

**Rule 9013-1      Motions.**

- (a) Application. This Local Rule applies to motions filed in bankruptcy cases. Motions filed in adversary proceedings shall be governed by Local Rule 7007-1.
- (b) Requests for Relief. No request for relief (not otherwise governed by Fed. R. Bankr. P. 7001) may be made to the Court, except by written motion, by oral motion in open court or by certification of Delaware Counsel. Letters from counsel or parties will not be considered.
- (c) Cases with Omnibus Hearing Dates. In any case where omnibus hearing dates have been scheduled pursuant to Local Rule 2002-1(a), all motions and applications and related papers shall be heard only on such dates, unless otherwise ordered by the Court. In a case where there are no omnibus hearings scheduled, a hearing date may be obtained by contacting the Court.
- (d) Evidentiary Hearing. All hearings on a contested matter will be an evidentiary hearing at which witnesses will be required to testify in person in Court with respect to any factual issue in dispute unless these Rules, the parties or the Court provides otherwise.
- (e) Contents of Notice. Unless otherwise ordered by the Court, the motion shall, in substantial conformity with Local Form 106, provide:
  - (i) The title of the motion in bold print;
  - (ii) The date and time of the hearing on the motion;
  - (iii) The date and time by which objections shall be due;
  - (iv) The name, address and email or fax number of the parties on whom any objection shall be served; and
  - (v) A statement that the motion may be granted and an order entered without a hearing unless a timely objection is made.
- (f) Form of Motion. All motions shall have attached thereto a notice conforming to Local Rule 9013-1(e), a proposed form of order specifying the exact relief requested, and a certificate of service showing the date, means of service and parties served. All motions shall be titled in the

form "Motion of [Movant's Name] for [Relief Requested]." All motions filed pursuant to this Rule shall contain a statement that the movant does or does not consent to the entry of final orders or judgments by the Court if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. If no such statement is included, the movant shall have waived the right to contest the authority of the Court to enter final orders or judgments.

- (g) Service of Motion and Notice. All motions shall be served in accordance with Local Rule 2002-1(b).
- (h) Objections. Except for motions presented on an expedited basis, any objection to a motion shall be made in writing. The title of the objection shall conform to Local Rule 9004-1 and shall include the objector's name, the motion to which the objection relates and the docket number of the motion. The hearing date and time and the docket number of the related motion shall be set forth in bold print in the caption below the case number. All objections or other responses to a motion filed pursuant to this Rule shall contain a statement that the filing party does or does not consent to the entry of final orders or judgments by the Court if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. If no such statement is included, the filing party shall have waived the right to contest the authority of the Court to enter final orders or judgments.
- (i) Telephonic Appearance at Hearing. In extenuating circumstances where counsel cannot appear at the first hearing on a motion, a request can be made to the respective Judge's chambers for an appearance by telephone no later than 12:00 p.m. prevailing Eastern Time twenty-four (24) hours prior to the scheduled hearing date. Upon the approval of such request by the Court, counsel shall follow the telephonic appearance procedures located on the Court's website. This Local Rule shall not apply to evidentiary hearings.
- (j) Certificate of No Objection. Twenty-four (24) hours after the objection date has passed, counting time in accordance with Fed. R. Bankr. P. 9006(a)(2), with no objection having been filed or served, Delaware Counsel for the movant may file a certificate of no objection (the "Certificate of No

Objection" or "CNO"), substantially in the form of Local Form 107, stating that no objection has been filed or served on the movant. By filing the CNO, Delaware Counsel for the movant represents to the Court that the movant is unaware of any objection to the motion or application and that counsel has reviewed the Court's docket and no objection appears thereon. In cases in which a Notice of Agenda is required under Local Rule 9029-3, debtor's Delaware Counsel shall submit a binder that shall contain the Notice of Agenda and any uncontested matter where a Certificate of No Objection has been timely filed. In all other cases, pleadings shall be submitted in accordance with each respective Judge's chambers procedures. Such chambers procedures, if any, are available on the Court's website. Upon receipt of the Certificate of No Objection, the Court may enter the order accompanying the motion or application without further pleading or hearing and, once the order is entered, the hearing scheduled on the motion or application shall be canceled without further notice.

- (k) Amendment of Order. Any request for amendment of an order entered by the Court shall have attached the proposed amended order and a blacklined copy reflecting the changes. Additionally, any request for amendment of an order entered by the Court shall be made only as follows:
  - (i) If the amendment is non-material, by certification of Delaware Counsel that the amendment is not material and that all parties in interest have consented to the amendment;
  - (ii) By motion under this Local Rule; or
  - (iii) By the filing of a stipulation to amend, signed by all interested parties.
- (l) Service of Order or Judgment. Service of an order or judgment shall be made in accordance with Local Rule 9022-1.
- (m) Motions Filed with the Petition in Chapter 11 Cases.
  - (i) Definition. Any motion or application in which the debtor requests a hearing or the entry of an order with less than seven (7) days' notice and prior to the earlier of the creditors' committee formation meeting or the 11 U.S.C. § 341 meeting of creditors shall be governed by this Local Rule.

- (ii) Scope of Relief Requested. Requests for relief under this Local Rule shall be confined to matters of a genuinely emergent nature required to preserve the assets of the estate and to maintain ongoing business operations and such other matters as the Court may determine appropriate.
- (iii) Notice to the United States Trustee, Clerk and Certain Other Parties. Once a petition is filed, counsel for the debtor shall have a binder containing an agenda and all applications and motions sought to be heard on an emergent basis delivered to the Clerk's Office. Once the case is assigned to a Judge, the Court will contact counsel for the debtor and the United States Trustee to schedule a hearing on those applications and motions. The debtor shall serve (a) all motions and applications that the debtor asks be heard under this Local Rule (in substantially final form) upon the United States Trustee and (b) the agenda upon the United States Trustee, the creditors included on the list filed under Fed. R. Bankr. P. 1007(d) and any party directly affected by the relief sought in such applications and motions, at least twenty-four (24) hours in advance of a hearing on such applications and motions, unless otherwise ordered by the Court, and shall file a certificate of service to that effect within forty-eight (48) hours.
- (iv) Notice of Entry of Orders. Within forty-eight (48) hours of the entry of an order entered under this Local Rule ("First Day Order"), the debtor shall serve copies of all motions and applications filed with the Court as to which a First Day Order has been entered, as well as all First Day Orders, on those parties referred to in Local Rule 9013-1(m)(iii), and such other entities as the Court may direct.
- (v) Reconsideration of Orders. Any party in interest may file a motion to reconsider any First Day Order, other than any order entered under 11 U.S.C. §§ 363 and 364 with respect to the use of cash collateral and/or approval of postpetition financing, within thirty (30) days of the entry of such order, unless otherwise ordered by the Court. Any such motion for reconsideration shall be given expedited consideration by the Court. The burden of proof

with respect to the appropriateness of the order subject to the motion for reconsideration shall remain with the debtor notwithstanding the entry of such order.