

# Rule 9013-1

## Motion Practice

For purposes of these Local Rules, a request for an order, including a motion, application or other pleading (all of the foregoing will be referred to in this Local Rule as a "motion") shall be governed by the following requirements.

**(a) Motions.** All motions, unless made in open court, shall include a memorandum setting forth the points and authorities relied upon in support of the motion.

**(b) Length of Motions and Memoranda.** Unless otherwise permitted by the court, a motion and the supporting memorandum shall not exceed 15 pages, exclusive of attachments.

**(c) Response and Reply Times for Motions.** Unless otherwise set forth in the Rules, the Local Rules, the notice prescribed in paragraph (j) or an order of the court, the party responding to a motion shall have 14 days after service within which to serve and file a responsive memorandum, and the moving party shall have 14 days after service of the responsive memorandum to serve and file a reply.

**(d) Unopposed or Ex Parte Motions.** Motions that the moving party contends are unopposed or need not be set for hearing shall so state and be accompanied by a separate proposed order granting the relief requested. If the moving party contends that the motion should be granted on an ex parte basis, the motion shall state why it may be granted without notice and shall be accompanied by a form of order.

**(e) Discovery Disputes.** No motion concerning discovery disputes will be considered unless a statement of the moving party or its counsel, if represented, is attached certifying that after personal consultation and sincere efforts to do so, the parties have been unable to resolve the matter.

**(f) Motions to Compel.** When a motion for an order compelling discovery is brought, in addition to the requirements set forth in paragraph (e) above, the moving party shall set forth the following in separate, distinct, numbered paragraphs:

- (1) The questions propounded, the interrogatory submitted, the designation requested or the inspection requested;
- (2) The answer, designation or response received; and
- (3) The reason(s) why said answer, designation or response is deficient.

The foregoing requirements shall not apply where there has been a complete failure to respond to a discovery request.

**(g) Motions for Summary Judgment.** Any motion for summary judgment shall set forth separately from the memorandum of law, and in full, the specific facts upon which the moving party relies in support of the motion. The specific facts shall be set forth in serial fashion, not in narrative form. As to each fact, the statement shall refer to a specific portion of the record where the fact may be found (i.e., affidavit, deposition, etc.). Any party opposing summary judgment must comply with the foregoing in setting forth the specific facts relied upon in opposing the motion or that otherwise establish that a genuine issue of material fact exists that precludes summary judgment. In the alternative, the moving party and the opponent shall jointly file a stipulation setting forth a statement of the stipulated facts, if the parties agree that there is no genuine issue of material fact. As to any stipulated facts, the parties may state that their stipulations are entered into only for the purposes of the motion for summary judgment and are not to be otherwise binding. Unless otherwise set forth in the Rules, the Local Rules, or an order of the court, and notwithstanding the provisions of paragraph (c) above, the party opposing or responding to a motion for summary judgment shall have 30 days after service within which to serve and file a responsive memorandum and the moving party shall have 14 days after service of the responsive memorandum to serve and file a reply.

**(h) Accelerated Hearings.** Motions to accelerate hearings or reduce notice periods are disfavored and should not result from delay or inadvertence by the moving party or its counsel. The procedure for requesting such relief shall be governed by the following requirements.

- (1) The moving party shall make every practicable effort to notify opposing parties, if any, and shall serve the pleadings at the earliest possible time and by the most expeditious means practicable.
- (2) The request for relief shall be a separate motion and bear a caption such as "Motion for Accelerated Hearing" or "Motion to Reduce Notice Period." A proposed order granting the relief requested shall be lodged with the motion.
- (3) Such motion shall contain:

(A) The telephone numbers, fax numbers, e-mail addresses and office addresses of the attorneys for the opposing parties;

(B) Facts showing the existence and nature of the claimed emergency; and

(C) When and how counsel for the opposing parties were notified and whether they have been served with the motion, or, if not notified and served, why that was not done.

**(i) Motions for Continuance or Extensions of Time.** Requests for continuance of hearings or extensions of time as to briefing schedules or other matters shall state whether any other party objects to the request, or why the moving party has been unable to determine the other party's position.

**(j) Notice for Motion Requiring a Hearing.** For any motion that requires a hearing, it shall be the responsibility of the moving party to obtain from the court the date, time and location of the hearing and to provide notice thereof to all interested parties in substantially the following format:

(1) In addition to the date, time and location of the hearing, the notice shall specify the details of the requested relief, the deadline for any response or objection, and the requirement that any response or objection be filed with the court and served on the moving party.

(2) The notice may state that the court may vacate the hearing and grant the requested relief if no timely objection is served and filed.

(3) The moving party shall serve the notice as required by the Rules, Local Rules, or order of the court and file a certificate or affidavit of service.

(4) If a bar date notice has been utilized and an objection has been filed with the court or received by the moving party, the moving party shall serve on the objecting party or parties an abbreviated form of notice that states the date, time and location of the hearing, and shall file a certificate or affidavit of service.

**(k) Negative Notice.** In addition to the bar date procedures established by these Local Rules, unless the court orders otherwise, the moving party may use a 21 day bar date notice for all:

(1) Motions to approve § 363 sales other than real property, and other than pursuant to Code §363(h);

(2) Motions to approve compromises and settlements pursuant to Bankruptcy Rule 9019, except where a party to the settlement is not represented by counsel;

(3) Applications for professional fees;

(4) Objections to exemptions claimed by the debtor;

(5) Motions by debtors to sell or refinance homestead property; and,

(6) Motions to set a claims bar date in a chapter 11 case.

The moving party must serve a detailed notice of the motion on all parties entitled to notice, clearly stating the requirement to respond within the time allowed, and must file a certificate of service. Upon expiration of the time stated, plus an additional three days, and provided that no objections have been filed, the moving party may file a certificate of service and of no objection and lodge an appropriate order granting the relief requested. The lodged order must conform to the relief requested in the motion. If an objection is filed, the movant must obtain a hearing date, serve notice on all parties entitled to notice and file a certificate of service.

---

Committee Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.