

**HONORABLE LAURA S. TAYLOR
U.S. BANKRUPTCY JUDGE**



**PROCEDURAL GUIDELINES FOR PARTIES
APPEARING IN DEPARTMENT THREE**

(Revised July 7, 2021)

*** Hybrid Hearing Guidelines For Department Three**

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<p>HYBRID HEARING GUIDELINES FOR DEPARTMENT THREE</p>	<p>As our Court opens to the public, the doors of Department Three will open wide. Subject to the General Orders of this Court regarding masking for the unvaccinated, all parties and the public may personally attend hearings in the courtroom. The Court prefers in-person appearance for significant hearings. Department Three, however, also intends to offer the option of Zoom hybrid hearings in many cases. A hybrid hearing is one where some parties appear by Zoom while others appear in person.</p> <p>Unless an order or Tentative otherwise directs, parties who wish to attend by Zoom must contact Courtroom Deputy, Russell Paluso, at (619) 557-5157 no later than 10:00 a.m. two business days before the hearing.</p> <p>Attendance by Zoom will be routinely allowed in the following instances:</p> <ol style="list-style-type: none"> 1. Appearances at reaffirmation hearings; 2. Appearances for matters where the parties will discuss general status, other than the initial pre-trial status conference in an adversary proceeding; 3. Matters that will be continued by consent of all parties; 4. Settled matters requiring assistance from the Court; 5. Other matters where active argument is not anticipated; and 6. Matters where Court indicates in its Tentative that Zoom appearance is appropriate. <p>The Court will also allow a Zoom appearance where the Court deems it otherwise justified. Such matters, for example, could involve childcare concerns, health concerns of the attorney or a family member, travel difficulties, etc.</p> <p>Emergency requests for Zoom appearance will be considered after the deadline established above but only in relation to emergencies that become apparent after the deadline. Parties requesting an emergency Zoom appearance should contact the Courtroom Deputy at the number set forth above.</p> <p>In addition, the parties can request a Zoom appearance after the deadline where a matter settles or is otherwise finally resolved after the deadline.</p> <p>While Zoom allows telephonic appearance, the Court strongly discourages parties from using the telephone option. The Court finds that video appearance is highly preferable and may decline a request for telephonic appearance.</p> <p>Parties who anticipate frequent Zoom appearances should ensure that they have technology available that will allow them to be heard and seen clearly. Parties who do not have the required technology should plan on attending in person.</p> <p>The Court will not routinely allow Zoom appearance for the following:</p> <ol style="list-style-type: none"> 1. Initial pre-trial status conferences in adversary proceedings; 2. Long cause argument matters; 3. Any matter involving complex argument; and 4. Trial. [In the case of trial, however, the parties may request attendance by discrete witnesses via Zoom given, in particular, geographic issues. The Court will decide such appearance issues on a case by case basis.]

Parties subject to an order to show cause must appear in person unless they petition the Court by motion for the opportunity for a Zoom appearance.

Parties who previously received instruction from the Court, but failed to perform as required by the Court in an order or minute order, must appear before the Court in person unless they obtained relief from this requirement in a tentative or through an order on a motion.

Counsel appearing before the Court, whether in person or on Zoom, are expected to appear in professional business attire, to act with the decorum and seriousness appropriate to the Court setting, to be prepared to present themselves in Court in a business-like fashion, and to be on time. In the case of a Zoom appearance, a timely appearance requires a pre-hearing Zoom connection at the time set by the Courtroom Deputy.

Parties bringing motions before the Court should not schedule the matter for a time when they know they will not be able to appear in person. A Movant may always request a Zoom appearance, but the Movant should not assume that a Zoom appearance will be allowed.

Parties may request that their clients attend hearings via Zoom and, in the case of reaffirmation hearings, their clients should appear. Counsel must advise their clients of the guidelines set out herein; inappropriate behavior will result in termination of a hearing which may or may not be continued.

Parties desiring to appear by Zoom must accept the risk inherent in a remote appearance. In cases where the Court's technology fails, the Court likely will reschedule the matter. In a case where the party appearing by Zoom experiences a failure of technology, including a transmission that is inaudible or a loss of transmission, the Court may terminate the hearing, they may lose their ability to argue, and a continued hearing may not be allowed. Again, parties wishing to use technology should make sure that they have the ability to participate in the hearing with clarity equal to that which would result if they were in the courtroom.

If parties wish to test their equipment before the hearing to ensure that this standard can be met, the Court is happy to allow for a test run. Parties should contact the Courtroom Deputy at (619) 557-5157 well before the hearing so that they have time to determine what flaws in transmission exist, if any, and to remedy them.

Parties with significant matters or multiple matters before the Court are also urged to educate themselves as to how the hybrid hearing will be conducted. Hybrid hearings in a 1913 era courthouse are not without challenges. Parties who wish to see the view they will obtain remotely or to review the view the Court will have in a hybrid hearing can schedule a meeting with the Courtroom Deputy. For example, parties should be aware that the Court will be observing their argument on a computer monitor and not on the large screen used for non-hybrid Zoom hearings. Also, at present, the party appearing remotely will have a panoramic view of the courtroom. Their ability to observe the judge and opposing counsel will not be equivalent to the view available in the courtroom.

PARTIES ATTENDING REMOTELY MAY NOT RECORD THE PROCEEDINGS BY ANY MEANS.

1. Appearance Counsel

- Appearance counsel must be generally familiar with the matter at issue and prepared to discuss the same with the Court and the opposing party. Appearance counsel must be in a position to bind counsel of record as to all procedural matters which may arise in the matter before the Court. Parties using appearance counsel assume the risk in this regard.

2. Telephonic Appearances

- Parties requesting telephonic attendance at a hearing should contact the Court's Courtroom Deputy at (619) 557-5157 no less than 48 business hours prior to the hearing. The Court will advise whether a telephonic appearance is appropriate as soon as reasonable. Given the Court's schedule, parties should not delay such requests.
- The Court generally does not allow telephonic appearances for parties who intend to argue.
- Telephonic hearings are not appropriate at the first and last pre-trial conference. To the extent parties wish to appear telephonically at any interim pre-trial conference, they should so request at the time of the initial or immediately preceding pre-trial conference.
- Parties who wish to monitor a hearing, to attend to procedural matters, or to argue the case where extraordinary circumstances exist may be allowed to appear telephonically. Extraordinary circumstances include an attorney's illness, advanced or problematic pregnancy, injury that impairs an ability to travel, family or other emergency, unanticipated transportation problems, or family needs such as a childcare emergency. Geographic distance of counsel from the courtroom, in and of itself, generally does not justify a telephonic argument.
- In addition, where a true emergency arises less than 72 business hours before a hearing, a party may contact the Courtroom Deputy with an emergency telephonic appearance request.
- Parties appearing telephonically must utilize a phone that is free of static and must call from a location where there is no disruptive background noise. In the event of disruptive static or background noise, the Court may terminate the telephonic appearance. In such a case, the Court may or may not otherwise terminate or continue the hearing. As a result, parties must accept this risk when appearing telephonically.
- Parties appearing telephonically must call in 15 minutes prior to the scheduled hearing time and must remain available throughout the Court's hearing calendar. Particularly in the case of a law and motion calendar where multiple matters are scheduled, the Court cannot guarantee the point in time when the telephonic hearing will occur.
- In cases where large numbers of parties wish to appear telephonically, the Court may ask that a participant provide a bridge line. In cases where multiple parties observe a hearing telephonically, the Court will not require appearance(s) except by the attorney directly connecting the conference call to the Courtroom.

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3. Conduct of Hearings	<ul style="list-style-type: none"> • The Court commences calendars promptly. Counsel are requested to be available at the commencement of the calendar unless they previously advised the Court of a scheduling problem. • On some occasions, and, in particular, if such counsel advises the Courtroom Deputy, opposing counsel, or other party in the courtroom of the particular problem, the Court will trail matters when an attorney is not in the courtroom when a case is initially called. Parties and counsel who regularly appear late, however, may not receive any such accommodation from the Court.
4. Priority	<ul style="list-style-type: none"> • Parties wishing priority on the Court's calendar should inform the Courtroom Deputy prior to the commencement of the hearing. The Court generally will not allow priority unless it is requested and obtained prior to commencement of the hearing. • The Court generally will provide first priority to: (i) parties whose matter will go off calendar as a result of final settlement, confirmation, withdrawal of opposition etc.; (ii) unanticipated emergency; and/or (iii) unavoidable scheduling conflict. • The Court will provide second priority to: (i) those matters where the parties agree to a continuance; or (ii) other circumstances deemed appropriate by the Court.
5. Emergency Motions	<ul style="list-style-type: none"> • Parties requesting emergency or shortened notice relief from the Court, in addition to complying with the Local Bankruptcy Rules, should directly contact the Court's Law Clerk, Ole Oleson, at (619) 557-6750 prior to filing or uploading documents requesting such relief.
6. Pre-Trial Conferences	<ul style="list-style-type: none"> • The attorney principally responsible for trial in an adversary proceeding must appear at the initial and final pre-trial conference. At the initial pre-trial conference, the Court will evaluate the matter and may determine that it is appropriate to set relevant dates, including trial dates, and that a final/subsequent pre-trial conference will not occur. As the Court will make this determination in its own discretion, parties are not required to treat the initial pre-trial conference as a final pre-trial conference and to comply with the Local Bankruptcy Rules in connection therewith.
7. Revised Documents	<ul style="list-style-type: none"> • Parties submitting amended documents, including orders, must provide the Court with sufficient information so that the Court can promptly ascertain the amendment. Parties may do so by attaching a redlined copy of the document, by generally describing the amendment in the revised document or in an accompanying document, or by other appropriate means.

Topic	Procedure
8. Tentatives	<ul style="list-style-type: none"> • The Court frequently posts tentative rulings. Generally, tentative rulings post on the day prior to a hearing or the morning of a hearing. • Notwithstanding the above, the Court seldom posts tentative rulings in cases involving a self-represented party or in connection with an emergency motion. • All tentative rulings post to the Docket. Occasionally, the Court also posts a tentative ruling to the Court's website. • Parties should review the tentative ruling carefully. Tentatives may provide that it is the Court's tentative determination to grant a motion or deny a motion, in whole or in part. Tentatives also may state questions which should be answered at the hearing, cite authority that should be discussed at the hearing, and/or otherwise identify areas for particular emphasis in argument. • Tentative rulings are, as the title indicates, tentative. They reflect the Court's pre-argument determinations based on the evidence, argument, and information already before the Court. The Court invites argument from any party not satisfied with a tentative. • UNLESS THE TENTATIVE EXPRESSLY WAIVES APPEARANCE AT THE HEARING (OR A PARTY OBTAINS A HEARING WAIVER PURSUANT TO THE PROCEDURES DISCUSSED BELOW) PARTIES MUST ATTEND THE HEARING TO BE CERTAIN THAT THE COURT WILL GRANT THE RELIEF PROVIDED FOR BY THE TENTATIVE. IN THE EVENT THAT ONE OR MORE PARTIES DO NOT ATTEND THE SCHEDULED HEARING, THE COURT MAY VACATE THE HEARING DATE AND ALLOW THE MATTER TO GO OFF CALENDAR, CONTINUE THE HEARING, OR OTHERWISE ACT IN A MANNER INCONSISTENT WITH THE TENTATIVE. • When all relevant parties agree to be bound by a tentative issued by the Court, they may contact the Courtroom Deputy to so advise and to request that appearances be excused. At that time, they must represent to the Court that all parties taking any position in connection with the matter before the Court so agree; identify the party who will prepare the order; and advise the Courtroom Deputy of agreed upon dates for any response or future action required as a result of a ruling consistent with the Court's tentative. If the Court thereafter excuses appearances, the Courtroom Deputy will so advise the party initiating communication with the Court. The Court will then vacate the hearing date on the docket and, in connection therewith, indicate the parties' agreement to be bound by the tentative, identify the party responsible for the order, and identify response dates if required by the Court's tentative.

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<p>9. Chapter 13 Practices and Procedures.</p>	<p>a. Scheduling.</p> <ul style="list-style-type: none"> • Calendars for Trustee Skelton: The Court will generally schedule all matters at 10:00 a.m. When a particular case involves both confirmation and law and motion matters to be heard on the same date, however, the Court will schedule the matters at the same time and as the Court, in its discretion, deems appropriate. The Court will not segregate continuances and new matters on these calendars. • Calendars for Trustee Billingslea: The Court will hear both confirmation and law and motion matters at 2:00 p.m. The Court will not segregate continuances and new matters on these calendars. • Chapter 13 relief from stay matters will be heard as required by section 362(e). Where the regular chapter 13 hearing schedule in Department 3 will not allow adherence to this schedule, the opposing party may: (1) obtain a short extension of the section 362(e) deadline from the Movant; or (2) obtain a timely hearing date on a non-chapter 13 calendar. • Where the Court's tentative and/or its ruling at the hearing indicates that an evidentiary hearing on a straightforward matter (i.e. the value of a car) is required, but the parties wish to attempt an informal resolution, the Court may allow only a single continuance to a date established for a status conference. If the matter does not resolve on or before the status conference, the Court may then set the matter for evidentiary hearing. The parties, thus, should request realistic, but reasonable, time for informal resolution.
	<p>b. Obtaining Hearing Dates.</p> <ul style="list-style-type: none"> • The Court typically will hear a maximum of 20 to 30 matters during a particular hour. The Court also anticipates an average number of cases per calendar day not to exceed 80. Parties requesting relief from stay will receive priority as required by the Bankruptcy Code. As a result, parties are requested to promptly contact the Courtroom Deputy to obtain an appropriate hearing date. Depending on the nature of the matter, the Court may deviate upward from these standards, but parties should not rely on such an upward adjustment particularly in the absence of evidence indicating that the matter is urgent. • Parties who obtain a hearing date, but do not utilize the same, waste the Court's scarce time resources. A party identified as abusive in this area may be required to file all documents other than the notice of hearing prior to obtaining any hearing date in connection therewith.

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	<p>c. Tentatives.</p> <ul style="list-style-type: none"> • The Court anticipates that it will now issue tentatives in chapter 13 matters with more regularity albeit in a manner consistent with its regular practices as set forth in Section 8 above. • In most cases, the Court will waive appearances when: <ul style="list-style-type: none"> (i) <u>Lien strips</u>. A lien strip is unopposed and the tentative ruling is in favor of the Movant; and a lien strip is unopposed, the tentative requires additional action before the Court can grant the relief requested and this is the first time a continuance is required; but the Court will require attendance at most hearings on lien strip motions involving more than one continuance; (ii) <u>Fee Applications</u>: A fee application is unopposed, appropriate in form and content, and otherwise acceptable to the Court; and (iii) <u>Miscellaneous</u>. Unopposed motions where the Court determines that service is appropriate and the motion is appropriately supported by evidence and the law. • THE COURT EMPHASIZES THAT THE EXISTENCE OF A TENTATIVE IN A PARTY'S FAVOR IS NOT A WAIVER OF THE APPEARANCE REQUIREMENT UNLESS THE TENTATIVE EXPRESSLY SO STATES.
	<p>d. Scheduling Orders.</p> <ul style="list-style-type: none"> • The Court often issues scheduling orders in connection with continued matters. The Court requires strict compliance with all such orders. In those cases where compliance is impossible, the non-complying party should immediately take proactive steps to request an extension and/or to provide evidence justifying the non-compliance. In most cases, a motion and/or declaratory evidence will suffice. • Where a scheduling order allows submission of an adverse order prior to the continued hearing, failure to comply with the scheduling order may – as such order provides – result in denial of relief requested by the non-complying party or adverse relief, including case dismissal as to the non-complying party prior to the hearing. • Even where the scheduling order does not provide for submission of an order prior to the continued hearing, a non-complying party should assume that adverse consequences are highly probable at the hearing if the non-compliance is not adequately and promptly explained.
	<p>e. Modified Plans, Schedules, Etc.</p> <ul style="list-style-type: none"> • When the Debtor responds to a plan objection by indicating an intent to file a modified plan, schedule amendment, or similar document, such action should occur concurrent with the response so stating in most cases.

Topic	Procedure
	<p data-bbox="407 205 651 237">f. Lien Strip Notice.</p> <ul data-bbox="407 275 1500 369" style="list-style-type: none"><li data-bbox="407 275 1500 369">• Department 3 requires: (1) service in compliance with the appropriate provision of FRBP 7004; and (2) notice as requested by any proof of claim and/or request for special notice filed by or on behalf of a lien holder.