

# JUDGE HALFENGER'S GENERAL PROCEDURES

Updated September 2015

## 1. Electronic Recording of Proceedings and Courtroom Decorum

- The court uses an electronic recording system, rather than court reporters. That system is “on” at all times. Accordingly, if you are talking in the courtroom, the court recording system is recording what you say. There is a visual indicator on the bench; when the blue figure on that indicator is lit, the primary recording system is functioning. Even if the blue figure is not lit, however, the backup system is recording. Be mindful that the system may be recording your conversations even if the judge and court personnel are absent from the courtroom. Typically, proceedings conducted telephonically are similarly recorded.
- During hearings all dialog other than the soliciting of testimony should be directed to the judge.
- Parties and counsel are encouraged to have discussions with each other outside the courtroom rather than in the courtroom.

## 2. Contact With the Court

- As a general matter, communications to the court should be made in writing. For assistance with a scheduling matter (obtaining a hearing date, re-scheduling a hearing, etc.), please contact a member of the court’s staff (chambers) by calling (414) 290-2680 Monday – Friday between the hours of 8:30 a.m. and 5:00 p.m. The staff members are:
  - Sara Hackbarth, Courtroom Deputy
  - Shay A. Agsten, Law Clerk
  - Colin Drayton, Law Clerk
- The court staff cannot provide legal advice.
- *Ex parte* communication with Judge Halfenger is prohibited.

### 3. Orders Submitted to the Court

- All orders submitted to the court following a hearing may be held seven days for comments or objections, in accordance with Local Rule 9014.5, unless the court otherwise directs or the court determines that the circumstances warrant a more prompt issuing of the order.

### 4. Affidavits of Default

- Orders granting relief pursuant to an affidavit of default will be acted upon promptly. Ordinarily they will NOT be held for 7 days.

### 5. Chapter 13 Calendar

- The court hears matters assigned to Chapter 13 Standing Trustee Rebecca Garcia on Tuesdays from 1:00 p.m. to 2:30 p.m. The court hears matters assigned to Chapter 13 Standing Trustee Mary B. Grossman on Tuesdays from 2:30 p.m. to 4:00 p.m.
- If a motion or other matter has been withdrawn, resolved, or superseded by a subsequent filing, the parties should, whenever possible, contact chambers before 4:00 p.m. on the day before the hearing so that the court may remove the hearing, if appropriate.
- To request that a hearing be adjourned or rescheduled, please contact chambers by telephone *with all interested parties on the line*.

### 6. Requests to Adjourn or Change a Hearing Date

- Parties seeking to adjourn or reschedule a hearing date may call chambers to inquire about rescheduling the hearing only if they have *all interested parties on the line*.
- Some hearings, including those subject to statutory time constraints (see section 7, below) and those hearings set by the court, cannot be rescheduled unless the party or parties file a motion or letter, with supporting evidence, if applicable, demonstrating cause for the requested relief.
- The court may act on the request without awaiting a response. If a party opposes the court's action for good cause, it may promptly ask for reconsideration.

7. Requests to Adjourn or Change a Hearing Date on a Motion for Relief From the Automatic Stay
  - No request to adjourn a preliminary hearing on a motion for relief from the automatic stay under 11 U.S.C. §362(d) can seek to adjourn the hearing to a date more than thirty days after the day on which the motion is filed, unless the parties file a stipulation or joint letter establishing that there is a reasonable likelihood that the party opposing relief from the stay will prevail at the conclusion of the final hearing on the motion. See 11 U.S.C. §362(e).
  - Any request to adjourn a hearing for relief from the stay must be made sufficiently in advance of the thirtieth day after the day on which the motion is filed to allow the court to enter an order extending the automatic stay.
  - By participating in a request to adjourn the hearing, the non-moving party accepts the risk that the stay will terminate pursuant to 11 U.S.C. §362(e)(1) before the court is able to act on the request.
  - The parties should advise chambers by phone **after** they have filed a joint letter or stipulation requesting that the court adjourn a hearing on a motion for relief from stay.
  
8. Advising the Court that the Parties Have Resolved Matters Set for Hearing
  - If a matter set for hearing has been resolved, please advise the court by contacting chambers by telephone *with all interested parties on the line*.
  - A written resolution (stipulation, agreed order, withdrawal, etc.) must be filed promptly.
  
9. Orders Approving Stipulations
  - Orders approving stipulations should include the operative terms of the stipulation, rather than by incorporating those terms by reference to the stipulation or some other document.
  
10. Motions to Continue or to Impose Stay Under §362(c)(3) or (4)
  - Parties should contact chambers to request a hearing date before filing the motion. The motion should be accompanied (at the time of filing) by one or more declarations (see 28 U.S.C. §1746) or affidavits signed by debtors or other persons with knowledge of facts supporting the motion.

- In the event there are no objections to the motion, the court *may* cancel the hearing if declarations or affidavits establish that the debtors have met their burden to show that the current case was filed in good faith.
- If the court is not satisfied that the debtors have met their burden of showing good faith, the time to object has not passed, or a party has objected to the motion, the court will hold a hearing at the scheduled time.
- If the court holds a hearing, it generally anticipates that the debtor will present testimony or other evidence in support of the motion.

#### 11. Objections to Claims

- Parties should contact chambers to request a hearing date before filing an objection to claim.
- In the event the objection is based on facts other than those of which the court may take judicial notice, the objection should be accompanied (at the time of filing) by one or more declarations (see 28 U.S.C. §1746) or affidavits signed by the debtors or others with knowledge supporting the objection.
- In the event there is no response to the objection, the court may cancel the hearing if it is satisfied that there are grounds to sustain the objection. In the event the court is not satisfied, the hearing will proceed at the scheduled time.

#### 12. Reaffirmation Agreements

- The court requires debtor's counsel to appear at any hearing on approval of a reaffirmation agreement if either:
  - Debtor's counsel **does not sign** the reaffirmation agreement and debtor's budget shows an **ability** to make the required payments; or
  - Debtor's budget shows an **inability** to make the required payments but counsel has **signed** the agreement and there is not an adequate explanation of why reaffirming the debt does not impose an undue hardship on the debtor,
- The hearing notice will indicate whether counsel is required to appear. **It is counsel's responsibility to review the hearing notice and to attend any hearings where counsel's appearance is required.**

### 13. Motions Requesting Expedited Relief

- Requests to shorten the notice period should be made by motion filed and served before or at the same time as the underlying motion.
- Once the court has ruled on the request to shorten notice, notice of the underlying motion and any hearing date should be given as directed by the court's order.
- Parties seeking expedited adjudication are invited to advise the court by telephone that they have filed a motion to shorten time. Whenever so advised, the court will endeavor to consider the motion promptly.

### 14. Telephone Conferences and Requests to Appear By Telephone

- The court conducts some hearings telephonically. The hearing notice will indicate whether the hearing will be so conducted.
- The court uses two methods of conducting telephonic hearings: (1) some telephonic hearings require counsel to call into an open line; (2) some telephonic hearings are commenced by the court's staff calling the parties directly. The notice will specify how the court will conduct the telephonic hearing.
  - **Call-In Hearings:** counsel must call into the hearing using the telephone number and access code stated in the hearing notice. This is an open line, and the court may be holding hearings on other matters. Please wait quietly for the clerk to call the case.
  - **Court-Placed Hearing:** To appear or participate in a telephonic hearing for which the court will originate the call, parties and counsel must, before the hearing, provide chambers with a telephone number at which they can be reached.
- In general, unrepresented parties are not permitted to appear telephonically.
- Unless advance permission is obtained pursuant to Fed. R. Bankr. P. 9017, all witness testimony must occur in open court and all parties desiring to examine witnesses or present evidence must appear in court.
- Counsel unable to attend in person a hearing that is scheduled to proceed in the courtroom should file a letter requesting to appear telephonically. The letter should be electronically filed using the ECF system at least 24 hours before the hearing. The letter must explain the reasons for the request. Parties electing to participate telephonically in hearings occurring in the courtroom will ordinarily

be limited in their ability to participate in the hearing, including, e.g., in the presentation and examination of evidence.

- The court will address the request in writing, typically with a docket entry.
- Parties who have filed a written request to appear telephonically are invited to follow up with chambers telephonically to ensure that the Court is aware of the request.

15. Trial/Evidentiary Hearing Procedures in the Absence of a Governing Order

- Unless ordered otherwise, each party should file a pretrial report no less than two days before the trial or hearing that states: (1) the basis for the court's jurisdiction; (2) whether the court has statutory and constitutional authority enter a final order, and, if not, whether the party consents to the entry of a final order; (3) the elements of all claims or defenses the party believes to be at issue, and whether any elements are not disputed; (4) the identity of all witnesses the party intends to call in its case in chief.
- All exhibits should be numbered before the trial or hearing.
- Generally, moving parties and parties with the ultimate burden of proof should number their exhibits 1-99; objecting and defending parties should number their exhibits 101-199.
- Copies of all exhibits should be provided to the court and all participating parties before the trial or hearing.
- Unless the parties stipulate to the admission of an appraisal, appraisers will be expected to testify.
- Testimony cannot be presented telephonically unless the court approves a pre-trial or pre-hearing request based on a showing of good cause.