

Rule 9013-1 Motions and Applications.

- (a) Scope. This Local Rule applies to any motion or application filed in a main bankruptcy case. Any motion or application filed in an adversary proceeding shall be governed by Local Rule 7007-1. References in subparts (b) through (m) of this Local Rule to "motions" should be construed as applying to "applications" to the extent context so requires.
- (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 in which future 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 any case in which no omnibus hearing dates have been 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 provided in these Rules or otherwise ordered by the Court, any 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 to the motion shall be filed;
 - (iv) The names, addresses and emails or fax numbers 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 to be granted, and a certificate of service showing the date of service, means of service and the names and addresses of the parties served. All motions shall be titled in the form "[Motion/Application] 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 a non-evidentiary hearing on a motion, counsel may make a request to the presiding Judge's chambers for leave to appear by telephone at such hearing. Any such request for a telephonic appearance shall be made by the deadline established pursuant to such Judge's chambers procedures or, if the Judge's chambers procedures contain no such deadline, by 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 any cases in which a Notice of Agenda is required under Local Rule 9029-3, Delaware Counsel for the debtor or foreign representative or trustee, as applicable, shall submit to the Court a binder that contains the Notice of Agenda, any CNOs that have been filed and any motions scheduled for such hearing that are the subject of any CNOs that have been filed. In all other cases, court documents shall be submitted in accordance with the presiding Judge's chambers procedures. Such chambers procedures, if any, are available on the Court's website. Upon receipt of the CNO, the Court may enter the order accompanying the motion without further notice or hearing and, once the order is entered, the hearing scheduled on the motion may 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 or Chapter 15 Cases.
 - (i) Definition. This Local Rule shall govern any motion for which the debtor (or in a chapter 15 case, the foreign representative) requests, with less than seven (7) days' notice, a hearing or the entry of an order (whether interim or final) with such hearing to occur or such order to be entered within twenty-one (21) days after the filing of the petition commencing such case.
 - (ii) Scope of Relief Requested. Requests for relief under this subpart of Local Rule 9013-1 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 or foreign representative 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 or foreign representative and the United States Trustee to schedule a hearing on those applications and motions. The debtor or foreign representative shall serve (a) all motions and applications that the debtor or foreign representative 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 any 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 or foreign representative 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 twenty-eight (28) 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 or foreign representative notwithstanding the entry of such order.