

## Rule 9073 - 1

### Hearings

#### (a) Requests for Hearing

A request for a hearing is made to the Clerk and may be should be made electronically by accessing the Court's website where possible, but may also be by telephone, in writing or in person. The requesting party shall provide to the Clerk the following information:

- (1) Identification of the case or adversary proceeding by name and number;
- (2) The names of all parties, the name, address and telephone number of their attorneys and that of any unrepresented party; and
- (3) A brief statement as to the nature of the hearing, estimated time required, the number of witnesses, if any, and preference as to a telephonic or courtroom hearing; and if the hearing is precipitated by notice and hearing;
  - (I) the date the notice was sent,
  - (ii) a statement as to whether or not objections were made, and
  - (iii) a statement as to whether or not the time for objections has expired.

*Note: This proposed change is to require the use of electronic requests for hearings where possible. the court's website under "Hearing Requests" provides a form and information concerning the setting of hearings.*

#### (b) Notice of Hearing

~~Hearings are set by the Court, and the requesting party shall be advised of the setting by the Court.~~

(1) As soon as possible after obtaining information concerning the scheduling of a hearing, receiving the setting information, but in no event later than seven (7) days prior to the hearing, the requesting party shall serve notice of the hearing setting on all parties to the hearing, as well as any party that has specifically requested notice of all hearings.

(2) The notice of hearing shall include the date and time set, and whether the hearing will be by telephone or in court. If the hearing is by telephone, the "meet me" telephone number shall be given in the notice.

- (3) The party giving such notice shall promptly file an affidavit or statement under penalty of perjury of service that specifies when and to whom notice was served along with a copy of the notice, unless electronically linked.

*Note: Not all hearings are set by the court, some are now set by the requesting party by accessing the court's web site. The proposed changes here are to clarify the process. Where a party has requested notice of all hearings, the requesting party shall provide that party with notice. This is in conjunction with a proposed change to LBR 2002-1(d)((3) that would require a party who wishes to have such notice, notify the MML of the request.*

**(c) Confirmation of Hearings**

The party requesting a hearing may be required to confirm with the appropriate chambers that the matter will be heard if so advised by the Court. Failure to confirm when so required may result in the striking of the hearing.

**(d) Terms for Failure to Appear at Hearing**

The Court may impose terms against a party who fails to appear at a hearing when so required.

**(e) Filing of Documents to be Considered at Hearings**

- (1) Except as provided in LBR 4001-2, an application or motion, supporting affidavits or statements under penalty of perjury shall be served and filed no later than seven (7) days prior to the hearing on an application or motion. An opposing party shall serve and file any objections, counter-affidavits or statements under penalty of perjury or other responding documents no later than three (3) days prior to the hearing on the application or motion.
- (2) A document intended to be considered by the Court in connection with a scheduled hearing shall be served and filed in accordance with subparagraph (1) above, and a copy shall be delivered to the appropriate chambers if the document has not been filed at least seven (7) days prior to the hearing.

**Related Provisions**

FRBP 9006                      Service of Motion

LBR 2002-1                      Notice to Creditors and Other Interested Parties

LBR 4001-2                      Cash Collateral

LBR 5005 - 1                      Filing Papers & Requirements

28 USC 152                      Places of Holding Court

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