

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF TENNESSEE

JUL 21 2021

IN RE:

ORDER REGARDING  
RETURN TO IN-PERSON  
COURTROOM OPERATIONS

ADMINISTRATIVE ORDER 2021-3

This Order establishes the procedures for the return of in-person courtroom operations following more than a year of limitations due to the exigent circumstances created by COVID-19.

1. Administrative orders 20-4 and 20-5 are rescinded, effective September 7, 2021, except to the extent that any particular provision is expressly incorporated and restated herein.

2. Beginning September 7, 2021, the following procedures will be in effect:

**Consolidated Chapter 13 Dockets**

3. For the regular consolidated Chapter 13 dockets, hearings will be conducted in-person, with the Court and the Chapter 13 Trustee (or his designee) in the courtroom, and attorneys and parties required to appear in person except as provided herein.

A. **First Call:** The Court will continue the practice of a “no call list,” whereby the Chapter 13 Trustee removes resolved matters from the docket in advance of the hearing. In addition, the Court will institute a “First Call” at the beginning of the consolidated Chapter 13 docket. Starting at 8:30 a.m., the Courtroom Deputy will take a first call of the docket, accepting announcements on matters that can be addressed without the necessity of appearing before the Court. These announcements may be made in-person or telephonically using the Zoom call-in number. Announcements on the first call of the docket are limited to the following:

(i) “If objection” motions filed under LBR 9013-1 that (a) have been settled or otherwise resolved between the moving and objecting parties, and (b) will result in an agreed order being submitted within three business days of the hearing.

(ii) Matters where the moving party is withdrawing the motion or application and a notice of withdrawal will be filed within three business days of the hearing.

(iii) Continuances if (a) the moving and objecting parties agree to a new date that is on the Court's availability calendar, (b) the continuance (even if it is not a first continuance) does not result in a continuance later than 90 days after the original hearing date, and (c) no party at the first call of the docket objects to the continuance. In such cases, the Court will enter a docket order continuing the matter.<sup>1</sup>

(iv) Expedited motions relating to the use of insurance proceeds or substitution of collateral involving a motor vehicle if (a) the Chapter 13 Trustee agrees to the relief sought, (b) the secured creditor with a lien on the subject motor vehicle agrees to the relief sought, (c) no party at the first call of the docket objects to the relief, and (d) an agreed order will be submitted within three business days of the hearing.

**B. Limited Appearance by Debtor(s):** If a debtor is needed to attend a Chapter 13 hearing to simply confirm statements of counsel or provide limited testimony that is not reasonably expected to be in dispute or to result in the need for cross-examination, the debtor may appear telephonically using the Zoom call-in number. If it becomes apparent during the hearing that the debtor needs to appear in person, the Court may consider continuing the matter to a later date.

**C. Motions to Dismiss under 11 U.S.C. § 1326(a)(1)(A):** The Court will continue the procedure established in Administrative Order 20-4 dealing with hearings on motions to dismiss based on the debtor's failure to comply with 11 U.S.C. § 1326(a)(1)(A). Such motions will continue to be denied if (a) the initial payment was made within 60 days of filing, (b) all payments are current at the time of the hearing on the motion to dismiss, and (c) the debtor has filed an affidavit or declaration under penalty of perjury explaining the reason for the initial untimely payment and such explanation is satisfactory to the Court.

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<sup>1</sup> The Court will continue the practice established in Administrative Order 20-4, modifying LBR 9013-1(e), of allowing Chapter 13 confirmation hearings to be continued multiple times by agreement as long as the continued hearing date is not later than 120 days after the petition date. The Court will also continue the practice established in Administrative Order 20-5 of allowing multiple continuances by agreement for motions to dismiss filed by the Chapter 13 Trustee as long as the hearing is not later than 120 days after the filing of the motion. If a continuance meets either of these criteria and has not already been included in the "no call" list, the Trustee may announce the continuance at the first call of the docket.

### **Columbia and Cookeville Division Matters**

4. The Cookeville and Columbia dockets (all chapters) will be conducted by Zoom video until further notice.

### **Other Hearings, Conferences, Etc.**

5. Other hearings, including 7/11 dockets, will be governed by the procedures for each judge, which are posted on the Court's website at [www.tnmb.uscourts.gov](http://www.tnmb.uscourts.gov).

6. Docket orders may sometimes be entered for specific matters providing additional instructions to address certain situations. Therefore, it is incumbent on counsel and parties to check the Court website and docket frequently to determine how the Court will be handling all matters other than the consolidated Chapter 13 and Columbia/Cookeville dockets.

7. For the foreseeable future, the start time for the regular Tuesday Chapter 7/11 dockets will continue as they have during most of the COVID-19 period: Judge Harrison's regular docket will start at 9:00 a.m. and Judge Mashburn's docket will start at 9:30 a.m. Judge Walker's docket will start at 11:00 a.m. on Wednesdays. Some matters may be specially set at other times. Counsel will be expected to advise the judges at the beginning of each regular docket if they have hearings before more than one judge on the same morning so that efforts can be made to coordinate the timing to avoid conflicts to the extent possible.

### **Miscellaneous**

8. It is anticipated that, prior to September 7, 2021, some in-person hearings, trials, conferences, and meetings will be conducted in person. The Court may order such in-person participation as warranted by the circumstances. Parties may request that a matter be heard in-person prior to September 7, 2021. Such a request should reflect that all parties have been consulted and provide information to what extent any agreement has been reached in that regard.

9. Zoom video and Zoom call-in instructions are posted on the Court's website at [www.tnmb.uscourts.gov](http://www.tnmb.uscourts.gov).

10. Depending on recommendations in place at the time in-person hearings resume on a regular basis in September 2021, the Court may establish additional health and safety guidelines, which will be posted on the Court's website. The provisions in this Administrative Order are subject to further review and amendment should circumstances around COVID-19 change.

11. Notwithstanding the provisions in this Order, the Court will consider, on a case-by-case basis, motions to modify procedures for a particular hearing, conference, or trial to accommodate any continuing COVID-19 issues or health and safety concerns for a specific participant if filed 48 hours prior to the hearing.

IT IS SO ORDERED.

Dated: July 21, 2021



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MARIAN F. HARRISON, CHIEF JUDGE



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RANDAL S. MASHBURN, JUDGE



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CHARLES M. WALKER, JUDGE