

Rule 9013-1

MOTION PRACTICE; REQUEST FOR EMERGENCY HEARING; REQUEST FOR INJUNCTIVE RELIEF

(a) **Motions.** A motion filed with the Court must request only one form of relief unless the request seeks alternative forms of relief under the same provision of the Bankruptcy Code or Federal Rules of Bankruptcy Procedure (*e.g.*, motion to dismiss or convert; motion for relief from stay, or in the alternative, adequate protection; motion to enforce automatic stay and for sanctions).

(b) **Motions May Be Considered by the Court Without a Hearing.** As contemplated in 11 U.S.C. § 102(1), the Court may consider certain types of motions without a hearing. Under Local Rule 2002-4, the Court has published a list of the types of motions that may be served using negative notice procedures (the “Negative Notice List”). The Court has also published a list of the types of motions (generally administrative in nature) that may be considered without a hearing (the “Accompanying Orders List”). The Accompanying Orders List indicates whether the Court will prepare an order on the motion or whether the order is to be submitted by the moving party. However, the Court, in its discretion, may choose to set a motion for hearing even if it is included on the Negative Notice List or the Accompanying Orders List. The Negative Notice List and the Accompanying Orders List are posted on The Source page of the Court’s website, www.flmb.uscourts.gov.

(c) **Written Opposition to Motions.**

(1) **Motions Served Using Negative Notice Procedures.** If a motion is served using the negative notice procedures of Local Rule 2002-4, a party opposing the relief requested must file written opposition within the notice period set forth in the motion plus three days for mailing.

(2) **Motions Set for Hearing.** If a motion is set for hearing, a party opposing the relief requested in the motion should file written opposition no later than seven days prior to the date of the hearing. If the hearing is set on less than 21 days’ notice, written opposition should be filed no later than 48 hours prior to the hearing. However, in all cases, the Court in its discretion may consider an oral objection to the requested relief in the absence of a filed written objection.

(d) **Requests for Emergency Hearing.** If a motion requests an emergency hearing, the words “Emergency Hearing Requested” or the equivalent must be included in the title or the first page of the motion. The Court will conduct an emergency hearing only if—absent the relief requested in the motion—direct, immediate, and substantial harm will occur to the interest of an entity in property, to the bankruptcy estate, or to the debtor’s ability to reorganize. The Court will not act upon an emergency motion or set it for an emergency hearing unless (1) the moving party, using the CM/ECF docketing event “Certificate of Necessity,” files a Certification of Necessity of Request for Emergency Hearing in the form available on the Court’s website,

www.flmb.uscourts.gov, that asserts sufficient facts to justify the need for an emergency hearing; and (2) alerts the Clerk’s Office that the moving party has filed an emergency motion via the docket event “Emergency Matters Submission Notification.”

(e) ***Request for Expedited Consideration.*** If a motion requests expedited consideration, the title of the motion must include the words “Request for Expedited Consideration” or the equivalent.

(f) ***Injunctive Relief.*** If a motion contains a request for injunctive relief pursuant to Fed. R. Bankr. P. 7065, the title of the motion must include the words “Injunctive Relief Sought” or the equivalent.

Notes of Advisory Committee

2023 Amendment

This amendment revises the language in section (d) to conform with the Court’s current procedures. It also amends section (e) to require that a motion requesting expedited consideration contain the request in the title of the motion. Other changes are stylistic. This amendment to the rule is effective August 1, 2023.

2019

This new rule replaces former Local Rule 9013-1 Proof of Service, which has been renumbered as Local Rule 9013-3. Sections (a) and (d) of this new rule were previously included in Local Rule 9004-1. Section (b) refers parties to the Negative Notice List and the Accompanying Orders List which specify the types of matters that may be considered by the Court without a hearing. Section (c) sets forth deadlines for filing written opposition to motions. This new rule is effective July 1, 2019.