

COURTROOM POLICIES AND PROCEDURES HONORABLE ERITHE A. SMITH COURTROOM 5A

The following is a summary of general courtroom policies and procedures which will be observed by Judge Smith. Such policies and procedures are intended as a supplement to and not a replacement for the provisions of the Bankruptcy Code ("Code"), the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), the Federal Rules of Civil Procedure ("Federal Rules") and the Local Rules for the Central District of California ("Local Rules"), all of which are applicable to practice before this Court. The following summary is not intended to cover all circumstances of matters before the Court and certain policies and procedures may be adjusted in certain cases where appropriate.

I. MOTIONS IN GENERAL

A. Evidentiary Requirements:

All motions and applications must be supported by declaration(s). Pleadings submitted without supporting declarations will likely be denied, even if no opposition is filed. In matters where an appraisal is submitted in support of a pleading, e.g., relief from stay matters, the appraisal must be authenticated by a declaration of the appraiser or the appraisal will not be considered.

B. Motions without Hearings:

With respect to all motions filed pursuant to Local Rule 9013-1(o) or otherwise not requiring a hearing absent an objection and request for a hearing, the moving party must file a declaration stating that no opposition to the motion has been served within the objection period. The order will not be signed and/or rejected absent such a declaration.

II. RELIEF FROM STAY MOTIONS

A. Evidentiary Requirements:

Moving parties asserting a security interest in property of the debtor must attach evidence of such recorded security interest to the motion. In cases where the original note/deed of trust has been assigned, copies of all recorded assignments must be attached to the motion. Stated otherwise, no orders granting relief from the stay will be signed absent properly authenticated documentary evidence of the movant's beneficial interest in the debtor's property.

With respect to unlawful detainer motions, such motions must be supported by a declaration of the owner or property manager and a properly authenticated copy of the unlawful detainer complaint (with state court's stamp) and/or the state court judgment. Failure to provide such evidence may result in denial of the motion even if the debtor fails to respond or appear.

B. Extraordinary Relief:

1. Prospective Relief as to Debtor (i.e., relief from the stay effective in any subsequent bankruptcy filed by the debtor within a 180-day period): Granted only upon good cause shown, e.g., multiple filings.

2. "In Rem" Relief (i.e., relief from the stay effective in any subsequent bankruptcies -- even non-debtors -- involving the subject property): Granted only in the most egregious bad faith cases, usually involving multiple transfers of property.

III. ADVERSARY PROCEEDINGS

A. Motions for Entry of Default Judgment

A prove-up motion is required. The motion may be set for hearing or filed on a no-hearing basis pursuant to Local Rule 9013-1(o). The motion must be served upon the defendant in accordance with Local Rule 9013-1 and must be supported by declaration and appropriate documentary evidence, e.g., invoices, statements, contracts, etc. Absent exigent circumstances (as shown by declaration of the moving party's attorney), a motion for entry of default judgment will not be continued more than once.

B. Joint Status Report/Joint Pretrial Order:

Joint Status Reports and Joint Pretrial Orders must be timely filed in accordance with Local Rule 7016-1. Parties failing to do so will be subject to a minimum sanction of \$100.00 or other sanctions as allowed under Local Rule 7016-1. Failure to appear for a status conference or pretrial conference may result in a minimum sanction of \$100.00 or other sanctions as allowed under Local Rule 7016-1. The attorney responsible for litigating the trial **MUST** appear at the pretrial conference. Failure to appear at the pretrial conference may result in the imposition of sanctions and issuance of an order to show cause why the case should not be dismissed for failure to prosecute.

IV. SELF-CALENDARING

Judge Smith utilizes the self-scheduling system for all hearings, with

exceptions as noted in the self-calendaring instructions. Please go to the Court's website at www.cacb.uscourts.gov for self-calendaring instructions and/or to select a self-calendaring hearing date before Judge Smith. If you should experience a problem, please contact James Le, Courtroom Deputy, directly at (714) 338-5372. Please do not contact chambers for self-calendaring issues.

V. TENTATIVE RULINGS:

Judge Smith generally issues tentative rulings regarding law and motion matters by 5 p.m. of the day prior to the beginning of the hearing day. Tentative rulings are posted on the bulletin board outside the courtroom, at the attorney tables in the courtroom, on the court's website (www.cacb.uscourts.gov) and on PACER. Tentative rulings may not be rendered on every matter.

If a tentative ruling has been issued and the moving party wishes to accept the tentative ruling, the moving party need not check in or make an appearance if:

- 1) no opposition has been filed; and
- 2) the tentative ruling does not specifically require an appearance.

If the moving party chooses to rest on the tentative ruling and an opposing party appears to argue against the ruling, the Court will determine if a continuance of the hearing is warranted and will notify the moving party of the continued hearing date.

VI. HEARINGS BY ZOOM AUDIO AND VIDEO

Hearing participants and members of the public may view and listen to hearings before Judge Smith using ZoomGov free of charge. Video and audio connection information for each hearing will be provided on Judge Smith's publicly posted hearing calendar, which may be viewed online at: <http://ecf-ciao.cacb.uscourts.gov/CiaoPosted/?jid=ES> and selecting "Judge Smith" from the tab on the left side of the page. For more details on appearing via ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures" in the Telephonic Instructions section of this page.

VII. SERVICE OF PLEADINGS

Failure to properly serve pleadings in accordance with applicable rules will result in either a continuance of the hearing or denial of the relief requested. Under Bankruptcy Rule 9014, certain contested matters must be served in accordance with Bankruptcy Rule 7004. For example, Rule 7004(b)(3) requires that service upon a corporation or partnership be made to the attention of an officer, managing or general agent or any other person authorized by appointment or by law to receive service.

VIII. JUDGES' OR COURTESY COPIES

Except for documents 200 pages or over, including exhibits, Judge Smith **does not** require judges' copies. Judges' copies for documents 200 pages and over should still be provided. Parties are reminded that the judge and chambers staff do not receive electronic notices of filings and therefore, (a) for documents that are filed late, and (b) for matters that are not the subject of an electronically uploaded order (LOU), parties must contact the chambers of the presiding judge and advise chambers of the filing.

IX. PROPOSED ORDERS

Judge Smith generally adheres to procedures set forth in LBR 9021-1(b)(3) and (b)(4), except as to orders on motions for relief from stay. Orders on motions for relief from stay, whether the motion was opposed or not, will be processed in regular course and without waiting for any objection period to expire.

With regard to other opposed motions, a notice of lodgment ("NOL") with the proposed order attached must be filed and served on all opposing parties unless opposing counsel has endorsed the proposed order as to form. If opposing counsel has endorsed the form of the proposed order, the court will process the order in regular course. If opposing counsel has not endorsed the proposed order, the court will hold the proposed order for seven (7) days to allow opposing counsel to file and serve any objection to the proposed order. If an objection is timely filed, Judge Smith will review the objection and/or alternate order as well as the originally lodged order and sign the order that is most consistent with her ruling. If no objection is timely filed, the court will process the proposed order in regular course after the seven (7) day objection period has expired.

X. COURTROOM ETIQUETTE

Unless court is in session, please check in with the Court Recorder prior to your scheduled hearing. Do not approach or speak with the Court Recorder while a hearing is in progress. The use of electronic devices (e.g., pagers, cellular phones, and other devices subject to ring or buzz) in the courtroom are **strictly** prohibited.

"Second Call" - If you have a conflict which needs to be placed on "second call", please contact Judge Smith's Chambers at (714) 338-5440. If you are not present when your matter is called, and no communication has been received, your motion may be denied for failure to appear.

JUDGE SMITH'S STAFF CONTACTS:

James Le, Courtroom Deputy

(714) 338-5372

Tamika Law, Court Recorder

(714) 338-5367

Last updated 3/8/23