

## Judicial Procedures Survey for the Honorable Hannah L. Blumenstiel

Many years ago, well before the implementation of ECF filings, the Bench-Bar Liaison Committee generated a survey of the Northern District Bankruptcy Judges. The questions focused on various practice procedures utilized by the judges and the questions and responses were printed out in a black notebook. The following is an effort to update and replace the old notebook. We have surveyed the judges in response to a series of questions divided up into different topics. Each judge's responses to the survey are posted online in the section specific to that judge. In the event of any conflict between the judge's responses to the survey and his or her posted procedures and practice, the posted procedures and practice, as well as the Local Rules will control.

Please direct questions and comments to: <http://www.canb.uscourts.gov/procedures/dist/bench-bar-liaison-committee-roster>

### I. CALENDAR HEARINGS

Questions	Response
1. Does the judge schedule particular types of matters for certain days or times?	Yes. Motions for Relief from Stay are heard each Monday at 2:00 p.m.; Main Case Motions are hearing each Thursday at 10:00 a.m.; Adversary Proceeding Motions and Status Conferences are heard each Thursday at 2:00 p.m.; Chapter 13 Contested Matters are heard each Wednesday at 9:40 a.m.
2. Does the judge allow hearings to be set by parties and attorneys using a "self-calendaring" system (in which a range of dates are available for selection without having a date personally from the courtroom deputy)?	Yes.
3. May parties and attorney contact the judge's staff to request the Court to specially set a date and time for a longer hearing?	Yes.
4. Where are the daily calendars of the judge's hearings posted?	<a href="http://www.canb.uscourts.gov/judges/blumenstiel/calendar">http://www.canb.uscourts.gov/judges/blumenstiel/calendar</a>

## II. TENTATIVE RULINGS

Questions	Response
1. Does the judge issue tentative rulings?	Yes, when appropriate.
2. How are the tentative rulings made known to the parties?	Tentative rulings are docketed on CM/ECF and then either emailed and/or faxed to the parties.
3. If the tentative rulings are posted on the Court's website, does the judge update tentative rulings?	Any updated would be distributed as set forth in item 2 above.
4. If the judge issues tentative rulings in advance of the hearing, may the parties submit without an appearance?	Yes. If all parties submit on the Court's tentative ruling (by sending an email to the Courtroom Deputy so indicating and cc'ing all parties on the email) the Court will issue an order consistent with the tentative ruling and will vacate the hearing.
5. If the parties may submit on the Court's tentative ruling without an appearance, must they notify the calendar clerk before the hearing that they are doing so, or may they simply not appear without notice?	The parties must notify the Courtroom Deputy of any intent to submit on the Court's tentative ruling or they must appear at the hearing.

### III. EMERGENCY MATTERS AND APPLICATIONS FOR ORDERS SHORTENING TIME FOR HEARING

Questions	Response
1. Does the judge allow hearings on an emergency basis (less than 48 hours' notice)?	Yes, for good cause shown.
2. If so, who is the point of contact for arranging for consideration of emergency motions?	The Courtroom Deputy.
3. Does the judge calendar a hearing on an emergency motion prior to receipt and review of moving papers?	No.
4. For emergency motions or hearings on shortened time, does the judge require delivery of the judge's copy of the moving or responding papers to chambers?	No.
5. Does the judge act on emergency motions without requiring notice to any party whatsoever?	No.
6. Does the judge require declarants to be present in court on emergency motions?	No, declarants need not appear for an initial hearing.
7. Does the judge require some notice to another party before granting an application for order shortening time for hearing?	Yes.

8.	Does the judge grant orders shortening time for hearings (other than emergency matters) upon a showing of good cause?	Yes.
9.	Does the judge routinely grant orders shortening time for hearings on the following matters?  (a) Relief from stay motion in residential unlawful detainer cases  (b) Chapter 11 first day motions, including cash collateral hearings  (c) Sales of property  (d) Applications for temporary restraining orders  (e) Other matters (please specify)	(a) Yes. (b) Yes. (c) Yes. (d) Yes. (e) Anything for which the movant shows good cause for the matter to be heard on shortened time.

#### IV. HEARINGS & TELEPHONIC APPEARANCES

Questions	Response
1. Are telephonic appearances generally allowed by the judge?	Yes.

2.	What matters, if any, will the judge <b>not</b> allow telephonic appearances?  (a) Disclosure Statement & Confirmation Hearings  (b) Evidentiary Hearings  (c) Other matters (please specify)	Unless otherwise ordered by the Court, any party may appear telephonically for any hearing. That said, the Court questions the wisdom of attempting a telephonic appearance at an evidentiary or contested hearing.
3.	Does the judge consider priority requests from counsel at the time of calendar call?	Yes.
4.	Does the judge hear stipulations and uncontested matters and requests for continuances before hearing opposed matters?	Yes, if the parties advise the Court in advance of their desire to be heard early in the calendar.
5.	Does the judge sign orders on the bench at the conclusion of a hearing?	Yes.

## V. PROCESSING ORDERS

Questions		Response
1.	Does the court require an order to be approved as to form prior to being submitted?	No.
2.	If not, does the court lodge an order for 7 days under B.L.R. 9021-1 (c)?	Yes.

3.	<p>What procedure does the judge prefer if there is an objection to the form of order that cannot be resolved by the parties?</p> <p>(a) File a formal objection</p> <p>(b) letter to the judge setting forth the objection</p> <p>(c) Contact the judge's clerk to set up a conference call</p> <p>(d) Either procedure (please specify)</p>	<p>The party objecting to the form of order shall within 7 days from the date of the hearing file a formal objection. The objecting party shall also submit via email to the Courtroom Deputy a proposed alternative form of order in Word (.doc) or Word Perfect (.wpd) format.</p>
4.	<p>If a large number of parties are entitled to receive notice of entry of an order signed by the judge, what procedure does the judge use to accomplish service of notice of entry of that order?</p>	<p><u>See</u> B.L.R. 9022-1; <a href="http://www.canb.uscourts.gov/ecf/reference/eorders-submission-procedures">http://www.canb.uscourts.gov/ecf/reference/eorders-submission-procedures</a>; <a href="http://www.canb.uscourts.gov/procedures/sf/eorder-procedure">http://www.canb.uscourts.gov/procedures/sf/eorder-procedure</a>.</p>
5.	<p>What are the judge's procedures when parties cannot agree on the form of the order?</p>	<p>See item 3 above.</p>
6.	<p>How long should counsel or parties wait before contacting the staff regarding the status of a lodged order?</p>	<p>10 days.</p>
7.	<p>Does the judge permit attorneys and parties to communicate with the law clerk regarding rejected proposed orders?</p>	<p>No.</p>

## **VI. JUDGE'S COPIES OF FILED DOCUMENTS**

<b>Questions</b>	<b>Response</b>
1. Does the court require courtesy copies of pleadings filed in the case?	No.
2. Are there exceptions to this rule, e.g. relief from stay motions?	No.

## **VII. COMMUNICATIONS WITH JUDGE'S STAFF**

<b>Questions</b>	<b>Response</b>
1. Does the judge allow attorneys and pro per parties to communicate with the judge's courtroom deputy regarding: (check where appropriate)  (a) Scheduling matters  (b) Status of orders  (c) Other matters (please describe)	(a) Yes.  (b) Yes.  (c) Where consistent with the Court's instructions in any order or other ruling.
2. Does the judge permit attorneys and pro per parties to communicate with the judge's law clerk regarding: (check where appropriate)  (a) Scheduling matters  (b) Status of orders  (c) Other matters (please describe)	(a) No; must communicate with the Courtroom Deputy.  (b) No.  (c) No, unless the Court specially instructs the parties to do so.

## VIII. STATUS CONFERENCES

Questions	Response
<b>Chapter 11 Cases:</b>	
1. Are status conferences held in Chapter 11 cases?	Yes.
2. Are status conference statements required?	Yes; <u>see</u> <a href="http://www.canb.uscourts.gov/judges/blumenstiel/procedures">http://www.canb.uscourts.gov/judges/blumenstiel/procedures</a> .
3. Are the required contents of the statement set forth in the judge's order setting the status conference?	Yes.
4. Is the debtor or debtor's responsible individual required to appear at the status conference?	No.
5. Will the judge set plan filing deadlines at the status conference?	Yes, generally.
6. Can the status conference be continued? If so, can what is the preferred method for doing so?	Yes. Only for good cause shown in an ex parte application.
7. Does the judge impose sanctions for failure to file the status conference report?	Yes.
8. Is a scheduling order prepared after a status conference when the judge sets a plan and disclosure statement deadline and if so, who prepares the order?	Yes. Generally, the Court will prepare such order.
<b>Adversary Proceedings:</b>	
9. Are status conference statements required? If so, when are they due?	Yes; <u>see</u> <a href="http://www.canb.uscourts.gov/judges/blumenstiel/procedures">http://www.canb.uscourts.gov/judges/blumenstiel/procedures</a> .
10. Are the required contents of the statement set forth in the judge's order setting the status conference?	No; <u>see</u> <a href="http://www.canb.uscourts.gov/judges/blumenstiel/procedures">http://www.canb.uscourts.gov/judges/blumenstiel/procedures</a> .



11.	Does the judge impose sanctions for failure to file the status conference statement?	Yes.
12.	Is the represented party required to appear at the status conference?	No.
13.	Will the judge set a trial date at the status conference?	Yes, generally.
14.	Does the judge require the parties to file a discovery plan?	Yes, unless the matter is exempt.
15.	Can the status conference be continued? If so, what is the preferred method for doing so, and what, if any, deadlines apply?	Yes. Only for good cause shown by stipulation or ex parte application if a stipulation cannot be reached.

## **IX. RELIEF FROM STAY MOTIONS**

<b>Questions</b>		<b>Response</b>
1.	Are appearances required if there is a statement of non-opposition from the debtor and trustee?	Yes.
2.	Are telephonic appearances allowed at relief from stay matters?	Yes.
3.	Will the court hear testimony at a final hearing?	Yes.
4.	Does the judge grant ex parte relief from stay in unlawful detainer cases?	No.
5.	Does the judge have special procedures for handling residential relief from stay motions? What are they?	No.

6.	Does the judge permit shortened notice on motions for relief from stay where there is proof of any of the following:  (a) A prior unlawful detainer judgment  (b) A prior adequate protection order  (c) Multiple bankruptcy filings  (d) Other conduct constituting bad faith  (e) A Chapter 13 confirmation hearing is already scheduled  (f) None of the above  (g) Other (please specify)	(a) Yes.  (b) Yes, if shortened time was provided in the adequate protection order.  (c) Yes.  (d) Yes.  (e) No.  (f) N/A.  (g) For good cause shown.
7.	Does the judge hear relief from stay motions on shortened notice in <b>non-residential</b> unlawful detainer cases?	Yes.
8.	Does the judge require declarants to be present in court for final (evidentiary) hearing on motions from relief from the automatic stay?	Yes, as consistent with the Trial Scheduling Order.
9.	Upon an appropriate evidentiary showing, will the judge award prospective relief from stay effective for 180 days in future bankruptcy cases filed by the debtor?	Yes.

10.	Does the judge grant requests for retroactive annulment of the automatic stay?	Yes.
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## **X. MOTION PRACTICE**

<b>Questions</b>		<b>Response</b>
1.	When does the judge require declarants to be present in court on emergency motions or hearings on shortened time?	Never, unless the Court sets an evidentiary hearing.
2.	When does the judge require declarants to be present in court on regularly scheduled motions?	Never, unless the Court sets an evidentiary hearing.
3.	Does the judge require written evidentiary objections to be made in a separate document?	Yes.
4.	Can a party continue a motion on its own?	No; <u>see</u> <a href="http://www.canb.uscourts.gov/judges/blumenstiel/procedures">http://www.canb.uscourts.gov/judges/blumenstiel/procedures</a> .
5.	Can a hearing on a motion be continued by stipulation?	Yes; <u>see</u> <a href="http://www.canb.uscourts.gov/judges/blumenstiel/procedures">http://www.canb.uscourts.gov/judges/blumenstiel/procedures</a> .
6.	Does the judge allow true ex parte relief (without notice to the opposing party) when issuing temporary restraining orders?	No.
7.	If not, what notice does the judge require?	Appropriate notice to all parties that may be impacted; amount of notice depends on the facts of the particular case.

## **XI. PROOF OF SERVICE REQUIREMENTS**

<b>Questions</b>	<b>Response</b>
1. Does the judge deny motions for failure of the moving party to prepare and timely file proof of service which complies with all of the requirements of Local Bankruptcy Rule 9013-3?	Yes.
2. Does the judge continue motions to allow movant to provide proof of service?	No, generally.
3. Does the judge deny motions for failure to identify on the proof of service the capacity in which parties have been served as required by the Local Bankruptcy Rule 9013-3(b)	No.

## **XII. CONTINUANCES**

<b>Questions</b>	<b>Response</b>
1. Does the judge allow for continuances of motions other than by noticed motion or written stipulation?	Yes; <u>see</u> <a href="http://www.canb.uscourts.gov/judges/blumenstiel/procedures">http://www.canb.uscourts.gov/judges/blumenstiel/procedures</a> .
2. Does the judge permit stipulated or unopposed oral requests for continuances?	Yes; <u>see</u> <a href="http://www.canb.uscourts.gov/judges/blumenstiel/procedures">http://www.canb.uscourts.gov/judges/blumenstiel/procedures</a> .
3. Does the judge permit continuances of trial dates by stipulation of the parties?	Yes; but the parties shall first contact the Courtroom Deputy and be provided with alternative trial date(s) before submitting the order.

4.	Does the judge permit continuances of disclosure statement hearings or confirmation hearings by stipulation of the parties?	Yes; but the parties shall first contact the Courtroom Deputy and be provided with alternative trial date(s) before submitting the order.
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### **XIII. DISCOVERY DISPUTES**

<b>Questions</b>		<b>Response</b>
1.	Does the judge require a noticed motion in order to hear a discovery dispute?	No; <u>see</u> <a href="http://www.canb.uscourts.gov/judges/blumenstiel/procedures">http://www.canb.uscourts.gov/judges/blumenstiel/procedures</a> .
2.	Does the judge resolve discovery disputes by conference calls?	Yes.
3.	Does the judge hear discovery dispute motions without full compliance with the requirements of Civil Local Rule 37 (a)(1)?	No.
4.	Does the judge mandate strict compliance with the Civil Local Rule 37 (a)(1) requiring that the parties to a discovery dispute to meet and confer?	Yes.
5.	Does the general discovery cutoff date include disclosure of expert witnesses?	No.
6.	What is the deadline for holding a hearing on a discovery dispute motion?	Fact Discovery Deadline set forth in the Trial Scheduling Order.

#### **XIV. CONVERSION AND RULE 2004 MOTIONS**

<b>Questions</b>	<b>Response</b>
1. What is the minimum amount of notice the judge requires for a FRBP 2004 Examination?	Unless otherwise ordered by the Court, the applicant shall provide reasonable written notice consistent with Federal Rule of Civil Procedure 30(b)(1).
2. Does the judge sign orders on initial motions to convert the case from Chapter 7 to Chapter 11, 12 or 13 or from Chapter 11 to Chapter 7 without a hearing?	Yes.
3. Does the judge rule on motions under FRBP 2004 without a hearing?	Yes.
4. What procedures does the judge require in order for a party to object to a 2004 exam or the documents demanded as part of the 2004 exam?	The Court holds all orders submitted on an application for a 2004 exam for 5 calendar days; if no objection is filed within that period of time the Court will grant the application. Once the application has been granted, the examinee may file a motion to quash the order.
5. Does the judge require meet and confer efforts before a motion for protective order has been filed regarding a FRBP 2004 examination?	Yes.

#### **XV. CONSUMER CASES**

<b>Questions</b>	<b>Response</b>
1. Does the judge require hearings on reaffirmation agreements if the party is represented by counsel and counsel has certified that the party has the ability to meet the obligations of the agreement, despite the presumption of undue hardship?	No.

2.	Does the judge require an adversary proceeding to <u>avoid</u> a junior lien?	No, an adversary proceeding is not required to value collateral under section 506(a). However, if the basis for avoidance is that the lien is a preference or a fraudulent transfer then an adversary proceeding is required. See Fed. R. Bankr. P. 7001.
3.	Does the judge require the debtor's presence at confirmation hearings?	No, unless there is an evidentiary hearing.
4.	Does the judge require pre-hearing statements prior to confirmation hearings? If so, does the judge prefer a joint statement?	No.
5.	Does the judge require debtor's counsel to be physically present in court for relief from stay hearings?	No.
6.	Does the judge allow step plans in which monthly payments are increased during plan performance?	Yes, provided that the debtor can demonstrate that the increased monthly plan payments are feasible.
7.	Will the judge confirm a plan prior to a loan modification being finalized, provided creditor is receiving adequate protection payments?	Yes, provided that the secured creditor consents to the treatment proposed by the debtor.
8.	At relief from stay hearings does the judge:  (a) Require waiver of the Rule 4001 stay?  (b) Allow a three strikes provision that allow automatic relief from stay if a debtor is late on three payments?	(a) No.  (b) No.

## **XVI. CHAPTER 11 PROCEDURES**

<b>Questions</b>	<b>Response</b>
1. Does the judge prefer that a party use the combined model plan and disclosure statement for individual Chapter 11 cases?	Yes.
2. Does the judge prefer that a party use the combined model plan and disclosure statement for corporate Chapter 11 cases?	Yes, if appropriate in the particular case.
3. Does the judge allow less than 35 days' notice of the hearing on a disclosure statement?	Yes, in an individual chapter 11 case in which the debtor uses the combined model plan and disclosure statement, the Chapter 11 Status Conference Order abrogates B.L.R. 3017-1(a) and permits the debtor to seek tentative approval of the disclosure statement on at least 14 days notice to registered CM/ECF participants and all other parties that have appeared in the case.
4. Does the judge use a fast track procedure involving preliminary review and conditional approval of disclosure statements without a hearing?	No.
5. Does the judge allow the plan and disclosure statement be combined into a single document in Chapter 11 cases that are not small business Chapter 11 cases?	Yes, in appropriate case (including individual chapter 11 cases).
6. Does the judge require the plan proponent to submit admissible evidence for the plan confirmation hearing to prove the plan is confirmable?	Only where confirmation is contested.
7. If so, can the plan proponent do this by offer of proof or by pre-hearing submission of a declaration?	Yes, as consistent with the Court's Trial Scheduling Order.



8.	Does the judge prefer the bar date for administrative claims be in the plan, in the order confirming the plan or does the court set such date by separate order?	The Court does not set an administrative claims bar date in chapter 11 cases.
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## **XVII. DEFAULT JUDGMENT**

<b>Questions</b>		<b>Response</b>
1.	Does the judge require admissible evidence in support of a motion for default judgment?	Yes.
2.	Does the judge require a hearing on a motion for default judgment?	Yes, the Court requires a “prove-up” hearing where the movant is requesting entry of a monetary judgment.
3.	If so, does the judge require 28 days’ notice of such a hearing?	Yes.

## **XVIII. TRIAL PROCEDURES**

<b>Questions</b>		<b>Response</b>
1.	Does the judge have mandatory trial procedures in addition to requirements under the Local Bankruptcy Rules?	Yes.
2.	If so, how are these procedures obtained?	<u>See</u> <a href="http://www.canb.uscourts.gov/judges/blumenstiel/procedures">http://www.canb.uscourts.gov/judges/blumenstiel/procedures</a>
3.	When are trial dates set by the judge?	At the initial status conference.
4.	Does the judge hold pre-trial conferences and if so when are those held relative to the trial date?	Yes, all pre-trial conferences will be held on the Thursday (at 2:00 p.m.) preceding the start of the trial unless otherwise ordered.

5.	Does the judge require direct testimony from witnesses in party's control to be presented by declaration?	No.
6.	If not required, under what circumstances does the judge permit direct testimony from witnesses in a party's control to be presented by declaration upon the request of the parties?	For good cause shown.
7.	Does the judge have published procedures regarding the exchange of declarations in advance of trial?	Yes; <u>see</u> <a href="http://www.canb.uscourts.gov/judges/blumenstiel/procedures">http://www.canb.uscourts.gov/judges/blumenstiel/procedures</a> .
8.	Does the judge require parties to present written evidentiary objections to trial declarations and exhibits of the opposing party in advance of trial?	Yes.
9.	Does the judge require the exchange of witness lists before trial?	Yes.
10.	Does the judge require the submission of bench copies of the exhibits before trial?	No, bench copies of all exhibits shall be provided to the Courtroom Deputy on the morning of the first day of trial, unless otherwise ordered.
11.	How are the judge's special procedures for presentation of exhibits in the judge's courtroom obtained?	<u>See</u> <a href="http://www.canb.uscourts.gov/judges/blumenstiel/procedures">http://www.canb.uscourts.gov/judges/blumenstiel/procedures</a> .
12.	Does the judge have any deadline for bringing motions in limine? If so, when are they set.	Yes; <u>see</u> <a href="http://www.canb.uscourts.gov/judges/blumenstiel/procedures">http://www.canb.uscourts.gov/judges/blumenstiel/procedures</a> .

## **XIX. SETTLEMENT AND MEDIATION**

<b>Questions</b>		<b>Response</b>
1.	Does the judge sua sponte order parties to the court's Bankruptcy Dispute Resolution Program?	Yes, when appropriate.

2.	Does the judge use settlement conferences to encourage disposition of adversary proceedings and contested matters?	Yes.
3.	Does the judge use settlement conferences to encourage disposition of Chapter 11 plan confirmation disputes?	Yes.
4.	Would the judge act upon request as a settlement judge on the case assigned to him or her as the trial judge?	No.