

VBA BANKRUPTCY LAW SECTION
BENCH-BAR TELEPHONIC MEETING
with Hon. Colleen A. Brown, U.S. Bankruptcy Judge
Tuesday, March 24, 2020 ~ 12:00 to 1:00 PM
Dial-in number: (888) 398-2342. Access code: 846 68 72#
Please use your “mute” function unless speaking.

AGENDA

The purpose of this Bench Bar meeting is to

- (a) update the bankruptcy bar on how the Vermont Bankruptcy Court will function through the end of this week (Phase 1), and thereafter (Phase 2), in response to and during the COVID-19 pandemic;
 - (b) answer any questions the bar has about those procedures; and
 - (c) make clear that the well-being of the Court’s staff, the bankruptcy bar, and our court users is of the highest priority, no one will be required to participate in hearings if they believe doing so would put them at elevated risk for COVID-19, and requests for a continuance based on a showing of such health risks will be granted.
1. The Federal Court for the District of Vermont is responding to the pandemic in two Phases:
 - Phase 1 started on March 13, 2020 and runs through March 29, 2020.
 - Phase 2 starts on March 30, 2020, and will remain in effect as long as the circumstances of the pandemic require (which the Court will assess on an ongoing basis).
 2. During Phase 1, the Bankruptcy Court will only hold emergency hearings and will do so only upon a movant’s showing that a postponement of the hearing would have dire consequences; and it will hold any such emergency hearings via telephone.
 3. During Phase 2, the Bankruptcy Court will hold all hearings on Tuesdays, and by telephone; the Court is rescheduling all hearings currently scheduled for a Friday to a Tuesday, as follows:

Current Friday Hearing Dates (Canceled)

March 27 (chapter 13)
April 17 (chapter 13)
April 24 (motions)
May 8 (chapter 13)
May 15 (motions)

New Tuesday Dates*

April 14
April 21
April 28 (with Burlington motions)
May 26
May 19 (with Burlington motions)

* The Court will also conduct the hearings set for March 31, April 7, and May 5, to the extent hearings are necessary (as set out below).

4. During the pandemic, Chapter 13 debtors may, and are strongly encouraged to, use the local form affidavit that was posted last week (VTB Form CV-1), in order to eliminate the need for debtors to appear at confirmation hearings. (If debtors instead wish to arrange to participate in confirmation hearings by telephone, they may arrange to do so, through their attorneys, with the courtroom deputy).
5. During the pandemic, the Court intends to continue to adjudicate the substantial majority of motions before it via the default procedure or based on the papers, *i.e.*, without a hearing.
6. Any party who has an evidentiary hearing scheduled, or who needs an evidentiary hearing, shall contact the courtroom deputy and the Court will determine how to address those matters, and whether to hold or postpone the evidentiary hearing, on a case-by-case basis.
7. The Court will enlarge the time for filing proof of “wet signatures,” see draft Standing Order #20-10 (attached).
8. With respect to §341 meetings, the Court is reviewing a UST request to enlarge deadlines, reset 341s, etc., and
 - the UST has continued § 341 meetings in cases filed from March 16, 2020, through April 20, 2020; and
 - Jan Sensenich working with UST to find alternative means for debtors to appear at ch 13 § 341 meetings.

9. *All of this is subject to change*, as the impact of COVID-19 evolves. VTB procedures will be modified, as needed, in response to evolving circumstances and additional guidance. We will do our best to keep you all informed through postings to the website, the VBA listserv, and BB meetings.
10. Questions? Comments? Suggestions?

Attachments:

1. VTB Form CV-1 (debtor affidavit in support of chapter 13 plan confirmation)
2. USDC General Orders ## 84 and 86
3. USBC Standing Order # 20-09
4. Revised UST Notice (re: continuing in-person § 341 meetings through April 10, 2020)
5. *Draft* USBC Standing Order # 20-10 (re: wet signatures)

These Bench-Bar lunch meetings are coordinated by the Bankruptcy Court.
One CLE credit is provided for attendance at each meeting.
Contact Maria Dionne @ 802-657-6432 or maria_dionne@vtb.uscourts.gov with any questions.

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re

**[Debtor's Name],
Debtor.**

**Chapter 13
Case # _____**

DEBTOR'S AFFIDAVIT IN SUPPORT OF CONFIRMATION OF A CHAPTER 13 PLAN

I, _____, the Debtor in this case, wish to have the Court confirm the chapter 13 plan I filed (doc. # __) and in support of confirmation I affirm, under penalty of perjury, as follows:

1. I have reviewed my Chapter 13 Plan and understand my obligations under the plan.
2. I understand that my plan calls for payments in the amount of \$___ over a period of ___ months.
3. [If applicable] My plan also calls for additional payments [insert here any lump sum payments, e.g., from the sale of property, tax refunds, etc.] as follows: \$___ due on ___ [date(s)].
4. I believe that I will be able to make all those payments, in full and on time.
5. I am current on my plan payments.
6. I have delivered to the Chapter 13 Trustee all the documents required under section 521 of the Bankruptcy Code (including, but not limited to, copies of my two most recently filed tax returns, and if applicable, proof of insurance and mortgages, etc.).
7. I wish to have my plan confirmed without a court hearing.

Dated: _____

[Debtor's signature]

Dated: _____

[Co-Debtor's signature, if any]

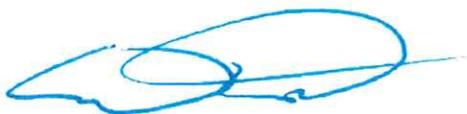
If you have a scheduled appointment or you are otherwise required to appear at one of the courthouses in the District of Vermont, and you are unable to appear because of the restrictions listed above,

- If you are represented by an attorney, please contact your attorney;
- If you are an attorney or a *pro se* party, and you are scheduled to appear in court before a judge, please contact the judge's chambers directly;
- If you are scheduled to meet with a U.S. Probation Officer, please contact the appropriate the U.S. Probation Officer at (802) 652-3000;
- If you are scheduled for a naturalization ceremony, please contact our Naturalization Clerk by calling (802) 657-6412;
- If you are a juror, please contact our Jury Administrator at (802) 951-8110;
- If you are a grand juror, please contact our Jury Administrator at (802) 951-8110;
- For District Court matters, please contact the Clerk of Court at (802) 951-6301;
- For Bankruptcy Court matters, please contact the Clerk of Court at (802) 657-6400;
- If you are scheduled to meet with anyone in the United States Attorney's Office, please contact (802) 951-6725;
- For any matter not listed here, please call your agency contact or the Clerk of Court at the numbers listed above.

These restrictions will remain in place temporarily until it is determined to be safe to remove them. People who think they have been exposed to COVID-19 should contact their healthcare provider immediately.

SO ORDERED.

Dated at Burlington, in the District of Vermont, this 13 day of March, 2020.



Geoffrey W. Crawford
Chief Judge

**UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT**

In re: Court Operations under the Exigent
Circumstances created by COVID-19 and
Related Coronavirus Health Conditions

GENERAL ORDER NO. 86

This General Order No. 86 supersedes General Order No. 85 dated March 16, 2020. It describes in greater detail the procedures and restrictions under which the District Court and the Bankruptcy Court will operate while emergency measures necessary to reduce the spread of the COVID-19 infection remain in place.

I. Criminal Cases

1. The CM/ECF system remains open for motions and other filings in criminal cases.
2. Defendants will continue to appear in person in court with counsel for initial appearances or arraignments, detention hearings and supervised release arrest and appearance. Unless otherwise ordered by the presiding judge, all other hearings are postponed. These include motions to suppress, motions related to discovery, changes of plea, trials, and sentencings.
3. All misdemeanor, CVB violations, and petty offense hearings scheduled through April 30, 2020 are continued. New dates for these cases shall be rescheduled without the need to file any motions with the court.
4. At present, electronic facilities for the appearance of a defendant by video from jail are not in place. If these become available, the court will modify the procedure for in-person hearings.
5. Court-ordered deadlines in criminal cases will need to be revised in many cases. Counsel shall communicate and submit revised scheduling orders on

a case-by-case basis as appropriate. Scheduling orders now in place remain in effect until further order of the court.

6. Waiver of appearance

With the assistance of counsel, a defendant may waive his or her appearance at any proceeding, including the initial appearance. In the event of a waiver, the judge will enter an order on the basis of the papers filed in the case.

7. Conditions of release

The court will continue to set conditions of release for defendants released prior to trial or sentencing and to modify these upon motion. A defendant may acknowledge his or her receipt and understanding of conditions of release by signing a statement that he or she has received, read and understands the conditions.

8. In cases in which a sentence of additional incarceration is unlikely, a judge may permit a defendant who is released to proceed to sentencing in a telephone hearing following execution of a waiver of appearance.

9. All grand jury proceedings in this District remain postponed until April 23, 2020. Compliance with subpoenas where appropriate may be accomplished by electronic means. Further postponement will be ordered as necessary.

10. As previously ordered in ¶ 4 of General Order No. 85, the time period of the postponements implemented by this Order will be excluded under the Speedy Trial Act, as the court specifically finds that the ends of justice served by ordering the postponements outweighs the best interests of the public and any defendant's right to a speedy trial, pursuant to 18 U.S.C. § 3161(h)(7)(A). The 30-day period for indictment pursuant to 18 U.S.C. § 3161(b) is also subject to this exclusion.

11. Any person in the custody of the U.S. Marshal's Service shall wear a protective mask as directed by USMS during transport, holding in the courthouse, or appearance in the courtroom. Any member of the USMS shall wear appropriate protective clothing and equipment while accompanying a person in custody.

II. Civil Cases

1. The CM/ECF system remains open for motions and other filings in civil cases.
2. The judges will consider the majority of motions on the papers without conducting a hearing. If a hearing is necessary, it will be conducted by telephone. The judge will make a case-by-case determination of whether a motion hearing requiring evidence will be conducted by phone or on the basis of the written filings.
3. Parties and their attorneys remain free to request an in-person motion hearing if evidence is required as in the case of a preliminary injunction. Such requests will be resolved on a case-by-case basis by the assigned judge.
4. Civil trials are postponed at this time except as specifically scheduled by the court.
5. Depending on the length of the current emergency and its effect in particular cases, counsel are encouraged to communicate and submit joint revised discovery schedules which reflect the needs of their cases. In the absence of a motion or joint proposal, the existing pre-trial order remains in effect.

III. Bankruptcy

1. The CM/ECF system remains open for bankruptcy filings and motions.
2. The court will decide matters on the papers whenever possible, expand the circumstances under it will waive parties' appearances, and address any matters which require a hearing via telephone hearing. The court will schedule an in-person hearing only under emergency circumstances and upon a showing that there is no sufficient alternative.

IV. Probation and Pretrial Services

The United States Probation and Pretrial Services Office will continue to supervise individuals as ordered by the Court. The Office will continue to prepare pre-sentence reports although procedures for interviews of defendants may be modified at the discretion of the Chief Probation Officer.

V. Entry to the courthouse

The Burlington courthouse remains open subject to the exclusion of certain high-risk individuals described below. The Rutland courthouse will open only for the purpose of holding an emergency court hearing. In-person visits are discouraged unless absolutely necessary. In the event of a hearing, the courtroom remains open to the public.

The court will continue to post a notice excluding people at elevated risk of spreading the COVID-19 infection. This group now includes:

- All persons who have traveled internationally within the last 14 days;
- All persons who have come into contact with someone who suffers from the COVID-19 virus or is suspected of being infected.
- All persons who have been asked to self-quarantine by any doctor, hospital, or healthcare provider.
- All persons with an elevated temperature or other signs of a viral infection.

To ensure the implementation of this provision, the Court Security Officers are authorized to screen any visitors entering the courthouses and shall deny entry to anyone attempting to enter in violation of this General Order.

VI. Expiration of this Order

The Court will monitor the Covid-19 emergency and the guidance offered by the CDC and the Vermont Department of Health and make necessary adjustments in the interest of public health and the administration of justice. The Court will vacate, extend or amend this order no later than April 23, 2020.

SO ORDERED this 23rd Day of March, 2020.

/s/ Geoffrey W. Crawford

Chief Judge

U. S. District Court

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

**In re:
Modified Bankruptcy Court Procedures
and Operations Under the Exigent
Circumstances Created by COVID-19**

**STANDING ORDER
20-09**

Since the Governor of the State of Vermont has declared a public health emergency throughout the State urging people to avoid large gatherings, and the Centers for Disease Control and Prevention has advised people to take precautions in light of the COVID-19 virus (coronavirus) outbreak and in particular to take all reasonable steps to avoid being exposed to the virus, this Court is modifying its procedures and operations to align with these recommendations.

Although in-person participation at hearings and conferences is generally more effective than telephonic participation, the exigent circumstances created by COVID-19 warrant application of a more liberal standard for remote participation in this Court's hearings and conferences.

THEREFORE, IT IS HEREBY ORDERED, effective immediately and subject to the evolving circumstances of COVID-19 in Vermont, and until further notice:

1. Scheduled Hearings and Conferences. All scheduled hearings and conferences will be conducted telephonically pending further order of the Court. Any party who wishes to appear in person at a scheduled hearing or conference may file a motion either to appear in person on the scheduled date, or to continue the hearing to a date when in-person appearances are likely to be reinstated, on notice to all affected parties and specifying the legal and factual basis for that request.
2. Evidentiary Hearings and Trials. Evidentiary hearings and trials will be rescheduled unless there are time-sensitive issues which must be addressed immediately. The Court will determine which trials and evidentiary hearings need to be rescheduled, on a case-by-case basis, based on the current record. The courtroom deputy will then contact the attorneys and *pro se* parties involved to set a mutually acceptable new date for the trial or hearing.
3. Regular Operations. The Bankruptcy Court remains open for all other business. Staff in the Clerk's Office will continue to receive and process mail, accept filings, enter filings on the dockets, be present at the intake desk (in Burlington only), and be available by telephone. Electronic filings may still be made through the CM/ECF system. The public is encouraged to continue utilizing Court services while following all applicable public health guidelines.

SO ORDERED.

March 16, 2020
Burlington, Vermont



Colleen A. Brown
United States Bankruptcy Judge

**NOTICE FROM THE UNITED STATES TRUSTEE
CONTINUING ALL IN-PERSON SECTION 341
MEETINGS THROUGH APRIL 10, 2020 IN THE
DISTRICTS OF CONNECTICUT, NEW YORK AND
VERMONT (ALL DIVISIONS)**

Effective immediately, all in-person chapter 7, 12, and 13 section 341 meetings scheduled through April 10, 2020, are hereby continued until a later date to be determined. Section 341 meetings may not proceed during this period except through telephonic or other alternative means not requiring personal appearance by debtors. Appropriate notice will be provided to parties in accordance with bankruptcy law and rules for any telephonic meetings scheduled during this period.

Meetings already scheduled as telephonic meetings may proceed as scheduled.

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re:

**Modified Signature Requirements for
“Verified Papers” in Response to the
Exigent Circumstances Created by COVID-19**

**STANDING ORDER
20-10**

Since the Governor of the State of Vermont has declared a public health emergency throughout the State urging people to avoid large gatherings, and the Centers for Disease Control and Prevention has advised people to take precautions in light of the COVID-19 virus (coronavirus) outbreak and in particular to take all reasonable steps to avoid being exposed to the virus, this Court is temporarily modifying its requirements regarding original signatures to align with these recommendations.

THEREFORE, IT IS HEREBY ORDERED:

1. A “Verified Paper” means a filing that a person signs and thereby declares under oath or penalty of perjury concerning the truth of matters set forth in that filing. Verified Papers do not include proofs of claim or certificates of service. Verified Papers include, without limitation:
 - a. petitions for relief under the Bankruptcy Code;
 - b. lists of creditors and all filings required under Bankruptcy Rule 1007(b);
 - c. affidavits;
 - d. verified applications, motions, complaints, answers, counterclaims, cross claims, and replies; and
 - e. any amendments to these documents.
2. The electronic filing of a Verified Paper, including a voluntary petition, is permitted where the debtor’s attorney chooses to electronically file the Verified Paper without the original signature of the debtor in the attorney’s possession, provided that such electronic filing constitutes a certification by the attorney that the debtor has signed it and that, at the time of filing, the attorney is in possession of an image format or other facsimile of the document, including the signature page, received either electronically (including email/text) or by facsimile machine from the debtor.
3. If the debtor’s attorney files the Verified Paper electronically without the original signature in the attorney’s possession, then:
 - a. the debtor’s attorney shall file the Verified Paper with the signature in image format;

- b. by filing the Verified Paper, the debtor's attorney represents and certifies that the attorney:
- i. transmitted the entire Verified Paper to the debtor for review and signature,
 - ii. communicated with the debtor regarding the substance and purpose of the Verified Paper,
 - iii. received the entire Verified Paper, including the signature page, back from the debtor electronically, and
 - iv. received express authorization from the debtor to file the Verified Paper; and
- c. within 30 days of filing the Verified Paper, the debtor's attorney shall also file a certification that the attorney has received the debtor's original signature and will maintain it in accordance with the requirements of this Court's Local Rules.
4. This is a temporary Order. It is effective upon entry and shall expire automatically on June 1, 2020, unless the Court extends it.

SO ORDERED.

March __, 2020
Burlington, Vermont

Colleen A. Brown
United States Bankruptcy Judge