

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

In re:)	Chapter
)	
)	Case No.
)	
Debtor.)	EVIDENTIARY HEARING SCHEDULING ORDER

A matter having been set for evidentiary hearing, and pursuant to Bankruptcy Rule of Procedure 9014 and 11 U.S.C. § 105, **IT IS HEREBY ORDERED,**

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

Disclosure of Exhibits and Witness List Deadline:	two weeks before hearing
Joint Pre-hearing Statement Due Date:	ten days before hearing
Evidentiary Hearing Date:	_____
Estimated length of hearing:	_____

Specifics concerning such schedule follow.

Disclosure of Exhibits and Lists of Witnesses

Unless the Court orders otherwise, no later than **two weeks before hearing**, the parties shall exchange witness lists and copies of all exhibits to be utilized at the hearing, including impeachment evidence. Any witnesses and exhibits not timely disclosed will not be heard or admitted into evidence.

Except when exhibits are few in number, they shall be brought to court in tabbed and indexed exhibit books at the time of commencement of any evidentiary hearing. The Court requires at least one original exhibit book, which the witness may use during testimony, one bench copy, and one copy for opposing counsel. There is no need to arrange for the marking of such exhibits in advance.

Joint Pre-hearing Statement

A joint pre-hearing statement shall be submitted **no later than ten 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 include an affidavit of counsel setting forth the unsuccessful efforts to obtain and complete a joint pre-hearing statement, shall be filed no later than 5 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 five days of the hearing date.

Hearing

The evidentiary hearing on this matter is set for _____, 20____ at _____ o'clock _____.m. UNITED STATES BANKRUPTCY COURT, La Placita, 110 South Church Avenue, Acapulco Building, Room 8212, Tucson, Arizona, 85701, before the HONORABLE EILEEN W. HOLLOWELL.

Declarations

If all parties consent, 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 five (5) calendar days before hearing.
 - c) The Court will rule on evidentiary objections to the declarations at the time of hearing.
 - d) After the Join 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 _____. If the parties believe that additional hearing time is necessary, then, within 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 three days (3) 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: _____

THE HONORABLE EILEEN W. HOLLOWELL
UNITED STATES BANKRUPTCY JUDGE

Copy mailed _____ to:

Atty for Plaintiff

Atty for Defendant

United States Trustee
P.O. Box 36170
Phoenix, Arizona 85067

Deputy Clerk

EW H GENERIC HRG 7/27/01

