

## **TRIAL AND EVIDENTIARY HEARING PROCEDURES FOR JUDGE KWAN**

All parties, whether represented by counsel or self-represented (“you”), must follow these procedures for all trials and evidentiary hearings before Judge Kwan. However, these procedures are not meant to supersede the Federal Rules of Bankruptcy Procedure (“FRBP”) or the Local Bankruptcy Rules (“LBR”).

### **TRIAL BRIEFS**

Optional, but encouraged because they may help the court prepare for your trial. You must comply with LBR 9013-2 if you file a trial brief.

### **EXHIBITS**

#### **Exhibit Tags**

LBR 9070-1 requires you to number and mark all trial exhibits for identification with official court exhibit tags before trial starts. Exhibit tags may be stapled to, or stuck on, a cover page for an exhibit or on the back of the first page of the exhibit. Official court exhibit tags are available upon request from the courtroom deputy or the Clerk’s Office on the second floor. If you have more than 10 exhibits, you must put them in a three-ring binder with a printed index of exhibits. You must comply with LBR 7026-2(c) if you are offering discovery documents as trial exhibits.

#### **Required Sets of Exhibits**

On the first day of trial, you must deliver the original set of your tagged exhibits and a duplicate set of copies of the exhibits to the court recorder as required by LBR 9070-1. The original set of exhibits is the official copy of the exhibits, and the duplicate set of exhibits is for the judge’s use during the trial. Per LBR 9070-1, you must deliver duplicate sets for each other party, and you should have a set of exhibits for your use.

#### **Exhibit Register**

LBR 9070-1 requires you to prepare and submit an exhibit register on Form B 3024 “EXHIBIT REGISTER AND NOTICE RE DEPOSITION OF EXHIBITS.” The exhibit register is used by the clerk to keep track of the dates of identification and admission of your exhibits during trial. The exhibit register form is available on the court’s website at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), under “Court Forms”.

### **PRETRIAL STIPULATIONS AND ORDERS**

Pursuant to Local Bankruptcy Rule 7016-1(b)(1)(B), the parties are instructed to file pretrial stipulations on Pacer (CM/ECF) and serve the same no less than 14 days before the date set for the pretrial conference (if one is ordered) or trial.

The court will instruct the parties to lodge an order approving the pretrial stipulation after the pretrial conference.

### **WITNESS TESTIMONY**

You must submit declarations under penalty of perjury for the direct testimony of all witnesses called by you unless the witnesses are: (1) adverse to you, (2) unwilling to cooperate in preparing a written declaration, or (3) providing impeachment or rebuttal testimony.

Plaintiffs/movants must serve the direct testimony declarations of their witnesses no later than 21 days before the first day of trial. Defendants/respondents must serve the direct testimony declarations of their witnesses no later than 14 days before the first day of trial. You must file and serve written evidentiary objections to any declaration no later than 7 days before the first day of trial, or otherwise, your objections may be deemed waived.

Your witnesses must appear at trial for cross-examination by other parties. If your witnesses fail to appear at trial, their written testimony may be excluded from being considered by the court. When in doubt that witnesses may not appear, you should serve them with a subpoena to compel their attendance, if necessary.

If you are offering deposition transcripts as evidence, you must follow the procedures of LBR 7030-1(b), including marking of the deposition transcripts. Otherwise, the deposition transcripts may be excluded.

### **TRIAL CONTINUANCES**

Trial dates are considered firm and will be continued only upon a compelling showing of good cause and furtherance of the interest of justice. A stipulation or properly noticed motion must be submitted and supported by declaration(s) under penalty of perjury stating the justification for a continuance of a trial. Even after a stipulation or noticed motion has been filed, the parties are required to appear at the trial as scheduled and to comply with these procedures unless explicitly instructed otherwise by chambers, posted tentative ruling, or order of the court.

### **SETTLEMENT**

If you settle a matter before trial, you must immediately notify the judge's law clerk by calling 213-894-2775. Even after the law clerk is notified of the settlement, you are required to appear at the trial as scheduled and to comply with these procedures unless explicitly instructed otherwise by the court or by posted tentative ruling.

## **ORDERS**

You must submit orders that are capable of being lodged electronically through the court's electronic Lodged Order Upload (LOU) system.

## **TRIAL RULINGS**

At the conclusion of the trial, the court may do any of the following: issue oral findings of fact and conclusions of law; set a further hearing at which time it will announce its decision; or take the matter under submission for written decision. If the court directs you to submit proposed findings of fact and conclusions of law, you must comply with LBR 7052-1.