

## INTRODUCTION

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.

### **I. CALENDAR HEARINGS**

<b>Questions</b>	<b>Response</b>
1. Does the judge schedule particular types of matters for certain days or times?	Yes
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?	On the Bankruptcy Court's website

## II. TENTATIVE RULINGS

Questions	Response
1. Does the judge issue tentative rulings?	Generally, no.
2. How are the tentative rulings made known to the parties?	n/a
3. If the tentative rulings are posted on the Court's website, does the judge update tentative rulings?	n/a
4. If the judge issues tentative rulings in advance of the hearing, may the parties submit without an appearance?	n/a
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?	n/a

### 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
2. If so, who is the point of contact for arranging for consideration of emergency motions?	Courtroom deputy, judicial assistant or law clerk.
3. Does the judge calendar a hearing on an emergency motion prior to receipt and review of moving papers?	Generally, 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?	Generally, no.
5. Does the judge act on emergency motions without requiring notice to any party whatsoever?	Generally no. If the Bankruptcy Code and Bankruptcy Rules allow true ex-parte relief, the court may provide such relief.
6. Does the judge require declarants to be present in court on emergency motions?	It depends on the relief requested.

7. Does the judge require some notice to another party before granting an application for order shortening time for hearing?	Generally, yes. If the Bankruptcy Code or Bankruptcy Rules provide for such relief without notice, the court may consider it.
8. Does the judge grant orders shortening time for hearings (other than emergency matters) upon a showing of good cause?	Yes.
<p>9. Does the judge routinely grant orders shortening time for hearings on the following matters?</p> <p>(a) Relief from stay motion in residential unlawful detainer cases</p> <p>(b) Chapter 11 first day motions, including cash collateral hearings</p> <p>(c) Sales of property</p> <p>(d) Applications for temporary restraining orders</p> <p>(e) Other matters (please specify)</p>	<p>(a) I believe that my local rules provide for shortened time for such motions.</p> <p>(b) Yes.</p> <p>(c) Only on showing of good cause.</p> <p>(d) Yes.</p> <p>(e) I will shorten time for any motion if good cause is shown</p>

#### IV. HEARINGS & TELEPHONIC APPEARANCES

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

<p>2. What matters, if any, will the judge <b>not</b> allow telephonic appearances?</p> <p>(a) Disclosure Statement &amp; Confirmation Hearings</p> <p>(b) Evidentiary Hearings</p> <p>(c) Other matters (please specify)</p>	<p>(a) Generally will not permit telephonic appearances.</p> <p>(b) No.</p> <p>(c) No telephonic appearances at trial.</p>
<p>3. Does the judge consider priority requests from counsel at the time of calendar call?</p>	<p>I will consider them.</p>
<p>4. Does the judge hear stipulations and uncontested matters and requests for continuances before hearing opposed matters?</p>	<p>Sometimes, it depends on the size of the calendar.</p>
<p>5. Does the judge sign orders on the bench at the conclusion of a hearing?</p>	<p>Generally, no.</p>

**V. PROCESSING ORDERS**

Questions	Response
<p>1. Does the court require an order to be approved as to form prior to being submitted?</p>	<p>As a general rule, no. It is, however, helpful.</p>
<p>2. If not, does the court lodge an order for 7 days under LBR 9021-1 (c)?</p>	<p>Only employment orders.</p>

<p>3. 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>(a) Filing a formal objection is preferable.</p> <p>(b) Will consider it.</p> <p>(c) Will consider it.</p> <p>(d)</p>
<p>4. 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>This is generally the function of the clerk's office or the party who obtained the relief.</p>
<p>5. What are the judge's procedures when parties cannot agree on the form of the order?</p>	<p>I may have a hearing or determine the order myself; it depends on the circumstances.</p>
<p>6. How long should counsel or parties wait before contacting the staff regarding the status of a lodged order?</p>	<p>If the order is needed immediately, you may call immediately. If the order is not time sensitive, please wait at least a week.</p>
<p>7. Does the judge permit attorneys and parties to communicate with the law clerk regarding rejected proposed orders?</p>	<p>I try to add text to rejected orders that explain why I did not sign them. If I fail to do so, or if my reason for rejecting the order is not clear, an attorney/party may contact my judicial assistant regarding the order.</p>

**VI. JUDGE’S COPIES OF FILED DOCUMENTS**

Questions	Response
1. Does the court require courtesy copies of pleadings filed in the case?	Sometimes; this issue is addressed in my local rules.
2. Are there exceptions to this rule, e.g. relief from stay motions?	See above.

**VII. COMMUNICATIONS WITH JUDGE’S STAFF**

Questions	Response
<p>1. Does the judge allow attorneys and proper parties to communicate with the judge’s courtroom deputy regarding: (check where appropriate)</p> <p>(a) Scheduling matters</p> <p>(b) Status of orders</p> <p>(c) Other matters (please describe)</p>	<p>(a) Yes.</p> <p>(b) No.</p> <p>(c) Procedural issues relating to trial, such as how to mark exhibits and when to deliver them.</p>
<p>2. Does the judge permit attorneys and proper parties to communicate with the judge’s law clerk regarding: (check where appropriate)</p> <p>(a) Scheduling matters</p> <p>(b) Status of orders</p>	<p>(a) Yes.</p> <p>(b) Call my judicial assistant, please.</p> <p>(c) If you must contact chambers about something which does not amount to an improper, ex-parte contact, you can call the law clerk.</p>

(c) Other matters (please describe)	
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**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.
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?	Eventually, at some status conference.
6. Can the status conference be continued? If so, can what is the preferred method for doing so?	Yes. File a request, show good cause, and submit an order in advance of the hearing.
7. Does the judge impose sanctions for failure to file the status conference report?	No.
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?	Chambers prepares the order.



<b>Adversary Proceedings:</b>	
9. Are status conference statements required? If so, when are they due?	Yes and they should be filed five days before the status conference.
10. Are the required contents of the statement set forth in the judge's order setting the status conference?	Please give me an update of the important aspects of the case.
11. Does the judge impose sanctions for failure to file the status conference statement?	No.
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?	Eventually, at some status conference, I will.
14. Does the judge require the parties to file a discovery plan?	They should discuss this in their status conference statements.
15. Can the status conference be continued? If so, what is the preferred method for doing so, and what, if any, deadlines apply?	Yes. Do so in writing in advance of the hearing.

**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?	No.
2. Are telephonic appearances allowed at relief from stay matters?	Yes.
3. Will the court hear testimony at a final hearing?	If necessary, yes, and it will probably be part of the order setting the final hearing.

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?	I believe that my local rules allow the movant to file the motion on shortened time.
6.	<p>Does the judge permit shortened notice on motions for relief from stay where there is proof of any of the following:</p> <p>(a) A prior unlawful detainer judgment</p> <p>(b) A prior adequate protection order</p> <p>(c) Multiple bankruptcy filings</p> <p>(d) Other conduct constituting bad faith</p> <p>(e) A Chapter 13 confirmation hearing is already scheduled</p> <p>(f) None of the above</p> <p>(g) Other (please specify)</p>	<p>(a) I believe that my local rules allow for shortened time.</p> <p>(b) The adequate protection order may contain this relief. If it does not, I will consider a motion to shorten time for good cause.</p> <p>(c) You always need to show good cause. This situation may constitute good cause, but I look at it on a case-by-case basis.</p> <p>(d) See above.</p> <p>(e) See above.</p> <p>(f) See above.</p> <p>(g) See above.</p>
7.	Does the judge hear relief from stay motions on shortened notice in <b>non-residential</b> unlawful detainer cases?	Yes, if good cause is shown.
8.	Does the judge require declarants to be present in court for final (evidentiary) hearing on motions from relief from the automatic stay?	I will address this in my order scheduling a final hearing.

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?	If the Bankruptcy Code permits it, I will consider such relief.
10.	Does the judge grant requests for retroactive annulment of the automatic stay?	In appropriate circumstances, yes.

**X. MOTION'S 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?	It depends on the circumstances.
2.	When does the judge require declarants to be present in court on regularly scheduled motions?	Generally, I do not require this.
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?	It depends on why the party is seeking a continuance.
5.	Can a hearing on a motion be continued by stipulation?	Generally, yes.
6.	Does the judge allow true ex parte relief (without notice to the opposing party) when issuing temporary restraining orders?	If the Bankruptcy Code, Bankruptcy Rules and facts warrant it, yes.
7.	If not, what notice does the judge require?	Depends on the circumstances.

**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?	Comply with the rules and you will never have to find out what the answer is.
2. Does the judge continue motions to allow movant to provide proof of service?	See above.
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)	See above.

**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?	Depends on the circumstances.
2. Does the judge permit stipulated or unopposed oral requests for continuances?	Depends on the circumstances.
3. Does the judge permit continuances of trial dates by stipulation of the parties?	Depends on the circumstances. If I set a trial date. I generally want the parties to proceed to trial on the assigned date, as I have blocked out those days for that trial.
4. Does the judge permit continuances of disclosure statement hearings or	Generally, yes, but it depends on the circumstances.

confirmation hearings by stipulation of the parties?	
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**XIII. DISCOVERY DISPUTES**

Questions	Response
1. Does the judge require a noticed motion in order to hear a discovery dispute?	No. I typically want the complaining party to file and serve a discovery dispute letter and call chambers when it is filed. I then determine if I need a response and whether to set a telephonic hearing.
2. Does the judge resolve discovery disputes by conference calls?	See above.
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?	If the parties believe that they may need expert witnesses, they should disclose this during the status conference when I set discovery dates. I will then set a separate expert witness discovery deadline.
6. What is the deadline for holding a hearing on a discovery dispute motion?	My scheduling orders generally set a deadline.

**XIV. CONVERSION AND RULE 2004 MOTIONS**

Questions	Response
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1.	What is the minimum amount of notice the judge requires for a FRBP 2004 Examination?	Be reasonable.
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?	If there is no objection, I will sign the order without a hearing.
3.	Does the judge rule on motions under FRBP 2004 without a hearing?	Generally, 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?	If the document request or examination requires a subpoena, please follow the rules for quashing it. If the order does not require a separate subpoena, you should treat it as a discovery dispute, and thus see above.
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?	Yes.
2.	Does the judge require an adversary proceeding to avoid a junior lien?	If you are trying to value property, you can do this by motion.
3.	Does the judge require the debtor's presence at confirmation hearings?	Not generally, but the attorney should use his/her judgment on this.

4.	Does the judge require pre-hearing statements prior to confirmation hearings? If so, does the judge prefer a joint statement?	Yes. If the parties can file a joint statement, I appreciate that.
5.	Does the judge require debtor's counsel to be physically present in court for relief from stay hearings?	No, but the lawyer should use his/her judgment on this.
6.	Does the judge allow step plans in which monthly payments are increased during plan performance?	Yes, but it depends on the step.
7.	Will the judge confirm a plan prior to a loan modification being finalized, provided creditor is receiving adequate protection payments?	I believe that there is a N.D. Cal. Guideline on this, which I follow.
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) I do not require it.  (b) I allow it.

## **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. I typically require it.

2.	Does the judge prefer that a party use the combined model plan and disclosure statement for corporate Chapter 11 cases?	If it works for that case, please try it.
3.	Does the judge allow less than 35 days' notice of the hearing on a disclosure statement?	See above the shortened time issues.
4.	Does the judge use a fast track procedure involving preliminary review and conditional approval of disclosure statements without a hearing?	Sometimes, and it depends on the case. This is something to discuss at the status conference.
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?	I urge plan proponents to use the combined plan and disclosure statement form.
6.	Does the judge require the plan proponent to submit admissible evidence for the plan confirmation hearing to prove the plan is confirmable?	Please look at the N.D.Cal. local rules, as I follow the local rule.
7.	If so, can the plan proponent do this by offer of proof or by pre-hearing submission of a declaration?	See above.
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?	Please do it by separate order.

## **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?	It depends on the case.
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?	Trial procedures are discussed when I set the trial date. I do not have local rules on this, and you should review my local rules.
2.	If so, how are these procedures obtained?	See above.
3.	When are trial dates set by the judge?	During a regularly scheduled status conference.
4.	Does the judge hold pre-trial conferences and if so when are those held relative to the trial date?	I sometimes will hold "pre-trial" conferences in difficult or complex cases and require the parties to prepare a proposed pre-trial order which sets forth the disputed and undisputed facts, and the legal issues to be resolved.
5.	Does the judge require direct testimony from witnesses in party's control to be presented by declaration?	I will occasionally require this, and this is discussed when I set the trial date.
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?	See above.
7.	Does the judge have published procedures regarding the exchange of declarations in advance of trial?	I will set deadlines and procedures in the trial scheduling order.

8.	Does the judge require parties to present written evidentiary objections to trial declarations and exhibits of the opposing party in advance of trial?	If I allow parties to testify by declaration, this will be stated in the trial order.
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?	Yes.
11.	How are the judge's special procedures for presentation of exhibits in the judge's courtroom obtained?	I believe my local rules provide for this, and this is something that can be discussed during the last status conference or pre-trial conference if the parties need clarification.
12.	Does the judge have any deadline for bringing motions in limine? If so, when are they set.	I will set a deadline when I set a trial date.

#### **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?	I will, on occasion.
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.

