

INSTRUCTIONS AND PROCEDURES FOR LBR 9013-1 MOTION PRACTICE

Do not use this form if filing an emergency request under LBR 9075-1

Local Bankruptcy Rule 9013-1 states, “[a]ny request for relief, that does not require the initiation of an adversary proceeding under FED. R. BANKR. P. 7001 must be made by written motion. All motions must comply with the LBR 9013-1 Motion Practice procedures set forth on the court’s website.”

What are the rules when it comes to LBR 9013-1 motion practice?

“If Objection” Process. The majority of motions should be handled through an “if objection” process, whereby a hearing date is selected by movant’s counsel from the availability calendar found on the court’s website. A hearing will be conducted only if an entity files a timely written objection to the relief sought. The procedure to be used for this type of “if objection” motion is governed below.

Exclusions from “If Objection” Process. Exclusions from the “if objection” procedure generally include certain types of motions that are set for a hearing by the court regardless of whether an objection is filed, a limited number of routine motions that are acted upon by the court without the necessity of any time period for objections or any hearing, motions requiring an emergency process under LBR 9075-1 and most motions in adversary proceedings. Motions that are excluded from the “if objection” process are identified in more detail on the court’s website at www.tnmb.uscourts.gov > Local Rules > 9013-1 Motions — Exclusion List, and such list is considered to be a part of these rules. If a motion is excluded from the “if objection” process, the court will either act on the request without a hearing or set the matter for a hearing with appropriate notice.

Requirements for “If Objection” Process. The “if objection” process requires the following:

(1) Movant shall file and serve a motion together with a notice in the form located on the court’s website at <www.tnmb.uscourts.gov>Forms>Local Bankruptcy Forms>LBR 9013-1 Notice on the parties required to receive notice and file a certificate of service pursuant to LBR 9013-3. Every motion under this rule shall include, by attachment or exhibit, a copy of the proposed order or agreed order the movant will submit in the event no response to the motion is filed. Unless the cumulative size of the document dictates otherwise, the three required components should be filed as a single PDF document with the notice first, followed by the motion and then the proposed order.

(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 court’s availability calendar located on the court’s website at www.tnmb.uscourts.gov. Cases in the Cookeville and Columbia divisions should only be set on dockets for those respective divisions unless court approval is obtained to conduct the hearing in Nashville. With regard to Nashville division cases, hearings in Chapter 12 and Chapter 13 cases may only be scheduled for Chapter 13 hearing dates. Hearings in all other cases in the Nashville division 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 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 7 days after the last day to file responses. Departure from this rule requires compliance with LBR 9075-1.

(3) 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.

(4) 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.

(5) If a timely response is filed and the contested matter is subsequently resolved by agreement of all parties, an agreed order will excuse attendance only if it is filed prior to the hearing. Otherwise, announcement of an agreement resolving a contested matter may be made by counsel at the first call of the docket on the hearing date.

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

(7) 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 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.

(8) After the order or agreed order has been signed and received for entry, the party uploading 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 subparagraph (1) of this rule included an identical copy of the order or agreed order that was ultimately entered, and no timely response was filed.

Modifications. Filers should note the additional requirements for 9013 Motions 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 3015-2 Motions to Modify or Amend Chapter 13 Plans
- (f) LBR 4003-2 Lien Avoidance
- (g) LBR 6005-1 Appraisers, Auctioneers and Real Estate Agents
- (h) LBR 6007-1 Notice of Abandonment

How do I fill out the form?

Debtor Name(s), Case No., Chapter, and Judge. All names of debtors should be typed in the left-hand column. The debtor information should match what CM/ECF lists as debtor(s) in a particular case. It is important to list the case number associated with the debtor(s). Type in the correct chapter case number (usually 7, 11, 12, 13). When filling out the name of the judge use the judge assigned to the case as shown on CM/ECF.

IN RE: _____)
) CASE NO.
) CHAPTER
Debtor(s).) JUDGE
)

Deadline for Objections, Hearing Information, and Other Related Items. When filling out this portion of the form, it is helpful to go to the court website located at www.tnmb.uscourts.gov/9013-availability calendar.

- **Objection and Response Time.** Fill in the date to file objections and responses to the relief you are requesting. There is a 21-day period that runs from the placing of the notice in the U.S. Mail. If the 7 days falls on a weekend, federal holiday, or a day the court is officially closed, use the next business day the Clerk's Office (court) is open for business. You cannot shorten or extend an objection/response deadline unless the court orders it. If the relief you request must be accomplished before the time frames set in the LBR 9013-1 Motion Practice, consider seeking relief pursuant to LBR 9075-1.
- The top portion of the 9013 Availability Calendar webpage contains a calculator as a helpful tool in calculating the 21-days.
- **Hearing Date (Docket).** Once you have your 21-day objection/response deadline set, choose your hearing date and time. The hearing cannot be scheduled sooner than 7 days after the last day to file objections/responses. Again, if you need this time shortened, you cannot shorten the time using this form. You must follow the emergency hearing procedures found in LBR 9075-1.
- The hearing date, time, and location will be set on the assigned judge's hearing calendar, or Consolidated Chapter 13 Docket (unless specifically ordered or set by the court) when you choose the hearing date. Unless the hearing is set on the Consolidated Chapter 13 Docket, you must pick a docket associated with the judge who is assigned to the case. The hearing does not necessarily need to be scheduled on a 7-day timeframe. The convenience of the matter, the parties, or other factors can be taken into consideration as to when you want to set the hearing (14-days, etc.).

- **Location.** Always fill in the courtroom location, even if you believe a hearing may be heard virtually by the judge.
- **Motion Caption.** The caption of your motion should match the underlying motion or document attached to the LBR 9013-1 Notice.

THE DEADLINE FOR FILING A TIMELY RESPONSE IS: [response date]
IF A RESPONSE IS TIMELY FILED, THE HEARING WILL BE: [hearing date] at [time] in
[courtroom], 701 Broadway, Nashville, TN 37203 (Virtual Hearing if allowed; See website for
details)

NOTICE OF MOTION TO [caption of motion]

[Name of movant] has asked the court for the following relief: [brief description of the relief requested].

Certificate of Service. Please make sure you have complied with LBR 9013-3 and the requirements of the local rule. A certificate of service must be filed in CM/ECF or must accompany the LBR 9013-1 Notice, Motion, and Proposed Order filed with the court (CM/ECF).