

General Announcement by Court Prior to the Start of Court:

2/1/12 Beaumont Docket

Motions to Modify should not be filed the morning of the Court in order to obtain continuance of pending Motion to Dismiss

Judge Parker requested that the attorneys use their best efforts to not wait until the last minute to file their motions to modify with respect to cases on an upcoming dismissal docket. For example, motions to modify filed on the morning of Court for cases on that morning's dismissal docket constitutes an administrative burden on the Court to verify that such a motion to modify was in fact filed thereby supporting the request for a continuance. Judge Parker also stated that the long standing tradition in this District was for the Court to summarily pass the hearing on a dismissal docket to allow the Court, Trustee, and creditors to consider the pending motion to modify. However, Judge Parker noted that such a continuance is not required under the Bankruptcy Code or the Rules. The last statement implied that the Judge may, at some time in the future, decline to continue a dismissal hearing where motions to modify were filed at the last minute prior to Court.

Trustee's further Comment: The Trustee generally agrees with the proposition that his Motion to Dismiss should be continued when a motion to modify is filed in order to allow the motion to modify to be considered by the Court. The Trustee, however, has noted that there have been times where amended motions to modify have been filed after the motion to dismiss has already been continued at least once based upon the filing of the original motion to modify. The Trustee will closely examine the amended motions to modify in order to confirm that the amended motion to modify is not being filed in bad faith just to obtain a second continuance of the Trustee's Motion to Dismiss. For example, the Trustee will no longer agree to a second continuance where the debtor has failed to make any recent plan payments under the original motion to modify and the amended motion to modify appears to be filed for the sole purpose of bringing the debtor current a second time.