

9014-1. Case Motions and Objections.

(a) Matters Covered By Rule.

This rule shall apply to any motion, application or objection with respect to which the Bankruptcy Code provides that relief may be obtained after “notice and a hearing” or similar phrase, but does not apply to: (1) motions for relief from the automatic stay; (2) proceedings that must be initiated by complaint under Bankruptcy Rule 7001 (adversary proceedings) or motions therein, **except as provided in B.L.R. 9014-1(b)(4)(B)**; (3) hearings on approval of disclosure statements and confirmation of Chapter 11, 12 and 13 plans; and (4) matters that may properly be presented to a Judge ex parte.

(b) Procedures For Hearings and Disposition.

(1) Hearing Required. Unless otherwise ordered, the following shall be set for an actual hearing:

(A) Motions governed by Bankruptcy Rule 4001 (b), (c), and (d) other than motions to approve agreements to modify or terminate the automatic stay;

(B) Hearings on applications for compensation or reimbursement of expenses, totaling in excess of \$1,000, other than applications for compensation for appraisers, auctioneers, and real estate brokers;

(C) Motions to dismiss a case, other than a debtor’s request for dismissal under 11 U.S.C. §§ 1208(b) or 1307(b), or a Chapter 13 trustee’s request for dismissal under 11 U.S.C. § 1307(c);

(D) Motions to appoint a trustee or an examiner; and

(E) Objections to a debtor’s claim of exemption.

(2) Hearing Permitted. In addition to the required hearings described in B.L.R. 9014-1(b)(1), any matter within the scope of this rule may be set for a hearing.

(3) Notice and Opportunity for Hearing. Unless otherwise ordered, a party in interest may initiate a request for relief, without setting a hearing, regarding any matter within the scope of this rule, other than those matters described in B.L.R. 9014-1(b)(1).

(A) Notice. A request for relief governed by B.L.R. 9014-1(b)(3) shall be accompanied by a notice and opportunity for hearing with the following language set forth verbatim and conspicuously in the notice:

“Any objection to the requested relief, or a request for hearing on the matter, must be filed and served upon the initiating party within 21 days of mailing the notice;

Any objection or request for a hearing must be accompanied by any declarations or memoranda of law any requesting party wishes to present in support of its position;

If there is no timely objection to the requested relief or a request for hearing, the court may enter an order granting the relief by default.

In the event of a timely objection or request for hearing, (either):

The initiating party will give at least seven days written notice of the hearing to the objecting or requesting party, and to any trustee or committee appointed in the case; or

The tentative hearing date, location and time are (insert date location and time).”

(B) Procedure for Tentative Hearing Dates. A tentative hearing shall be set at least 14 days after the last date for parties to file objections or requests for hearings in accordance with B.L.R. 9014-1(b)(3)(A). The tentative hearing will not go forward unless an objection or request for hearing is timely filed and served, in which case the party initiating the proceedings under B.L.R. 9014-1(b)(3) shall file and serve not less than 7 days before the hearing, notice that the tentative hearing will be conducted as an actual hearing. Such Notice of Hearing is to be in writing, and is to be given to the objecting or requesting party, any trustee and any committee appointed in the case, and the Court. The Court will not schedule the matter on the judge’s calendar unless the Notice of Hearing has been filed and served timely. The initiating party shall also give 7 days telephonic notice to the Judge’s Calendar Clerk/Courtroom Deputy that the tentative hearing will be an actual hearing.

(C) Conduct of Hearing. At the hearing the Court will proceed in accordance with B.L.R. 3007-1 on objections to claims. On other matters in which the Court determines that there is a genuine issue of material fact, the Court may treat the hearing as a status conference and schedule further hearings as appropriate.

(4) Relief Upon Default.

(A) Relief Upon Default for Matters Noticed Under BLR 9014-1(b)(3). When no objection or request for a hearing has been filed or served within the time provided in B.L.R. 9014-1(b)(3)(A), the initiating party may request relief by default by submitting a request for entry of an order by default and a proposed order. Any such request for relief upon default shall contain a concise statement of what relief or Court action the movant seeks. If the initiating party is an ECF Registered Participant, the electronically filed request shall contain a declaration confirming that no response has been received. The electronically filed request shall refer to existing event(s) within the ECF System to the previously filed motion, application, or objection and the certificate of service for the previously filed document (and copies of such motion, application, objection and certificate of service need not be filed with the request). If the initiating party is not an ECF Registered Participant and the request is to be filed in paper form, a copy of the original motion, application, or objection shall be attached to the request, and the request shall be accompanied by a certificate of service of the papers initiating the request, as well as the declaration confirming that no response has been received. In addition:

Note: changes to indents below

~~(A)~~(i) In the case of an objection to a claim, a motion to avoid a lien pursuant to 11 U.S.C. § 522(f), or other request for relief as against an identified, named entity, the request for entry of order by default shall be served upon the entity against whom relief is sought. If relief is sought against any entity that has filed a claim, the request shall be mailed to the address shown on the proof of claim.

~~(B)~~(ii) In cases seeking relief generally, and not against an identified, named entity, the request shall be served upon:

~~(i)~~ (a) the debtor;

~~(ii)~~ (b) any trustee serving in the case; and

~~(iii)~~ (c) any committee of unsecured creditors that has been appointed in the case.

~~(C) Upon filing of an appropriate request for entry of an order by default, with service in accordance with B.L.R. 9014-1(b)(4), the Court may grant the requested relief.~~

(B) Certificate of No Objection for Matters Noticed under BLR 9014-1(b)(1) or (2). Forty-eight (48) 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 and no informal extension having been permitted, 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 for Certificate of No Objection, stating that no objection has been filed or served on the movant. Service of the CNO is not required. By filing the CNO, 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 record and no answer, objection, or other responsive pleading to the motion or application appears. Upon receipt of the CNO, the Court may elect to enter an order uploaded concurrently with the filing of the CNO. If the order is entered, the hearing scheduled on the motion will be vacated without further notice.

(C) Where a party files and serves a Request for Relief Upon Default pursuant to BLR 9014-1(b)(4)(A) or files and properly serves a Certificate of No Objection in accordance with BLR 9014-1(b)(4)(B), the court may grant the underlying motion and vacate the hearing thereon.

(c) Schedule For Filing of Papers.

(1) Where the matter is governed by B.L.R. 9014-1(b)(1), or the initiating party desires a hearing under B.L.R. 9014-1(b)(2), and relief is sought against an identified, named entity, the motion, notice of the hearing, supporting declarations, memoranda, and all other papers shall be filed and served at least 28 days before the actual scheduled hearing date. Any opposition shall be filed and served on the initiating party at least 14 days prior to the actual scheduled hearing date. Any reply shall be filed and served at least 7 days prior to the actual scheduled hearing date. Notwithstanding the foregoing, no responsive pleading to an objection to a claim of exemption shall be required.

(2) Where the matter is governed by B.L.R. 9014-1(b)(1) or (b)(2) and relief is sought generally, and not against an identified, named entity, the motion or application, notice of the hearing, supporting declarations, memoranda, and all other papers shall be filed and served at least 21 days before the actual scheduled hearing date. Any opposition to the requested relief shall be filed and served on the initiating party no less than 7 days before the actual scheduled hearing date.

(3) Where the matter is governed by B.L.R. 9014-1(b)(3), the initiating party may file and serve any reply to the objecting party's opposition no less than 7 days before the hearing.

(d) Shortened Notice Period Where Chapter 7 Estate Accruing Administrative Rent.

(1) A Chapter 7 Trustee may, without the necessity of an order shortening time, set for hearing on 7 days notice:

(a) Any motion to sell personal property of the estate (whether free and clear of, or subject to, liens), or any motion to abandon personal property, if the subject property is situated on leased premises for which the estate is accruing periodic administrative rent;

(b) Any motion to assume and assign (but not just to assume) an unexpired lease of nonresidential real property where the debtor is the tenant, with notice to be provided in accordance with B.L.R. 6006-1(a).

(2) A Chapter 7 Trustee may notice a motion to reject an unexpired lease of nonresidential real property where the debtor is the tenant on 24-hours notice, with notice to be provided in accordance with B.L.R. 6006-1(b).

(3) Opposition to motions made pursuant to this subparagraph may be presented at or before the hearing or, if the matter may not require a hearing pursuant to B.L.R. 6006-1(b), by filed opposition before the 24-hour-hour period has elapsed.