

OPEN CALENDAR PROCEDURE

Instructions for Self-Selecting Hearing Dates and Times in Cases Assigned to Judge Hagenau

1. Attorneys must choose hearing dates for motions and applications and serve notices of hearings pursuant to this Open Calendar Procedure, except as provided in paragraph 9 below. A list of currently available hearing dates is available on the Court's website at www.ganb.uscourts.gov (click on the Judges' Information tab from the menu across the top of the screen and then on Judge Hagenau's name). A copy of the current hearing dates may be viewed on the bulletin board outside of Courtroom 1403 and a copy may be obtained in Chambers.

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 exceptions to the minimum 14-day notice period are motions to extend or impose the automatic stay under Section 362(c). Motions to extend or impose stay may be heard ten (10) days after the date on which the motion and notice of hearing are served. Some types of matters may require a longer lead 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 B.L.R. 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, if the motion or other pleadings that requires the filing of a response or some other act is served by mail, Bankruptcy Rule 9006(f) adds three days to the prescribed period.

3. Note that the available dates and times are grouped by the Chapter under which the case is filed and the types of matters to be heard. (A motion to dismiss or convert a Chapter 13 case or for relief from stay, however, may be scheduled for hearing at the time of the confirmation hearing in that case.) ALWAYS CHECK THE LIST OF CURRENTLY AVAILABLE DATES WHEN SETTING A HEARING BECAUSE A DATE MAY BE REMOVED FROM THE LIST AT ANY TIME.

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 and times. Combine the notice, the motion, application or objection, and the certificate of service into one document. The certificate of service must mention service of both the motion and the notice of hearing. Briefs may be combined with the document containing the motion or may be filed separately.

5. File the motion or application and notice of hearing no later than three (3) days after it is served.

6. If you file using paper rather than through the CM/ECF system, you must deliver to Chambers a copy of the motion, notice of hearing and certificate of service showing the Clerk's filing stamp within one (1) day of filing.

7. If you file electronically, 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.

8. You may set, but are not required to set, a hearing in an **adversary proceeding**, other than those types of hearings listed in paragraph 9 below. If the movant in an adversary

proceeding does not serve a notice of hearing with the motion, a respondent desiring a hearing may schedule one by serving and filing a notice of hearing separate and apart from the response to the motion. If no party sets a hearing, the matter will be treated as submitted after the last day on which a response or reply may be timely filed.

9. Do NOT use this procedure –

- to schedule trials in adversary proceedings, confirmation hearings on plans in Chapter 11 cases or confirmation hearings in Chapter 13 cases, except that you may schedule a motion seeking confirmation of a modification to a plan already confirmed in a Chapter 13 case.
- to schedule a hearing on an emergency motion or on a motion to shorten the time for holding a hearing to less than fourteen (14) days from the filing and service of the motion. Instead, file the motion and call the Courtroom Deputy Clerk for a hearing date and time, and then, unless instructed otherwise, schedule the hearing on the date and at the time provided by the Courtroom Deputy Clerk.
- to schedule a hearing on a motion or application if it 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, a motion for emergency ex parte relief from the stay pursuant to B.L.R. 4001, etc.).
- to schedule a hearing on a motion to avoid liens or a motion to redeem. (The Court will set hearings on those motions if a response is filed – see B.L.R. 6008.).

10. Attorneys should be sensitive to the time constraints imposed by the number of motions on a calendar. Motions that take longer than 20 minutes to hear could be reset or heard in part and continued, which could prove inconvenient, if not expensive, to the parties. Therefore, with regard to motions that are likely to be complicated, movant's attorney should consider whether it would be preferable to obtain a specially set hearing for that matter. **Contact Cynthia Eadon at (404) 215-1193 (if unavailable, call Nicole Williams at (404) 215-1098)** to obtain a date and time for a hearing on a matter that is likely to take significant time.