

COURT PROCEDURES AND PRACTICE TIPS

Judge Joseph N. Callaway

Revised June 2023

In addition to the E.D.N.C. local rules and administrative guidelines, the following apply to matters before Judge Callaway.

1) Consumer Motions Day Hearings

- a) Consumer motions hearings days are held in person. The trustee attorney will be present in the courtroom for those hearings. All cases involving witness testimony, presentation of exhibits, or complex argument must be presented in person.
- b) The telephone line will be open, and counsel may choose to report settlements, no opposition, or seek ordinary continuances telephonically. Argument of legal positions and cross-examination of witnesses will not be permitted by telephone absent (a) agreement of the trustee and opposing counsel, and (b) prior permission of the court. Permission may be sought by emailing the case manager.

2) Other Hearings

- a) In adversary proceedings, chapter 11 cases, chapter 12 cases, and other complex matters, hearings will be scheduled and designated on the corresponding court calendar as in person, by video, or telephonic. In the absence of a telephonic or video designation setting, the default position will be in person at the stated venue.
- b) Counsel may attend in-person hearings by telephone if approved in advance in order to listen to the hearing. In the absence of prior permission from the court, counsel attending telephonically will not be allowed to examine witnesses, present documentary evidence, or make legal argument. Permission may be sought by emailing the case manager and obtaining the prior consent of opposing counsel.
- c) Counsel may jointly request that the court, in its discretion, set a matter for hearing by remote video process (such as Zoom). The request should be made as far in advance as possible and in any event at least three full business days in advance of the hearing. The setting of a hearing by remote video will normally require consent of all interested parties. If the matter is contested, will require the testimony of multiple witnesses, or contains numerous documentary exhibits, the court will likely require an in-person hearing.
- d) When appearing by remote video or telephone, all risk of communication breakdown lies with the party using telephonic or remote video means. The court may proceed in the event of non-appearance.

3) Exhibits

Documentary exhibits expected to be presented or relied upon at hearing, along with a list of witnesses, must be filed in the case CM/ECF docket in PDF by 4:00 pm prevailing Eastern Time the day before the hearing. If timely uploaded and unless indicted to the contrary, the court will not need paper copies of documents electronically filed in advance. However, when using paper copies, please include a set for law clerks.

4) **Contact with Court and Court Personnel**

- a) All requests for relief should be in the form of written motions filed with the Clerk of the Court. For procedural questions, such as scheduling, counsel should contact case managers, Lisa Payne and Sharon Angel, at NCEBml_CourtroomStaff_JNC@nceb.uscourts.gov . In the event of emergencies, their office phone numbers are 252-917-6118 and 252-917-6123, but email is more reliable and preferred. Voicemail messages may not be relied upon.
- b) *Ex parte* contact with Judge Callaway about pending cases is strictly prohibited. All communications concerning pending cases may only be made on the record in open court.
- c) At Judge Callaway's direction, staff may contact counsel regarding scheduling, procedural, and venue matters. In such event, refrain from engaging in discussions regarding legal argument or matters that are not the subject of the communication.

5) **Continuances**

A continuance for a non-consumer day matter must be requested by written motion. Continuance motions should concisely state the reason for the requested continuance; whether the continuance is agreed; and the amount of additional time needed. If the motion to continue does not contain this information, it is likely to be set for hearing rather than granted in advance.

6) **Settlements**

- a) If a matter is settled in advance of hearing, please immediately contact the case manager so that the court may readjust its limited resources accordingly.
- b) **If reduced to writing and signed by all parties prior to a scheduled hearing/trial**, and a settlement approval motion (where applicable) has been filed, only one counsel is required to attend the scheduled hearing/trial (unless it is first continued) to report, although all interested parties are invited. Telephonic attendance is permissible to report a settlement if cleared in advance. Contact the case managers to schedule the call.
- c) **If a proposed settlement has not been reduced to writing and signed by all parties prior to a scheduled hearing**, all parties must appear and announce the terms of the settlement into the record. A telephonic hearing may be requested. Once the terms of a settlement are announced, the court will consider the parties bound by the agreement announced on the record, subject only to approval of the settlement motion if required.
- d) If a settlement requires approval pursuant to Federal Rule of Bankruptcy Procedure 9019, **a motion seeking approval of the settlement should be filed in CM/ECF in the main bankruptcy case** rather than in the adversary proceeding (if applicable). Along with the motion, parties should submit a proposed form of order approving the settlement in the main case and a proposed form of judgment or dismissal order in the adversary proceeding.