

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re:

**MODIFICATION OF
LOCAL RULES OF PRACTICE AND
PROCEDURE IN BANKRUPTCY COURT,
DISTRICT OF VERMONT**

STANDING ORDER # 15-07

**TO TERMINATE THE PRACTICE
OF ATTORNEYS APPEARING AT
COURT HEARINGS THROUGH
VERMONT INTERACTIVE
TECHNOLOGIES (“VIT”)
AND TO REVISE LOCAL RULES
4001-4, 5072-1, 5073-1,
9013-2, 9013-3, 9013-4 AND 9075-1**

The Vermont Interactive Technologies (“VIT”) services upon which this Court has relied to conduct hearings through video conference since 2008, will not be available after December 31, 2015. On December 4, 2015, Clerk’s Announcement # 15-105 was issued to inform the bankruptcy bar that after December 31, 2015, attorneys will no longer be able to appear at Bankruptcy Court hearings from remote sites and all bankruptcy court hearings will be held in the courtrooms either at the Federal Building and Courthouse in Burlington or at the U.S. Post Office and Courthouse in Rutland.

THE COURT FINDS this change in local practice requires the revision of seven local rules. Accordingly, IT IS HEREBY ORDERED Vt. LBR 4001-4 is revised to read:

VT. LBR 4001-4. CASH COLLATERAL

...

(b) **Interim Hearing on Use of Cash Collateral.** If, before the required 14-day notice period has expired, the debtor requests an interim hearing to obtain Court authorization to use only that amount of cash collateral as is necessary to avoid immediate and irreparable harm to the estate pending a final hearing, the debtor’s motion for interim relief must provide: (1) the facts necessary for the Court to determine whether the debtor is at risk of immediate and irreparable harm; and (2) a detailed breakdown of the amount of cash requested and how it will be used. In exigent circumstances, the Court may authorize that the interim hearing be conducted by telephone ~~or video conference~~ without transcript or recording. See Vt. LBR 5007-

1(c). The movant must serve all secured creditors whose collateral is subject to the motion with notice of the interim hearing in the manner directed by the Court. See also Vt. LBR 9075-1 (providing instructions for handling emergency matters in this Court).

IT IS FURTHER ORDERED that Vt. LBR 5072-1 is revised to read:

VT. LBR 5072-1. COURTROOM DECORUM

The following procedures are to be adhered to in all matters in open court:

- (a) all persons in the courtroom are to be treated with dignity and respect;
- (b) counsel must address all persons by their surname during all court hearings;
- (c) there will be no oral confrontation or dialog directly between opposing attorneys or among parties;
- (d) all persons addressing the Court must stand ~~(unless the hearing is conducted via Vermont Interactive Technologies or video conference, and the Court determines implementation of this Rule would interfere with effective transmission);~~

IT IS FURTHER ORDERED that Vt. LBR 5073-1 is revised to read:

VT. LBR 5073-1. PHOTOGRAPHY, RECORDING DEVICES; CELLULAR TELEPHONES, LAPTOP COMPUTERS; RECORDING AND BROADCASTING BY THE COURT

...

~~(d) **Video Conferencing.** Parties may appear via video conference from court facilities or remote locations under exigent or emergency circumstances, with Court approval. Out-of-state participants may participate in hearings through video conference if, at least seven days prior to the hearing, they file a motion showing cause, serve the motion on the other parties to the hearing, obtain Court approval, and contact the courtroom deputy to make the necessary arrangements at the time of filing the motion.~~

IT IS FURTHER ORDERED that Vt. LBR 9013-2(c) is revised to read:

VT. LBR 9013-2. HEARINGS – ON MOTIONS GENERALLY

...

(c) **Form of Hearing Notice.** For all routine, non-evidentiary motions, the moving party must prepare a hearing notice specifying: (1) the relief sought; (2) the hearing date and time; (3) the location of the hearing; and (4) the response deadline. See Vt. LBR 9013-3 (providing guidelines for noticing a hearing under the conventional procedure); see also Vt. LBR 9013-4 (providing guidelines for noticing a hearing under the default procedure); Vt. LB Forms U-1 and U-2 (providing examples of proper hearing notices).

- (1) **Hearing Dates/Times.** The upcoming Court calendar dates and designated times for hearings are posted on the Court's website, <http://www.vtb.uscourts.gov>, and may also be obtained by contacting the courtroom deputy at (802) 776-2010. The Court has specific days when it hears: (A) Chapters 7 and 11 matters; (B) Chapters 7, 11, and 13 matters; and (C) Chapters 12 and 13 matters, all of which are designated on the Court's calendar. Unless Court approval is obtained in advance, based on exigent circumstances,

movants should schedule matters according to that schedule.

(2) **Hearing Sites.** Matters may be scheduled to be heard at the Rutland Bankruptcy Court site, or the Burlington Bankruptcy Court site, ~~or at a remote video conferencing site. See subparagraph (3), below.~~ Movants must set hearings at the location where the § 341 meeting of creditors is scheduled in the case (unless otherwise agreed between the interested parties or due to exigent circumstances as determined by the Court), and taking into account the availability of key parties to the motion.

~~(3) **Availability of Video Conferencing.** On certain hearing dates, attorneys and *pro se* parties may appear at a hearing via video conference. Remote access sites from which a party may participate in a hearing are identified on the Court's website, <http://www.vtb.uscourts.gov/>.~~

~~(A) Appearance at a remote video conference site is limited to instances where:~~

~~(i) — a party seeks only to observe proceedings;~~

~~(ii) — a party's appearance is necessary only to place on the record a consent or a scheduling agreement;~~

~~(iii) — the total length of arguments at the hearing is reasonably expected not to exceed 15 minutes;~~

~~(iv) — out-of-state participants file a motion at least one week prior to the hearing showing why appearance via video conference is warranted, serve the motion on the other parties to the hearing, obtain Court approval, and contact the courtroom deputy to make the necessary arrangements at the time of filing the motion, see Vt. LBR 5073-1(d); or~~

~~(v) — the Court has not directed (by a hearing notice or otherwise) that the parties must appear in person in the courtroom.~~

~~(B) Unless specifically authorized by the Court, video conference sites may not be used for:~~

~~(i) — Chapter 12 and 13 confirmation hearings;~~

~~(ii) — Chapter 11 confirmation hearings, except by attorneys or parties who meet the criteria listed in subsections (A)(i), (ii), or (iii), above;~~

~~(iii) — evidentiary matters or trials; or~~

~~(iv) — hearings requiring extensive legal argument, i.e., argument expected to exceed 15 minutes.~~

~~(4) — **Hearing Notices for Days When Video Conference Participation is Available.** Hearing notices for matters scheduled on days for which video conference appearances are available must: (i) include language informing the noticed parties of the opportunity to attend and participate in the hearing at a remote video conference site, and (ii) identify the locations of the remote video conference sites for the hearing. See Vt. LBR 9013-3(b)(3)(C), (D); see also Vt. LBR 9013-4(c)(3)(C), (D).~~

IT IS FURTHER ORDERED that Vt. LBR 9013-3(b) is revised to read:

VT. LBR 9013-3. HEARINGS – ROUTINE MOTIONS – NOTICE UNDER CONVENTIONAL PROCEDURE

(a) **Meaning of Conventional Procedure.** When a party seeks relief under the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure and schedules a hearing on a motion pursuant to Vt. LBR 9013-2(a), and where either the Court’s default procedure under Vt. LBR 9013-4 is not available or the party chooses not to use the default procedure, the Court will hold a hearing on the party’s motion. This mechanism for obtaining relief is referred to as the “conventional procedure.”

(b) **Form of Hearing Notice.** In addition to the requirements set forth in Vt. LBR 9013-2(c), the following items must be incorporated into each notice of motion utilizing the conventional procedure:

- (1) **Title of Notice.** The title of the hearing notice must be “Notice of Motion”;
- (2) **Response Deadline.** The deadline for filing responses to a motion scheduled for a hearing utilizing the conventional procedure must be no later than three business days before the hearing date, and this three-day period may be included within the requisite notice period;
- (3) **Mandatory Language.** The following language, in bold and conspicuous print, must be included in the notice:

(A) If ~~the hearing date is a date on which video conferencing is not available,~~ and the motion is filed in a Chapter 7, 12, or 13 case:

A HEARING ON THE MOTION and any responses will be held at [time] on [date] at the following location: [indicate Rutland or Burlington location].

IF YOU OPPOSE THE MOTION, you are encouraged to file a written response specifying your opposition to the motion with the Clerk of the Court, on or before 4:00 P.M. on [a date that is no less than three business days before the hearing date]. If you file a written response, you must also serve a copy on the moving party, the Debtor, the Debtor’s counsel, the Office of the United States Trustee, and the case trustee, if any. The addresses for those parties are set forth below.

(B) If ~~the hearing date is a date on which video conferencing is not available,~~ and the motion is filed in a Chapter 11 case:

A HEARING ON THE MOTION and any responses will be held at [time] on [date] at the following location: [indicate Rutland or Burlington location].

IF YOU OPPOSE THE MOTION, you are encouraged to file a written response specifying your opposition to the motion with the Clerk of the Court, on or before 4:00 P.M. on [a date that is no less than three business days before the hearing date]. If you file a written response, you must also serve a copy on the moving party, the Debtor, the Debtor’s counsel, the Office of the United States Trustee, the case trustee, if any, and the Creditors’ Committee and its counsel or, if no committee is appointed, the 20 largest unsecured

creditors. The addresses for those parties are set forth below.

(C) ~~If the hearing date is a date on which video conferencing is available, and the motion is filed in a Chapter 7, 12, or 13 case:~~

~~A **HEARING ON THE MOTION** and any responses **will be held** at [time] on [date] at the following location: [indicate Rutland or Burlington location] and the following Vermont Interactive Technologies sites:~~

ADDRESSES FOR VERMONT INTERACTIVE		
	/st	/p
	/st	/p
	/st	/p
	/st	/p
	/st	/p

~~For directions to remote video conferencing sites, please refer to <http://www.vitlink.org/HTML/Locations.htm>. Please refer to the Court's website, <http://www.vtb.uscourts.gov/>, to determine whether your participation via video conferencing in this matter meets the Court's video conferencing eligibility criteria. If you have questions or if you do not have access to the Internet, please contact the courtroom deputy at (802) 776-2010.~~

~~**IF YOU OPPOSE THE MOTION**, you are encouraged to file a written response specifying your opposition to the motion with the Clerk of the Court, on or before 4:00 P.M. on [a date that is no less than three business days before the hearing date]. If you file a written response, you must also serve a copy on the moving party, the Debtor, the Debtor's counsel, the Office of the United States Trustee, and the case trustee, if any. The addresses for those parties are set forth below.~~

(D) ~~If the hearing date is a date on which video conferencing is available, and the motion is filed in a Chapter 11 case:~~

~~A **HEARING ON THE MOTION** and any responses **will be held** at [time] on [date] at the following location: [indicate Rutland or Burlington location] and the following Vermont Interactive Technologies sites:~~

ADDRESSES FOR VERMONT INTERACTIVE		
	/st	/p
	/st	/p
	/st	/p
	/st	/p
	/st	/p

~~For directions to remote video conferencing sites, please refer to <http://www.vitlink.org/HTML/Locations.htm>. Please refer to the Court's website, <http://www.vtb.uscourts.gov/>, to determine whether your participation via video conferencing in this matter meets the Court's video conferencing eligibility criteria. If you have questions or if you do not have access to the Internet, please contact the courtroom deputy at (802) 776-2010.~~

All notices of hearings under Vt. LBR 9013-3 must be in substantial compliance with Vt. Form U-1.

IT IS FURTHER ORDERED that Vt. LBR 9013-4(c) is revised to read:

VT. LBR 9013-4. HEARINGS – ROUTINE MOTIONS – NOTICE UNDER DEFAULT PROCEDURE

...

(c) **Form of Hearing Notice.** In addition to the requirements set forth in Vt. LBR 9013-2(c), the following items must be incorporated into each notice of motion filed under the default procedure:

(1) **Title of Notice.** The title of the notice must be “Notice of Motion under Default Procedure”;

(2) **Response Deadline.** The deadline for filing responses to a motion scheduled for a hearing utilizing the default procedure must be no later than seven days before the hearing date; this seven-day period is in addition to the requisite notice period;

(3) **Mandatory Language.** The following language, in bold and conspicuous print, must be included in the notice:

(A) If the ~~hearing date is a date on which video conferencing is not available, and the~~ motion is filed in a Chapter 7, 12, or 13 case:

IF YOU OPPOSE THE MOTION, you must file a written response specifying your opposition to the motion with the Clerk of the Court, ***on or before 4:00 P.M. on [a date that is no less than seven days before the hearing date]***. You must also serve a ***copy of your response on the Moving Party, the Debtor, the Debtor’s counsel, the Office of the United States Trustee, and the case trustee, if any. The addresses for those parties are set forth below.***

IF A TIMELY RESPONSE IN OPPOSITION TO THE MOTION IS FILED, the Court will hold a hearing on the Motion and the response at [time] on [date] at the following location: [indicate Rutland or Burlington location], unless the Court deems no hearing is necessary and enters an order prior to the time set for hearing.

IF NO RESPONSE IN OPPOSITION IS TIMELY FILED, the Court ***may*** deem the matter unopposed and grant the motion without further hearing. If an order has not been entered before the hearing date, the hearing will proceed and the Movant must appear.

(B) If the ~~hearing date is a date on which video conferencing is not available, and the~~ motion is filed in a Chapter 11 case:

IF YOU OPPOSE THE MOTION, you must file a written response specifying your opposition to the motion with the Clerk of the Court, ***on or before 4:00 P.M. on [a date that is no less than seven days before the hearing date]***. You must also serve a ***copy of your response on the Moving Party, the Debtor, the Debtor’s counsel, the Office of the United States Trustee, the case trustee, if any, and the Creditors’ Committee and its counsel or, if no***

committee is appointed, the 20 largest unsecured creditors. The addresses for those parties are set forth below.

IF A TIMELY RESPONSE IN OPPOSITION TO THE MOTION IS FILED, the Court will hold a hearing on the Motion and the response at [time] on [date] at the following location: [indicate Rutland or Burlington location], unless the Court deems no hearing is necessary and enters an order prior to the time set for hearing.

IF NO RESPONSE IN OPPOSITION IS TIMELY FILED, the Court may deem the matter unopposed and grant the motion without further hearing. If an order has not been entered before the hearing date, the hearing will proceed and the Movant must appear.

~~(C) If the hearing date is a date on which video conferencing is available, and the motion is filed in a Chapter 7, 12, or 13 case:~~

~~**IF YOU OPPOSE THE MOTION**, you must file a written response specifying your opposition to the motion with the Clerk of the Court, on or before 4:00 P.M. on [a date that is no less than seven days before the hearing date]. You must also serve a copy of your response on the Moving Party, the Debtor, the Debtor's counsel, the Office of the United States Trustee, and the case trustee, if any. The addresses for those parties are set forth below.~~

~~**IF A TIMELY RESPONSE IN OPPOSITION TO THE MOTION IS FILED**, the Court will hold a hearing on the Motion and any response filed in opposition to the motion at [time] on [date] at the following location: [indicate Rutland or Burlington location] and selected Vermont Interactive Technologies sites (see below), unless the Court deems no hearing is necessary and enters an order prior to the time set for hearing.~~

<i>ADDRESSES FOR VERMONT INTERACTIVE</i>		
	<i>{st}</i>	<i>{p}</i>
	<i>{st}</i>	<i>{p}</i>
	<i>{st}</i>	<i>{p}</i>
	<i>{st}</i>	<i>{p}</i>
	<i>{st}</i>	<i>{p}</i>

~~For a complete listing of remote video conferencing sites and directions, please refer to <http://www.vitlink.org/HTML/Locations.htm>. Please refer to the Court's website, <http://www.vtb.uscourts.gov/>, to determine whether your participation via video conferencing in this matter meets the Court's video conferencing eligibility criteria. If you have questions or if you do not have access to the Internet, please contact the courtroom deputy at (802) 776-2010.~~

~~**IF NO RESPONSE IN OPPOSITION IS TIMELY FILED**, the Court may deem the matter unopposed and grant the motion without further hearing. If an order has not been entered before the hearing date, the hearing will proceed and the Movant must appear.~~

~~(D) If the hearing date is a date on which video conferencing is available, and the motion is filed in a Chapter 11 case:~~

~~IF YOU OPPOSE THE MOTION, you must file a written response specifying your opposition to the motion with the Clerk of the Court, on or before 4:00 P.M. on [a date that is no less than seven days before the hearing date]. You must also serve a copy of your response on the Moving Party, the Debtor, the Debtor's counsel, the Office of the United States Trustee, the case trustee, if any, and the Creditors' Committee and its counsel or, if no committee is appointed, the 20 largest unsecured creditors. The addresses for those parties are set forth below.~~

~~IF A TIMELY RESPONSE IN OPPOSITION TO THE MOTION IS FILED, the Court will hold a hearing on the Motion and any response filed in opposition to the motion at [time] on [date] at the following location: [indicate Rutland or Burlington location] and selected Vermont Interactive Technologies sites (see below), unless the Court deems no hearing is necessary and enters an order prior to the time set for hearing.~~

ADDRESSES FOR VERMONT INTERACTIVE		
	fst	tp
	fst	tp
	fst	tp
	fst	tp
	fst	tp

~~For a complete listing of remote video conferencing sites and directions, please refer to <http://www.vitlink.org/HTML/Locations.htm>. Please refer to the Court's website, <http://www.vtb.uscourts.gov/>, to determine whether your participation via video conferencing in this matter meets the Court's video conferencing eligibility criteria. If you have questions or if you do not have access to the Internet, please contact the courtroom deputy at (802) 776-2010.~~

~~IF NO RESPONSE IN OPPOSITION IS TIMELY FILED, the Court may deem the matter unopposed and grant the motion without further hearing. If an order has not been entered before the hearing date, the hearing will proceed and the Movant must appear.~~

All notices of hearings under Vt. LBR 9013-4 must be in substantial compliance with Vt. LB Form U-2.

IT IS FURTHER ORDERED that Vt. LBR 9075-1(b)(4) is revised to read:

VT. LBR 9075-1. EMERGENCY MATTERS

(b) PROCEDURES FOR SEEKING RELIEF IN AN EMERGENCY MATTER.

...

(4) Hearing. If the Court determines that an emergency hearing is necessary, the Court prefers that the parties appear in person for such hearing, but will permit participation by telephone ~~or video conferencing~~ if the nature of the emergency and time constraints warrant it. If testimony will be necessary to support the relief sought, the movant is to request an evidentiary hearing. Otherwise, the hearing will be limited to legal arguments by counsel. The movant must coordinate the hearing date, time, and location with the courtroom deputy. It is the movant's

responsibility to coordinate any approved telephone ~~or video conferencing~~
appearances. See Vt. LBR 5007-1(c).

IT IS FURTHER ORDERED that these changes are effective as of December 31, 2015.

SO ORDERED.

December 30, 2015
Burlington, Vermont

Colleen A. Brown
United States Bankruptcy Judge