



Local Rule 9013-1 Motion Practice - Set Hearing (2013)

(a) Scope of Rule. This rule applies to motions in bankruptcy cases and adversary proceedings. The term "motion" means application, request, objection to claim, or other proceeding in the nature of a motion or contested matter in which a party in interest seeks an order from or determination by the court. Motions for summary judgment are not governed by this rule, but are governed by [Local Rule 7056-1](#) [1]. For purposes of this rule, the term "motion" does not refer to a summons, complaint, appeal, motion for summary judgment, or an ex parte motion.

(b) Applicability. In bankruptcy cases and adversary proceedings, whenever the movant seeks an order from or determination by the court and the movant believes the motion will be opposed, the procedures set forth in this rule should be used.

(c) Motions. The movant must file the motion with the clerk in compliance with [Local Rule 5005-2](#) [2] within any applicable time limitation, including the time limitations of these rules, unless the court orders otherwise.

(1) No Separate Supporting Memorandum for a Written Motion. The motion and any supporting memorandum must be contained in one document, except as otherwise allowed by this rule. The document must include the following:

- a) an initial separate section stating succinctly the precise relief sought and the specific grounds for the motion; and
- b) one or more additional sections including a recitation of relevant facts, supporting authority, and argument, and a concise statement of each basis supporting the motion with citations to applicable and controlling legal authority.

(2) Failure to Comply with Requirements for Motions. Failure to comply with the requirements of subsection (c)(1) may result in sanctions, including (a) returning the motion to counsel for resubmission in accordance with this rule, (b) denial of the motion, or (c) any other sanction deemed appropriate by the court.

(d) Notice of Motion and Hearing. The movant shall obtain and set an appropriate hearing date with the court scheduling clerk. A Notice of Motion and Notice of Hearing shall be filed in original form only together with a certificate of service evidencing compliance with the applicable service requirements. A Notice of Motion and Notice of Hearing shall:

- (1) Be in substantial conformity with [Local Bankruptcy Form 9013-1](#) [3], Notice of Motion and Notice of Hearing with alterations as may be appropriate to comply with these Local Rules;
- (2) contain a specific statement of the relief requested or action intended in sufficient detail to meaningfully inform the parties of the intended action or relief requested or, if the motion is served with the notice, refer to the motion to describe the relief requested;
- (3) set the last date on which an interested party may file an objection to the motion. The identified date must be based on the time period fixed by the [Federal Rules of Bankruptcy Procedure](#) [4] or by [Local Rule 9006-1\(b\)](#) [5]), as appropriate;
- (4) include a statement that the hearing may be stricken and relief requested may be granted without a hearing unless an objection is timely filed.



(5) Include a statement that the objecting party must attend the hearing and that failure to attend the hearing will be deemed a waiver or the objection.

(6) Be given by the movant to all parties in interest at their addresses of record, and to such other parties as the [Federal Rules of Bankruptcy Procedure](#) [4] may specify or the court may direct.

(e) Responses to Motions and Reply Memoranda. A party responding to a motion must file its response in compliance with [Local Rule 5005-2](#) [2] by the date identified in the notice.

(1) No Separate Supporting Memorandum for a Response. The response and any supporting memorandum must be contained in one document, except as otherwise allowed by this rule. The document must include one or more sections including a recitation of relevant facts, a concise statement of each basis opposing the motion with citations to applicable and controlling legal authority, and an argument.

(2) Reply Memorandum. A reply memorandum is limited to rebuttal of matters raised in the response.

(3) Limitation on Memoranda Considered. Unless otherwise ordered, the court will consider only motions, responses filed by parties in interest, and reply memoranda filed by the movant(s).

(4) A Motion May Not Be Made in a Response or Reply Memorandum. No motion may be included in a response or reply memorandum. Such a motion must be made in a separate document.

(f) Granting Relief Without a Hearing. The court may, but is not required to, strike the hearing and grant the relief requested in a motion without a hearing if there has been no opposition to the motion filed or served on the movant.

(g) Time for Striking Hearings. A request to strike a hearing should be made at least two business days prior to the hearing.

(h) Length of Motion and Response. A motion other than for summary judgment or a response to a motion other than for summary judgment must not exceed 15 pages, exclusive of face sheet, table of contents, statements of issues and facts, and exhibits. The procedure for filing an overlength memorandum is set forth in subsection (k) of this rule.

(i) Citations of Unpublished Decisions. A memorandum may cite an unpublished decision from this district, but only if the decision is furnished to the court and parties when the memorandum is filed. Unpublished opinions from other districts may not be cited as authority. Unpublished decisions of this court should be cited as follows: Smith v. Jones (In re Smith), Ch. 7 Case No. 93B-02404, Adv. No. 94PC-2302, slip op. at 10 (Bankr. D. Ut. March 1, 1995). The clerk maintains an index and copies of selected, unpublished opinions from this district.

(j) Citations of Supplemental Authority. When pertinent and significant authorities come to the attention of a party after a memorandum has been filed, or after oral argument but before the court renders a decision, a party may advise the court by letter, with a copy to all parties, setting forth the citations. The letter must, without argument, state the reason for the supplemental citations and include a reference either to the page of the memorandum or to a point argued orally to which the citations pertain. Any response must be promptly made and similarly limited.

(k) Overlength Memoranda. An order of the court must be obtained to file a memorandum that exceeds the page limitations set forth in subsection (h) of this rule. Such a motion may be made to the court ex parte, and must include a statement of why additional pages are needed and the number of pages. The court will approve the request only for good cause shown. Authorized, overlength memoranda must contain the following:



- (1) a table of contents, with page references, setting forth the titles or headings of each section and subsection;
- (2) a statement of the issues related to the precise relief sought;
- (3) a concise statement of facts, with appropriate references to the record, relevant to the issues concerning the precise relief sought;
- (4) argument, proceeded by a summary, containing the contentions of the party with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes, and parts of the record relied on; and
- (5) a short conclusion stating the precise relief sought.

(I) Certificate of Service. Unless otherwise ordered, a party must file a certificate of service of a motion or other paper required to be served on other parties. The certificate must be filed with the motion or paper, endorsed upon the motion or paper, or filed separately as soon as possible and in any event before any action based upon the service is requested or taken by the court. The certificate must be in substantial conformity with [Local Bankruptcy Form 9013-3](#) [6].

Source URL: <https://www.utb.uscourts.gov/local-rules/2013/9013/1?page=2>

Links

- [1] <https://www.utb.uscourts.gov/local-rules/2013/7056/1>
- [2] <https://www.utb.uscourts.gov/local-rules/2013/5005/2>
- [3] <https://www.utb.uscourts.gov/forms/notice-hearing-template>
- [4] <https://www.law.cornell.edu/rules/frbp>
- [5] <https://www.utb.uscourts.gov/local-rules/2013/9006/1>
- [6] <https://www.utb.uscourts.gov/forms/certificate-service-template>