

NEBRASKA RULES OF BANKRUPTCY PROCEDURE

Adopted by the United States District Court
for the District of Nebraska
April 15, 1997

Effective Date April 15, 1997

RULE 9013-1. MOTION PRACTICE

A. Applicability.

1. Bankruptcy Case. The procedures of this Local Rule shall apply to all motions filed in bankruptcy cases except for those particular motions governed by Neb. R. Bankr. P. 1007-1.B., 1017-1, or 2014-1.B., and motions for relief from the automatic stay under Neb. R. Bankr. P. 4001-1.

2. Adversary Proceedings. The procedures of this Local Rule shall apply to all motions filed in adversary proceedings except for those particular motions listed in subsection 2 of Neb. R. Bankr. P. 7001-1.

B. Definition of Motion. "Motion" for purposes of Neb. R. Bankr. P. 9013-1, 9017-1, and 9072-1 includes headings and documents entitled "Motion," "Application," "Objection to Claim," "Disclosure Statement," "Plan" and other documents referred to in Appendix "A".

C. Form of Motion or Resistance. All motions shall plead facts which establish that the moving party is entitled to the relief sought. The motion shall cite statutory, case, or rule authority for granting relief. All motions shall conclude with an unambiguous request for particular relief. All resistances to any motion shall set forth the specific factual and legal basis and conclude with a particular request for relief. Motions and resistances shall be served in conformance with this Neb. R. Bankr. P. 9013-1.

D. Resistance Date. Unless otherwise ordered or otherwise provided for in a Federal Rule of Bankruptcy Procedure (see, e.g., Fed. R. Bankr. P. 4001(c) and (d) and 2002(b)), upon twenty (20) days notice to creditors and interested parties entitled to notice, the Court will consider ruling on the motion pursuant to subsection I below, unless a written resistance or request for hearing is filed and served on or before the

deadline provided in the notice of the motion. If no resistance is timely filed and served, the movant shall submit a detailed order in conformance with Neb. R. Bankr. P. 9072-1, within 30 days after the objection date. The order shall not be submitted until after the resistance date and after movant has confirmed that no resistance is on file. See Neb. R. Bankr. P. 9072-1.

E. Notice. At the time a motion is filed, the moving party shall serve a copy of the motion on and shall provide notice to all parties in interest and those that have requested notice pursuant to Fed. R. Bankr. P. 2002 that this Nebr.R.Bankr.P. 9013-1 applies. The notice shall state the specific calendar date by which any resistance or request for hearing must be filed and served. The calculation of such date shall not include the additional three (3) days permitted under Fed. R. Bankr. P. 9006(f) for service by mail even though the provisions of Fed. R. Bankr. P. 9006(f) shall continue to apply. The notice will be defective if it provides that a resistance or request must be filed within a specified number of days.

F. Proof of Service. Proof of service of the notice and motion shall be filed contemporaneously with the motion. The proof of service shall contain a list of recipients and shall attach a copy of the notice. The proof of service shall be filed as a document separate from the motion.

G. Service on the United States. Notice of a matter concerning an agency of the United States should be served on the United States Attorney General, the United States Attorney for the District of Nebraska and the agency representative at the address reflected in Appendix "B".

H. Withdrawal of Motions. Any request to withdraw a motion must be filed and personally served upon all previously noticed parties. As soon as a decision has been made to withdraw a motion, the moving party shall immediately notify the courtroom deputy.

I. Hearings on Motions. If the resistance period expires without the filing of any resistance or request for hearing, the Court will consider entering an order granting the relief sought without further notice or hearing. The movant shall submit a proposed order in conformance with Neb. R. Bankr. P. 9072-1. If a timely resistance or request for hearing is filed and served, the Clerk shall schedule a hearing upon not less than eleven (11) days notice. Parties shall exchange declarations or affidavits and documentary evidence before the hearing in accordance with Neb. R. Bankr. P. 9017-1. Unless otherwise ordered, oral arguments will be scheduled in the courtroom for Lincoln and Omaha cases and on telephone conferences for North Platte cases. The moving party shall arrange for a Court

reporter to record telephone conference hearings if evidence is to be offered by any party.

J. Attendance at Hearings. Counsel for the moving party and any resisting party shall appear at any scheduled hearing unless the matter has been settled, continued or withdrawn in accordance with subsection H above.