

HELPFUL HINTS FOR LEGAL ASSISTANTS, PARALEGALS AND LAWYERS FROM JUDGE DONOVAN'S CHAMBERS

Forms:

We encourage the use of current, court-approved forms, for plans, motions, status conference reports, and orders. They are great time savers and help eliminate many ambiguities, evidentiary oversights, and delays. The forms can be found on the court's website: www.cacb.uscourts.gov.

Motions:

Notices of motions, motions and proofs of service should be filed at the same time. Judge's Copies must be mailed or delivered directly to chambers when motion papers are filed. **Motions will not be placed on the calendar until the Judge's Copies are received in chambers.**

Tabs on the Judge's Copy for exhibits and declarations or other attachments are very important, particularly if the papers are lengthy or complicated. **Tabs should be visible at a glance and should be durable.**

Motions not supported by declarations or persuasive evidence will be denied.

If the judge issues a tentative ruling on an uncontested matter and excuses the movant's appearance, but a party appears in court to contest the motion, the judge may either allow the tentative ruling to stand or continue the matter so that absent parties can be afforded an opportunity to be heard. If the matter is continued, the courtroom deputy will call the moving party with the date and time of the continued hearing. The moving party should give notice of the continued hearing.

The judge changes tentative rulings, occasionally.

Declarants normally are not required to be present at hearings on motions.

Oral testimony seldom is required or allowed unless the judge has agreed in advance to hear oral testimony. If live cross examination is essential, be sure to make arrangements for cross examination in advance, with opposing counsel first, and then through the judge's law clerk at (213) 894-1577.

If a matter is settled or will be withdrawn, continued or taken off calendar, please inform the judge's law clerk at (213) 894-1577 or the judge's courtroom deputy Pat Pennington Jones at (213) 894-6172 as soon as possible and file and serve an appropriate notice.

Relief From Stay - Unlawful Detainer and Questionable Real Estate Transfers:

The judge hears relief from stay motions on 14 days' notice when they involve (1) residential unlawful detainer; (2) post-petition transfers of real property; or (3) pre-petition transfers of real property to the debtor either (a) within 90 days of the petition date or (b) involving fractionalized transfers of real property. An order shortening time is not required in any such instance. Pleadings should be filed and served at least 14 days prior to the hearing. Proof of service should be filed when the pleadings are filed, if possible.

Rule 9019 Motions Affecting Adversary Proceedings:

While a motion for approval of a proposed compromise sometimes must be filed in the main bankruptcy case, please be sure to follow up promptly with a separate motion or application in the adversary to dismiss the adversary once the compromise has been approved by the court.

Emergency and Ex Parte Applications:

Emergency hearings should be requested only when a true emergency exists that was not self-inflicted. A moving party should file an ex parte application only if there is a very good reason to warrant a hearing on shortened time.

When filing an emergency motion, the moving party should telephone the judge's law clerk ahead of time to alert him to expect the papers.

The judge usually requires moving papers before he sets an emergency hearing, except in Chapter 11 case "first day" or other urgent matters.

If an ex parte application to hear a matter on shortened time is granted, notice by electronic means, overnight delivery, telephone and/or fax usually is required.

Status Conferences:

A thorough, written status report, filed 14 days in advance, is required before each chapter 11 status conference hearing and 14 days in advance before each adversary status conference hearing. In adversary proceedings, use of court-approved status conference report forms is strongly recommended.

Objections to Proof of Claims:

On objections to proof of claim, the judge requires admissible evidence and legal grounds to be set forth as required by the Bankruptcy Code, Bankruptcy Rules, and especially Local Bankruptcy Rule 3007-1.

Orders:

The judge normally signs orders promptly. If more than a week has passed since you submitted the order, you should check CM/ECF, or you may, if necessary, telephone the judge's administrative law clerk Candace Crociani at (213) 894-3728 to check on the status of the proposed order.

Please lodge an order promptly through L.O.U. or at the filing window in the clerk's office. The moving party or the prevailing party may drop off the proposed order in the courtroom on the day of the hearing.

Appearances:

The judge generally allows telephone appearances, as a courtesy, not as a right. It is the requester's duty to make arrangements and to place the call. Requests should be made by calling CourtCall at (888) 882-6878. When appearing by phone, speak directly into the phone, do not use cell phones (except in an real emergency) or speaker phones (ever).

Attorneys may request second call by calling the judge's law clerk Candace Crociani at (213) 894-3728 or by making the request personally to the court recorder before the calendar call. The judge normally will honor reasonable requests for a limited amount of time, subject to balancing the reason for the request against the inconvenience to other parties.

Attorneys may request priority when they check in with the judge's court recorder Wanda Toliver just before the calendar call. Within reason, such requests usually are granted, especially if the matter can be dealt with very briefly.

Requests for Transcripts:

You may order a transcript of a hearing by contacting the judge's court recorder Wanda Toliver at (213) 894-5011.

Common Problems and Suggestions:

Lawyers who wish to introduce business records in evidence should pay close attention to Rule 803(6) of the Federal Rules of Evidence.

Be sure to move to reopen the case under § 350 when bringing a motion to avoid a lien discovered after the debtor has been discharged and the case has been closed.

Please staple pleadings only once, in the upper left hand corner.

Please throw away staplers that don't work. Open staples are a constant nuisance.

Note the Judge's Copy rules and Court Manual instructions. Judge's copies are required and must be delivered timely to be of any use or to be actually read by the court. In the Judge's Copy, you **must use tabs for exhibits and declarations, always!**

1/4/16