

GENERAL PRACTICES AND PROCEDURES BEFORE HON. GUY R. HUMPHREY

Reaffirmation Agreements

Effective December 1, 2009, all reaffirmation agreements must be accompanied by a fully completed Reaffirmation Agreement Cover Sheet - Official Form 27. See Bankruptcy Rule 4008. Reaffirmation agreements filed without a cover sheet completed in its entirety as prescribed by Official Form 27 may be presumed to impose an undue hardship on the debtor and set for hearing.

Further, the court strongly suggests that all reaffirmation agreements be prepared as prescribed by Director's Procedural Form 240A. Reaffirmation agreements, which fail to contain all of the disclosures required by 11 U.S.C. § 524 and appear significantly different from Form 240A, will be denied. The court notes that the 2007 version of Form 240A and the newly revised 2009 version of Form 240A are both acceptable.

Official Form 27 and Director's Procedural Form 240A may be found on the U.S. Court's website at http://www.uscourts.gov/bkforms/bankruptcy_forms.html#official.

The debtor's counsel is responsible for ensuring that filed reaffirmation agreements are in compliance with the requirements of 11 U.S.C. § 524 and Bankruptcy Rule 4008.

Relief from Stay Motions

As a reminder, note that a relief from stay motion cannot be continued by a debtor without the consent of the moving creditor. All relief from stay motions must comply with the provisions of Local Bankruptcy Rule 4001-1. **If the collateral is a vehicle, the motion must include a certificate of title or a document that clearly is an electronic title.** Local Bankruptcy Rule 4001-1(a)(2).

Scheduling of Hearings and Trials Re: Self-Calendaring

The court, and in Chapter 13 cases – the Chapter 13 Trustee – in conjunction with the court, schedules all contested matters and trials. In general, hearings are only scheduled in the event that an objection or response to the motion or application is filed in opposition to the relief sought in the motion or application. Accordingly, counsel should not place a hearing date and time in any motion, application, notice, or response or other filing unless specifically authorized by the court with such hearing date and time provided by the court.

**Requests for Oral Argument on Motions to Dismiss,
For Judgment on the Pleadings, or Summary Judgment**

In the event that a party desires oral argument on a motion to dismiss, for judgment on the pleadings, or for summary judgment, that party may request oral argument by motion served on all other parties in interest. Such party may submit an order on any such motion on an *ex parte* basis without a 21 day notice.

Claim Objections and Avoidance of Liens

In accordance with Local Bankruptcy Rule 3007-1(b), all objections to claims must refer to the claim numbers assigned by the clerk of the court (and shall not refer to the Chapter 13 Trustee's claim numbers unless such numbers are used in addition to the clerk's assigned numbers and are identified as such).

In accordance with Bankruptcy Rule 3007(b), a party in interest shall not include a demand for relief of a kind specified in Rule 7001 in an objection to the allowance of a claim, but may include the objection in an adversary proceeding. Judge Humphrey construes Bankruptcy Rules 3007(b) and 7001 to require the filing of an adversary proceeding to avoid a mortgage lien or other lien (other than a certificate of judgment which impairs a homestead exemption) and Bankruptcy Rules 7001 and 4003(d) to require the filing of a motion to avoid a certificate of judgment lien under 11 U.S.C. § 522(f). In the event a debtor or other party in interest objects to a claim on the basis of a lien being void or voidable, including as being wholly unsecured or as impairing the debtor's homestead exemption, and the avoidance issue has not been determined through an adversary proceeding or motion under 11 U.S.C. § 522(f), the court will adjourn the claim objection pending the filing and determination of an appropriate adversary proceeding or motion. However, the court will entertain agreed orders signed by an appropriate representative of the holder of the lien avoiding the lien in lieu of the filing of an adversary proceeding or motion.

Mediation and Settlement Conferences

All parties are encouraged to pursue settlement negotiations and alternative dispute resolution mechanisms prior to and during the time that any litigation is pending before the court. In the event the parties believe that a mediation or settlement conference may be of assistance in the resolution of the proceeding or contested matter, the parties may advise the court by contacting the Courtroom Deputy and the court will arrange for the appointment of a neutral third-party mediator, settlement judge, or settlement conference coordinator to conduct the conference.