

## OPEN CALENDAR PROCEDURE

### (Instructions for Self-Selecting Hearing Dates and Times In Cases Assigned to Judge Diehl)

#### Quick Guide

1. This procedure applies to attorneys who file motions in any case or adversary proceeding. It replaces the procedure for obtaining a hearing on a motion for relief from stay and applies to other types of motions as well. Hearings need not be set in adversary proceedings or where they are not routinely set in bankruptcy cases. Trials, confirmations and motions on short notice may not be set using this procedure.

2. An unusually large number of Chapter 7 cases were filed in this District prior to October 17, 2005. In order to accommodate the requests of the Chapter 7 Trustees and to manage the work of the Court efficiently, the Court asks that any hearing on a motion for relief from the automatic stay in any Chapter 7 case filed before October 17, 2005 be scheduled *no earlier than* one week **after** the scheduled 341 meeting. If a hearing on the motion is necessary before the scheduled 341 meeting, then (1) call the Chapter 7 Trustee and explain why a hearing is necessary prior to the Trustee's ability to examine the debtor and evaluate the case at the 341 meeting, and (2) set forth the explanation in your motion and provide the date you made the required call to the Chapter 7 Trustee. These instructions apply in all Chapter 7 cases pending before all the Judges of the Bankruptcy Court for the Northern District of Georgia.

3. From the list of currently available dates, decide on a date and time on which you want your motion or application to be heard. (A hearing may be scheduled in a division other than the one in which the case is pending only if all parties agree.) This is not an interactive website; you can neither set a hearing nor inform the Court about what you decide from this website.

IF YOU FILE ELECTRONICALLY AND SET THE HEARING IN THE PROCESS, THE MOTION AND NOTICE OF HEARING MUST BE SERVED AND FILED AT LEAST TEN (10) DAYS BEFORE THE HEARING DATE.

IF YOU FILE THE MOTION OR NOTICE OF HEARING USING PAPER, THE HEARING DATE SELECTED MUST BE AT LEAST TWO (2) WEEKS AFTER THE DATE ON WHICH YOU HAVE (A) FILED THE MOTION AND NOTICE OF HEARING IN THE CLERK'S OFFICE AND (B) DELIVERED A COPY TO CHAMBERS.

4. 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, application or objection, brief, if any, and certificate of service in one document. Click here for a suggested form of notice and certificate of service.

5. No later than three (3) days after serving the pleadings, file the motion, application or objection with notice of hearing and certificate of service attached.

6. Do not call Chambers to find out if the matter has been put on the calendar. You may view the calendar in the CM/ECF system, which you may access through PACER, even if you do not file electronically.

7. You may use the Open Calendar Procedure to reset a hearing date if all parties agree. Paper filers only must bring a copy to Chambers.

#### Detailed Instructions

1. This procedure applies to attorneys filing motions in any case or adversary proceeding.

\*In a bankruptcy case assigned to Judge Diehl, an attorney who files a motion requiring a hearing must, with certain exceptions described below, 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.

\*In an adversary proceeding, the movant is not required to schedule a hearing and hence need not file a notice of hearing.

\*Do not use this procedure if the motion or application is one routinely granted without a hearing (e.g., an application to employ professionals, a motion to take a Rule 2004 examination, a motion to extend time to file schedules or a motion for emergency ex parte relief from the stay pursuant to B.L.R. 4001), unless you know the motion is contested or is likely to be contested.

\*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. The proposed consent order may be attached to the motion, transmitted by mail or by e-mail or delivered to Chambers.

\*Do not use this procedure for motions to avoid liens or motions to redeem (the Court will set hearings on those motions if a response is filed -- see B.L.R. 6008) or for motions for TRO's or other emergency relief and motions to shorten time. Do not use this procedure to schedule trials in adversary proceedings or confirmation hearings in Chapter 13 cases.

2. Select a date and time (which will dictate the location - either in Atlanta or Rome) appropriate for the matter to be heard from the list of currently available dates. The available dates and times depend on the type of matter and the filer's assessment of the likely time it will take to hear it. (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 if you file on paper, you plug in the date, time and location in the notice of hearing that you will serve with your motion.)

**IF YOU FILE ELECTRONICALLY AND SET THE HEARING IN THE PROCESS, THE MOTION AND NOTICE OF HEARING MUST BE SERVED AND FILED AT LEAST TEN (10) DAYS BEFORE THE HEARING DATE.**

**IF YOU FILE THE MOTION OR NOTICE OF HEARING USING PAPER, THE HEARING**

DATE SELECTED MUST BE AT LEAST TWO (2) WEEKS AFTER THE DATE ON WHICH YOU HAVE (A) FILED THE MOTION AND NOTICE OF HEARING IN THE CLERK'S OFFICE AND (B) DELIVERED A COPY TO CHAMBERS.

\*If all parties will consent to the relief requested in the motion, no hearing need be set. For hearings on shorter notice, i.e., hearings on emergency motions, call the Courtroom Deputy Clerk for a hearing date and time.

\*A motion to dismiss or convert a Chapter 13 case or for relief from stay may be scheduled for hearing at the confirmation hearing in that case.

\*A hearing may be scheduled in Atlanta for Rome Division cases or in Rome for Atlanta Division cases only if all parties to the motion agree.

\*Always check the list of currently available dates when setting a hearing because a date may be removed from the list at any time.

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, application or objection, brief, if any, and certificate of service into one document, which, if you file electronically, will be filed as a Motion Event. Click here for a suggested form of notice and certificate of service. (This is a PDF document.)

\*ECF participants (attorneys registered to file documents electronically) are authorized to fill in the date, time and place on the hearing information screen. (Make sure you fill in all three fields). Hearings in Atlanta are in Courtroom 1201; hearings in Rome are in Courtroom 326. 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 a part of the PDF document but that it follows the motion, even though when you serve it you may put the notice of hearing on top.

\*Whether filed on paper or electronically, the certificate of service must mention service of both the motion and the notice of hearing.

4. No later than three (3) days after serving the pleadings, file the motion, application or objection with notice of hearing and certificate of service attached.

\*For motions for relief from stay, do NOT obtain a hearing date at the filing desk.

\*If you file paper pleadings, deliver a copy of the notice of hearing and certificate of service to Chambers at least two (2) weeks prior to the hearing date.

\*If you file electronically, do not deliver a paper copy to the Clerk or to Chambers.

5. Do not call Chambers to find out if the matter has been put on the calendar. You may view the calendar on line in the CM/ECF system, which you may access through PACER, even if you do not file electronically.

6. You may use the Open Calendar Procedure to reset a hearing date if all parties agree, but you must follow the above instructions on filing the notice of hearing, i.e, ECF participants may set a hearing for a date that is at least ten (10) days after the participant files a new notice of hearing,

and non-ECF participants may reset a hearing for a date at least two (2) weeks after filing and delivering to Chambers a new notice of hearing. (ECF participants are not required to notify Chambers.) If all parties do not agree, continuances should be requested by motion, which you may schedule for hearing, if necessary, using the Open Calendar Procedure.