

UNITED STATES BANKRUPTCY COURT
DISTRICT OF KANSAS
OFFICE OF THE CLERK
167 U.S. Courthouse
401 North Market
Wichita, Kansas 67202
Telephone: (316) 315-4110

NOTICE TO COUNSEL REGARDING YEAR 2018
STAY/DISMISSAL DOCKET, CHAPTER 13 DOCKET
AND MOTIONS DOCKET CALENDARS AND INSTRUCTIONS
FOR NOTICING HEARINGS IN CASES
AT
WICHITA, KANSAS

Attached is the Year 2018 calendar established for ***non-evidentiary*** hearings before the Honorable Robert E. Nugent and the Honorable Dale L. Somers at Wichita, Kansas, pursuant to D. Kan. LBR 9013.2 of the Rules of Practice and Procedure for the United States Bankruptcy Court for the District of Kansas. **Motions or objections filed in cases assigned to either judge are to be scheduled for these docket dates in Room 150, U.S. Courthouse, 401 N. Market, Wichita, Kansas,** and must be noticed by counsel giving sufficient time to comply with the Bankruptcy Code, Fed. R. Bankr. P. 2002, and the Local Rules of Practice and Procedure. Motions which require additional noticing time under the Bankruptcy Code, Fed. R. Bankr. P. 2002, or the Local Rules of Practice and Procedure **must comply with such requirements.** Counsel may be required to re-notice any motion not in compliance with the rules. Instructions for scheduling motions under this rule and proposed sample forms for your use are also attached. Counsel should also refer to D. Kan. LBR 5005.1 for guidance in complying with the district's electronic filing requirements.

If counsel becomes aware that the hearing time will require more than fifteen (15) minutes, counsel should advise the Clerk's office stating that additional time may be needed for the hearing; however, this will not delete the matter from the docket. The matter will be specially set for a future date if the Court finds it necessary. The stay and motions dockets are not designed for evidentiary hearings unless specifically granted by the Court.

Objection cut-off deadlines are included in the calendar. These deadlines (*with the exception of holidays*) are on the *Monday* the week prior to the established hearing dates. Notices which contain objection deadlines after the cut-off deadline *will not* be placed on that month's docket. All notices must include the actual date of the objection deadline. Objection deadlines set out merely as "21 days" will no longer be processed.

Note: Counsel are responsible for scheduling hearings using the calendar for Stays/Dismissals, Chapter 13 Miscellaneous/Confirmation Hearings and Motions filed in Wichita. If counsel is uncertain to whom a case is assigned, clarification may be obtained from the PACER or VCIS information systems, or from the Clerk's Office.

WICHITA, KANSAS YEAR 2018

STAY/DISMISSAL DOCKET AND MOTIONS DOCKET CALENDAR INSTRUCTIONS

1. HEARING DATES AND TIMES

A. **Stay Relief/Ch 13 Dismissal Docket Day:**

The Court will conduct a docket for the purpose of hearing Motions For Relief From Stay and Motions To Dismiss (Chapter 13 cases only) on the *second and fourth Wednesday* of each month (Except as noted on the Wichita Stay/Dismissal Docket Day And Motions Docket Calendar For The Year 2018). Please refer to that calendar for hearing dates, times, and cut-off deadlines for **all motions for relief from stay and motions to dismiss a Chapter 13 case. [All hearings will commence at 10:30 a.m. on the Stay/Dismissal Docket Days, unless otherwise noted.]** Attendance by counsel is mandatory unless the parties submit an agreed Journal Entry to the Court at least one (1) business day prior to the hearing. Failure to appear may result in sanctions, the dismissal of your motion, or the granting of other default relief. Counsel who are prepared to state matters as resolved at the Stay/Dismissal Day docket will be provided an opportunity to make their announcement prior to commencement of the docket call. Counsel may be excused at that point, if they have no further pending matters scheduled to be brought before the court at that time.

B. **Chapter 13 Docket Day:**

The Court will conduct a Chapter 13 docket on the *second Wednesday* of each month, unless otherwise noted. Please refer to the Chapter 13 Docket Day calendar for hearing dates and times. The objection deadline cut-off for miscellaneous motions is also set forth in the calendar; however, objections to confirmation of an original plan *must be filed no less than 10 days prior to the confirmation date.*

Chapter 13 Miscellaneous motions will be heard at **10:30 a.m.**

Chapter 13 Confirmation Hearings will be heard at **1:30 p.m.**

C. **Miscellaneous Motions Docket Day:** The Court will generally conduct the motions docket on the *second Thursday* of each month (Except as noted on the Wichita Docket Calendar for the Year 2018). Please refer to that motion calendar for hearing dates, times, and cut-off deadlines for all motions in Ch. 7 and Ch. 11/12 cases (with the exception of motions for relief from stay in any chapter which should be noticed to the Stay/Dismissal Docket Day dates) and the related objections. All hearings will commence at the times set forth below, unless otherwise noted. Attendance by counsel is mandatory unless the parties submit an agreed Journal Entry to the Court at least one (1) business day prior to the hearing. Failure to appear may result in sanctions, the dismissal of your motion, or the granting of other default relief.

Chapter 7 motions will commence at **9:00 a.m.** **Chapter 11 and Chapter 12 motions** will commence at **10:30 a.m.**

2. PROCEDURE

In addition to the motion, counsel will also be required to prepare (1) a Notice form as set out in paragraphs A or B below, and (2) a Certificate of Service of the motion and notice to opposing counsel, the panel trustee, U.S. Trustee, and all parties required by the Rules to be noticed. The two types of notices are described below and sample forms are attached. For use in adversary proceedings, the forms must be modified to comply with Fed. R. Bankr. P. 7010.

(A.) NOTICE WITH OPPORTUNITY FOR NON-EVIDENTIARY HEARING

(Sample A): This form will be sent with a copy of the motion. It states that unless an objection is filed in writing with the Clerk of the U.S. Bankruptcy Court on or before the date of the objection deadline, the motion will be granted by entry of an order to be prepared and submitted by counsel for movant within fourteen (14) days of the objection deadline. NO court hearing is necessary unless an objection is timely filed. If an objection is timely filed, the motion will be heard at the date and time shown on the notice, provided counsel has complied with all noticing instructions. No objection date may extend past the objection cut-off deadline as noted on the hearing calendar. Any untimely-filed objections will be brought to the Court's attention.

(B.) NOTICE OF NON-EVIDENTIARY HEARING ON MOTION (Sample B):

This form will be sent with a copy of the motion, which places the matter directly on the motions docket. An objection deadline of at least seven (7) business days prior to the hearing date must be established and the specific date thereof set out within the notice. With this type of notice, the issue(s) will be heard unless an agreed journal entry is filed or the Court directs that the matter should be set for pre-trial or evidentiary hearing. Counsel for movant must give parties fourteen (14) days notice prior to the motions docket, except where additional notice time is required by the Bankruptcy Code, the Fed. R. Bankr. P., or the Local Rules of Practice and Procedure. No objection deadline may extend past the objection cut-off deadline as noted on the hearing calendar, and no motion filed after the cut-off deadline will be placed on the docket for that month. Counsel for movant will be expected to appear for the scheduled hearing unless an agreed journal entry executed by all parties is submitted 24 hours in advance.

3. MOTIONS FOR RELIEF FROM STAY UNDER 11 U.S.C. § 362(d) / THIRTY DAY REQUIREMENTS OF 11 U.S.C. § 362(e)

Motions for Relief from Stay may be accompanied by a Notice With Opportunity for Non-evidentiary Hearing or a Notice of Non-evidentiary Hearing which places the matter directly on the court's motions docket. A motion for relief from stay may be combined with a request for adequate protection. The inclusion in the motion of a request for any other relief or the setting of such motion pursuant to D. Kan. LBR 9013.2 for a docket more than thirty (30) days from filing of the motion shall constitute a waiver of the thirty (30) day requirement of 11 U.S.C. § 362(e). See D. Kan. LBR 4001(a).1(b). Any hearing on a motion for relief from stay appearing on the Stay Day docket within such thirty (30) days shall be considered a preliminary hearing and movant's failure to request that the final hearing be concluded within thirty (30) days thereafter shall constitute a similar waiver. See D. Kan. LBR 4001(a).1(b). Creditors seeking to shorten or eliminate the fourteen (14) day stay pursuant to Fed. R. Bankr. P. 4001(a)(3) should include in both their motion and

stay. The Court, as a matter of course, will not grant relief from the fourteen (14) day stay of an Order Granting Relief from the Automatic Stay as is provided for in R. 4001(a)(3).

4. FILING REQUIREMENTS

Required filing fees must accompany the motion. These procedures will have no effect on the filing fees required by 28 U.S.C. § 1930. No stipulated order will be accepted without the prior filing of a motion. The attorney for the movant must amend and promptly notify all parties of any errors made in noticing of hearings of the docket calendar by filing the appropriate amended notice.

5. SUBMISSION OF ORDERS

All orders submitted to the Court for signature should have a four inch margin at the top of the first page only. All other pages of the order will have a top margin of one inch. The document should be formatted to an exact 8.5 x 11" size. A line for the date and a signature line for the judge is omitted. All orders will be signed electronically by the judge in the space provided by the four inch margin on the first page. Three pound symbols (###) should be centered in the middle of the page between the text of the order and the attorney submission/approval signature blocks. Attorney signatures are to be filed electronically with the signature represented by an "s/" and the name typed in the space where a signature would otherwise appear, or as a scanned image of the signature(s). A hearing date should be included in the body of the order only if there has been an actual hearing. If the order is submitted on a matter noticed out with opportunity for hearing, no objections filed and no hearing held, the order should so recite. All orders must have the following information at the top of a page bearing only signatures: 1) Name of court; 2) Case caption, case number and chapter; and 3) Name or caption of the order and page number. The orderly administration of the Court's business requires that orders be promptly submitted and entered. Unless otherwise directed, orders are due fourteen (14) days from expiration of the objection deadline. The Clerk will monitor the timely submission of all orders and follow up on the same. Failure to submit Orders within fourteen (14) days will result in the Clerk's office issuing a "Notice Of Deadline for Submission of Order Due." Failure to comply with this guideline, L.B.R. 9074.1, and the Notice of Deadline may result in immediate dismissal of the matter in question, an order to show cause, or, where appropriate, other sanction.

6. NOTICING REQUIREMENTS

All notice and objection deadlines must comply with the requirements of the Bankruptcy Code, the Fed. R. Bankr. Procedure, and the Local Rules of Practice and Procedure. Reference to the following Fed. R. Bankr. P. will be helpful:

- 2002.** Notices to Creditors, Equity Security Holders, United States, and U.S. Trustee.
 - (a) Twenty-one (21) day Notices to Parties in Interest (all creditors, etc.).
 - (b) Twenty-eight (28) day Notices to Parties in Interest (all creditors, etc.).

9006. Time. (a) Computations. (b) Enlargement. (c) Reduction.

2016-2017 Norton Bankruptcy Rules, pp. 1349 - 1355 (Thomson Reuters), Appendix A to Bankruptcy Rules re: Time Frames Under the Fed. R. Bankr. P.

7. MISCELLANEOUS PROCEDURAL CONCERNS

(A). The name, address, telephone number, e-mail address, and State Supreme

Court number of each attorney shall be typed or printed under all signatures on any pleading submitted in this Court.

- (B). Counsel are reminded that Rule 11 of the Federal Rules of Civil Procedure as is made applicable to bankruptcy applies to all pleadings. Attorneys signing pleadings that do not state a valid legal or factual basis may be subject to sanctions. **“General denial” objections are strictly discouraged.**
- (C). A hard copy of the Wichita Stay/Dismissal Docket and Motions Docket dates and times may be obtained from the Bankruptcy Clerk’s office in Wichita or printed from the Court’s website (www.ksb.uscourts.gov)

IT IS SO ORDERED.

s/ ROBERT E. NUGENT
UNITED STATES BANKRUPTCY JUDGE

s/ DALE L. SOMERS
UNITED STATES BANKRUPTCY JUDGE