary proceedings from the Magic Valley and Eastern Divisions. Chief Judge Myers is assigned, at random, approximately one-half of the bankruptcy cases and related adversary proceedings from the Southern Division, and all cases and adversary proceedings from the Northern Division.**

**The bankruptcy judges travel extensively. While each chamber is responsible for management of its respective cases, the judges are authorized to enter routine or uncontested orders in cases. Occasionally, if needed, orders may be transmitted to the Court by fax to facilitate prompt entry. In addition, the judges may assist in dealing with emergency or urgent matters in the event the presiding judge is unavailable. Parties should contact the appropriate courtroom deputy to discuss particular concerns or to request assistance.**

**Hearings for bankruptcy cases and adversary proceedings are generally scheduled for the division in which the bankruptcy case was commenced. Judge Pappas will generally not allow contested evidentiary hearings in Twin Falls. The Court may consider hearing matters in another location with the consent of all parties or in the interests of justice. Consult the appropriate courtroom deputy concerning the scheduling or location of any hearing.**



<b>BANKRUPTCY: PRELIMINARY GENERAL MATTERS</b>		
<b>PROCEDURE</b>	<i>United States Bankruptcy Judge JIM D. PAPPAS</i>	<i>United States Bankruptcy Judge TERRY L. MYERS, Chief</i>
<b>1. Correspondence with the Court.</b>	Judge Pappas discourages written or other <i>ex parte</i> communication with parties or counsel concerning pending cases (see F.R.B.P. 9003). To the extent parties feel it is necessary to correspond with the Court regarding administrative matters, they should copy opposing counsel. Information regarding the merits of the case is properly brought before the Court in the form of a pleading.	Judge Myers discourages written or other <i>ex parte</i> communication with parties, their counsel, or <i>pro se</i> litigants. To the extent parties feel it is necessary to correspond with the Court, they should copy all opposing counsel, the trustee, and the U.S. Trustee. Any submissions regarding the merits of a case shall be made by pleading.
<b>2. Communications with the Law Clerks.</b>	Judge Pappas' law clerks can be reached at 208/334-9369. Communication is limited to administrative matters--the law clerk is prohibited from giving legal advice. The law clerk cannot comment on cases under advisement. Scheduling matters are to be directed to the calendaring department.	Judge Myers permits communication with his law clerk on routine and administrative matters. The law clerk will not provide legal advice. Any scheduling or appearance issues, extensions of time, and other similar matters are to be directed to the courtroom deputy or calendar clerks.
<b>3. Communications with the Courtroom Deputies.</b>	The courtroom deputy will assist with administrative and procedural matters, but is prohibited from giving legal advice. Diane Hutchinson, the courtroom deputy for Pocatello and Twin Falls hearings can be reached at 208/478-4114. Sylvia Wirth, the courtroom deputy for Boise, can be reached at 208/334-9369.	Communication with the courtroom deputy can be made at anytime when available. If not available a message can be left and a call will be returned as soon as possible. The courtroom deputy for Judge Myers is Randy French (208/334-9396).

<b>BANKRUPTCY: PRELIMINARY GENERAL MATTERS</b>		
<b>PROCEDURE</b>	<i>United States Bankruptcy Judge JIM D. PAPPAS</i>	<i>United States Bankruptcy Judge TERRY L. MYERS, Chief</i>
<b>4. Telephone Conferences and Hearings by Video.</b>	Telephonic hearings are generally limited to pretrial conferences and bona fide emergency matters. Requests for telephone conferences can be made through the calendar department or courtroom deputy. The Court will not take evidence or testimony telephonically. Additionally, the Court does not have the facilities to allow out-of-town counsel to appear telephonically in matters scheduled in open court.	Judge Myers prefers not to conduct telephone conferences, and the same are generally limited to adversary pretrial conferences or emergency hearings where no evidence or testimony is involved. Telephone conferences must be arranged through the courtroom deputy. Video conference hearings are used extensively on non-evidentiary matters. Contact the calendar clerks or the courtroom deputy for assistance in scheduling and proper noticing.
<b>5. Oral Arguments and Evidentiary Hearings.</b>	Judge Pappas does not set aside time specifically for oral argument or evidentiary hearings. Arrangements for contested hearings are made through the courtroom deputy or calendar department. Requests for hearings in excess of three hours require the judge's approval.	Arrangements for hearings can be made by contacting the courtroom deputy or the calendar clerks. Counsel should alert the clerk to hearings which will require extensive time.
<b>6. Alternative Dispute Resolution. (ADR)</b>	At the judge's discretion, matters may be referred to another judge for a settlement conference or the district's mediation program.	Judge Myers may at his discretion assign a case to another judge for purposes of a settlement conference or refer a case under the district's ADR program.

<b>BANKRUPTCY: GENERAL MOTION PRACTICE</b>		
<b>PROCEDURE</b>	<b><i>United States Bankruptcy Judge JIM D. PAPPAS</i></b>	<b><i>United States Bankruptcy Judge TERRY L. MYERS, Chief</i></b>
<b>1. Setting Hearings.</b>	Contact the calendar department at 208/334-9343 to obtain a hearing date. Procedures for notice and hearings are governed by Local Bankruptcy Rule 2002.2. It is the Court's practice to "deep set" the calendar. Parties who anticipate extended evidence or testimony should alert the calendar deputy.	Contact the courtroom deputy or calendar department at 208/334-9343 to obtain a hearing date. Procedures for notice and hearings are governed by Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules. Since the Court's calendar is heavily set, parties who anticipate extended argument or testimony should alert the courtroom deputy or calendar clerks.
<b>2. Vacating or Continuing Hearings.</b>	Judge Pappas adheres to Local Bankruptcy Rule 2002.2(f) regarding continuances.	Procedures for vacating and continuing hearings are governed by Local Bankruptcy Rule 2002.2.
<b>3. Courtesy Copies of Motions for Chambers.</b>	Judge Pappas does <u>not</u> require bench copies.	Judge Myers does not require courtesy or bench copies of pleadings. Bench copies of briefing on significant legal issues may be submitted, in which event such copies should be marked at the top of the first page "Judge's Copy."
<b>4. Motions to Reconsider.</b>	Motions to reconsider are to be filed with the Clerk of Court. The case administrator will forward the motion to chambers. Counsel will be contacted should the judge require the motion be scheduled for hearing.	All motions to reconsider shall be filed with the Clerk of Court without obtaining a hearing date. The motion will then be forwarded to chambers and Judge Myers will either rule on the motion <i>ex parte</i> or have the calendar clerk notify all parties of a hearing date should a hearing be deemed necessary.
<b>5. Forms of Orders.</b>	See Local Bankruptcy Rule 9004.1. In addition, all orders in Chapter 12 and 13 cases should bear the signature approval of the Chapter 12 and 13 Trustee, unless otherwise ordered by the Court.	See Local Bankruptcy Rule 9004.1. In addition, all orders in Chapter 12 and 13 cases should bear the signature approval of the Chapter 12 and 13 Trustee, unless otherwise ordered by the Court.



<b>BANKRUPTCY: ADVERSARY PROCEDURES</b>		
<b>PROCEDURE</b>	<i>United States Bankruptcy Judge JIM D. PAPPAS</i>	<i>United States Bankruptcy Judge TERRY L. MYERS, Chief</i>
<b>1. Pretrial Conferences.</b>	Pretrial conferences, where necessary, are set by the Court in adversary proceedings. The Court will consider scheduling a pretrial or status conference at the request of the litigants. Pretrial conferences will, at the Court's discretion, be conducted either in person or telephonically.	Pretrial conferences are set by the Court in most adversary proceedings. The Court will also schedule a pretrial or status conference at the request of the litigants. Pretrial conferences will, at the Court's discretion, be conducted either in person, telephonically, or by video conference.
<b>2. Trial Setting.</b>	The Court normally schedules trials on Thursdays and Fridays. When a matter is at issue, the Court will issue a notice of trial with a supplemental order attached regarding exhibits and witness lists. (See Sample Form #1.)	If the Court has not previously sent out a notice of trial setting, a trial date will be set at the time of the pretrial conference. Depending on the needs of the case, a notice of trial, pretrial order, or supplemental order may set requirements or deadlines regarding exhibits, witness lists, trial briefs, or similar matters.
<b>3. Discovery Practices.</b>	If a pretrial conference is held, discovery deadlines will be set at that time. In cases where a pretrial conference is not required, discovery is governed by the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rule 7005.1 and the terms of the order setting the action for trial.	If a pretrial conference is held, discovery issues including deadlines will be addressed at that time. Otherwise, discovery is governed by the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rule 7005.1 and 9014.1.
<b>4. Trial Briefs.</b>	This matter will be taken up at the pretrial conference and set forth in the resulting pretrial order and notice of trial. In cases where a pretrial conference was not held, it is left to the parties' discretion whether a pretrial brief would be an aid to the Court.	Except as may be otherwise addressed at the pretrial conference, Judge Myers has no specific requirements with respect to the submission of trial briefs. However, parties are encouraged to submit trial briefs when the same appear to be necessary or are likely to be helpful to the Court.

<b>BANKRUPTCY: ADVERSARY PROCEDURES</b>		
<b>PROCEDURE</b>	<i>United States Bankruptcy Judge JIM D. PAPPAS</i>	<i>United States Bankruptcy Judge TERRY L. MYERS, Chief</i>
<b>5. Preparation of Exhibits.</b>	Contact the courtroom deputy regarding premarking of exhibits. Judge Pappas requires a bench copy of all exhibits. If there are 10 or more, please place them in a three-ring binder before sending to the Judge. Also, note Local Bankruptcy Rule 5007.1. (See Sample Forms 2 and 3.) Copies of the exhibits should also be exchanged by the parties who should, at the beginning of a hearing or trial, be prepared to stipulate to admission of any uncontested exhibits.	Premarking exhibits is encouraged, especially in cases involving a large number of exhibits. Contact the courtroom deputy regarding premarking of exhibits. Judge Myers appreciates bench copies of exhibits. Copies of the exhibits should also be exchanged by the parties who should, at the beginning of a hearing or trial, be prepared to stipulate to admission of any uncontested exhibits.
<b>6. Jury Demand/Jury Trials.</b>	Requests for Jury Demand may be set for hearing. Jury trials will be held in accordance with Local Bankruptcy Rule 7038.1.	Jury requests will be set for hearing. Jury trials are subject to Local Bankruptcy Rule 7038.1.

## **SAMPLE FORMS**

- Form 1. Order Regarding Exhibits and Witness Lists**
- Form 2. Bankruptcy Court Exhibit and Witness List (Adversary Proceedings)**
- Form 3. Bankruptcy Court Exhibit List (Bankruptcy Case)**

## **ORDER REGARDING EXHIBITS AND WITNESS LISTS**

The following provisions govern all documentary exhibits to be used in the trial of this adversary proceeding, except those used for purposes of impeachment.

(a) **Marking and Exchange of Exhibits and Witness Lists.**

(1) Each party shall identify a proposed documentary exhibit by marking it, if practicable, in the lower right hand corner of its first page. Unless there are more than two parties, the plaintiff shall identify exhibits by consecutive number (1, 2, 3, etc.), and the defendant shall identify exhibits by letter (A, B, C, etc.).

(2) Any party intending to offer an exhibit in evidence shall provide pre-marked copies thereof to opposing parties, together with a list of the names and addresses of witnesses proposed to be called at the trial, except for rebuttal witnesses, at least forty-eight (48) hours prior to the commencement of the trial. Failure to do so may be grounds for not admitting an exhibit in evidence or not allowing the testimony of a witness. Parties shall provide the original and one copy of the pre-marked exhibits and the witness list to the appropriate courtroom deputy prior to the commencement of the trial.

(3) Where a party intends to offer twenty (20) or more exhibits, or if there are more than two parties which intend to offer exhibits, the parties shall make arrangements with the courtroom deputy for pre-marking and binding of exhibits prior to exchange thereof between the parties.

(4) Parties designating a witness shall have the responsibility, subject to the Bankruptcy Rules, of assuring the presence of the witness at trial.

(b) **Discretion of the Court.**

Notwithstanding the foregoing provisions, the Court may enter such orders as may be required concerning exhibits and witness lists or may waive any of the requirements of this rule.

**BY ORDER OF THE COURT**



