

NOTE: This material is dated and is provided as general guidance for best practices. Please check for any updated statutes, rules, or online procedures that might apply.

PRACTICE GUIDELINES MEMORANDUM

TO: Attorneys Practicing Before Me  
and Other Interested Persons

FROM: C. Timothy Corcoran, III  
United States Bankruptcy Judge

DATE: January 5, 1994 (Revised July 1, 1998)

RE: Guidelines for Information Required  
When Seeking Expedited or Emergency Treatment  
of Motions

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L.B.R. 9004-2(d) provides that parties seeking expedited consideration or hearing of motions or other matters shall file a Certification of Necessity of Request for Emergency Hearing. The form of such a certification is attached. The information required by the certification may be included in the motion itself, rather than a separate certification. If you choose to include the information in the motion, include in the motion's title words such as "And Certification of Necessity."

In addition, in cases and proceedings in which I am serving as judge, counsel should provide the following additional information in either the certification or the motion so I can properly evaluate the claim of necessity of expedited treatment and schedule hearings appropriately:

1. A clear statement of the nature, extent, and cause of the harm that will be suffered by the movant if the motion is not considered or heard on an expedited basis.

2. A statement of the time at which the harm will be suffered, the latest date and time the matter can be set for hearing to avoid the harm, and the earliest date and time the matter should be set for hearing consistent with notice requirements or the other practical circumstances that may be applicable. This information is essential if I am to schedule the motion for hearing consistent with your legitimate needs and the rights of others to reasonable notice in the circumstances.

3. A statement of the time at which both the party and counsel learned of the facts constituting the need for seeking expedited consideration or hearing, or such other facts as may be necessary to demonstrate that the emergency is not the result of the party's or counsel's procrastination or lack of attention.

4. A statement of the opposing party's position with regard to the requested relief.

5. A statement of the amount of time required for hearing.

In addition, I invite the attention of counsel considering the filing of a request for emergency or expedited hearing to the standard applicable to such a request that is set forth in L.B.R. 9004-2(d). I also invite the attention of counsel to the further requirement of the rule that the title of the motion or other pleading plainly include an indication that expedited consideration or hearing is requested.

Although I do not schedule any hearing until the party has filed an appropriate motion and I have reviewed it, it is desirable if counsel contemplating the filing of a legitimate motion requiring expedited scheduling or consideration inform my staff of that fact at the earliest opportunity. In planning my work schedule, it is helpful to know what demands may be placed upon me in the upcoming period. In addition, my staff may need some time to reach me if I am engaged in other matters or hearings or if I am out-of-town.

Counsel should feel free to contact my law clerk, Cheryl Thompson, at (813) 301-5200 if counsel has questions about the subject of this memorandum in particular or about practice and procedure issues generally.

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

In re )  
 )  
 ) Case No.  
 )  
 Debtor(s). )  
\_\_\_\_\_ )

CERTIFICATION OF NECESSITY OF REQUEST FOR EMERGENCY HEARING

I HEREBY CERTIFY, as a member of the Bar of this Court, that I have carefully examined the matter under consideration and to the best of my knowledge, information and belief formed after reasonable inquiry, all allegations are well grounded in fact and all contentions are warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law can be made, that the matter under consideration is not interposed for any improper purpose, such as to harass, to cause delay, or to increase the cost of litigation, and there is just cause to request a consideration of the matter on an emergency basis.

I CERTIFY FURTHER that there is a true necessity for an emergency hearing, specifically, because

(specificity required)

I CERTIFY FURTHER that the necessity of this emergency hearing has not been caused by any lack of due diligence on my part, but has been brought about only by circumstances beyond my control or that of my client. I further certify that this motion is filed with full understanding of F.R.B.P. 9011 and the consequences of noncompliance with same.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Typed Name)  
\_\_\_\_\_  
(Telephone Number)