

Chapter 13

- The Chapter 13 confirmation docket is continuously updated. Parties may check <http://www.ch13columbus.com> for the status of Chapter 13 cases assigned to Judge Hoffman.
- Creditors added by amendment must be served with the § 341 meeting notice, a proof of claim form, and the most recent Chapter 13 plan. Failure to properly serve creditors added by amendment will delay confirmation of a plan.
- Pre-confirmation amendments must be served on all adversely affected creditors, and all such creditors must be given 21-days' notice in which to respond to the amendment. Amendments that reduce the percentage distribution to creditors under the plan or increase the plan's duration are deemed to adversely affect creditors. Failure to properly serve and notice affected creditors will delay confirmation of a plan.
- Post-confirmation motions to modify a plan must contain all appropriate information as set forth in LBR 3015-2(b), must be served on all affected parties and must contain a 21-day notice.

Communications with Chambers

- Parties may contact Judge Hoffman's courtroom deputy, Kristie Vickers, at 614-469-7704, for all matters concerning scheduling.
- Settlement of matters set for hearing—please refer to **Settlements/Resolutions**.
- Continuances of matters set for hearing—please refer to **Continuances**.
- Parties may contact Judge Hoffman's law clerks regarding procedural matters. Judge Hoffman's law clerks are:

Brian Gifford (614-469-7710)

John Ryan (614-469-7706)

- Court staff is prohibited from giving legal advice or answering questions regarding the merits of a particular matter. It is inappropriate to ask Court staff how or when the Court may rule on a matter, or to seek an advisory opinion.

Continuances

- Matters set before the Court may be continued without a motion if ALL parties are in agreement by sending an email **addressed to ALL involved parties** to Hoffman282@ohsb.uscourts.gov. The **subject line should reflect the following (see example below):**

date of the hearing,

the last name of the debtor(s)

and the case number

(example: 1/1/2010; Doe; 10-12345).

The **body of the email should state that ALL involved parties request a continuance and provide a time-frame for the new hearing.** If the Court approves the requested continuance, a reply will be sent to all parties with the new date and time. An agreed order need not be submitted. A proceeding memo will be entered on the docket stating that the hearing/trial was not held and setting forth the new date and time of the continued hearing/trial. **REMINDER: Counsel must notify their respective clients of the continuance.** Should counsel fail to notify their clients and an appearance is made by the client, sanctions may be imposed.

- If all the parties do **NOT** agree to a continuance, the party seeking the continuance must file a motion as soon as practicable prior to the scheduled hearing date. The motion shall set forth the reason the continuance is requested and the reason it is opposed. The courtroom deputy will contact the parties with a continued date and time if the Court grants the motion for continuance or will inform the parties if the Court denies the motion. The party seeking the continuance will submit the appropriate order either granting or denying the request.
- No matter will be continued except upon order of the Court or notification by chambers that a continuance has been granted.

Courtroom Conduct and Electronic Court Recording

- Please stand when addressing the Court or a witness.
- All parties shall be addressed formally by surname.
- All proceedings in the courtroom are electronically recorded. To maximize the clarity of the recording, and the quality and accuracy of the record, all parties must speak from the lectern or from a microphone at counsel table. Please refrain from moving about the courtroom while speaking.
- Prior to the beginning of a hearing or trial, counsel must provide the courtroom deputy or recording technician with his or her business card and a list of any unusual or technical vocabulary that will be used in testimony or argument. Counsel must also provide the spelling of the names of any witnesses to be called.
- **NOTE:** Proceedings in the courtroom are broadcast to other offices within the courthouse. Microphones are turned on approximately ten (10) minutes prior to hearings to ensure that the sound system is functioning properly and that the volume controls are set to the proper level. Use discretion when discussing matters at counsel table; use the “push” button to mute the microphone when discussing confidential matters.

Evidence Presentation

- Presentation of exhibits during trials or hearings shall be by means of the Court's electronic display system.
- If counsel wishes to present exhibits electronically from a laptop computer or by way of other digital presentation devices, he or she must provide three (3) business days' notice to Kristie Vickers, courtroom deputy (614/469-7704), to ensure security clearance and technical compatibility.
- Courtroom equipment testing and setup of counsel-provided laptop computers or other devices are the responsibility of counsel and must be completed prior to the commencement of the trial or hearing. Arrangements for testing or practice may be made by contacting Kristie Vickers, courtroom deputy at 614-469-7704.
- Each party shall pre-mark all exhibits. The Court will **NOT** provide exhibit stickers and, absent unusual circumstances, the courtroom deputy will not mark exhibits during the course of a hearing or trial. Please refer to *LBR Form 7016-1 — Instructions* for proper marking of exhibits.

Expedited Hearings

- Motions for expedited hearings are governed by LBR 9073-1. If an expedited hearing is requested, counsel must contact Kristie Vickers, courtroom deputy, at 614-469-7704, and notify her that a motion for expedited hearing has been filed. The Court will review the motion and, if it is granted, Ms. Vickers will notify counsel of the date and time of the expedited hearing. Counsel will then submit an order containing the hearing date and time.
- In addition to the method of service prescribed by Federal Rule of Bankruptcy Procedure 9014(b) and LBR 9013-3, motions for expedited relief also must be promptly served by email, facsimile or overnight mail upon all parties affected by the relief and shall be accompanied by a certificate of service evidencing such service. Likewise, any order granting a motion for an expedited hearing must be served promptly by email, facsimile or overnight mail. Counsel for the movant shall file a certificate of service evidencing compliance.
- Absent extraordinary circumstances, the Court will not grant an expedited hearing on less than seven (7) days' notice.

Extension - Imposition of Stay

Parties are not required to file a separate motion for an expedited hearing or to shorten the notice period in connection with motions to extend or impose the automatic stay filed pursuant to § 362(c)(3) or (4) of the Bankruptcy Code. Movant should file the motion to extend and/or impose the automatic stay and then immediately notify Kristie Vickers, courtroom deputy, at 614-469-7704. The Court will prepare an order specifying the hearing date, notice procedures, objection deadline, and whether a hearing is required in the absence of objections. If the Court does not order a hearing and no objections are filed, the movant shall, immediately upon expiration of the objection deadline, submit an order granting the relief upon any terms and conditions required by the Court.

Oral Rulings

The Court may issue oral rulings either immediately following a hearing or trial or on matters under advisement. When issuing an oral ruling, the Court reserves the right, without changing its final ruling, to correct the transcript, not only as to inaccuracies in transcription, but also as to content. In order to ensure that the oral ruling fully and clearly states the Court's rationale for its decision, the Court may: (1) add, alter or delete any language in the transcript of the oral ruling; (2) correct grammar or punctuation; and/or (3) add or delete any citations to authority. If the Court's edits to the transcript of the oral ruling go beyond the correction of transcription errors, then the document filed by the Court will no longer be a transcript at that point. Instead, the Court will docket it as a corrected and modified bench ruling, although the Court's holdings on the issues before it will not change.

Submission of Orders - Generally

Parties must follow Local Rule 9072-1(a)–(g) when submitting proposed orders.

- Orders **must be** in the e-order format as outlined in the ECF's User's Manual located on the Court's website (www.ohsb.uscourts.gov).
- All proposed orders must be submitted electronically. The first page of each order must contain a four-inch (4") top margin to accommodate the judge's electronic signature. Do not provide a date line or signature line or block for the judge's signature.
- The phrase "SO ORDERED" shall appear at the end of the text of all orders, including agreed orders.
- Do not submit an electronic order containing blanks. Orders containing blanks will be returned to counsel or discarded.
- The caption of each order must contain the name of the debtor(s), case number, adversary proceeding number if applicable, chapter under which the case is filed, and the name of the judge to whom the case is assigned. The heading of each order must contain the nature of the order and the relief granted or denied, and shall clearly identify by docket number the pleading to which the order relates. *See* LBR 9072-1(a). Proposed orders shall not contain full social security numbers, account numbers, or other confidential information.
- Proposed orders must contain a service list in compliance with LBR 9072-1(d).
- Federal Rule of Bankruptcy Procedure 9006(f) adds three (3) days to the notice period for a response. Do not submit orders until the fourth day after the relevant notice period has expired. Orders tendered prematurely will be discarded.
- Attorneys must include their mailing address, telephone number, fax number, email address and state bar number in the signature block under the signature line. *See* LBR 5005-1(c).

Required Content of Proposed Orders Submitted by Counsel Relating to Unopposed Requests for Relief

This Court, like every bankruptcy court, orders relief in various contexts in cases filed under Chapters 7, 11, 12, 13 and 15 of the Bankruptcy Code. The Court:

- Grants or denies motions, *e.g.*, motions
 - for relief from the automatic stay
 - to dismiss or convert a case
 - authorizing the use, sale or lease of property of the estate (including cash collateral)
 - approving the assumption or rejection of executory contracts
 - for turnover of property of the estate
 - to avoid liens
 - to compromise (approving proposed settlements)
- Grants or denies applications, *e.g.*, applications
 - for orders approving the employment of professionals
 - for orders approving interim or final compensation of professionals
- Sustains or overrules objections, *e.g.*, objections
 - to the allowance of claims
 - to claimed exemptions
 - to the confirmation of plans
- Enters judgments in adversary proceedings

In each instance, the Court only orders relief when a party has shown it is legally entitled to receive it. For example, the Court will grant a motion for relief from the automatic stay only if the movant demonstrates a basis for doing so under 11 U.S.C. § 362(d). In orders drafted by chambers, the Court takes care to set forth the legal basis for the relief granted. Unfortunately, the Court has seen a recent trend in orders submitted by counsel on unopposed requests for relief, which all too often merely state something to the effect of:

- a party has filed a request for relief (a motion, application, objection, etc.)
- no response or objection has been filed
- it is hereby ordered that the request for relief is granted (*i.e.*, the motion or application is granted or the objection is sustained)

Section 102(1) of the Bankruptcy Code enables a bankruptcy court to order relief without an actual hearing if notice is given properly and a hearing is not requested by either the party against whom the relief was sought or any other party in interest. But that does not relieve parties seeking relief of their obligation to show that they are legally entitled to it. And the legal basis for the relief requested must be set forth in any proposed order granting a motion or application or sustaining an objection. The Court will not sign proposed orders that fail to set forth a legal basis for granting the requested relief.

Proposed orders can show that the party requesting relief is legally entitled to that relief through specific language referring to provisions of the Bankruptcy Code or other authority. For instance, a proposed order granting an application for compensation might refer to § 330 of the Bankruptcy Code and state that: “The Court finds that the amounts sought in the application constitute reasonable compensation for actual, necessary services rendered and reimbursement for actual, necessary expenses under 11 U.S.C. § 330(a)(1). Therefore, it is hereby ORDERED”

Alternatively, proposed orders can set forth a legal basis for granting the requested relief by reference to the motion or other filing. Examples of acceptable general language include:

- The Court finds the Motion to be well taken and that good cause exists for granting the Motion. THEREFORE, it is hereby ORDERED
- Upon consideration of the grounds set forth in the Motion, the Court hereby GRANTS the Motion.

In addition, proposed orders must use the proper nomenclature when referring to motions, applications, objections, and other filings. The Court grants or denies motions and applications, sustains or overrules objections, approves or disapproves plan modifications (but grants or denies motions to modify), and so on. When in doubt, use the terms found within relevant sections of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or the Local Bankruptcy Rules.

To summarize:

1. Proposed orders **must** set forth a legal basis for granting the relief requested in the corresponding filing.
2. Proposed orders **must** use the proper nomenclature when referring to filings. The Court grants or denies motions and applications, sustains or overrules objections, and so on.

Relief from Stay

- A motion for relief must be filed **EVEN IF** all parties (including the Chapter 7 case trustee or standing Chapter 13 trustee) are in agreement. Parties no longer may submit only an agreed order for relief.
- A motion seeking relief from stay to pursue a state court domestic relations matter must be served on the debtor(s), counsel for the debtor(s), the non-debtor spouse, counsel for the non-debtor spouse, the Chapter 7 case trustee or standing Chapter 13 trustee and the Office of the United States Trustee.
- Motions for relief from stay in individual Chapter 7 and Chapter 13 cases are set for hearing only if an objection, memorandum contra or other response is filed.

Settlements - Resolutions

The following procedure must be used to report the resolution/settlement of a matter set before Judge Hoffman. Parties wishing to report a resolution/settlement of a pending matter must do so via email to: Hoffman282@ohsb.uscourts.gov. This email address is to be used only for purposes of reporting settlements/resolutions or agreed requests for a continuance. Replies to emails will not be forthcoming unless there is a request by the Court for clarification, or the setting of a new hearing date by the Court.

Address the email to all involved parties. To insure prompt processing, the **hearing date and the last name of the debtor(s) must appear as the subject line (example: 1/1/2010; Doe)**. The body of the email should set forth the following:

Case number:

Case name:

Your name:

Firm name:

Party represented:

Date of hearing:

Matter(s) being heard (*e.g.*, relief from stay, etc.):

Resolved by (*e.g.*, agreed order, withdrawal, etc.):

Please submit/file appropriate document(s) resolving the matter within ten (10) days of the scheduled hearing date.

REMINDER: Counsel must notify their respective clients of the settlement/resolution. Should counsel fail to notify their clients and an appearance is made by a client, sanctions may be imposed.

Summary Judgment Motions

- Unless otherwise directed by the Court, a motion for summary judgment shall contain a “Statement of Material Facts.” The Statement of Material Facts shall set forth, in numbered paragraphs, each material fact as to which the moving party contends there is no genuine issue. Each fact listed must be supported by a specific citation to the record. The record for purposes of the Statement of Material Facts includes the pleadings, depositions, answers to interrogatories, admissions and affidavits. It does not, however, include attorney’s affidavits. Failure of the moving party to submit an accurate and complete Statement of Material Facts shall result in denial of the motion.
- Unless otherwise directed by the Court, the opposing party shall file a response to the Statement of Material Facts. The non-movant’s response shall mirror the movant’s Statement of Material Facts by admitting and/or denying each of the movant’s factual assertions in matching numbered paragraphs. Each denial must be supported by a specific citation to the record or a statement that no citation exists to support the movant’s factual assertion. The non-movant’s response may also set forth any additional material facts that the non-movant contends are in dispute. Any facts set forth in the Statement of Material Facts shall be deemed admitted unless specifically controverted by the opposing party.
- A summary judgment motion is only appropriate where there are no genuine issues of material fact and the matter involved is a matter of law. The issue of a party’s intent is a factual question that is not subject to disposition by way of summary judgment.

Telephonic Appearances

- Unless otherwise ordered by the Court upon motion and for good cause shown, telephonic appearances are **NOT** permitted in evidentiary matters. Attorneys may monitor evidentiary hearings or trials telephonically with prior approval of the Court, but will not be permitted to participate.
- Parties may participate telephonically in pretrial conferences, status conferences or other non-evidentiary matters at the Court's discretion. Parties wishing to participate telephonically must contact Kristie Vickers, courtroom deputy, at 614-469-7704, at least two (2) business days prior to the hearing or conference. Individuals participating by telephone shall, for the record, state their name each and every time when addressing the Court.
- Use of cell phones is not permitted for either telephonic participation or monitoring.

Transcripts

Requests for a transcript of a hearing are to be directed to Kimberly McDaniels at:

Telephone: 614/469-6638 ext. 5796

Email: kimberly_mcdaniels@ohsb.uscourts.gov

The party requesting the transcript must supply the **date and time of the hearing**, and **case information (case number/name)**. An estimated cost will be provided to the requesting party at the time of the request. The Court's transcriber, Tri-County Court Reporting, will contact the party for payment arrangements. Transcript requests regarding depositions or the § 341 meeting of creditors should be directed to counsel or the Office of the United States Trustee.

Telephonic Appearances in Complex Chapter 11 Cases

Unless the Court provides otherwise, parties wishing to participate telephonically in a hearing in a Complex Chapter 11 Case (as defined by [**General Order 30-2**](#)) must register with CourtSolutions LLC, an online service used to facilitate the management of remote case participants during certain telephonic hearings.

Parties and attorneys wishing to listen in on a hearing are not required to receive consent from the Court prior to registering, nor are they required to be admitted to the Court or admitted pro hac vice. Attorneys seeking to participate, however, must be admitted to the Court or admitted pro hac vice. Attorneys and unrepresented parties are not permitted to participate telephonically in any hearings of an evidentiary nature, including the examination of witnesses or the submission of evidence.

For more information and to register with CourtSolutions, please use the following external links:

[Home Page and Registration/Sign In](#)

[General Information and FAQs](#)

Telephonic hearings conducted in cases that are *not* Complex Chapter 11 cases will continue to be held using the Court's AT&T teleconferencing system, for which no registration is necessary.