

## Procedures

### JUDGE THOMAS P. AGRESTI EFFECTIVE April 5, 2004

The following procedures are specific to Judge Agresti's cases and are mandatory unless otherwise ordered.

These procedures and the hearing dates posted are subject to change at any time. Parties and Counsel are responsible for reviewing the procedures and using only the posted hearing dates.

These procedures supplement and do not replace the Federal Rules of Bankruptcy Procedure, Local Rules, Court Procedures Manual, and General Orders of this Court.

#### **I. PROCEDURES APPLICABLE TO CHAPTER 11 CASES**

Documents are to be filed electronically with the Clerk's Office and scheduling Orders will be issued from chambers which outline the specific procedures to be utilized. In regards to emergency matters please notify the courtroom deputy of the filing in addition to delivery of a courtesy copy pursuant to Local Rule 9013-2D.

#### **II. PROCEDURES APPLICABLE TO CHAPTER 13 CASES**

A. Choose a Chapter 13 Hearing Date: (Note: The Court will schedule all matters filed in Adversary Proceedings and all evidentiary hearings.)

(1) With respect to other matters, except those listed in A (3) below, Movant shall choose a hearing date from the list provided [see below for Chapter 12 and Chapter 13 hearing dates] and shall complete, file and serve the Notice of Hearing. (See Paragraph B below concerning the Notice of Hearing). ONLY the hearing dates listed shall be used. Any matters scheduled by movant for a date other than one listed shall be dismissed without prejudice to being refiled, renoticed, and rescheduled by movant for an authorized date. If a matter is dismissed for noncompliance, the filing party must serve all parties in interest with notice of the dismissal order and cancellation of the hearing.

(2) Movant may schedule a new motion for hearing on a date with a previously scheduled matter or on the plan conciliation date.

(3) The following matters shall not be scheduled by the moving party and shall be scheduled only by the Court.

##### General Case Matters:

- Evidentiary Hearings
- Chapter 12 Plans
- Amended Chapter 13 Plans
- Amendments to Schedules
- Applications to Modify Plans

##### Contested Matters, Applications, and/or Motions for:

- Contempt
- Dismissal or Conversion filed by Debtor
- Extension of Time
- Expedited Hearing
- Hardship Discharge

Payment of Unclaimed Funds  
Reconsideration of or to Vacate or Modify an Order  
Reopen  
Sanctions  
Wage Attachments

B. Notice of Hearing: Except with respect to matters that require a longer notice period (such as objections to claims) at least 25 calendar days before the chosen authorized hearing date, movant shall simultaneously electronically file the motion and notice of hearing and serve same on the Chapter 12 or 13 Trustee and all other respondents and parties in interest. The motion must be filed in sufficient time to allow the 17 days response time required by local rule AND so that the deadline for filing responses/answers/objections is no later than 7 calendar days before the scheduled hearing date. Objections to claims must be filed at least 30 days before the chosen hearing date.

C. Filing Pleadings and Proposed Orders: All pleadings are to be electronically filed with the Clerk. All pleadings requesting relief must include, as a separate attachment, a proposed order granting the relief requested. All pleadings and other documents, including orders and certificates of service, regarding a matter that is already filed shall contain the docket number of the matter to which they relate.

D. Requests for Status Conference: A response to a request for a status conference must address the concerns expressed in the request and must be timely filed in accordance with Local Rules. The requesting party shall schedule the status conference on a posted hearing date. [See below].

E. Courtesy Copies: No courtesy paper copies of electronically filed pleadings which require judicial action shall be delivered EXCEPT for expedited relief. In such cases courtesy copies shall be delivered to the Clerk, not to Chambers as required by local rules. No pleadings or correspondence are to be faxed or e-mailed to Chambers unless authorized by Judge Agresti or his staff.

F. Continuation, Rescheduling, Cancelling Hearings: No hearings will be continued, rescheduled, or cancelled, even if the matter has been settled, unless an appropriate motion and proposed order have been electronically filed with the Clerk at least 3 (three) days before the scheduled hearing date. If time does not allow filing 3 days before the scheduled hearing date, a representative of a party must appear at the scheduled hearing to provide a status report to the Court. Calling Chambers or the Chapter 13 Clerk will not continue, reschedule, or cancel the hearing.

G. No Witnesses on Motions Days: NO WITNESSES WILL BE HEARD ON MOTIONS DAYS UNLESS THE COURT SPECIFICALLY ORDERS OTHERWISE IN A PARTICULAR CASE. All evidentiary hearings will be specially scheduled.

H. Appearance of Counsel at Hearings: Counsel must appear at the scheduled hearing unless the order scheduling the hearing specifically provides otherwise. Do not contact Chambers or the Chapter 13 Clerk concerning whether a scheduled hearing has been cancelled. To determine whether a matter remains on the hearing calendar, check the calendar at [www.pawb.uscourts.gov](http://www.pawb.uscourts.gov) after 12:00 noon the day before the hearing. Orders entered by default will not be posted on the calendar. Only matters remaining on the hearing calendar will be posted. To verify whether a default order has been entered, check the docket. If a Certificate of No Objection is timely filed, the matter may be taken off the calendar. If a Certificate of No Objection is not timely filed, counsel must appear at the hearing.

I. Motion for Temporary Restraining Order: A plaintiff must electronically file a motion for temporary restraining order and a motion for preliminary injunction at the same adversary number as the complaint for injunctive relief. See Fed.R.Bankr.P. 7065 and Fed.R.Civ.P. 65. As soon as the request for a temporary restraining order is filed, the plaintiff must call the Chapter 13 Clerk at 412-644-4060, extension 134, to arrange a hearing.

J. Telephone Participation in Johnstown Division Contested Matters: Parties and their counsel from the Johnstown Division may participate in non-evidentiary hearings via telephonic conference call to be arranged by the movant's/plaintiff's attorney. Trustee and any party filing an objection to the matter must make arrangements with counsel for the movant/plaintiff to be included in the call. Only the trustee and parties who file and serve timely objections will be included in the telephonic hearing. The Court shall be provided with a dial-in number or otherwise connected to the call last and promptly at the scheduled time at 412-644-3541.

K. Telephone Participation in Non-Johnstown Division Cases: The Court is unable to manage telephonic participation on Chapter 13 motions days but will consider special requests to participate by telephone for cause shown. Contact the Chapter 13 Clerk at 412-644-4060, extension 134 in an emergency. Otherwise, electronically file your request and serve the trustee and all parties in interest at least a calendar week prior to the scheduled hearing.