

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

**In re:
REVISED NOTICE OF MOTION FORMS,
AND MODIFIED ELIGIBILITY CRITERIA
AND PROCESS FOR REMOTE HEARINGS**

STANDING ORDER # 21-05

To avoid confusion about remote appearances at hearings, the Court is modifying the form Notices of Motion (Vt. LB Forms U-1 and U-2) to include explicit references to the eligibility criteria for remote appearances and the process for appearing at hearings remotely. These were originally set forth in Standing Order # 21-04 and are clarified herein in response to questions attorneys have raised.

The Court finds the eligibility criteria set forth herein properly balance the need to avoid unnecessarily increasing the expense of litigation and motion practice in this Court against the obligation to ensure each party who appears in this Court has a full hearing in an environment that will foster maximum access to justice. Moreover, these criteria mirror the criteria this Court established for hearings via Vermont Interactive Television (“VIT”) from approximately 2009 to 2015, and for telephonic participation in this Court’s hearings since VIT closed down.

The eligibility criteria and process for remote hearings set forth in this Standing Order # 21-05 shall also be designated as an appendix to this Court’s Local Rules, entitled “Appendix IX – Eligibility Criteria and Process for Remote Hearings” and shall be updated in that appendix, as needed.

I. CRITERIA FOR APPEARING AT REMOTE HEARINGS

- (A) Appearance at a remote hearing is limited to instances in which:
- (i) a party seeks only to observe; or
 - (ii) a party’s appearance is necessary only to place on the record a consent or a scheduling agreement; or
 - (iii) the total length of the hearing is not reasonably expected to exceed 15 minutes; or
 - (iv) the hearing is a status hearing in a chapter 7, 12 or 13 case; or
 - (v) the hearing is a status hearing in a chapter 11 case, and the Court has granted the party permission to participate remotely; and

- (vi) the hearing meets one of the above criteria for remote participation, is properly noticed, and the Court has not directed that the parties must appear in person in the courtroom; or
 - (vii) though it might not appear to meet the above eligibility criteria, the Court has specified at a prior hearing that the parties may appear at this particular hearing remotely.
- (B) Unless specifically authorized by the Court, remote hearings may not be used for:
- (i) chapter 11, 12 or 13 confirmation hearings;
 - (ii) trial or evidentiary matters, or any hearing at which testimony is to be presented; or
 - (iii) hearings the parties reasonably expect to exceed 15 minutes.
- (C) Special Circumstances - remote hearings may also be used for:
- (i) emergency weather conditions, with permission of the Court;
 - (ii) appearance by trial witnesses, upon Order of the Court; or
 - (iii) extraordinary or other emergency circumstances, (i.e. health or safety concerns), with permission of the Court.

II. PROCESS FOR REMOTE HEARINGS

- (A) Appearance modalities in Court - Zoomgov video conferencing participation will be the sole modality for remote appearances. It replaces telephonic participation in courtroom hearings. (*There will be no participation in any hearings by telephone unless the participant gets special permission from the Court, in advance, based on exigent circumstances.*) No party will be required to appear remotely; in person appearance is always an option.
- (B) Participants appearing via Zoomgov must participate with both audio and video during their hearings, and have their video and audio turned off when they are not involved in the hearing taking place. (*The only exception will be if participant obtains permission to appear by audio only, which is essentially the same as appearing by telephone and thus will require advance permission, based on a showing of exigent circumstances.*)
- (C) Courtroom decorum must be maintained at all times. Whether one is in the courtroom or appearing via Zoomgov, the level of decorum expected is the same.
- (D) Hearing Notices: When noticing a motion (whether under the default or conventional procedure), the movant shall include the Zoomgov option in the notice of motion, see revised Vt. LB Forms U-1 and U-2. Each attorney or *pro se* party shall determine whether to appear via Zoomgov or in person based on:
- (i) whether it will serve their / their client's best interest to be in the courtroom, or to participate via Zoomgov; and
 - (ii) whether the presentation they intend to make falls within the eligibility criteria for Zoomgov participation.

- (E) If the hearing does not meet the Zoomgov criteria, either as filed, or as the result of an objection having been filed, and a party nonetheless appears at the hearing via Zoomgov, the scope of their participation will be limited, as set out above in the eligibility criteria, *e.g.*, the Court may limit or prohibit further argument at the hearing.
- (F) Notice of Motion language must specify the option and instructions for appearing via Zoomgov. See attached forms notices of motion for conventional procedure and default procedure (Vt. LB Forms U-1 and U-2).
- (G) Judge Determination. If the Court determines all parties presenting arguments must appear in person at a particular hearing, the Clerk's Office may make a notation on the case docket, no later than three (3) business days prior to the hearing indicating that all parties who wish to be heard at the hearing must appear in person. (*Others who wish only to observe may do so via Zoomgov, as long as they make arrangements with the courtroom deputy in advance.*)
- (H) Notice to Courtroom Deputy. Anyone who wishes to appear at a hearing via Zoomgov must notify the courtroom deputy by email, at Jody_Kennedy@vtb.uscourts.gov, not later than 10 a.m. the day before the hearing, specifying at which hearing(s) they intend to appear and by what screen name. All participants must have a clear and accurate screen name for ease of identification during hearings.

SO ORDERED.

July 14, 2021
Burlington, Vermont



Colleen A. Brown
United States Bankruptcy Judge

Attachments: Revised Vt. LB Forms U-1 and U-2 and Appendix IX

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In re:
_____,
Debtor(s).

Chapter ____
Case # _____

NOTICE OF MOTION UNDER CONVENTIONAL PROCEDURE

A MOTION FOR _____ [*title of motion*] has been filed on [date] by [*state the name of the party*], through their attorney, _____, seeking [*specific relief sought*].

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

You may appear for the above scheduled hearing (a) in person at the location listed above; *or* (b) if you meet the criteria for appearing at remote hearings set forth in Appendix IX to the Court’s Local Rules (available on the Court’s website), you may appear virtually by using the Zoomgov application on an electronic device. If you are eligible for remote participation and choose to appear by Zoomgov, you must follow the process set forth in Appendix IX, including requirements regarding use of both audio and video components, notice to the courtroom deputy, and limitations of remote participation. If you have any questions regarding this process, you are encouraged to contact the courtroom deputy by email at Jody_Kennedy@vtb.uscourts.gov or by telephone at (802) 657-6404.

IF YOU OPPOSE THE MOTION, you are encouraged to file a written response with the Clerk of Court specifying your opposition to the motion, **on or before 4:00 P.M. on [a date that is no less than three (3) business days prior to the hearing date]**. If you file a written response, you must also serve a copy of that written response on the moving party, the debtor, the debtor’s attorney, the United States trustee, the case trustee, if any, and, in a chapter 11 case, also on the creditors’ committee and its attorney or, if there is no committee, then upon the 20 largest unsecured creditors. Addresses for those parties are set forth below.

Dated: _____

By: _____
[Signature of Movant’s attorney]
[typed name, with address, e-mail
address, and telephone number]

U.S. Trustee
74 Chapel St., Ste. 200
Albany, NY 12207-2190

[Name], Case Trustee
Chapter [#] Trustee
[Street Address or P.O. Box]
[City, State, Zip Code]

For [Party’s Name]
c/o [Attorney’s Name]
[Name of Law Firm, if any]
[Street Address or P.O. Box]
[City, State, Zip Code]

[Any other interested parties upon
whom responses must be served]

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re:

_____,
Debtor(s).

Chapter ____
Case # _____

NOTICE OF MOTION UNDER DEFAULT PROCEDURE

A **MOTION FOR** [title of motion] has been filed on [date] by [state the name of the party], through their attorney, _____, seeking [specific relief sought].

IF YOU OPPOSE THE MOTION, you must file a written response with the Clerk of the Court specifying your opposition to the motion, **on or before 4:00 P.M. on [a date that is no less than seven (7) days prior to the hearing date]**. You must also serve a copy of your response on the moving party, the debtor, the debtor’s counsel, the United States trustee, the case trustee, if any, and in a chapter 11 case, the Creditors’ Committee and its counsel or, if no committee is appointed, then upon the 20 largest unsecured creditors. Addresses for those parties are set forth below.

IF A RESPONSE TO THE MOTION IS TIMELY FILED, the Court will hold a hearing on the Motion and any 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.

You may appear for the above scheduled hearing (a) in person at the location listed above; **or** (b) if you meet the criteria for appearing at remote hearings set forth in Appendix IX to the Court’s Local Rules (available on the Court’s website), you may appear virtually by using the Zoomgov application on an electronic device. If you are eligible for remote participation and choose to appear by Zoomgov, you must follow the process set forth in Appendix IX, including requirements regarding use of both audio and video components, notice to the courtroom deputy, and limitations of remote participation. If you have any questions regarding this process, you are encouraged to contact the courtroom deputy by email at Jody_Kennedy@vtb.uscourts.gov or by telephone at (802) 657-6404.

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

Dated: _____

By: _____
[Signature of Movant’s attorney]
[typed name, with address, e-mail
address, and telephone number]

U.S. Trustee
74 Chapel St., Ste. 200
Albany, NY 12207-2190

[Name], Case Trustee
Chapter [#] Trustee
[Street Address or P.O. Box]
[City, State, Zip Code]

For [Party’s Name]
c/o [Attorney’s Name]
[Name of Law Firm, if any]
[Street Address or P.O. Box]
[City, State, Zip Code]

[Any other interested parties upon
whom responses must be served]

ELIGIBILITY CRITERIA AND PROCESS FOR REMOTE HEARINGS¹

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¹ This appendix was created by Standing Order # 21-05 and shall be updated as needed herein.

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