

SELF-CALENDARING PROCEDURES FOR 2020
(November 27, 2019)
Judge Wayne Johnson

The Honorable Wayne Johnson has a self-calendar system that permits counsel and parties to schedule hearing dates heard on regular notice without prior approval from the courtroom deputy. Calendar dates are subject to periodic revision, so please verify that you are referring to the current version of the calendar. **This document pertains to hearings in 2020 only.**

Judge Johnson conducts hearings in courtroom 304 of the United States Bankruptcy Court at 3420 Twelfth Street, Riverside, California 92501.

As stated below, no matter that will take more than fifteen minutes may be self-calendared. In such instances, you must contact the courtroom deputy for an available hearing date and time. The phone number for the courtroom deputy for Judge Johnson is (951) 774-1098.

Matters that do not require hearings may be filed in accordance with Rule 9013-1 of the Local Bankruptcy Rules. Please refer to the appropriate Federal Rules of Bankruptcy Procedure ("F.R.B.P.") and Local Bankruptcy Rules regarding the filing and service of motions.

I. MATTERS THAT MAY NOT BE SELF-CALENDARED.

The following matters may not be self-calendared: applications for orders shortening time, matters heard on shortened notice or on an ex parte basis, mass objections to claims (i.e. more than twenty objections set for a single hearing), motions for temporary restraining orders or preliminary injunctions, status and pre-trial conferences, trials, reaffirmation agreements, motions for summary judgment and matters requiring more than fifteen minutes.

II. AUTOMATIC STAY MOTIONS.

A. Hearings On Shortened Notice.

Except as stated in this paragraph II(A), all self-calendared matters shall be heard on regular notice. The following matters may be self-calendared on shortened notice without obtaining an order shortening time by following the procedures set forth below:

- (1) A motion for relief from stay with respect to the unlawful detainer of real property pursuant to 11 U.S.C. § 362(d)
- (2) A motion to confirm that no stay is in effect pursuant to 11 U.S.C. § 362(c)(4)(A)(ii)
- (3) A motion for relief from stay which seeks relief pursuant to 11 U.S.C. § 362(d)(4)
- (4) A motion to continue the stay pursuant to 11 U.S.C. § 362(c)(3)
- (5) A motion to impose the stay pursuant to 11 U.S.C. § 362(c)(4)

The five types of automatic stay motions described above may be self-calendared using the applicable dates set forth below in paragraph III. The moving party shall file the motion, all evidence and supporting documents and notice of the motion with the Court no later than seven days prior to the hearing and deliver courtesy copies to chambers no later than seven days prior to the hearing. The moving party shall serve the motion, all evidence and supporting documents and notice of the motion on all parties entitled to notice either (1) by regular mail (or, if the served party is FDIC insured, by certified mail) no later than fourteen days prior to the hearing or (2) by personal delivery or overnight delivery no later than seven days prior to the hearing. Opposition to the motion may be submitted at the hearing and the notice of the motion shall advise all parties that opposition may be submitted at the hearing.

Proof of service indicating compliance with these procedures must be attached to the motion. If the evidence submitted does not demonstrate that the motion was served in compliance with these procedures, the motion will be denied. In particular, proofs of service should clearly state whether service was accomplished by regular mail, certified mail or expedited delivery (i.e. personal delivery or overnight delivery). If a proof of service is ambiguous regarding whether service occurred by regular mail or expedited service, the Court will assume service occurred by regular mail and deny the motion if the moving party provided less than fourteen days notice.

B. Motions To Continue Or Impose The Stay.

The following instructions pertain to all motions to extend the automatic stay pursuant to 11 U.S.C. § 362(c)(3) and all motions to impose the stay pursuant to 11 U.S.C. § 362(c)(4) whether heard on regular or shortened notice.

Method of Service. An automatic stay motion that is not properly served will not be granted. Motions for relief from the automatic stay typically require service upon two or three parties who are often individuals and not FDIC insured (i.e. debtors and trustees). Motions to extend or impose the stay, however, typically require greater and different forms of service because they often seek relief against all creditors in a case including businesses and secured creditors who are often FDIC insured institutions. All automatic stay motions are contested matters just like motions to value collateral in chapter 13 cases. The court has posted extensive guidelines discussing the service issues that often arise when serving secured creditors with valuation motions. Therefore, a party who intends to file a motion to continue or impose the stay should review those guidelines in connection with serving creditors (especially secured creditors) with any motion to extend or impose the stay.

Timing For Filing The Motion. Motions to continue or impose the stay are often denied due to improper service, insufficient evidence, insufficient briefing or a failure to appear at the hearing. One of the most common service errors is a failure by the moving party to comply with F.R.B.P. Rule 9014(b) which requires service that complies with F.R.B.P. Rule 7004. Moving parties often fail to serve in the manner required by F.R.B.P. Rule 7004(b), F.R.B.P. Rule 7004(h) and F.R.B.P. Rule 2002(g). Other problems that arise are a failure to provide sufficient evidence or case authority to overcome the presumption of bad faith that the statute often imposes when debtors file multiple bankruptcy cases within twelve months. In addition, counsel for the moving party occasionally fails to appear at the hearing resulting in a denial of the motion. In some instances, counsel for a moving party fails to appear for the hearing because counsel did not properly note the hearing on counsel's own calendar.

Denial of a motion to continue or impose the stay can substantially complicate a chapter 13 case because of the strict thirty-day requirements set forth in 11 U.S.C. § 362(c)(3) & 362(c)(4). These sections prevent a court from considering any motion to impose or continue the stay that is filed more than thirty days after the petition date. One of these sections also requires that the Court conduct and conclude the hearing regarding the motion within thirty days of the petition date.

In light of these strict requirements and the problems that arise with these motions (i.e. improper service, insufficient evidence, inadequate briefing), it is wise for parties who wish to file motions to continue or impose the stay to (1) do so immediately upon the filing of the bankruptcy case and (2) set the matter for a hearing on shortened notice on the first available date using the procedures described herein. If such motions are filed and heard using dates available during the first or second week of the case and then denied, additional time will usually exist to timely file and consider a second motion. If the moving party waits, however, to file a motion until later in the case, insufficient time will usually exist to hear a second motion. Likewise, if the moving party files the motion immediately upon the commencement of the case but sets the matter on regular notice (i.e. without using the procedures for a hearing on shortened notice), insufficient time will usually exist to hear a second motion.

Evidence. In addition, a debtor who files a motion to extend or impose the stay that is directed at a secured creditor, must include with the motion a payment history regarding all secured creditors affected by the motion. Judge Johnson has posted a “Declaration Of Debtors Regarding Secured Debt Payment History” (“Payment History Declaration”) for use in chapter 13 cases. When a debtor in any bankruptcy case (i.e. chapter 7, 12, 13, etc.) files a motion to extend or impose the stay, the debtor must submit the Payment History Declaration in addition to a separate declaration that provides the other evidence typically required to grant the motion. Alternatively, a debtor may submit one declaration that includes: (1) the information set forth in the Payment History Declaration with respect to each secured creditor affected by the motion and (2) all other evidence necessary to establish sufficient grounds to grant the motion. As required by paragraph 6 of the Payment History Declaration, proof of any and all payments made within the last six months to secured creditors who are affected by the motion must be attached to the declaration as well as all other evidence needed to establish sufficient grounds to grant the motion.

III. HEARING DATES FOR MATTERS THAT MAY BE SELF-CALENDARED AND HEARD ON REGULAR NOTICE.

A. Motions Regarding the Automatic Stay (Chapters 7 and 11).

Motions for relief from stay, to continue the stay pursuant to section 362(c)(3), to impose the stay pursuant to section 362(c)(4) or to confirm that no stay is in effect, filed in chapters 7 and 11 with a time estimate of no more than fifteen minutes may be self-calendared for 10:00 a.m. on the following dates:

January 7, 16, 21	July 2, 16, 23
February 6, 20, 27	August 6, 20
March 3, 12, 26	September 3, 17, 24
April 9, 23	October 8, 22
May 7, 14, 19	November 5, 19
June 11, 25	December 3, 17, 29

If the matter will take more than fifteen minutes, it may not be self-calendared. In this situation, contact the courtroom deputy to obtain a hearing date and time.

If you select a hearing date for a motion for relief from stay that is more than thirty days after the date you file your motion, you are deemed to have waived the time limits of section 362(e) of the Bankruptcy Code.

B. Motions Regarding the Automatic Stay (Chapters 12 and 13).

Motions for relief from stay, to continue the stay pursuant to section 362(c)(3), to impose the stay pursuant to section 362(c)(4) or to confirm that no stay is in effect, filed in chapters 12 and 13 with a time estimate of no more than fifteen minutes may be self-calendared for 2:30 p.m. on the following dates:

January 6, 8, 15, 22	July 1, 15, 22
February 5, 19, 26	August 5, 12, 19
March 4, 11, 25, 30	September 2, 16, 23
April 8, 22, 29	October 7, 21, 28
May 6, 13, 18	November 4, 18
June 8, 10, 24	December 2, 9, 16, 30

If the matter will take more than fifteen minutes, it may not be self-calendared. In this situation, contact the courtroom deputy to obtain a hearing date and time.

If you select a hearing date for a motion for relief from stay that is more than thirty days after the date you file your motion, you are deemed to have waived the time limits of section 362(e) of the Bankruptcy Code.

C. Motions (Chapter 7 and 11).

1. Except as stated below in paragraph III(C)(2), all motions, applications, objections to claims, miscellaneous matters and all other matters in chapter 7 and 11 cases with a time estimate of no more than fifteen minutes may be self-calendared for 1:00 p.m. on the following dates:

January 7, 14, 21	July 14, 21
February 4, 18, 25	August 4, 18
March 3, 10, 24	September 1, 15, 22
April 7, 21	October 6, 20
May 5, 12, 19	November 3, 17
June 9, 23, 30	December 1, 15, 29

If the matter will take more than fifteen minutes, it may not be self-calendared. In this situation, contact the courtroom deputy to obtain a hearing date and time.

2. These dates and times do not apply to (a) any and all motions or other matters filed in adversary proceedings, (b) matters described in paragraph III(A) of this notice and (c) motions of the Office of the United States Trustee.

D. Motions (Chapter 12 and 13).

1. Except as stated below in paragraph III(D)(2), all motions, applications, objections to claims, miscellaneous matters and all other matters in chapter 12 and 13 cases with a time estimate of no more than fifteen minutes may be self-calendared for 2:00 p.m. on the following dates:

January 6, 8, 15, 22	July 1, 15, 22
February 5, 19, 26	August 5, 12, 19
March 4, 11, 25, 30	September 2, 16, 23
April 8, 22, 29	October 7, 21, 28
May 6, 13, 18	November 4, 18
June 8, 10, 24	December 2, 9, 16, 30

If the matter will take more than fifteen minutes, it may not be self-calendared. In this situation, contact the courtroom deputy to obtain a hearing date and time.

2. These dates and times do not apply to (a) any and all motions or other matters filed in adversary proceedings, (b) matters described in paragraph III(B) of this notice and (c) motions of the Office of the United States Trustee.

E. Motions of the Office of the United States Trustee.

Motions of the Office of the United States Trustee with a time estimate of no more than fifteen minutes may be self-calendared for 2:00 p.m. on the following dates:

January 7, 14, 21	July 14, 21
February 4, 18, 25	August 4, 18
March 3, 10, 24	September 1, 15, 22
April 7, 21	October 6, 20
May 5, 12, 19	November 3, 17
June 9, 23, 30	December 1, 15, 29

If the matter will take more than fifteen minutes, it may not be self-calendared. In this situation, contact the courtroom deputy to obtain a hearing date and time.

F. Adversary Proceedings.

Motions in adversary proceedings with a time estimate of no more than fifteen minutes may be self-calendared for 1:30 p.m. on the following dates:

January 2, 16	July 2, 16, 23
February 6, 20, 27	August 6, 20
March 12, 26	September 3, 17, 24
April 9, 23	October 8, 22
May 7, 14, 19	November 5, 19
June 11, 25	December 3, 17, 29

If the matter will take more than fifteen minutes, it may not be self-calendared. In this situation, contact the courtroom deputy to obtain a hearing date and time.

IV. OTHER HEARING DATES.

A. Chapter 13 Plan Confirmations.

The Court selects the dates for all Chapter 13 plan confirmation hearings which shall be held at 2:00 p.m. on the following dates:

January 6, 8, 15, 22	July 1, 15, 22
February 5, 19, 26	August 5, 12, 19
March 4, 11, 25, 30	September 2, 16, 23
April 8, 22, 29	October 7, 21, 28
May 6, 13, 18	November 4, 18
June 8, 10, 24	December 2, 9, 16, 30

B. Reaffirmation Hearings.

The Court selects the dates for all reaffirmation hearings which shall be held at 8:30 a.m. on the following dates:

January 16	July 2
February 6	August 6
March 12	September 3
April 2	October 8
May 7	November 5
June 11	December 3