


UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

In re:)
)
MOTIONS DAY PRACTICE) Standing Order No. 98-2
IN ALEXANDRIA DIVISION)
)


At Alexandria, in said District, this 16th day of September, 1998:

An order having been previously entered on December 31, 1993, establishing a motions day pilot program in the Alexandria Division of this court with respect to Chief Judge Bostetter's cases only, and the program since having been informally extended to all the sitting judges in the Alexandria Division, and it appearing desirable to establish the program on a permanent basis in the Alexandria Division and to amend the procedures previously adopted to conform with current practice as it has evolved, it is

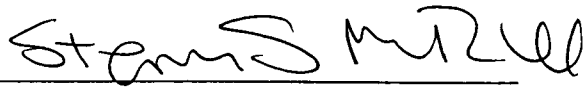
ORDERED that the attached procedures are hereby adopted, effective October 1, 1998, applicable to all cases in the Alexandria Division of this court.



Martin V. B. Bostetter, Jr.
Chief Judge



Douglas O. Tice, Jr.
Bankruptcy Judge



Stephen S. Mitchell
Bankruptcy Judge

MOTIONS DAY PROCEDURE FOR ALEXANDRIA DIVISION

Note: the following procedure is applicable only in the Alexandria Division of the United States Bankruptcy Court for the Eastern District of Virginia, and only with respect to motions, other than relief from stay motions, that can be heard in 30 minutes or less. In the Norfolk, Newport News, and Richmond Divisions, hearing dates for motions must in all instances be obtained from the Court in accordance with Local Bankruptcy Rule 9013-1(F).

MOTIONS DATES

- * Motions dates for each judge will be posted in the Clerk's office up to three (3) months in advance but should be verified by counsel or an unrepresented party prior to sending out notice in order to ensure that the date remains available. *A judge may require that specified types of matters be returnable to a specified time on a motions day, and counsel or parties setting matters for hearing are responsible for making the motion returnable to the correct time.* The motion must be set on the motions day for the judge assigned to the case and may not be set on the calendar of another judge except with the express authorization of the assigned judge. If for any reason a problem arises with a hearing date after the date has been posted, the Clerk will notify counsel with a new date, and the attorney or party filing the motion will be responsible for renoticing the matter.
- * Motions dates may be used for motions, objections, and applications that will take less than one-half hour to hear. There will be at least one (1) such day a month. The following matters may **not** be set on a motions day unless specifically authorized by the court: matters that will take over one-half hour, motions for relief from the automatic stay, confirmation hearings, pretrial conferences, and expedited or emergency hearings.
- * *If a judge has a separate Chapter 13 docket, all motions, objections, and applications arising in a chapter 13 case must be set on that docket and not on the general motions docket.* Objections to confirmation of the **original** plan filed in a chapter 13 case **must** be noticed for the date and time of the confirmation hearing as set forth in the 341 notice or separate notice of confirmation hearing given by the Clerk. Objections to confirmation of a modified chapter 13 plan may be set on any Chapter 13 motions day that provides proper notice.
- * The notice of hearing, motion, objection, or application must be filed with the court, *in an original and one copy*, together with an orange motions day cover

sheet no later than 15 days prior to the hearing date. The notice of hearing and the motion, objection, or application must be served upon all parties entitled to notice in accordance with the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules. If such rules do not specify a time period for service, then service must be made no later than 15 days prior to the hearing. There will be no exceptions unless shorter notice has been specifically authorized by the judge to whom the matter is assigned. Any matter not timely noticed will not be set on the calendar but will be reassigned by the Clerk to the next available date that complies with the applicable notice requirement, and the counsel or party bringing the matter will be responsible for renoticing it.

- * Motions to be heard on a motions day must be filed, together with a notice of hearing, in an original and one copy. The copy must be attached to an orange notice of hearing cover sheet (available from the clerk's office). The copy attached to the orange cover sheet need not contain supporting memoranda or exhibits. *The orange cover sheet is not a substitute for any required notice of hearing.* The orange cover sheet will alert the intake deputy to deliver the motion and notice of hearing to the courtroom deputy. *If a copy of the motion and notice is not filed with an orange cover sheet, the matter will not be placed on the motions docket and will have to be reset.*

MOTIONS REQUIRING MORE THAN ONE-HALF HOUR

- * For those matters that will take over one-half hour, the counsel or party bringing the motion, objection, or application must request a hearing date from the Clerk and must certify to the court the moving party's estimate of the time required to hear the matter. A certification of time estimate cover sheet is obtainable from the clerk's office and is the preferred form for requesting a hearing date.
- * If a matter is set for a motions day on the good faith belief that it will take less than one-half hour, but it subsequently become apparent that the matter will take more than one-half hour, counsel may request a date and time from the Clerk for hearing the matter, provided notice of the rescheduled hearing can be and is given to all affected parties at least ten days prior to the scheduled hearing. Otherwise, the moving party or counsel will be required to appear in court to schedule the matter for final hearing.

CONSENT ORDERS

- * A courtroom deputy will be available to take all **fully-endorsed** consent orders and stipulations, including consent orders for a continuance to another scheduled motions day, between 8:45 and 9:15 a.m. on the day that the hearing is scheduled. A order will **not** be treated as a “consent” order merely because no opposition has been filed to the motion, objection, or application.

- * **If counsel or an unrepresented party, in lieu of personally presenting a consent order to the courtroom deputy, transmits the order by messenger or mail, or presents it at the intake counter, the counsel or party tendering the order is responsible for verifying with the courtroom deputy that she or he has received it.** Any consent order submitted within two business days of a hearing **must** be accompanied by a yellow expedited handling cover sheet. Failure to comply with these requirements with respect to an order not personally presented to the courtroom deputy on the morning of the hearing may, in the court’s discretion, result in the motion, objection, or application being dismissed for failure to prosecute.

- * Any consent order continuing a relief from stay hearing must contain language continuing the automatic stay in full force and effect pending a ruling by the court at such continued hearing. Additionally, if a consent order in a relief from stay motion grants relief from the stay, and such order has not been noticed under Rule 4001(d), a certification must be attached stating either that the order provides no greater or different relief than requested in the motion or that Rule 4001(d) does not require notice.

COUNSEL HAVING MATTERS BEFORE MORE THAN ONE JUDGE

- * Counsel or an unrepresented party having matters before more than one judge on a motions day **must advise the courtroom deputy that the counsel or party is in another courtroom and must provide an estimated time when such counsel or party will be available.** If counsel or a party is in another courtroom when a particular matter is called, and has **not** checked in, the court may summarily dismiss or dispose of the matter or may hold the offending counsel or party in contempt.