

CHAMBERS PROCEDURES FOR CHIEF JUDGE JOHN T. DORSEY

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PLEASE DO NOT MAIL OR HAND DELIVER DOCUMENTS

**THE COURT DEMANDS OF ITSELF AND THE LAWYERS
WHO APPEAR BEFORE IT COURTEOUS AND PROFESSIONAL CONDUCT**

**See Principles of Professionalism for Delaware Lawyers;
and Principles of Professionalism for Delaware Judges**

Except as set forth herein, the Bankruptcy Court’s General Chambers Procedures and other orders and procedures shall govern all procedural aspects of proceedings before Judge Dorsey.

A. Manner of Hearings and Other Proceedings

1. Unless otherwise determined by Judge Dorsey, all proceedings will take place in person other than status conferences, scheduling conferences, pretrial conferences, discovery hearings, fee hearings, or first-day hearings, which will be conducted remotely. All counsel and witnesses are expected to attend in-person hearings unless permitted to appear via Zoom.

2. All persons entering the Bankruptcy Court must comply with any Order of the Delaware District Court in place at the time regarding the use of face masks and coverings. Any person who desires to wear a face mask is free to do so.

3. Persons not complying with face mask requirements, posted signage, or any instructions of any Court Security Officer or other Bankruptcy Court personnel will be denied access to or be ejected from the Bankruptcy Court.

4. Remote Participation via Zoom.

a. Remote Appearances of Case Participants. Remote appearances of Case Participants¹ at in-person court proceedings are allowed only in the following circumstances:

- i. Counsel for a party or a pro se litigant files a response or objection and intends to make only a limited argument;
- ii. A party or a representative of a party is interested in observing the hearing;
- iii. A party is proceeding in a claims allowance dispute on a pro se basis;
- iv. A witness has submitted a declaration and no live testimony will occur; or

¹ For example, attorney, debtor, creditor, stockholder/equity holder, US Trustee/Asst UST, trustee-other, adversary party/litigant, or sale participant.

- v. Other extenuating circumstances that warrant remote participation as may be determined by the Court.
- b. Remote Appearances of Witnesses If Live Testimony Is Needed. The remote attendance of live witnesses is permitted only upon a showing of good cause and in compelling circumstances. See Fed. R. Civ. P. 43(a).
- c. Remote Appearances of Non-Case Participants. Non-Case Participants (i.e. members of the public, including the media) may receive remote audio access to portions of a proceeding not involving witness testimony. Please refer to the Bankruptcy Court's website for more information (<http://www.deb.uscourts.gov/ecourt-appearances>).

Remote participants are participating in an official Court proceeding. Disruptions or inappropriate behavior may result in removal. Persons remotely appearing by video are expected to appear in appropriate courtroom attire. **Under no circumstances may any remote participant photograph, record, or broadcast the proceedings or the participants.**
- d. Prior Registration Required. All remote participants are required to register in advance using the *eCourtAppearances* tool (**available here** or on the Court's website (<http://www.deb.uscourts.gov/ecourt-appearances>)). With the exception of first-day hearings, the deadline to register for remote attendance is 4:00 p.m. (Eastern time) the business day before the proceeding unless otherwise noticed. The deadline to register for remote attendance at first-day hearings is one-hour prior to the hearing unless otherwise noticed. In the absence of extenuating circumstances, chambers typically will not provide Zoom links to those who fail to register by the deadline. **Please refer to the Court's website for further information and requirements.**
- e. All video participants must use their full names when registering and logging into Zoom or will not be granted access to the proceeding.
- f. Audio-only participants may be required to identify themselves following admittance into a proceeding. To aid in such identification, an audio participant should endeavor to call into Zoom using the telephone number that it provided during the registration process. Failure to identify when requested by the Court will result in removal from the proceeding.
- g. All agendas for in-person proceedings must include the following: This proceeding will be conducted in-person. All counsel and witnesses are expected to attend unless permitted to appear remotely via Zoom. Please refer to Judge Dorsey's Chambers Procedures and the Court's website (<http://www.deb.uscourts.gov/ecourt-appearances>) for information on who may participate remotely, the method of allowed participation (video or audio), Judge Dorsey's expectations of remote participants, and the advance registration requirements. Registration is required by 4:00 p.m. (Eastern time) the business day before the hearing unless otherwise noticed using the *eCourtAppearances* tool available on the Court's website.

- h. All agendas for remote proceedings must include the following: This proceeding will be conducted remotely via Zoom. Please refer to Judge Dorsey's Chambers Procedures and the Court's website (<http://www.deb.uscourts.gov/ecourt-appearances>) for information on the method of allowed participation (video or audio), Judge Dorsey's expectations of remote participants, and the advance registration requirements. Registration is required by 4:00 p.m. (Eastern time) the business day before / one-hour prior to] the hearing unless otherwise noticed using the eCourtAppearances tool available on the Court's website.

SCHEDULING AND HEARING PROCEDURES

1. Hearings are scheduled for one hour. If parties require more than one hour, scheduling arrangements must be made with Judge Dorsey's chambers well in advance.
2. Omnibus hearings will be conducted on Tuesdays, Wednesdays and Thursdays unless emergency or time sensitive matters require otherwise. Omnibus Hearings are scheduled for one hour. If the need arises for more time, please contact Chambers immediately to inquire whether the calendar permits or if the hearing needs to be rescheduled.
3. Hearings will conclude for the day not later than 4:45 p.m., subject to Judge Dorsey's determination that it is necessary to continue. Parties should plan accordingly.
4. Presentation of Revised Proposed Orders – If a movant intends to present a proposed form of order to the Court that contains revisions to the original proposed form of order submitted with its motion, counsel for the movant shall endeavor to provide to the Court the revised form of order in clean and redline form at least 1 hour prior to the hearing.

WITNESSES, TESTIMONY AND DOCUMENTARY EVIDENCE

1. Presentation of Live Witness Testimony If parties intend to call witnesses at a hearing, they must file and submit their intention to do so with the following information at least 48 hours prior to the hearing. The filing must contain the identity of each witness and the scope of testimony. After filing, e-mail a copy of the witness list to Chambers. Witnesses must appear in person or, via Zoom (only if meeting criteria in paragraph 4(b)). No testimony will be permitted by telephone.
 - a. The name of the witness and the relevant motion for relief.
 - b. Whether in the first instance direct testimony of the witness will be presented by declaration or proffer. If by declaration when such declaration will be filed. Please note that if the witness will submit a declaration, the declaration should be available to the witness during testimony.
 - c. The location of the witness (city, state, country).
 - d. A description of the place from which the witness will be testifying (e.g., "home", "office" – specific addresses shall not be provided).
 - e. Whether anyone will be in the room with the witness during his/her testimony and, if so, who (name/title/relationship to witness) and for what purpose.
 - f. Whether the witness will have any documents with him/her and, if so, what documents.

- g. The party or parties who may seek to cross examine the witness and their respective counsel.
2. Presentation of Documentary Evidence
- a. All parties intending to introduce documentary evidence must supply a list of exhibits with reference to the applicable CM/ECF docket number. If an exhibit is not on the docket, please supply such exhibit by email (in .pdf format) to all relevant parties and to the Court as soon as possible, but no later than 2 hours before the hearing. If multiple exhibits are to be used at a hearing, they should be sent via zip file, appropriately identified by Exhibit Number and a brief description of the document. Hard copies of exhibits will not be accepted.
 - b. If necessary, the party sponsoring a witness will be responsible for ensuring that any relevant exhibits are supplied to the witness ahead of the hearing.

** Scheduled Trials will be removed from Judge Dorsey’s calendar unless the plaintiff or moving party advises Chambers two weeks in advance of the scheduled date in writing, docketed and submitted to Chambers, that it is going forward. This means that absent being advised by counsel as directed above that a trial will proceed, Judge Dorsey will assume the matter has been settled or is being adjourned.

ELECTRONIC BINDERS AND AGENDAS

Agendas for First Day / Second Day Hearings: Please provide Chambers with a zip file containing pdf copies of the agenda and all relevant filings. Pleadings filed thereafter may be emailed separately provided they are not voluminous.

Agendas for all hearings with contested matters: In lieu of sending hard copy binders to chambers, counsel shall email to chambers a pdf of the agenda along with a zip file containing pdf copies of each filing listed in the agenda. Hard copies will not be accepted. An agenda with hyperlinks to the docket will no longer be sufficient. The zip file should contain separate pdfs for each document listed on the agenda and not a pdf binder (or other e-binder that consolidates all documents into a single pdf). Each pdf should be clearly labeled to indicate both the pleading’s corresponding docket number and its title (e.g. “D.I. 5 – Motion to Lift Stay” or “D.I. 7 – Objection to Motion”). Attachments to pleadings should also be in separate pdfs, clearly labeled to indicate what the document was attached to and what the document is (e.g. “D.I. 5-1, Sale Agreement”).

Agendas are required to be filed and e-mailed 48 hours prior to the scheduled hearing. Please contact Chambers if there will be a delay. Counsel is encouraged to notify Chambers when filing an Amended Agenda. Please contact chambers prior to scheduling and/or changing or cancelling a hearing.

Fee Application Binders: Parties are required seven days prior to a hearing date or when filing a Certificate of No Objection to provide Chambers with a single consolidated electronic binder, in the format of a searchable single PDF file, containing copies of all fee applications under consideration, including supporting documentation such as individual monthly fee applications. **A zip file containing individual pdfs for each fee application will not be accepted.**

Completion of Briefing Binders: Completions of Briefing must be filed containing hyperlinks for **all** relevant pleadings. **After filing, please e-mail Chambers a copy of the Notice along with a zip file containing pdf copies of each pleading. Please include the corresponding docket number and an abbreviated title of each document.**

Matters Under Advisement: Parties are invited to inquire by e-mail or telephone, after a reasonable time under the circumstances of the matter at issue, into the status of matters pending decision or taken under advisement.

CITING UNPUBLISHED LEGAL AUHORITY

When filing a motion or brief citing to a ruling that is both (1) from a court outside of this jurisdiction; and (2) in a form other than a written opinion readily available on Lexis or Westlaw (e.g. transcripts containing bench rulings), a copy of the ruling, in its entirety, must be provided to the Court as an exhibit to the motion or brief.

PRETRIAL AND TRIAL PROCEDURES IN NON-PREFERENCE ADVERSARY PROCEEDINGS AND CONTESTED MATTERS

In addition to the provisions of the General Chambers Procedures applicable to adversary procedures, please review the forms for Scheduling Order, Scheduling Order (All Other Matters), Final Pretrial Order and Trial Procedures.

PRETRIAL AND TRIAL PROCEDURES IN PREFERENCE CASES

The procedures for preference cases are contained in the General Order, dated November 16, 2009. The goal is to maintain consistency among the judges of the Court.

CNO'S AND PROPOSED ORDERS

Proposed Orders will only be considered after an e-order has been uploaded. Please refer to the learning module on the Court's website for assistance in uploading and/or replacing e-orders.

1. Certificates of No Objection; CNO's may be submitted 24 hours after the response deadline. The related E-Order must be uploaded at the time of filing CNO.*
2. Motions to Shorten – If you anticipate filing an objection to a Motion to Shorten, please advise Chambers within 24 hours of filing.
3. Motions to Appear Pro Hac Vice : The form of the Motion and related e-order must comply with Local Form 105 and uploaded into CM/ECF. Note: Paper copies of Pro Hac Vice Motions are not accepted.
4. Omnibus Hearing Date Orders – Please confer with Chambers to obtain dates before filing a Certification of Counsel and proposed Omnibus Hearing Date Order. Please refer to previous paragraph titled Hearing and Scheduling Procedures prior to contacting Chambers for a hearing date.

* **E-Orders - For step-by-step instructions on uploading E-Orders, please review the electronic learning module under CM/ECF Attorney Training on the Court's website.**