

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN AND WESTERN DISTRICTS OF ARKANSAS**

GUIDELINES FOR DIVISIONAL DAYS AND IN COURT HEARINGS

Commencing July 1, 2020, the United States Bankruptcy Courts for the Eastern and Western Districts of Arkansas will resume IN COURT hearings. In order to adhere to the CDC's social distancing guidelines and to keep staff, attorneys, and parties as safe as possible during the continuing COVID-19 pandemic, the court has developed guidelines for handling divisional days and for conducting IN COURT hearings and trials for the Central and Fayetteville divisions. Each is outlined below. With regard to the Delta, El Dorado, Fort Smith, Hot Springs, Northern, and Texarkana divisions, the court anticipates conducting IN COURT docket calls and hearings in conformity with and in observance of the local practices of each division.

Divisional Days. To accommodate our goal of doing business under the current circumstances, the following guidelines will be followed by each of the three chambers.

- 1) Prior to the COVID-19 pandemic, your disposition cutoff for settlements, continuances, etc., was noon on the day before the divisional day. That cutoff time will remain the same. Accordingly, any matters not settled or continued by the noon cutoff time will be considered set for hearing. Counsel should continue to communicate settlements and requests for continuances to each chamber in the usual manner. In the event your matter will need to be heard, counsel should give a time estimate to the appropriate chamber as expeditiously as possible.
- 2) **All of those matters not disposed of by the stated cutoff time will be called during a telephonic docket call (Central and Fayetteville divisions only; all other divisions will be in court) commencing at the time designated in your hearing notice on the divisional date.** Counsel with matters still remaining on the docket after the noon deadline will be apprised of the necessary call in number for purposes of remotely attending the docket call. Each judge has a different call in number and access code.
- 3) The staff attorney assigned to your particular matter will be in touch with you between the noon cut off and the commencement of divisional day to discuss hearing logistics. This will include time, number of witnesses, exhibits, and

scheduling. Of course, some of these matters may resolve themselves or continue before divisional day. This does not change the fact that we still need and want dispositions prior to the noon deadline. This will allow us sufficient time to prepare for the matters that have a high expectation of being tried.

- 4) YOU WILL NOT NEED TO HAVE YOUR CLIENTS OR WITNESSES IMMEDIATELY AVAILABLE during the docket call (Central and Fayetteville divisions only since the docket call is telephonic. In all other divisions, your clients and witnesses should be readily available. The staff attorneys will be working with you to spread out the proceedings and hopefully diminish crowding in accordance with local divisional standards.). Attorneys are responsible for making certain their clients and witnesses do not show up at the courthouse for any matters that have been settled or continued. The expectation is that before the docket call, during, or shortly thereafter, counsel and the staff attorneys/court will have worked out the timing and logistics of the actual hearing. Some of these hearings, with counsel's full agreement, will occur on the divisional day. Others may occur within a few days thereafter (again, Central and Fayetteville divisions only). Every effort will be made to accommodate counsel and litigant schedules commensurate with the added burdens of the current situation.
- 5) Please make every effort to alert your clients that they will not need to be at the courthouse for the docket call (again, Central and Fayetteville divisions only). Your clients and witnesses, however, will need to be on notice that we have every expectation of a trial or hearing setting on or shortly after divisional day. Again, any setting and the commensurate hearing methodology will be fully discussed and agreed to by all parties.

Your cooperation, especially in resolving matters on the docket as early as possible, has been and is greatly appreciated. Every effort will be made to accommodate counsel, the litigants, and witnesses consistent with the requisites of timely and consistent justice.

Hearings and Trials. As stated above, the three bankruptcy judges will proceed with IN COURT hearings and trials. To that end, the below guidelines are in effect, any one of which can be waived at or during a hearing or trial by the presiding judge. You, your clients, and your witnesses should all be acquainted with the following guidelines. The respective attorneys are responsible for fully keeping their clients and witnesses advised of this information. If counsel, a witness, or a party has significant concerns or potential health complications that place them in an at-risk category, counsel should simply inform the staff attorney involved and he or she will make

arrangements to allow them to participate remotely off-premises or in offices set aside and designated within the courthouse. Attorneys, you are responsible for screening your clients and witnesses for possible exposure to COVID-19 within the past fourteen days. If you, your clients, or your witnesses have symptoms of COVID-19, have been exposed to a person infected with COVID-19 within the past fourteen days, or have a temperature on the day of the hearing or trial, you are responsible for contacting the staff attorney involved as expeditiously as possible so alternative arrangements can be made for the person(s) involved.

- The respective staff attorneys in each chamber will be your first point of contact in setting up the timing and logistics of your hearing or trial.
- You, your clients, and your witnesses are expected to bring and wear masks from the moment you enter the courthouse until you leave. This includes during the hearing or trial. Masks may be removed during active participation in the proceeding only at the discretion of and with the permission of the presiding judge.
- Given the added disruptions at home and professionally, plus the inconvenience occasioned by wearing a mask, all parties are excused from normal standards of professional dress, including ties, jackets, etc. Everyone is expected to dress in presentable business casual attire.
- You are expected to observe social distancing in the hallways, courtroom, and elevators. Families or attorneys/staff who are in effect quarantining with each other may conduct themselves accordingly.
- Counsel and clients will sit at the respective counsel tables making every effort to distance themselves from each other. Separate monitors may be set up to assist in this effort. Openings, examinations of witnesses, and closings will all be conducted while seated at counsel table.
- The overhead/Elmo devices will not be available.
- Counsel are expected to email the court and each other PDFs of as many of their expected exhibits as possible prior to the hearing or trial. The staff attorney for your matter will give you the deadline to provide these exhibits. These exhibits do not necessarily need to be agreed as to admissibility or stipulated. The effort is simply to diminish as much as possible the exchange of paper during the proceeding. The court recognizes that there may be other documents that become relevant based upon testimony or evidence which may be introduced and objected to in the normal course. Even so, counsel should make every effort to digitize all documents they may reasonably foresee introducing at the hearing so that

such additional documents can be provided electronically if the need arises during the proceeding.

- In the discretion of the court, witnesses may testify from either their seats at counsel table or the witness box. Disinfecting wipes and hand sanitizer will be located on the witness box and may be used by the witness prior to taking his or her seat. Witnesses are encouraged to wash or sanitize their hands before and after taking the witness stand.
- Water will NOT be provided. You may bring water bottles into the courtroom if you wish.
- Please let the staff attorney assigned to your case know if you have an inordinate number of witnesses and/or participants with special needs independent of or related to the pandemic.
- Please recognize that the current circumstances may protract proceedings and plan your time estimates and schedules accordingly.

If you have any questions regarding these guidelines, please contact the chambers for your particular matter. We thank all of you for your individual and collective efforts to accommodate and protect each other.