

THE HONORABLE BRENDAN LINEHAN SHANNON

**CHAMBERS PROCEDURE:
Governing Motions for Relief from Stay in
Chapter 13 Cases Filed on or After July 1, 2019**

Introduction

The Court, along with the Chapter 13 Trustee, has determined that a significant number of motions for relief from stay in Chapter 13 cases are subject to multiple adjournments. The lengthy delay in resolving or disposing of these motions imposes significant burdens upon the Court and upon the Chapter 13 Trustee. Moreover, repeated adjournments (in some cases totaling a year or more) likewise burden parties and their counsel. The following procedures will govern motions for relief from stay filed in Chapter 13 cases on or after July 1, 2019 and are intended to provide a format whereby motions for relief from stay may be filed and prosecuted on a timeline that affords both sufficient opportunity for negotiation and resolution, and certainty as to the date for a final hearing on the merits of the motion for relief from stay and any defenses.

Procedures

Motions for relief from stay in Chapter 13 cases will be filed and scheduled for hearing in accordance with the Federal Rules of Bankruptcy Procedures and the Local Rules of this Court.

Motions for relief may be adjourned from month to month a total of three times. As described more fully below, the Court will treat the hearing following the third adjournment (*viz.*, the fourth hearing on the motion) as a final pretrial conference. The Court and the parties will be expected to set a trial date to occur within thirty (30) days of that final pretrial conference.

By way of example, a motion for relief from stay in a Chapter 13 cases on July 1, 2019

may be:

- calendared for hearing on July 30, 2019;
- adjourned to August 27, 2019 (Adjournment No. 1);
- adjourned to September 24, 2019 (Adjournment No. 2); and
- adjourned to October 29, 2019 (Adjournment No. 3).

In this example, the hearing held on October 29, 2019 would be the final pretrial conference and a trial in the matter would be scheduled to be held within 30 - 60 days.

A sample form of Pretrial Order is annexed hereto as Exhibit A.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	Chapter
)	
)	Case No.
)	
Debtor(s).)	Docket Reference No.

PRETRIAL ORDER

Following a final pretrial conference held on _____, 2019, it is hereby ORDERED as follows:

1. The Court will conduct an evidentiary hearing in this matter on _____, 2019 beginning at 10:00 a.m. in the United States Bankruptcy Court for the District of Delaware. This trial date shall not be adjourned or rescheduled absent an order of this Court so providing.
2. The parties shall exchange lists of witnesses and exhibits to be introduced at trial at least fourteen (14) days before the trial date.
3. The Motion and the objection thereto are of record. The parties are directed to meet and confer regarding whether additional briefing or submissions are required in advance of trial. If so, the parties shall agree on a schedule for such submissions that provides that the final submission shall be filed no later than five (5) business days prior to trial.
4. In the event of a dispute between the parties regarding discovery, scheduling or other matters attendant to bringing this matter to trial, the parties are strongly encouraged to promptly contact the Court for a teleconference to address such dispute.
5. For the avoidance of doubt, the hearing scheduled pursuant to this Order shall be a trial on the merits.

Dated: _____, 2019

Brendan Linehan Shannon
United States Bankruptcy Judge

cc: Michael B. Joseph, Esquire
Chapter 13 Trustee