

9013-1 *Motion Practice*

- a. ***“After Notice and a Hearing.”*** Whenever Title 11 of the United States Code, any rule or any order authorizes an act “after notice and a hearing” or similar phrase or whenever notice of a proposed action is otherwise required:

Movant shall file and serve a motion together with a **NOTICE** in the form of Appendix ~~G~~ **E** on the parties required to receive notice and file a certificate of service pursuant to LBR 9013-3. Every NOTICE under this rule shall be accompanied by a copy of the proposed order the movant will submit in the event no response to the motion is filed. With respect to an agreed order, the parties to the agreed order shall file and serve the motion and NOTICE in the form of Appendix E with a copy of the proposed agreed order attached as an exhibit.

- (2) **The hearing date, time, location, specific courtroom (if applicable), and last day to file responses must be included in the NOTICE.** The hearing date shall be obtained from the Clerk’s office or the Court’s web site at [www.tnmb.uscourts.gov](http://www.tnmb.uscourts.gov). Hearings in Chapter 12 and Chapter 13 cases may only be scheduled for Chapter 13 hearing dates. Hearings in all other cases may not be scheduled for a Chapter 13 hearing date. Unless Title 11 of the United States Code, the Federal Rules of Bankruptcy Procedure or these local rules provide otherwise, the NOTICE shall provide for a twenty-one (21) day response period to run from the placing of the NOTICE in the U.S. mail, postage prepaid. The hearing date shall be no sooner than **fourteen (14)** days after the last day to file responses. Departure from this rule requires compliance with LBR 9075-1.
- (3) The NOTICE served pursuant to this rule is not effective unless the NOTICE includes the deadline for filing responses and the date, time and place of the hearing on any response that may be filed.
- (4) **Any response to a motion shall state prominently the deadline for filing responses, the date, time, location, and specific courtroom (if applicable) of the scheduled hearing and a description of the motion or NOTICE to which it relates.** An objection to a motion filed under this rule may be overruled if the response does not include the deadline for filing responses and the date of the scheduled hearing.
- (5) If a timely response is filed, the hearing will be held at the date and time in the Notice. No further notice of the hearing date is required. If a timely response is filed, LBR 9014-1 shall apply.
- (6) If a timely response is filed and the contested matter is subsequently resolved on the merits by agreement of all parties, an agreed order will excuse attendance at the hearing date only if it is filed no later than Noon on the third business day prior to the hearing date. Otherwise, announcement of an agreement resolving the

merits of a contested matter may be made by counsel at the first call of the docket on the hearing date.

(7) **The failure to file and serve a timely response shall be deemed a statement of no opposition to the relief requested.**

(8) If no timely response is filed, movant or the parties to an agreed order shall file the original of the order or agreed order exhibited in the NOTICE no later than seven (7) days after the hearing date. If no timely response is filed, movant or the parties to an agreed order are excused from attendance at the hearing date. If no timely response is filed, LBR 9014-1 shall not apply.

(9) After the order or agreed order has been signed and received for entry, the party submitting the order or agreed order shall serve a copy of the signed order on the parties required to receive notice. This requirement of separate service of the signed order is waived if the NOTICE mailed pursuant to paragraph (1) of this rule included a copy of the order or agreed order and no timely response was filed.

**b. Exclusions and Modifications.**

(1) **Exclusions.** LBR 9013-1a shall not apply to the following motions:

- (a) Motions to Convert Chapter 12 or Chapter 13 Cases filed by the Trustee
- (b) Motions to Dismiss Chapter 12 or Chapter 13 Cases filed by the Trustee
- (c) Motions and agreed orders for Relief from Stay under § 362(d)
- (d) Motions in a case controlled by a separate case management order
- (e) Motions in adversary proceedings, except motions for default judgment, and motions for withdrawal or substitution of attorneys pursuant to LBR 2092-1
- (f) Motions to dismiss or convert a case to Chapter 7 under § 1112
- (g) Motions to validate reaffirmation agreements under LBR 4008-1

(2) **Modifications.** LBR 9013-1a is modified to include the additional requirements provided in the following rules:

- (a) LBR 2014-1      Notice of Employment Application
- (b) LBR 2016-1      Notice of Fee Application
- (c) LBR 2082-1      Motions to Modify or Amend Chapter 12 Plans
- (d) LBR 3007-1      Objections to Claims
- (e) LBR 3011-1      Unclaimed Funds
- (f) LBR 3015-2      Motions to Modify or Amend Chapter 13 Plans
- (g) LBR 4004-1      Agreed Orders of Adequate Protection to Resolve Motions for Relief from the Automatic Stay

- (h) LBR 6005-1 Auctioneers & Real Estate Agents
- (i) LBR 6007-1 Notice of Abandonment
- (j) Motions Declaring Long Term Debt Under § 1322(b)(5) Current and Defaults Cured—Time period to object is extended to twenty-eight (28) days.