

Rule 9013-1

Motions Practice

(a) Definition of Motion. For purposes of this LBR, “motion” includes any motion, application, other request for relief from the court, or proposed action to be taken under the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or these LBRs, excluding the following:

- (1) any petition commencing a case under the Bankruptcy Code;
- (2) any complaint commencing an adversary proceeding under the Federal Rules of Bankruptcy Procedure;
- (3) any motion for relief from the automatic stay;
- (4) any proposed order; or
- (5) an objection to claim. *See*, LBR 3007-1.

(b) Requirement of Written Motion. In all cases or proceedings, all motions shall be in writing and be originally or electronically signed by movant or movant’s counsel unless it is made during the course of a hearing or trial. All motions must state with particularity the grounds therefor and the relief or order sought, must set forth each allegation in a numbered paragraph, and must be filed with the Clerk. If a hearing on the motion has been set or requested by the movant, the motion shall so state. The court will not consider any request made by letter, and the Clerk’s office will return any such letter filed.

(c) Oppositions.

- (1) In any opposition to a motion, the opposing party must admit or deny each allegation of the motion, assert any affirmative defense to the motion, and specifically state why the relief requested should not be granted.
- (2) Any opposition to a motion must be filed within the times prescribed in subsection (h) of this LBR. If a motion is not opposed in a timely manner, the Court will deem it unopposed and may grant the relief requested unless the relief requested is prohibited by law, is against public policy, or, in the Court’s opinion, the interest of justice requires otherwise.

(d) Action Without Hearing. The court may act upon a motion without a hearing under appropriate circumstances, including the following:

- (1) if no objection is filed within the times prescribed in subsection (h);
- (2) prior to the expiration of any applicable objection period, if the motion is:
 - (A) a non-adversarial motion of a routine nature;

(B) a motion to which all affected parties in interest have consented;

(C) a motion that is without merit in light of the law and the established facts of the case; or

(D) a motion that is opposed only by objections which are, given the law and the established facts of the case, without merit.

(e) Scheduling of Motion for Hearing. If the court determines that a motion must be or should be scheduled for hearing, the Clerk will notify parties in interest of the scheduled hearing date.

(f) Emergency Motions. If a movant seeks to have the court consider a motion on an expedited basis, it must file a separate motion entitled “Emergency Motion” and must call the attention of the Clerk to the emergency filing.

(1) Contents of Emergency Motion. The emergency motion shall be accompanied by a certification verifying that the proponent:

(A) has carefully examined the matter and concluded that there is a true need for an emergency hearing;

(B) has not created the emergency through any lack of due diligence;

(C) has made a bona fide effort to resolve the matter without a hearing.

(2) Limited Notice. Notice of an emergency motion shall be given by the party filing an emergency motion, and the party filing the motion must make a good faith effort to advise all affected parties of the motion and of the time and date for hearing, if any. These good faith efforts may include providing notice of the substance of the motion and of the date and time of hearings by telephone or facsimile transmission. These efforts may, and in appropriate circumstances should, include attempts to provide notice of the motion and a motion for an order limiting notice in advance of filing the motions.

(3) Responses to Emergency Motions. Written responses to emergency motions are required within the time established by the Court. If no response time is established by the Court, responses may be filed up to the time that the hearing is convened.

(4) Hearings on Emergency Motions. The Court will set the conditions for the emergency hearing and will schedule and conduct the hearing, telephonically or otherwise, as appropriate under the circumstances.

(5) Duty of Movant and Counsel to be Available. Upon the filing of a request for emergency treatment of a motion, movant and its counsel have a duty to be and remain

available for immediate hearing or contact by the Court with respect to the emergency request.

(g) Ex-Parte Motions. A motion seeking ex-parte relief may be filed only in circumstances in which immediate action is required to maintain the status quo until an appropriate hearing on notice can be conducted. A motion for ex-parte relief must be verified or supported by affidavit and must set forth specific facts and circumstances that necessitate ex-parte relief. The motion shall include a statement as to why the procedures in Section (f) of this LBR for emergency hearings are not practical. All orders or proposed orders providing ex-parte relief must include the finding that the relief requested could not be delayed, and must indicate that the affected parties may request a hearing on the subject matter addressed in the ex parte motion by filing a motion for review of the ex-parte relief within ten (10) days of service of the order for ex-parte relief. If appropriate, the Court will schedule a hearing on such ex-parte motion as soon as practicable.

(h) Required Response Time Language Must be Included on All Papers.

(1) Usual Papers. Adequate notice must be given to interested parties of the time to respond to every motion, application, petition, objection to claim, or objection to exemption filed with the Clerk's office. Excluded from this requirement are those motions set forth in paragraph (2) below, and the bankruptcy petition. This notice may be in single or double space, must be in at least 11 point type, and must contain language substantially similar to the following:

Within ten (10) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

(2) Excepted Papers with Different Response Times. A different objection/response time applies to the following matters and should be substituted for the ten (10) day period above:

(A) Application to Compromise – Twenty (20) days;

(B) Motion/Notice of Intended Sale – Twenty (20) days;

(C) Motion to Amend or Modify a Plan – Twenty (20) days;

(D) Application (or Notice) to Abandon – Fifteen (15) days;

(E) Motion to Shorten Time (Expedited Treatment) – Five (5) business days;

(F) Emergency Motion for Relief – left to discretion of Court, above language should not be used;

(G) Motion for Rule 2004 Examination – *See* LBR 2004-1(d)(2);

(H) Motion to Dismiss - Thirty (30) days; and,

(I) Motion for Relief of Stay under 11 U.S.C. § 362 - Eleven (11) days.

(3) Objection to Claim. *See* LBR 3007-1(c).