

**CHAMBERS PROCEDURES: JUDGE ELIZABETH E. BROWN
UNITED STATES BANKRUPTCY COURT, DISTRICT OF COLORADO**

Small Business Debtors

A “small business debtor” is defined in 11 U.S.C. § 101(51D). Generally, a small business debtor is a person or entity engaged in commercial or business activities that has total debts of not more than \$2,490,925. Debtors whose primary activity is owning or operating real property are excluded from the definition as are debtors in cases where the United States Trustee has appointed a creditors’ committee.

Small business debtors are subject to different time limits for filing and confirming chapter 11 plans. A plan must be filed within 300 days after the date the bankruptcy case was filed and must be confirmed within 45 days after the plan is filed. See 11 U.S.C. §§ 1121(e) and 1129(e). There are strict limitations on the Court’s ability to extend these deadlines. See 11 U.S.C. § 1121(e)(3). Small business debtors and their counsel should be particularly aware that the 45-day time limit for confirming a plan does not provide sufficient time to give 28 days notice of the disclosure statement hearing and an additional 28 days notice of the confirmation hearing as required by Fed. R. Bankr. P. 2002(b) and 3017. Filing a combined plan and disclosure statement, moving for conditional approval of a disclosure statement, and requesting shortened notice periods are potential solutions to this dilemma. See 11 U.S.C. § 1125(f), Fed. R. Bankr. P. 3017.1, and L.B.R. 3017-1.1 and 3017-2. A plan may be filed as an exhibit to a disclosure statement without being filed as a separate document. In such case, the 45-day period will not begin to run until the plan is filed as a separate document.