

Judge Hanan's General Procedures

October 2015

I. General information:

- A. Courtroom: Room 149
- B. Phone number: 414-290-2650
- C. CM-ECF Support Desk: 414-290-2700
- D. The court does not accept facsimile.
- E. Hours: Monday through Friday, 8:30 a.m. to 5:00 p.m.
- F. Courtroom Deputy: Betsy Skibicki
- G. Law Clerks: Meaghan Burnett & Nick Chmurski

II. Contact with chambers:

- A. *Ex parte* communication with Judge Hanan is prohibited.
- B. Chambers staff cannot provide legal advice.
- C. The following are appropriate instances in which chambers may be contacted:
 - 1. Obtaining, rescheduling, or canceling a hearing; see also § VIII below;
 - 2. Confirming the court's receipt of an order; or
 - 3. Alerting the court to a filing that: (i) is an emergency filing, (ii) affects a hearing that is in the near future, or (iii) was required by the court to be made by a certain time to permit a timely ruling.
- D. When a party otherwise wishes to draw the court's attention to something or obtain further clarity on a matter, the party should file correspondence on the docket.

III. Chapter 13 calendar:

- A. The court holds chapter 13 hearings on Tuesdays.
- B. Cases assigned to Chapter 13 Trustee Mary Grossman are held from 9:00 a.m. to 10:30 a.m. (on Lou Jones' Days, hearings will start at 9:30 a.m.).
- C. Cases assigned to Chapter 13 Trustee Rebecca Garcia are held from 10:30 a.m. to 12:00 p.m.
- D. If a matter set for hearing has been resolved, parties should endeavor to contact chambers by 4:00 p.m. on Monday so the court may remove the hearing if possible.

IV. Green Bay calendar*:

- A. Every month, the court designates two days for hearings in cases from the Green Bay area.
 - 1. In person hearings: The court holds in-person hearings in the Federal Courthouse in Green Bay on the third Friday of each month starting at 10:00 a.m.
 - 2. Telephonic hearings: The court holds telephonic hearings on the first Wednesday of each month starting at 2:00 p.m.

B. The following are the dates for in-person hearings for the next calendar year:

1. December 18, 2015
2. January 15, 2016
3. February 19, 2016
4. March 18, 2016
5. April 15, 2016
6. May 20, 2016
7. June 17, 2016
8. July 15, 2016
9. August 19, 2016
10. September 16, 2016
11. October 21, 2016
12. November 18, 2016
13. December 16, 2016

C. Generally, the court requires the following hearings to be held in-person:

1. Motions to continue the automatic
2. Reaffirmation agreements
3. Evidentiary hearings and trials

D. For chapter 13 cases, debtors' counsel and the trustee should follow the procedure outlined in § VIII below. If counsel or the trustee should require a date different from the designated dates for the Green Bay calendar, the party should contact chambers to obtain a hearing date.

*Dates, times, and procedures for the Green Bay calendar are subject to change.

V. How hearings are set:

A. The court sets most hearings on its own. Hearings are generally set because a matter is contested, but in some instances the court will schedule a hearing because it has questions regarding the basis for the relief requested or the relief itself.

B. There are several instances where a party must call chambers to obtain a hearing date. Those instances are as follows:

1. Motions to continue the automatic stay
2. Objections to claims
3. Motions for contempt or sanctions
4. Motions to dismiss a chapter 7 case for abuse
5. Motions to convert or dismiss a chapter 11 case
6. Motions to dismiss a chapter 12 case
7. Motions to dismiss a chapter 13 case that has previously been converted
8. Approval of disclosure statements in a chapter 11 case
9. Confirmation of chapter 12 plans

C. There are also several instances in chapter 13 cases where the debtor's counsel or the trustee must schedule a hearing and issue a notice through CM-ECF. Please see § VIII below for the applicable procedures.

VI. How hearings are held:

- A. Most hearings are noticed as in-person and require the attendance of counsel and may require a party's attendance if specifically listed in the notice.
- B. The court does schedule telephonic hearings in some instances.
 - 1. Group line hearings: the notice will provide a number and an access code for the parties to call before the hearing starts.
 - 2. Regular telephone hearings: the notice will indicate that the hearing is being held "via telephone" and parties must contact chambers in advance of the hearing and provide a number at which they wished to be reached.

VII. Requests to appear by telephone:

- A. If a party wishes to appear by telephone, the party must file a written request on the docket explaining the circumstances behind the request. The written request must be filed in sufficient time before the hearing to allow the court to review the request and rule on it. The court will memorialize its ruling with an order or a docket notation.
- B. Parties appearing by phone will not be able to introduce evidence or question witnesses.

VIII. Hearings on chapter 13 dismissal motions, doomsday orders, and trustee's objections to confirmation:

- A. The following procedures apply to hearings on:
 - 1. Debtors' objections to the chapter 13 trustee's motions to dismiss (including renewed motions);
 - 2. Debtors' motions for relief from a prior "doomsday order"; and
 - 3. Chapter 13 trustee's objections to confirmation.
- B. The moving/objecting party (either debtor's counsel or the chapter 13 trustee) must file a notice of hearing and must schedule the hearing date when filing the motion/objection.
- C. **Choosing the correct hearing date:** To identify the correct date and time to include in your notice of hearing, go to the "Reports" section in CM-ECF, then locate the "Chambers Reports/Functions" category, and click the link titled "CHAP Chamber Presets." This will bring up a new screen that lists the available chambers presets for all of the bankruptcy judges in the Eastern District of Wisconsin. Locate the list of presets for Judge Hanan's chambers. Then, identify the preset date and time for the appropriate type of hearing, by trustee (e.g., "Objections to Chapter 13 Motions to Dismiss - Trustee Mary Grossman"). Include this hearing date and time in your notice of hearing, and select this hearing date and time when filing your objection/motion.
 - 1. Contact Chambers (414-290-2650) if you need to choose a hearing different from the available preset date (especially where a case falls on

the Green Bay calendar) or if the Motion to Dismiss was filed by a creditor.

D. **Notice Language:** Please use the suggested language below in your Notice of Hearing, and include a certificate of service showing service on the debtor(s).

1. PLEASE TAKE NOTICE that a telephone hearing will be held before the Honorable Beth E. Hanan, United States Bankruptcy Judge, on _____ at _____, to consider [the trustee's motion to dismiss/the trustee's objection to confirmation of the debtor's chapter 13 plan/the debtor's motion for relief from a doomsday order]. **To appear by telephone, you must call the court conference line at 1-888-808-6929, and enter access code 9122579 before the scheduled hearing time.** The court may already be in session, so please wait quietly on the telephone for your case to be called. [If represented by an attorney, the debtor is welcome, but not required, to participate in this hearing. If the debtor is not represented by an attorney, the debtor is required to participate in this hearing.]

E. **Docketing Information:** You can file your Objection and Notice of Hearing as one document in CM-ECF using the same event you use for filing Objections. When docketing, be sure to select that you are including a Notice. This will bring up a screen that will allow you to set the hearing time, date and location (**use "Telephone hearing" for location**). The same applies to Motions for Relief from a Doomsday Order. Use one document; file using the Motion event; and select that you are including a Notice.

IX. Affidavits of default:

- A. The court will act promptly on orders granting relief based upon affidavits of default. Generally, these orders will not be held seven days.

X. Motions to continue or impose the stay under § 362(c)(3) or (4):

- A. Before filing the motion, the moving party should contact chambers to request a hearing date.
- B. The motion should state in detail the bases for continuing or imposing the stay, and be accompanied by an affidavit containing specific facts demonstrating that the case was filed in good faith (including facts concerning the substantial change in the debtor's financial or personal affairs since the prior dismissal).
- C. The court strongly advises the moving party to upload the supporting affidavit of the debtor *at the time of filing the motion*, along with the debtor's schedules and chapter 13 plan (if applicable), if not already filed. Without this information, the court may be unable to conclude that the debtor has satisfied its burden of proving that the case was filed in good faith.
- D. In the event that there are no objections to the motion, the moving party should file an affidavit/certificate of no objection and a proposed order. The court may

then grant the motion if it determines, based upon the record before it (including the debtor's affidavit) that the debtor has met its burden of proving that the current case was filed in good faith.

- E. If the time for objections has not passed, a party has objected to the motion, or the court is not satisfied that the debtor has met its burden of proving that the case was filed in good faith, then the court will hold a hearing at the scheduled time.

XI. Objections to claims:

- A. Parties should contact chambers to request a hearing date before filing an objection to a claim.
- B. An objection to a claim is a "contested matter" under Fed. R. Bankr. P. 9014, which requires that the objection be served in compliance with Fed. R. Bankr. P. 7004. Service upon a claimant at its notice address (per its Proof of Claim) does not necessarily comply with Rule 7004.
- C. Unless the objection is based on facts of which the court may take judicial notice (such as a late, unsigned, or incomplete claim submission), the objection must be supported by admissible evidence sufficient to overcome the evidentiary effect of a properly documented proof of claim executed and filed in accordance with Fed. R. Bankr. P. 3001, such as a declaration (*see* 28 U.S.C. § 1746) or affidavit signed by the debtor or others with knowledge supporting the objection.

XII. Motions requesting expedited relief:

- A. All requests to shorten notice should be made on motion, filed and served before or at the same time as the underlying motion.
- B. Parties seeking expedited adjudication should contact chambers via telephone to advise the court of the filing. The court will work to consider the motion promptly.
- C. The court may (i) grant the request to shorten the notice period and provide a hearing date to be used to notice the underlying motion, (ii) rule on both the request to shorten notice and the underlying motion at a hearing that the court will set in an order; or (iii) deny the party's request to shorten notice.

XIII. Requesting that a hearing be adjourned:

- A. To seek an adjournment the court may be contacted via telephone ***once all interested parties are on the line.***

XIV. Motions for relief from stay:

- A. Hearings on motions for relief from the automatic stay must be heard within 30 days after the motion is filed or relief is provided to the movant as a matter of law. *See* 11 U.S.C. § 362(e)(1).

- B. If parties seek an adjournment of the hearing beyond 30 days, they must file a joint letter request explaining the circumstances for the adjournment. To grant the parties' request to adjourn the hearing, the court must be satisfied that "there is a reasonable likelihood that the party opposing relief from such stay will prevail at the conclusion of [] a final hearing [on the matter]." 11 U.S.C. § 362(e)(1).
- C. The parties should file the joint letter request on the docket and then contact chambers via telephone to alert the court to the filing. Any joint letter request should be filed in sufficient time before the hearing to allow the court to review the request and rule on it.

XV. Service of motions in contested matters:

- A. For all contested matters governed by Fed. R. Bankr. P. 9014, the motion must be served in compliance with Fed. R. Bankr. P. 7004. To serve a domestic corporation via first class mail under Rule 7004(b)(3), a copy of the motion and supporting documentation must be mailed to "the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process." Service upon a corporation at a P.O. Box to which payments are sent is not sufficient under Rule 7004(b)(3).

XVI. Pretrial procedures, evidentiary hearings, and trials:

A. Preliminary pretrial conferences:

- 1. When the court issues a summons it generally sets a preliminary pretrial conference. At the preliminary pretrial conference, parties should be prepared to (i) discuss the factual basis and legal theory behind their respected action(s)/defense(s) presented in their filings, including the contested issues and whether further briefing will be necessary; (ii) discuss whether summary judgment may be sought; (iii) provide the court with a timeline for discovery, if necessary; (iv) inform the court about any settlement discussions, if applicable; (v) set dates for briefing and discovery deadlines, a final pretrial conference, and an evidentiary hearing or trial.
- 2. Often, the court will set a scheduling order based on the information obtained from the parties at the preliminary pretrial conference.

B. Final pretrial conferences:

- 1. Generally, the court will hold a final pretrial conference one or two weeks in advance of an evidentiary hearing or trial. The purpose of the final pretrial conference is to determine what remains at issue and what the parties expect to present at the evidentiary hearing or trial.
- 2. Unless otherwise ordered, each party must file a pretrial/prehearing report at least three business days before the final pretrial conference, which should include the following:
 - a. A statement of the constitutional or statutory basis for the court's jurisdiction, including whether the matter is core or noncore and,

if noncore, whether the party consents to the court's entry of a final order;

- b. The elements of all claims or defenses the party believes to be at issue, and whether any elements are not disputed;
- c. The names of the witnesses that the party intends to call in its case-in-chief and, if the witness is an expert, a narrative of the expert's background and experience; and
- d. A list of all exhibits the party expects to introduce.

C. Evidentiary hearings and trials:

1. At least three business days before the trial or hearing, the parties should file with the court and serve on all participating parties numbered copies of their exhibits. The plaintiff/moving party may use numbers 1-99, the defendant/objecting party 100-199, and the trustee 200-299.
The court encourages counsel to consider the foundational requirements for all exhibits under the Federal Rules of Evidence.
2. Unless the parties stipulate to the admission of an appraisal, appraisers will be expected to testify when value is in dispute.
3. The court will not allow telephonic testimony or questioning without an advanced showing of good cause.