

JUDGE JUDITH K. FITZGERALD
EFFECTIVE FEBRUARY 3, 2003

The following procedures are specific to Judge Fitzgerald'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.

There are separate procedures applicable to Chapters 7 and 11. Be sure to use the appropriate procedures.

I. PROCEDURES APPLICABLE TO CHAPTER 12 AND CHAPTER 13 CASES

A. Choose a Chapter 13 Hearing Date: 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:

Amended Chapter 13 Plans
Amendments to Schedules
Applications to Modify Plans
Chapter 12 Plans
Evidentiary Hearings
Objection to Rule 3002.1 Mortgage Payment Changes

Contested Matters or Applications:

Motions for

Contempt
Dismissal or Conversion filed by Debtor
Discharge
Extension of Time
Expedited Hearing
Hardship Discharge
Payment of Unclaimed Funds
Reconsideration of or to Vacate or Modify an Order
Reopen
Restrict Access (Re: Redact Document)
Sanctions
Status Conference
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 [*see below for notice form*] 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: Courtesy paper copies of all electronically filed pleadings which require judicial action are required until July 30, 2003. With the exception of motions for expedited relief, courtesy copies shall be delivered to the Clerk, not to Chambers. The Local Rules require paper copies of all requests for expedited relief to be delivered to chambers even after July 30, 2003. No pleadings or correspondence are to be faxed or e-mailed to Chambers unless authorized by Judge Fitzgerald or her 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 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. Cases Ready for Trustee's Final Account/Report:
- (1) In cases involving a 60 month plan, following completion of the 60th month from Plan Confirmation the Court routinely schedules Status Conferences to determine the need for a entering a schedule for implementation of close out procedures.
 - (2) In cases involving a 36 month plan, the Court requires Debtor's Counsel to file a Motion requesting a Status Conference to determine the need for a filing schedule for implementation of close out procedures when: (1) the plan base is met; (2) the plan duration has run; and, (3) within 4 months of either event, the Ch. 13 Trustee, has neither filed a final account/report or taken some other action toward closing the case, i.e., notifying debtors that they are to assume responsibility with the mortgage payments and cease making payments to the Trustee.
- J. 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.

- K. Telephone Participation in Johnstown and Non-Johnstown Division Cases: Parties and their counsel may participate in *most* non-evidentiary hearings via telephonic conference call in accordance with the limitations and instructions contained in the Order Regarding Use of CourtCall Conference Services in Chapter 13 Cases.