

# OPEN CALENDAR PROCEDURE

Instructions for Self-Selecting Hearing Dates and Times  
In Cases Assigned to Judge Diehl  
(Revised September 24, 2015)

This Open Calendar Procedure applies to attorneys who file motions in any case. Attorneys select available hearing dates for their motions and applications and serve notices of hearings pursuant to this Open Calendar Procedure. Judge Diehl's available hearing dates can be found here: [Atlanta dates](#) and [Rome dates](#). Judge Diehl's Atlanta hearings are in Courtroom 1201 and Rome hearings are in Courtroom 342.

The Court will schedule all hearings on reaffirmation agreements in Atlanta Division cases on single day before the same judge, regardless of which judge is assigned to the case. When self calendaring a hearing on a reaffirmation agreement filed in an Atlanta Division case, please refer to the chambers pages of Judges Hagenau or Ellis-Monro for more specific information.

**THE OPEN CALENDAR PROCEDURE SHOULD NOT BE USED FOR THE FOLLOWING.** Instead, **after** the motion or pleading has been filed, please call Judge Diehl's Courtroom Deputy Clerk (Eva Moody 404-215-1029) to receive a hearing date and time.

- Matters that are likely to require more than 20 minutes of presentation to the Court;
- Matters requiring the presentation of evidence;
- Matters set on an emergency or expedited basis;
- More than 10 matters relating to one case, e.g., objections to claim;
- Any Adversary Proceeding hearing, pre-trial conference, or trial; and
- A hearing scheduled in a different division than the case was filed.

## **OTHER EXCEPTIONS:**

- Pursuant to Bankruptcy Local Rule 6008, the Court will set hearings when a response is filed to a motion to avoid lien or a motion to redeem.
- The Court will set all Chapter 13 confirmation hearings.

- A hearing is not necessary for parties that have entered into a proposed consent order that is submitted to Chambers at the time the motion is filed. Attorneys must upload proposed consent orders via ECF, unless one of the exceptions to electronic filing in BLR 5005-6 applies. Please remember that proposed orders should be submitted as a pdf file in e-order format. Refer to BLR 5005-1 and 9013-2 for proposed order requirements.
- The following types of motions/applications do not typically require a hearing. If a hearing is necessary or a response is filed, the Court will contact the moving party or notice the matter for hearing.
  - Application to employ professionals;
  - Motion for a Rule 2004 examination;
  - Motion to extend time to file schedules;
  - Motion for emergency ex parte relief from the stay pursuant to BLR 4001, unless you know the motion is contested or is likely to be contested;
  - Motion to Vacate or Terminate EDO Order;
  - Motion to Withdraw as Counsel OR Substitution of Counsel;
  - Motion in Chapter 11 cases to Set Bar Dates to file Proof of Claims; and
  - Motion to Reopen (please note that a motion to reopen should be served on all creditors, the filing fee must be paid ([Filing Fees](#)) and an order should be submitted to the Court)

#### **OPEN CALENDAR PROCEDURE INSTRUCTIONS**

1. Select a date and time for the appropriate Division for the matter to be heard from the list of currently available dates: [Atlanta dates](#) and [Rome dates](#). Always check the list of currently available dates when setting a hearing because a date may be removed from the list at any time.

The available dates and times depend on the type of matter. The Court has discretion to remove your matter from the calendar if it is scheduled for the wrong date, time, division or courtroom.

2. Notwithstanding Bankruptcy Rule 9006(d), the hearing date you select must be at least fourteen (14) days after the date on which you serve the motion and notice of hearing.

The exception to the minimum 14-day notice period is motions to extend or impose the automatic stay under Section 362(c). Judge Diehl will hear these on 10-days notice. For more

information, please refer to the Motion to Extend Stay link here: [Motion to Extend Stay under Section 362\(c\)](#).

Remember that some types of matters may require more time between the date of service of the motion or application and notice and the date of the hearing. See, e.g., Bankruptcy Rules 2002 and 3007 and BLR 7007-1(b). If a rule gives a respondent a period of time to file a response, the hearing date picked must be at least two (2) business days after the last day on which a response could be timely filed. Remember that when there is a right or requirement to act and service is made by mail, Bankruptcy Rule 9006(f) adds three days to the prescribed response period.

3. If you are using this procedure for a Chapter 7 relief from stay motion that will be heard before the scheduled meeting of creditors, you must (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.
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 into one document.
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 by filing an amended notice of hearing on which you indicate the agreement of all parties. 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.
8. Counsel with conflicts should send a conflict letter to the Court in advance listing their conflicts and proposed resolutions. Counsel is expected to comply with BLR 5071, N.D. Ga. 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.

9. If you file using paper rather than through the CM/ECF system and you file a pleading within 3 days of the scheduled hearing, you should notify Chambers of the filing, so that any delay in the paper document being placed on the case docket does not impair the Court's ability to review the paper prior to the hearing.