

JUDGE JUDITH K. FITZGERALD
(Visiting Judge from Pittsburgh PA)
824 Market Street
3rd floor
Wilmington, DE 19801
302-252-2928
Secretary: Rachel Bello
Courtroom Deputy/Scheduling: Rachel Bello

**MANDATORY PROCEDURES GOVERNING CHAPTER 13 MOTIONS FOR RELIEF
FROM STAY AND ANY OTHER MATTER THAT MAY BE SUBJECT TO THE
CHAPTER 13 SPECIAL HEARING CALENDAR**

Pursuant to the Administrative Order date October 7, 2001 and any Supplement thereto which modifies Local Bankruptcy Rule 4001-1, the following procedures are in effect, with respect to all motions for relief from stay and any other motion initially set for hearing on the Chapter 13 Special Hearing Calendar. From and after the effective date of these procedures, **NO telephone calls shall be made to the Clerk requesting dates for hearings on motions subject to the Administrative Order.**

These procedures do not apply to motions filed by the Standing Chapter 13 Trustee. These procedures do not apply to Adversary Proceedings or to Motions filed within an Adversary.

A. Movant Responsibilities

1. Movant shall chose a hearing date from the list provided on Judge Fitzgerald's webpage. **ONLY** the hearings dates posted shall be used. Any matter scheduled by movant for a date other than one posted **shall be dismissed without prejudice to being refiled, renoticed, and rescheduled by movant for an authorized hearing date.**
2. At least 25 calendar days before a chosen authorized hearing date, movant shall file electronically file and serve the motion and notice of hearing on the Chapter 13 Trustee and all parties affected by the relief requested. Movant shall file a certificate of service with the motion and notice. **Any party who files a motion for relief from stay more than 30 days before the authorized hearing date shall be deemed to have waived 11 U.S.C. §362(e).**

3. The notice of hearing shall state the date, time and place of hearing and shall include in **CAPITALS AND IN BOLD TYPE** the following statement which shall not be altered:

**ANY RESPONSE MUST BE FILED AND
SERVED TOGETHER WITH A
CERTIFICATE OF SERVICE ON OR
BEFORE _____, FAILURE TO
TIMELY FILE AND SERVE A RESPONSE
WILL RESULT IN AN ORDER GRANTING
RELIEF REQUESTED IN THE MOTION.**

4. The response date **must** be the date designated by the court in its list of authorized response dates.
5. The movant shall insert on the blank line in the statement in ¶ 3 the response date that is published by the court which corresponds to the authorized hearing date movant has chosen. **No variation in hearing or response dates is permitted.**
6. So as to control the calendar call on motion days, specific times have been designated for the hearings of high volume filers. If you or your firm have been instructed to use a particular time, do so. Otherwise, the time for hearings shall be 9:45 a.m.
7. When a **motion, response or stipulation** is electronically filed, the filing party must **simultaneously** email same **in .pdf format only** to Rachel Bello, Judge Fitzgerald's Courtroom Deputy at **Rachel_Bello@deb.uscourts.gov**.
8. **Failure of movant to comply with any part of these procedures shall result in the motion being dismissed without prejudice to refile in accordance with these procedures.** If the motion is dismissed, movant shall be required to notify all respondents and parties in interest with notice of the dismissal order and cancellation of the hearing.
9. If a matter is dismissed without prejudice for noncompliance with these procedures, movant may refile the pleading **but only in compliance with all of the provisions of this policy. ANY ADDITIONAL COSTS AND/OR FEES INCURRED AS THE RESULT OF THE DISMISSAL SHALL NOT BE CHARGED TO RESPONDENT(S) BY THE MOVANT(S).**

10. A proposed order granting the relief requested **must** be attached to each motion or other matter subject to these procedures.
11. **All Certificates of No Objection are to be electronically filed with the Clerk and emailed in .pdf format to Rachel Bello@deb.uscourts.gov.
NO ORDER WILL BE ENTERED ON AN UNCONTESTED MOTION
UNLESS A CERTIFICATE OF NO OBJECTION IS FILED.**

B. Respondent's Responsibilities

1. All responses **must** be filed and served, together with a Certificate of Service, on or before the date provided in the notice.
- _____ 2. All responses must contain the caption as it appears on the motion for relief from stay or other matter subject to these procedures.
3. **FAILURE TO TIMELY FILE A RESPONSE WILL RESULT IN AN ORDER GRANTING THE RELIEF REQUESTED IN THE MOTION.**

C. Special Rules Governing Adversaries in Chapter 13

When an Adversary Complaint or Answer is electronically filed the filing party must email in .pdf format a copy of the Complaint and Summons, Answer or Certificate of No Objection (as applicable) to Rachel Bello@deb.uscourts.gov.