

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA**

IN RE: REQUIREMENT THAT :
ATTORNEYS PREPARE, SERVE :
AND FILE NOTICES OF HEARINGS : STANDING ORDER NO. 1-REB
_____ :

Effective March 22, 2004, an **attorney** who files a motion requiring a hearing (with certain exceptions listed under Case Management Procedures) in any case assigned to the undersigned must prepare, serve and file a notice of hearing.

Further instructions on this open calendar procedure, including the dates, times and places that particular types of motions will be heard, can be obtained on the Court's website at www.ganb.uscourts.gov (in the menu on the left side, click on Chambers and then Judge Brizendine). In the event that a calendar becomes full, that particular date and time may be removed as an available hearing date without notice. Check each time you set a hearing to make sure the date is still available. (A list of available dates may be obtained by "clicking" the appropriate hyperlink.) The current hearing dates and times will also be posted outside Courtroom 1202 in Atlanta and on the bulletin board at the filing desk in Gainesville. A copy of the instructions, including suggested forms of notices, and the current hearing dates and times can also be obtained from Chambers in Atlanta or from the Clerk's Office in Gainesville.

CAUTION: Always check the list of currently available dates and times when setting a hearing.

Any motion with respect to which a hearing and notice of hearing has not been properly set according to the Court's instructions within twenty-five (25) days of the filing of the motion in question may be dismissed for failure to prosecute without further notice or hearing.

IT IS SO ORDERED.

This 19th day of March, 2004.

ROBERT E. BRIZENDINE
UNITED STATES BANKRUPTCY JUDGE

NOTICE TO ATTORNEYS

RE: JUDGE BRIZENDINE'S NEW Open Calendar Procedures

In addition to Motions for Relief from Stay, Judge Brizendine is also adopting the Open Calendar Procedures, effective **March 22, 2004**, to allow attorneys to schedule hearings (with certain exceptions listed under Case Management Procedures) in all bankruptcy cases. Attorneys must prepare, file and serve a notice of hearing with every motion requiring a hearing.

Instructions for the new self-selecting hearing dates and times will be posted on the Court's website March 22, 2004.

The Internet address is: <http://www.ganb.uscourts.gov>

Click on Chambers, then Brizendine, R., then Case Management Procedures and Open Calendar Procedures.

CASE MANAGEMENT PROCEDURES

I. THE FOLLOWING TYPES OF MOTIONS/APPLICATIONS DO NOT REQUIRE A HEARING. PLEASE PROMPTLY SUBMIT ORDERS TO CHAMBERS.

Please note: All Chapter 13 orders with the exception of orders on Default Motions and Ex-Parte Relief Motions (Car Insurance) must be signed by the Chapter 13 Trustee before submission to Chambers.

- Motions/Applications to Employ Professionals, Special Counsel.
- Motions to Suspend Payments in Chapter 13 Cases.
- Motions to Extend Time to File Schedules, etc.
- Motions to Vacate EDO Order.
- Motions to Terminate EDO Order.
- Motions to Withdraw as Counsel OR Substitution of Counsel.
- Motions to Take Bankruptcy Rule 2004 Examination.
- Motions for Ex-Parte Relief. (Please see BLR 4001 [related to insurance on cars])
- Motions to Dismiss a Duplicate Case through Inadvertent Filing of Petition.
- Motions to Set Bar Dates to file Proof of Claims.

II. EXCEPTIONS: HEARINGS ON THE FOLLOWING MOTIONS/APPLICATIONS MAY NOT BE SET BY USING THE OPEN CALENDAR PROCEDURES. PLEASE BRING A COPY OF THE FILED MOTION WITH ORIGINAL NOTICE OF HEARING TO JUNE PHILLIPS, COURTROOM DEPUTY CLERK, TO OBTAIN THE DATE AND TIME OF THE HEARING. IT WILL BE YOUR RESPONSIBILITY TO SERVE THE NOTICE OF HEARING ON ALL INTERESTED PARTIES IN THE MOST EXPEDITIOUS MANNER POSSIBLE AND FILE A CERTIFICATE OF SERVICE PRIOR TO THE HEARING.

- Any Emergency motions or requests for expedited hearings or for shortened time.
- Motions to Reimpose the Automatic Stay.
- Chapter 11 Disclosure Statement and Confirmation.
- Motions for Use of Cash Collateral/Prohibit Use of Cash Collateral.
- Contested matters that require evidentiary hearings and trials.
- Requests for pre-trial conferences and/or status conferences.
- Any motions or request for valuation of collateral.
- Trials on complaints in adversary proceedings.
- Motions to avoid lien (Court will schedule hearings if responses are filed).

III. SPECIAL NOTE:

1. Any motions scheduled with insufficient notice time will not be heard.
2. Any motions scheduled with the wrong date, time, or location will not be heard.
3. Any motions scheduled after a session or date has been removed as an available hearing date will not be heard.

IV. PREPARING PROPOSED ORDERS:

If you are instructed by the court to prepare a order, you must circulate it among all other interested parties before submitting it to Chambers and you must telephone Chambers immediately upon becoming aware that another party takes the position that the proposed order does not accurately reflect the Court's ruling.

If all interested parties have not indicated consent or no opposition to a proposed order and if the motion was heard, the order should either accurately reflect the Court's findings and conclusions or state that it is based on the findings of fact and conclusion of law stated by the Court on the record at the hearing.

Proposed orders on motions to which no opposition was interposed at the call of the calendar and which the court did not hear, may not recite findings of fact or conclusions of law, but must instead state as grounds for granting of the relief requested the lack of opposition to the motion.

Compliance with the local rules pursuant to the Northern District of Georgia is a necessity. The most common omissions are:

1. Unsigned, incomplete and/or omission of the preparer's block, see **BLR 9013-3(b)**;
2. Omission of hearing date, if applicable, see **BLR 9013-3(a)** and
3. Omission of the distribution list, see **BLR 9013-3(c)(2)**.

- V. **CONFLICTS AND CONTINUANCES:** Counsel with conflicts should send a conflict letter to the Court in advance listing their conflicts and proposed resolutions. Counsel are expected to comply with BLR 5071. In addition, mass calendars are a way of life in Bankruptcy Court, and it is not unusual for different judges to schedule mass calendars at the same time. The judges understand that this scheduling problem gives rise to conflicts and are generally accommodating to counsel. If you have a mass calendar conflict that requires you to be in another courtroom in the bankruptcy court, call or report to the courtroom deputy clerk before the start of the hearing to identify your cases. Your cases will be marked and held for your report.

In the event that counsel desires to obtain a continuance of a case on the Chapter 13 confirmation calendar, counsel should contact the Chapter 13 Trustee directly at 404-525-2555.

With respect to all other continuances, parties should contact June Phillips, Courtroom Deputy, at 404-215-1017.

VI. **EVIDENTIARY HEARINGS AND TRIALS:**

EXHIBITS - All exhibits should be identified and marked sequentially with either plaintiff's or defendant's exhibit stickers prior to trial. You must prepare a sufficient number of copies of each exhibit to provide one pre-marked copy to the court and one pre-marked copy to each party. Bring the actual exhibits to be used or offered in evidence to the trial. Don't forget a copy for yourself. **The Court's copy should be delivered to Chambers at least ten (10) business days prior to the trial date.** An exhibit list with a brief description of each exhibit and a witness list with the names of the will call and may call witnesses must accompany the court's copy of the exhibits. Copies of the exhibits and the exhibits list along with the witness list should be provided to each party ten (10) days prior to the trial. The court retains all exhibits offered in evidence until the order or judgment resolving the matter for which the exhibits were offered becomes final and no longer subject to appeal. If you do not pick up your exhibits from Chambers within thirty (30) days after the order or judgment becomes final and no longer subject to appeal, they will be deemed abandoned and the court may dispose of them.

VII. **SETTLEMENTS** - If you settle an adversary proceeding or contested matter that has been set for a trial or hearing, notify the Courtroom Deputy Clerk immediately. Unless otherwise permitted by the Court, if the parties (or their counsel) do not submit to the Court, at least 24 hours in advance of a trial or hearing, the written terms of a settlement acknowledged by each party or counsel, you must appear at the scheduled trial or hearing to read the details of the settlement into the record. If an anticipated settlement is not finalized prior to the trial, unless otherwise permitted by the Court, be prepared to try the matter.

OPEN CALENDAR PROCEDURES
Instructions for Self-Selecting Hearing Dates and times for
Motions/Applications in Cases Assigned to Judge Brizendine

1. The open calendar procedure applies to all motions/applications in any case (see exceptions listed under Case Management Procedures). Judge Brizendine has previously adopted self-calendaring for motions for relief and as of March 22, 2004, Judge Brizendine will be adopting the open calendar procedures for other types of motions/applications. This is not an interactive website. You cannot set a hearing from this website.

2. From the list of currently available dates, select date, time and appropriate location (Atlanta or Gainesville) on which you want your motion/application to be heard. Available open calendar dates are listed at the end of these instructions. There is nothing to do on this website except to find an appropriate date, time and location for the hearing you want to schedule. If you file electronically, you will be prompted on one screen to insert the date, time and location you selected, and then you must fill in the date, time and place on the hearing information screen. (Make sure you fill in all three fields). **Hearings for Atlanta cases before Judge Brizendine are in Courtroom 1202, 75 Spring Street, SW, Atlanta, GA. For Gainesville cases, hearings are in Courtroom 103, 121 Spring Street, Gainesville, GA.** On the screen permitting the user to enhance docket text, type in the words “and Notice of Hearing” after the description of your pleading. Make sure the notice of hearing is included as part of the PDF document but it should follow the motion, even though when you serve the motion you may attach the notice of hearing to the front of the motion. If you file on paper, you simply insert the date, time and location in the notice of hearing that you will serve with your motion.

A hearing may be scheduled in a division other than the one in which the case is pending ONLY if the Court approves. Such approval may be obtained by contacting June Phillips, Courtroom Deputy to Judge Brizendine. Whether filed on paper or electronically, the certificate of service must mention service of both the motion and the notice of hearing.

3. Prepare the Notice of Hearing into which you will insert the date, time and location that you selected from the list of available dates. Combine the notice with the motion, brief, if any, and certificate of service in one document, which, if you file electronically, will be filed as a Motion Event. Click here for suggested [forms of notices and certificate of service](#). ([Atlanta](#)) ([Gainesville](#)). (These are PDF documents).

4. With respect to all motions filed on the open calendar, make sure they are filed timely and sufficient notice of same is provided as required by Bankruptcy Code, Rules and Official Forms. e.g. Objection to Proof of claim requires a thirty-three (33) days notice time.

Hearings set that do not meet the notice requirements of the Bankruptcy Code and/or Rules with respect to length of time of notice WILL NOT BE HEARD. (Please also see instructions for setting hearings on Motions for Relief.)

5. **There is no need to call Chambers to find out if your motion has been put on the calendar.** You may review the calendar in the CM/ECF system, which you may access through PACER, even if you do not file electronically.

6. **RESETS:** You may use the Open Calendar Procedure to reset a hearing date only if all parties agree.

FOR MOTIONS FOR RELIEF FROM THE AUTOMATIC STAY:

All Motions for Relief from the Automatic Stay for both Atlanta and Gainesville will be at 10:30 a.m.

1. (a) In a bankruptcy case assigned to Judge Brizendine, an attorney who files a motion for relief from stay **must**, prepare, serve and file a notice of hearing. Attorneys who file a motion and notice of hearing electronically should set the hearing while filing the motion and/or notice of hearing. **THE MOTION, NOTICE OF HEARING AND CERTIFICATE OF SERVICE MUST BE FILED AND SERVED AT LEAST FOURTEEN (14) DAYS BEFORE THE HEARING DATE, EXCEPT IN THE CASE OF MOTIONS FOR RELIEF FROM THE AUTOMATIC STAY UNDER 11 U.S.C. SECTION 1301 (c)(2)(co-debtor stay), IN WHICH CASE THE MOTION, NOTICE OF HEARING AND CERTIFICATE OF SERVICE MUST BE SERVED AND FILED AT LEAST TWENTY (20) DAYS BEFORE THE HEARING DATE.** Do not obtain hearing dates on a motion for relief from the filing desk.
 - (b) Prepare the notice of hearing into which you will insert the date, time and location that you selected from the list of available dates. Combine the notice with the motion, brief, if any, and certificate of service into one document. Click here for suggested [forms of notices and certificate of service. \(Atlanta\) \(Gainesville\).](#) (These are PDF documents.)
If you file electronically, do **NOT** deliver a paper copy to the Clerk or to Chambers.
 - (c) If you file the motions or notice of hearing using paper, the hearing date selected must be at least fourteen (14) days after the date on which you have (a) filed and served the motion and notice of hearing in the clerk's office and (b) delivered a copy to chambers. [20 days for co-debtor stay]. Do not obtain hearing dates for a motion for relief from the filing desk.
 - (d) Do **not** use this procedure if the parties have entered into a proposed consent order that is submitted to Chambers at the time the motion is filed. There is no need to set a hearing if a consent order is submitted. The proposed consent order may be submitted to Chambers via mail or hand delivered. (CAUTION: **Please forward a copy of motion with proposed order which should already have all the signatures of the consenting parties.**)
 - (e) **REMEMBER: Emergency motions for relief from the automatic stay and motions to reimpose the stay may not be set using this procedure.**
 - (f) **CAUTION: Always check the list of currently available dates when setting a hearing because the Court may remove a date from the list at ANY time.**
2. **There is no need to call Chambers to find out if your motion has been put on the calendar.** You may view the calendar online in the CM/ECF system, which you may access through **PACER**, even if you do not file electronically.
3. Reset Hearings - You may use the Open Calendar Procedure to reset a hearing on a motion for relief from stay if all parties agree, but you must file a new notice and certificate of service which will indicate the available date you have chosen for the reset. If all parties do not agree, continuances should be requested by motion or in open court.

If a reset date on a motion for relief from stay is announced in open court, you need not file a reset hearing notice. If all parties were not present at calendar call, you must file a new notice and

certificate of service which will indicate the reset date. If all parties do not agree, continuances should be requested by motion or in open court.

ATLANTA HEARING NOTICE

Words in *[italics and BOLD within the brackets]* signal that the person preparing the form must customize the form and insert information to fit the case as indicated.

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	:	CASE NO. <i>[xx-xxxxx]</i>
	:	
<i>[NAME OF DEBTOR(S)],</i>	:	CHAPTER <i>[xx]</i>
	:	
Debtor(s).	:	JUDGE BRIZENDINE
_____	:	
	:	
<i>[NAME OF MOVANT(S)],</i>	:	
	:	
Movant(s),	:	
	:	
v.	:	CONTESTED MATTER
	:	
<i>[NAME OF RESPONDENT(S)],</i>	:	
	:	
Respondent(s).	:	
_____	:	

NOTICE OF HEARING

PLEASE TAKE NOTICE that *[NAME OF MOVANT(S)]* has filed *[State type of pleading, e.g., Motion for Relief from Stay or Objection to Claim]* and related papers with the Court seeking an order *[State relief sought in the motion or objection]*.

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing on *[state type of pleading: motion, application or objection]* in Courtroom **1202**, United States Courthouse, 75 Spring Street, S.W., Atlanta, Georgia, at *[xxxx A.M./P.M.](time depending on which chapter)* on *[STATE DATE]*.

Your rights may be affected by the Court's ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the court to grant the relief sought in these pleadings or if you want the court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so. If you file a written response, you must

attach a certificate stating when, how and on whom (including addresses) you served the response. Mail or deliver your response so that it is received by the Clerk at least two business days before the hearing. The address of the Clerk's Office is: Clerk, U.S. Bankruptcy Court, Suite 1340, 75 Spring Street, S.W., Atlanta, Georgia 30303. You must also mail a copy of your response to the undersigned at the address stated below.

(IF THE MOTION IS FOR RELIEF FROM STAY, COUNSEL IS REQUIRED TO ADD THIS STATEMENT) If a hearing on the motion for relief from the automatic stay cannot be held within thirty (30) days, Movant waives the requirement for holding a preliminary hearing within thirty days of filing the motion and agrees to a hearing on the earliest possible date. Movant consents to the automatic stay remaining in effect until the Court orders otherwise.

Dated: *[DATE]*

SIGNATURE
[NAME OF COUNSEL OR PRO SE]
Counsel for Movant
[ADDRESS, TELEPHONE, BAR NO.]

Certificate of Service

I, *[name of person serving pleadings]*, certify that I am over the age of 18 and that on *[DATE]*, I served a copy of the foregoing *Motion for Relief from Stay and Notice of Hearing* by first class U.S. Mail, with adequate postage prepaid on the following persons or entities at the addresses stated:

State name and address of each person or entity to which copies were mailed. READ AND COMPLY WITH BANKRUPTCY RULE 7004 CONCERNING HOW TO EFFECT PROPER SERVICE.

Dated: *[DATE]*

Signature of Person Serving Pleadings
[Name and Address of person serving pleadings]

GAINESVILLE HEARING NOTICE

Words in *[italics and BOLD within the brackets]* signal that the person preparing the form must customize the form and insert information to fit the case as indicated.

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION

IN RE:	:	CASE NO. <i>[xx-xxxxx]</i>
	:	
<i>[NAME OF DEBTOR(S)],</i>	:	CHAPTER <i>[xx]</i>
	:	
Debtor(s).	:	JUDGE BRIZENDINE
_____	:	
	:	
<i>[NAME OF MOVANT(S),</i>	:	
	:	
Movant(s),	:	
	:	
v.	:	CONTESTED MATTER
	:	
<i>[NAME OF RESPONDENT(S)],</i>	:	
	:	
Respondent(s).	:	
_____	:	

NOTICE OF HEARING

PLEASE TAKE NOTICE that *[NAME OF MOVANT(S)]* has filed *[State type of pleading, e.g., Motion for Relief from Stay or Objection to Claim, etc.]* and related papers with the Court seeking an order *[state relief sought in motion or objection]*.

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing on *[State type of pleading: motion, application or objection]* in Courtroom **103**, United States Courthouse, 121 Spring Street, Gainesville, Georgia, at *[xxxx A.M./P.M.](time depending on which chapter)* on *[STATE DATE]*.

Your rights may be affected by the Court's ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If

you do not have an attorney, you may wish to consult one.) If you do not want the court to grant the relief sought in these pleadings or if you want the court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so. If you file a written response, you must attach a certificate stating when, how and on whom (including addresses) you served the response. Mail or deliver your response so that it is received by the Clerk at least two business days before the hearing. The address of the Clerk's Office is: Clerk, U.S. Bankruptcy Court, Suite 120, 121 Spring Street, Gainesville, Georgia 30501. You must also mail a copy of your response to the undersigned at the address stated below.

(IF THE MOTION IS FOR RELIEF FROM STAY, COUNSEL IS REQUIRED TO ADD THIS STATEMENT) If a hearing on the motion for relief from the automatic stay cannot be held within thirty (30) days, Movant waives the requirement for holding a preliminary hearing within thirty days of filing the motion and agrees to a hearing on the earliest possible date. Movant consents to the automatic stay remaining in effect until the Court orders otherwise.

Dated: *[DATE]*

SIGNATURE
[NAME OF COUNSEL OR PRO SE]
Counsel for Movant
[ADDRESS, TELEPHONE, BAR NO.]

Certificate of Service

I, *[name of person serving pleadings]*, certify that I am over the age of 18 and that on *[DATE]*, I served a copy of the foregoing *Motion for Relief from Stay and Notice of Hearing* by first class U.S. Mail, with adequate postage prepaid on the following persons or entities at the addresses stated:

State name and address of each person or entity to which copies were mailed. READ AND COMPLY WITH BANKRUPTCY RULE 7004 CONCERNING HOW TO EFFECT PROPER SERVICE.]

Dated: *[DATE]*

Signature of Person Serving Pleadings
[Name and Address of person serving pleadings]