

UNITED STATES BANKRUPTCY COURT
DISTRICT OF ARIZONA

In re:

Case No.: X:XX-bk-XXXXX-SHG

Chapter: XX

Debtor(s)

EVIDENTIARY HEARING SCHEDULING ORDER

An evidentiary hearing having been set to consider:

(Title of Pleading(s) and Docket Number(s))

and any responsive pleadings thereto, and pursuant to Federal Rules of Bankruptcy Procedure 9014 and 11 U.S.C. § 105, **IT IS HEREBY ORDERED,**

The following schedule and hearing information shall apply to this matter:

Objection to Use of Declaration Testimony:	fourteen (14) days before hearing
Disclosure of Exhibits and Witness List Deadline:	fourteen (14) days before hearing
Joint Pre-hearing Statement Due Date:	seven (7) days before hearing five
Motion in Limine:	(5) days before hearing
Evidentiary Hearing Date and Time:	date at time
Estimated length of hearing:	<u>(length of hearing)</u>

Specifics concerning such schedule follow.

Disclosure of Exhibits and Lists of Witnesses

Unless the Court orders otherwise, **no later than fourteen (14) days prior to any trial**, the parties are to exchange a list of witnesses and exhibits along with copies of all exhibits to be utilized at the trial, including impeachment evidence, regardless of what additional discovery is conducted, and are to file the list of witnesses and exhibits with the Court (but not the documents themselves) Any witness and exhibits not timely disclosed will not be heard or admitted into evidence.

The Court requires use of electronic exhibits (pro se parties excluded). Debtors shall label their exhibits as letters (e.g, Exhibit A, Exhibit B, and so on) and opposing parties shall label their exhibits as numbers (e.g., Exhibit 1, Exhibit 2). A copy of the official exhibits, along with the exhibit list form, shall be delivered in electronic format to the Court three (3) business days prior to any evidentiary hearing. A copy of the the exhibit list **form** can be found on the Judge's Procedures page on https://www.azb.uscourts.gov/sites/default/files/Exhibit_Index_Form.pdf on the Bankruptcy Court's website <http://www.azb.uscourts.gov/>.

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Joint Pre-hearing Statement

A joint pre-hearing statement (required Local Form 7016-1) shall be submitted **no later than seven (7) days before hearing check in**. The failure of any party to cooperate in and/or timely comply with these procedures may result in the imposition of sanctions against such party and/or the attorney for such party. If a joint pre-hearing statement cannot be submitted, unilateral pre-hearing statements, which shall be filed no later than seven (7) days (including weekends and holidays) after the deadline for filing a joint pre-hearing statement.

Extension For Good Cause and Requests for a Pre-hearing Conference

All of the deadlines above may be extended for good cause shown. **THE DEADLINES SET FORTH IN THIS ORDER MAY ONLY BE EXTENDED BY APPROVAL OF THE COURT.** The Court will consider a request for a pre-hearing conference to adjust the dates and procedures set forth in this order. Any request for a pre-hearing conference must be made by motion and must set forth why the deadlines and procedures in this order need to be extended or otherwise adjusted. Absent exceptional circumstances, no motion for extension of hearing date will be considered if filed within seven (7) days of the hearing date.

Hearing

The evidentiary hearing on this matter is set for **(date)** at **(time)** AM/PM, United States Bankruptcy Court, James A. Walsh Courthouse, 38 S. Scott Avenue, Courtroom 329, Tucson, AZ, before the Honorable Scott H. Gan.

Declarations

Unless a party files a timely objection with the Court, direct testimony of all or some of the witnesses may be submitted by declaration. The following procedures will govern submission of testimony by declaration:

1. All declarations will be made under penalty of perjury and will be subject to the Federal Rules of Evidence.
2. If a witness' testimony is submitted by declaration, the witness must be available at hearing to be cross examined by the other parties unless the other parties waive such appearance and the Court approves such waiver.
3. If a witness' direct testimony is submitted by declaration, the only oral testimony such witness may give will be limited to rebuttal testimony.
4. If a part of a witness' declaration concerns an exhibit to be admitted into evidence at hearing, the exhibit must be attached to the declaration.
5. If a party intends to present the witness' testimony by a transcript of a deposition, a detailed summary of the testimony must be submitted with the transcript
6. Notwithstanding the parties' agreement that a witness' testimony will be submitted by declaration, the Court may require any witness' testimony to be provided by direct examination. The Court will timely notify the parties if a witness' testimony may not be submitted by declaration.
7. **Time for filing declaration and objections to declarations:**
 - a. All declarations **must be** filed with the Joint Pre-hearing Statement.
 - b. All evidentiary objections to declarations must be filed three (3) days before hearing.
 - c. The Court will rule on evidentiary objections to the declarations at the time of hearing.
 - d. After the Joint Pre-hearing Statement is submitted, no other declarations will be allowed except by order of the Court.

Estimated Hearing Length

The Court estimates that the time needed for hearing is not more than **(length of hearing)**. If the parties believe that additional hearing time is necessary, then, within thirty (30) days of receipt of this Scheduling Order, counsel shall file and serve a request for enlargement of the hearing time setting forth the amount of time needed for hearing together with a statement of the reason(s) additional time is needed.

Hearing Briefs

A hearing memorandum may be filed at any time through the conclusion of the hearing. Filing of such a memorandum by any party shall not delay the ruling in the case, nor shall it, without the Court's permission, extend to the non-filing party any type of extension or response period.

Resolution of Matters Set for Hearing

A resolved matter that is set for hearing may be taken off calendar by a telephone call from the moving party to the Courtroom Deputy up to 24 hours before the hearing. No continued hearing date will be given by phone. All other requests must be by motion filed no later than 72 hours prior to the hearing. Otherwise at least one of the parties must attend the hearing and inform the court of the resolution of the matter on the record.

Dated and signed above.