

1. FIRST DAY HEARINGS IN CHAPTER 11 CASES, AND ALL OTHER EMERGENCY HEARINGS

REQUESTING FIRST DAY HEARINGS IN CHAPTER 11 CASES

First day motions must comply with E.D.N.Y. LBR 9077-1 and Administrative Order No. 565. **To request a hearing, prior or subsequent to filing the motion(s) with the Court, please contact the Judge's Courtroom Deputy, Yvette Mills, by email at: ast_hearings@nyeb.uscourts.gov or by telephone at 631.712.6277.** If by email, please include in the subject section of the email that the email pertains to first day motions and the case number(s); please include in the body of the email the date/time the hearing is being requested. Please include in the email either a copy of the motions for which a hearing is being requested, or a listing of such motions by docket number.

REQUESTING ALL OTHER EMERGENCY HEARINGS

Orders to show cause, ex parte orders, and orders shortening time must be by motion, and must comply with E.D.N.Y. LBR 9077-1. **After the motion is filed with the Court, to request a hearing or other relief, please contact the Judge's Courtroom Deputy, Yvette Mills, by email at: ast_hearings@nyeb.uscourts.gov.** Please include the filed motion as a pdf attachment, and state in the subject section of the email that the email pertains to an order to show cause, an ex parte order, or an order shortening time.

Requests to modify Judge Trust's Emergency Hearing Procedures may be made by ex parte application.

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2. CHAMBERS COPIES

Unless otherwise requested by the Court, chambers copies are required only for: first day motions in chapter 11 cases (to be provided in a binder, tabbed and divided, with an index); exhibits and witness affidavits submitted for evidentiary hearings and trials (to be provided in a binder, tabbed and divided, with an index); and any motion which, with exhibits, exceeds 100 pages (excluding motions for relief from stay). Counsel should also consult Judge Trust's procedures regarding the filing of exhibits.

Exhibits:

Exhibits for any trial or contested hearing shall be filed and retained in accordance with E.D.N.Y. LBR 9070-1(a). The Court will strictly follow E.D.N.Y. LBR 9070-1(b) with respect to removal of exhibits from the Court. Parties are reminded that a sufficient number of copies shall be brought to any trial or contested hearing so that copies may be

provided to each counsel and a witness. In addition, three additional copies shall be provided for the Court.

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3. CONTACTING CHAMBERS

Judge Trust does not permit telephone calls to chambers, absent specific circumstances detailed in these procedures. Contact with chambers is **only** allowed for the **express purposes** set out in these procedures.

Emails to chambers are not pleadings, and do not constitute a request for relief, other than for the limited purposes of seeking adjournments, telephonic appearances, and in compliance with the emergency hearings procedures. Any other form of relief may only be sought in accordance with all applicable laws and rules. Any other communication with chambers may be considered an impermissible ex parte communication.

Please note that communications sent to the Court should be sent by attorneys admitted to practice before this Court. To the extent communications are sent by paraprofessionals, such communications should be limited to such communications as are appropriate under applicable rules governing the practice of law and must be copied to the attorney of record at the law firm responsible for the matter made the subject of the communication.

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4. SUBMISSION OF PROPOSED ORDERS

Judge Trust has made Form Orders available for commonly filed motions.

Judge Trust prefers that proposed orders on those matters be submitted using the forms provided.

Judge Trust prefers that proposed orders be submitted through the CM/ECF system. Please see the following web page for further information on procedures for filing electronic orders:

[Submission of Proposed Orders \(E-Orders\)](#)

Parties unable to access the CM/ECF system shall submit orders to Chambers electronically by email to: astorders@nyeb.uscourts.gov. Please see the following web page for further information on procedures for submitting orders by email:

[GUIDELINES FOR SUBMITTING PROPOSED ORDERS TO HON. ALAN S. TRUST BY E-MAIL](#)

All other order submissions are to be sent to the following address:

United States Bankruptcy Court
Eastern District of New York
Alfonse M. D'Amato Federal Courthouse
290 Federal Plaza
Central Islip, New York 11722

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5. REQUESTING AN ADJOURNMENT

Requests for agreed adjournments are to be emailed at least two business days prior to the scheduled hearing date to the Judge's Courtroom Deputy, Yvette Mills, at: ast_hearings@nyeb.uscourts.gov. Requests for agreed adjournments may be by letter but must state the reason why the adjournment is being sought. If an adjournment is not consensual, the party seeking the adjournment must proceed by motion. Please include the letter setting forth the terms of the agreed adjournment or, if contested, the filed motion, as a pdf attachment to the email, and state in the subject section of the email that the email pertains to a request for an adjournment. **Late adjournment requests will not be considered.**

Any requests for an adjournment must be copied to all parties who have filed papers related to the subject matter. If an adjournment is granted, the party requesting the adjournment must immediately docket a letter or notice in the official CM ECF records regarding the adjournment, setting out the date and time to which the hearing has been adjourned; such letter or notice must be contemporaneously served via electronic mail or fax to the parties who have filed papers related to matter, and to the parties who have filed notices of appearance in the case.

Telephone calls to chambers to request an adjournment are not allowed unless the party does not have email access.

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6. STIPULATIONS OR SETTLEMENTS IN CONTESTED MATTERS AND ADVERSARY PROCEEDINGS

If the parties enter into a stipulation or settlement of a matter scheduled for hearing in a contested matter or for a final pretrial conference or trial in an adversary proceeding, and request an agreed adjournment, such request must be emailed **at least two business days prior** to the scheduled hearing date, trial date or final pretrial conference date to the Judge's Courtroom Deputy, Yvette Mills, at: ast_hearings@nyeb.uscourts.gov; such matter will not be removed from the Court's calendar and the parties will not be excused from appearance until the parties file with the Court the stipulation of settlement or file a letter setting out all of the material terms of the stipulation or settlement, **and** email same to the Courtroom Deputy, stating that the stipulation or settlement or letter has been filed. Upon receipt of the email the Court will determine whether the parties will be excused from the hearing/trial and shall notify the parties of same. **Late adjournment requests will not be considered.**

Requests to adjourn pretrial conferences other than the final pretrial conference shall be governed by Rule 5 above.

Under no circumstance should the Courtroom Deputy be notified telephonically of a settlement.

Please further note that motions seeking approval of stipulations or settlements must comply with the applicable Bankruptcy Rules and the applicable E.D.N.Y Local Bankruptcy Rules and chambers' procedures.

Settlements by Presentment in an adversary proceeding shall also be filed and served in the main bankruptcy case in accordance with Rule 9019 of the Federal Rules of Bankruptcy Procedure.

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7. COMPENSATION REQUESTS

a. Monthly Compensation

Judge Trust will entertain requests for monthly compensation in appropriate cases. Requests should be made in accordance with General Order No 538, which is available on the Court's website.

b. Interim Fee Applications

By Presentment - applications for interim compensation of Chapter 7, 11 or 15 professionals retained pursuant to Court Order may be brought by notice of presentment in accordance with E.D.N.Y. LBR 2002-1, if the following criteria are met:

In a Chapter 7 case, for professionals retained by the trustee pursuant to Order of this Court, where each fee request is less than \$10,000.00 (exclusive of out of pocket expenses).

In a Chapter 11 case, for professionals retained by the debtor, the trustee, any official committee, or by an examiner, pursuant to Order of this Court, where each fee request is less than \$25,000.00 (exclusive of out of pocket expenses).

In a Chapter 11 case, for the trustee or examiner, where each fee request is less than \$25,000.00 (exclusive of out of pocket expenses).

In a Chapter 15 case, for professionals retained by any foreign representative pursuant to Order of this Court, where each fee request is less than \$25,000.00 (exclusive of out of pocket expenses).

If an objection is timely filed, or if the Court so directs, the Court shall set the application for hearing, and direct the party filing the application to provide notice thereof.

The Notice must contain the following text, conspicuously displayed after the objection deadline is set out in the same size as or larger font than the statement of the relief sought, and in bold letters:

Please be advised that if an objection is timely filed to the relief requested, or if the Court determines that a hearing is appropriate, the Court will schedule a hearing. Notice of such a hearing will be provided by the applicant.

In a Chapter 11 case where there are multiple retained professionals, debtor's counsel (unless a chapter 11 trustee has been appointed) shall file a copy of the attached [Retained Professionals Interim Fee Schedule](#) at least one (1) week prior to each hearing on interim fee applications; if a trustee has been appointed, trustee's counsel shall file the schedule.

c. Second or Subsequent Interim Fee Applications

The introductory section of any second or subsequent interim fee application must contain a clear statement of the net amount of fees and expenses sought by the application, any hold back for the application, any and all amounts previously approved the Court and any and all amounts actually paid previously, as well as any hold back from any prior application(s).

d. Final Fee Applications

Final Meeting of Creditors (Chapter 7) - unless the Court directs otherwise, the Court will excuse the appearance of Chapter 7 trustees and their retained professionals and all other parties-in-interest at the final meeting of creditors if: (i) no objections have been filed; (ii) neither the trustee nor any of the professionals retained by the trustee pursuant to an Order of this Court is seeking fees or commissions of \$10,000.00 or more (exclusive of out of pocket expenses); and (iii) the United States Trustee has filed a statement of no opposition. If a party-in-interest does not file a timely objection, but appears at the final meeting of creditors, then the Court may either (i) not consider the objection as untimely, or (ii) adjourn the matter to a new hearing date and require an appearance.

Except as provided below, all other final fee applications must be by hearing.

In a Chapter 11 case where there are multiple retained professionals, debtor's counsel (unless a chapter 11 trustee has been appointed) shall file a copy of the attached [Retained Professionals Final Fee Schedule](#) at least one (1) week prior to the hearing on the final fee applications; if a trustee has been appointed, trustee's counsel shall file the schedule.

e. Mediator Fee Applications

Interim or final applications for fees and expenses for mediators retained pursuant to Court orders may be brought by presentment, regardless of amount. The application or a notice served in connection with the application must contain the following text, conspicuously displayed after the objection deadline is set out in the same size as or larger font than the statement of the relief sought, and in bold letters:

Please be advised that if an objection is timely filed to the relief requested, or if the Court determines that a hearing is appropriate, the Court will schedule a hearing. Notice of such a hearing will be provided by the applicant.

8. OBTAINING HEARING DATES

Self-Calendaring Dates for hearings in Chapters 7, 11, and 13 for Judge Trust are available at: <https://ecf.nyeb.uscourts.gov/cgi-bin/showPreset.pl?AST>.

Parties seeking a hearing date in a Chapter 15 case may self-calendar hearings using dates available for Judge Trust's Chapter 11 calendar.

Self-calendaring dates are for hearings which are reasonably anticipated to require **no more than 30 minutes**; if the party filing a motion reasonably anticipates a hearing which will require more than 30 minutes in the aggregate for all parties, prior to filing the motion, counsel must contact the Courtroom Deputy at ast_hearings@nyeb.uscourts.gov to obtain a hearing date.

Unless otherwise notified by the Court, parties are also advised that it is unnecessary to bring witnesses to a status conference or to a self-calendared hearing.

9. MOTIONS:

By Notice of Presentment:

The following motions may be brought by notice of presentment in accordance with E.D.N.Y. LBR 2002-1. The Notice must contain the following text, conspicuously displayed after the objection deadline is set out in the same size as or larger font than the statement of the relief sought, and in bold letters:

Please be advised that if an objection is timely filed to the relief requested, or if the Court determines that a hearing is appropriate, the Court will schedule a hearing. Notice of such a hearing will be provided by the applicant.

1.	Motion to approve a compromise or settlement of a contested matter or an adversary proceeding. Please note that any request to approve a compromise of an objection to dischargeability must comply with E.D.N.Y. LBR 4007-1, governing settlement or dismissal of proceedings objecting to dischargeability.
2.	Motion to extend the time to file objections to discharge and/or dischargeability of debt. Please note that any stipulation to extend the time to file objections to discharge and/or dischargeability of debt may be submitted without a hearing, unless the extension would run more than one (1) year from the original deadline; in that event, the stipulation must be submitted to the Court by hearing.
3.	Motion to modify a Chapter 13 plan after confirmation. [Please note that a proposed order granting a motion to modify a confirmed Chapter 13 plan must include the signature of the Chapter 13 Trustee on the order indicating the trustee has no objection to the modification]
4.	Motion objecting to a claim(s). [Please note this does not alter the Rule 3007(a) notice requirements]
5.	Motion to allow a late filed claim.
6.	Motion to reopen a case. [Please note that a motion to reopen a case which seeks additional relief upon the case being reopened, such as avoiding a lien under § 522(f) or filing a Certification of Completion of a Postpetition Personal Financial Management Course, may

	be filed and served as a single motion; however, the Court may require that separate notice be given of any relief sought by the motion.]
7.	Motions to convert individual chapter 11 and consumer cases; a motion seeking to convert a case from Chapter 7 to Chapter 11 or 13 must be by presentment or by hearing; a motion to convert a case from Chapter 13 to Chapter 7 after confirmation of a plan must be by presentment or by hearing; a motion to convert a case from Chapter 11 to Chapter 7 or Chapter 13 must be by presentment or by hearing; please note: a motion to convert a case from Chapter 13 to Chapter 7 prior to confirmation of a plan may be made by notice of conversion by using the form available from the Clerk's Office.
8.	Motion to redeem property.
9.	Motion to avoid a lien(s). [Please include the following language in any proposed order granting a motion to avoid a lien: In Chapter 7, the lien is avoided "upon the entry of a discharge order"; in Chapter 13, the lien is avoided "upon the filing by the Chapter 13 Trustee of a Certification of Completed Chapter 13 Plan"]
10.	Motion for a default judgment in an adversary proceeding.
11.	Motion to approve a sale of property, including sales free and clear of liens in Chapter 7; however, sales free and clear of liens in all other Chapters require a hearing.
12.	Interim fee applications within certain limits. [See below for requirements]
13.	A request for an order confirming the termination or inapplicability of the automatic stay pursuant to Bankruptcy Code §§ 362(c)(4)(A)(ii) or (j).
14.	Motions relating to disputes arising from Rule 2004 examinations. [Please see below for procedures governing requests for a Rule 2004 examination]

15.	Requests for compensation of auctioneers, brokers and other non-attorney professionals retained by Order of the Court where the request for compensation is less than \$10,000 (inclusive of expenses).
16.	Debtor(s)' motion to dismiss a Chapter 7 case or a post-confirmation chapter 13 case may be by hearing or presentment but must be on notice; a Debtor(s)' motion to dismiss a pre-confirmation Chapter 13 case may be ex parte.
17.	Trustee's motion to dismiss for Debtor(s)' failure to appear at a 341 Meeting. [Please note that in accordance with Rule 10(a) of the Court's posted omnibus Judges' Procedures, unless the Court directs otherwise, Judge Trust will waive the appearance of chapter 7 trustees on a motion to dismiss for failure to attend the Section 341 meeting of creditors.]
18.	Motion for modification of a mortgage. [Please note this may also be done by stipulation; however, in a chapter 13 case either a stipulation or the proposed Order must include consent of the chapter 13 trustee]
19.	Motion for substitution of counsel. [The motion must comply with E.D.N.Y. LBR 2090-1]

Motions to Reconsider by Presentment:

In accordance with Rule 9023 of the Federal Rules of Bankruptcy Procedure, incorporating Rule 59 of the Federal Rules of Civil Procedure, a party may file a motion to reconsider after entry of the order or judgment which the party seeks to have reconsidered. The motion should state with particularity the basis upon which reconsideration is sought, in accordance with applicable law. The party is to file a motion to reconsider without obtaining a hearing date. The judge may rule on the motion ex parte without response, direct that a response be filed, and/or set the matter for hearing.

Motions by Hearing

All motions not listed under Notice by Presentment must be by hearing.

Unopposed motions:

EDNY LBR Rule 9006-1 TIME FOR SERVICE AND FILING OF MOTIONS AND ANSWERING PAPERS requires, inter alia, that "(ii) any answering papers shall be served

so as to be received at least 7 days before the hearing date... Untimely papers may not be considered by the Court.”

Motions on Judge Trust’s calendars which are not timely opposed as required by EDNY LBR 9006-1 shall be deemed unopposed motions. Any such motion may be granted by the Court without the need for an appearance or a hearing, provided that the moving party files with the Court a Certificate of No Objection ("CNO") at least three (3) business days prior to the scheduled hearing date. This procedure shall only apply to:

motion by the Chapter 13 Trustee to dismiss a case, unless such motion seeks dismissal with prejudice or other prospective relief;

motion for relief from the automatic stay, unless such motion seeks in rem relief or other prospective relief;

motion to confirm the absence of the automatic stay;

motion to approve a sale of property, including sales free and clear of liens in Chapter 7, but excluding a proposed sale free and clear under any other chapter; and

motion seeking to approve a compromise of controversies under Rule 9019.

NOTE: A CNO FOR A TUESDAY HEARING MUST BE FILED BY THE PRECEDING THURSDAY, AND A CNO FOR A THURSDAY HEARING MUST BE FILED BY THE PRECEDING MONDAY.

The Certificate of No Objection shall include the date of the filing and service of the motion, the deadline for filing an objection thereto, and a representation that (i) the motion was filed and served in a timely fashion, (ii) no objection has been filed or served on the movant, (iii) there is no objection, responsive pleading or request for a hearing with respect to the motion on the docket, and (iv) movant is aware of no informal objection. Following receipt of the Certificate of No Objection, the Court may enter an order granting the motion without further pleading, hearing or request. A form of Certificate of No Objection which shall be utilized in these circumstances can be found on the Court’s website under Judge Trust’ tab, “Form Orders.”

Motions to Approve Lease Assumption Agreements:

Parties may file, but Judge Trust will not hear or determine, motions or stipulations for approval of personal property lease assumption agreements. *See In re Farley*, 451 B.R. 235 (Bankr. E.D.N.Y. 2011).

Motions to Approve Reaffirmation Agreements:

Judge Trust has previously found that the Bankruptcy Code does not allow for a personal property lease to be reaffirmed by a Chapter 7 debtor. *See In re Ebbrecht*, 451 B.R. 241 (Bankr. E.D.N.Y. 2011).

Motions for Examination Under Rule 2004:

Motions for Examination under Rule 2004 may be filed and submitted without notice to any party. The Court has provided a form of Order for use in 2004 examinations. No shortening of the time frames in the form of Order will be granted absent cause which shall be established by affidavit or affirmation. These time frames may run concurrently. In addition, the Court requires personal service of the subpoena in accordance with Fed. R. Bankr. P. 9016, incorporating Fed. R. Civ. P. 45.

Motions for Stay Relief:

Motions seeking relief from the automatic stay with respect to vehicles (automobiles, trucks, boats, and motorcycles) may be by presentment or by hearing. All other motions seeking relief from the automatic stay must be by hearing.

In addition, requests for relief from the automatic stay may be joined with requests for such additional relief as is available under Bankruptcy Code § 362, such as in rem relief, but may not be joined with requests for other additional relief, such as dismissal or conversion of the case, or appointment of a chapter 11 trustee, not provided under § 362.

Motions to Extend/Impose the Automatic Stay:

Motions to extend or impose the automatic stay under Bankruptcy Code § 362(c) shall be accompanied by an affidavit or affirmation supporting the motion. The Debtor(s) and counsel are required to attend the hearing on a motion to extend or impose the automatic stay.

Motions in Adversary Proceedings to be heard by Submission:

All motions in adversary proceedings shall be by presentment only, except a motion seeking contempt and/or other sanctions for violation of an Order entered under Rule 7037, which shall be by hearing.

In the Notice of Presentment the movant shall include language stating that any response to any such motion, other than a motion under Rule 7055 or Rule 7056, shall be due fourteen (14) days after the date of filing plus any extension of time pursuant to Bankruptcy Rule 9006 or E.D.N.Y. LBR 9006-1; the response to a motion under either Rule 7055 or Rule 7056 shall be due twenty-one (21) days after the date of filing plus any extension of time pursuant to Bankruptcy Rule 9006 or E.D.N.Y. LBR 9006-1.

The motion shall be considered ripe for ruling and taken under submission after the response date has passed, unless the Court sets a different response date, requests further briefing, or has previously issued a scheduling order which establishes a different date for response(s).

In the event the Court determines that a hearing is warranted, the Court will notify the parties of the hearing date and time. Prior to filing any other motion in an adversary proceeding, the movant shall contact Judge Trust's Courtroom Deputy, Yvette Mills,

following the procedures for scheduling hearings outlined above, to determine if a hearing is required.

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10. APPLICATION FOR BAR DATE ORDERS IN CHAPTER 11 CASES

In most chapter 11 cases, Judge Trust will issue a bar date order sua sponte. In cases where an application for entry of a bar date order is filed, the proposed Order(s) setting the Bar Date for the filing of proofs of claim and administrative claims may be submitted in accordance with Administrative Order Number 684 of the United States Bankruptcy Court for the Eastern District of New York. However, the bar date set shall be calculated to allow for sixty (60) days' notice from the deadline for the service of the Order and the Notice, plus any applicable additional time provided under Rule 9006 of the Federal Rules of Bankruptcy Procedure.

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11. APPEARANCES BY PHONE/VIDEO

Appearances by telephone or video at an in person hearing:

Judge Trust is currently holding most hearings by virtual platform. Until further notice, no requests need to be submitted to appear by telephone or video unless Judge Trust has set an in person hearing and the party does not wish to appear in person. Any such requests are to be emailed to ast_hearings@nyeb.uscourts.gov at least three (3) business days prior to the scheduled hearing date, stating why the telephonic or video appearance is being sought. Any such request must be copied to all parties who have filed papers related to the matter to be heard.

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12. SUBMISSION OF SALE ORDERS

Administrative Order Number 557 of the United States Bankruptcy Court for the Eastern District of New York, but should exclude language related to the waiving of rights pursuant to Section 363(n). The proposed Order establishing bid procedures should be submitted by ECF upload and emailed to the Judge's Courtroom Deputy, Yvette Mills, at: ast_hearings@nyeb.uscourts.gov.

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13. LAW STUDENT INTERN APPEARANCES

Law Student Interns seeking to practice before Judge Trust must complete and file a [Law Student Intern Appearance Form](#). In addition to the disclosures required on the Law Student Intern Appearance Form, Judge Trust requires a statement as to whether the Law Student Intern has successfully completed a consumer bankruptcy law course in which no less than two (2) credit hours have been earned. A statement in the form below is acceptable. In addition, the Form must be filed with the Court in the specific case for which an appearance is requested no less than five (5) days prior to the scheduled Court appearance by the Law Student Intern, and the supervising attorney must simultaneously notify the Judge's Courtroom Deputy, Yvette Mills, of the proposed appearance by a Law Student Intern, at: ast_hearings@nyeb.uscourts.gov.

Acceptable language.

Law Student Bankruptcy Course Certification.

I further certify that I have successfully completed a consumer bankruptcy course in which I have earned no less than two (2) credit hours.

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14. CHAPTER 13: DEADLINE FOR FILING PAPERS IN OPPOSITION TO THE CHAPTER 13 TRUSTEE'S MOTIONS TO DISMISS AND SUBMISSION OF DOCUMENTS TO THE CHAPTER 13 TRUSTEE

Any opposition to a motion to dismiss a Chapter 13 case filed by the Chapter 13 trustee must be filed with the Court and transmitted so as to be received by the Chapter 13 Trustee at least three (3) business days in advance of the scheduled hearing. Where the motion to dismiss is based upon failure to provide documentation to the Chapter 13 Trustee as required by E.D.N.Y. LBR 2003-1, or as requested at the 341 meeting, such documents must also be transmitted so as to be received by the Chapter 13 Trustee at least three (3) business days in advance of the scheduled hearing.

Any failure to file timely opposition and/or failure to timely provide documents to the Chapter 13 Trustee may result in the motion to dismiss being granted.

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