



## **Local Rule 9013-2 Motion Practice - Opportunity for Hearing (2013)**

**(a) Scope of Rule.** This rule applies to motions in bankruptcy cases. The term "motion" means application, request, objection to claim, or other proceeding in the nature of a motion 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.** Except as set forth herein, whenever the [Bankruptcy Code](#) [2] or the [Federal Rules of Bankruptcy Procedure](#) [3] provide that an order may be entered or an action may be taken after "notice and a hearing," or a similar phrase, if the movant believes there will be no objections to the motion, the following procedure should be used. This rule does not apply:

- (1) whenever the court directs otherwise;
- (2) to any pleadings, motions, or notices in adversary proceedings under [Part VII of the Federal Rules of Bankruptcy Procedure](#) [4];
- (3) to hearings set under [11 U.S.C. § 1125](#) [5];
- (4) to hearings on confirmation of a plan pursuant to chapter 9, 11 or 12;
- (5) applications for compensation that exceed \$5,000.00; (6) as otherwise provided by these Local Rules or the [Federal Rules of Bankruptcy Procedure](#) [3].

**(c) Motions.** The movant must file the motion with the clerk within any applicable time limitation, including the time limitations of these Local Rules, unless the court orders otherwise. A motion must set forth succinctly, without argument, the specific relief sought.

**(d) Notice of Motion and Notice of Opportunity for Hearing.** The movant may reserve a time for, but not set, a hearing on the court's calendar. A Notice of Motion and and Notice of Opportunity for 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 Opportunity for Hearing shall:

- (1) be in substantial conformity [Local Bankruptcy Form 9013-2](#) [6] Notice of Motion and Opportunity for Hearing ;
- (2) contain a specific statement of the relief requested or action intended in sufficient detail to meaningfully inform the parties of the relief requested or intended action 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](#) [3] or by [Local Rule 9006-1\(b\)](#) [7], as appropriate;
- (4) include a statement that the 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



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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](#) [3] may specify or the court may direct;

**(e) Objection.** Any party opposing the motion must file an Objection before the deadline stated in the Notice of Motion and Notice of Opportunity for Hearing. The Objection shall be filed with the court in original form only, and a copy thereof shall be served upon counsel for the movant on or before the date set forth in the notice. Service may be by mail and shall be complete upon mailing. Objections for hearing shall clearly specify the grounds upon which they are based. General objections will not be considered. Failure of a party to timely file written opposition will be deemed a waiver of any opposition to granting of the motion.

**(f) Court Action on Motions.**

(1) Contested Matters. Motions for which an opposition has been filed shall be set for hearing at the time, date and place set forth in the Notice of Motion and Opportunity for Hearing. No further notice of the date, time and place of hearing is required to be given.

(2) Non-Contested Matters. The court may, but is not required to 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.

(3) Defective or Deficient Motions. The Court may deny, sua sponte, any defective or deficient motion, or a motion, the notice of which is subject to the provisions of this Rule and which notice does not comply with this Rule. Any such denial shall be without prejudice.

(4) Non-Prosecuted Motions. At the time the bankruptcy case is closed pursuant to 350, 707, 930, 1112, 1208, or 1307 of title 11, all pending motions which have not been presented to the Court for disposition shall be deemed abandoned for want of prosecution. . Any such denial shall be without prejudice.

**(g) Applicable provisions of Local Rule 9013-1.** Paragraphs (h) through (l) of [Local Rule 9013-1](#) [8] are also applicable to this rule.

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

**Links**

[1] <https://www.utb.uscourts.gov/local-rules/2013/7056/1>

[2] <https://www.law.cornell.edu/uscode/text/11>

[3] <https://www.law.cornell.edu/rules/frbp>

[4] [https://www.law.cornell.edu/rules/frbp/part\\_VII](https://www.law.cornell.edu/rules/frbp/part_VII)

[5] <https://www.law.cornell.edu/uscode/text/11/1125>

[6] <https://www.utb.uscourts.gov/forms/notice-and-opportunity-template>

[7] <https://www.utb.uscourts.gov/local-rules/2013/9006/1>

[8] <https://www.utb.uscourts.gov/local-rules/2013/9013/1>