

Rule 9074-1

SUBMISSION, SETTLEMENT OR PRESENTMENT OF ORDER, JUDGMENT, OR DECREE -- Amended [December 1, 2009]

(a) *Submission or Settlement of Order, Judgment, or Decree*. Unless the Court orders otherwise, if, following a hearing or decision, the Court directs a party to submit or settle an order, judgment, or decree, the party, within 14 days of the issuance of the Court's ruling, shall deliver the proposed order, judgment, or decree directly to the Judge's chambers upon not less than two days' notice to all parties to the adversary proceeding or contested matter, except that such notice period shall not apply if all parties to the adversary proceeding or contested matter have consented in writing to the proposed order, judgment, or decree. Failure to submit or settle an order, judgment, or decree within the 14 day period may result in the imposition of sanctions, including, without limitation, (i) dismissal for failure to prosecute or (ii) an award of attorney's fees. One day's notice is required of all counterproposals. Unless the Court orders otherwise, no proposed or counterproposed order, judgment, or decree submitted or settled pursuant to this rule shall form a part of the record of the case, adversary proceeding, or contested matter.

(b) *Notice of Presentment of Order in Lieu of Hearing Where Notice and a Hearing Are Not Required*.

(1) *Use*. If notice and a hearing are not required, and a motion is not mandatory, the form set forth in subdivision (b)(3) of this rule may be used for the submission of orders to the Court.

(2) *Notice*. Unless the Court orders otherwise, notice of the presentment of an order pursuant to this subdivision shall be filed with the Clerk, and a copy shall be delivered to the Judge's chambers and served upon the debtor, the trustee, each committee, the United States Trustee, all parties who have filed a notice of appearance and request for service of documents, and all other parties in interest on not less than three days' notice.

(3) *Form*. A notice of presentment of a proposed order shall be substantially in the following form.

(c) *Notice of Motion upon Presentment and Opportunity for Hearing with Respect to Certain Motions, Applications, and Objections*.

(1) *Use*. Where it is anticipated that a motion, application, or objection of a type set forth below will be uncontested, the motion, application, or objection may be made upon notice of presentment using the form set forth in subdivision (c)(4) of this rule:

(A) Application to confirm a sale pursuant to Local Bankruptcy Rule [6004-1](#);

(B) Motion to extend the time to assume or reject a lease pursuant to § 365(d)(4) of the Bankruptcy Code;

(C) Motion for entry of a default judgment in an adversary proceeding pursuant to Bankruptcy Rule 7055 and Local Bankruptcy Rule [7055-2](#);

(D) Motion to extend the time to object to discharge or dischargeability pursuant to Bankruptcy Rule 4004 or 4007;

(E) Application to avoid a judicial lien that impairs an exemption pursuant to § 522(f) of the Bankruptcy Code;

(F) Application for an examination pursuant to Bankruptcy Rule 2004 to the extent that the application is not granted *ex parte*;

(G) Objection to a claim of exemption pursuant to Bankruptcy Rule 4003(b).

(2) *Notice.* Unless the Court orders otherwise, notice of the presentment of an order pursuant to this subdivision shall be filed with the Clerk and a copy shall be delivered to the Judge's chambers and served upon the debtor, the trustee, each committee, the United States Trustee, all parties who have filed a notice of appearance and request for service of documents, and all other parties in interest. The notice shall comport with the notice requirements under the applicable provisions of the Bankruptcy Code, Bankruptcy Rules, and Local Bankruptcy Rules.

(3) *Objection; Opportunity for a Hearing.* A written objection, if any, to the proposed order, together with proof of service, shall be filed with the Clerk and a courtesy copy shall be delivered to the Judge's chambers at least three days before the date of presentment. Unless the Court orders otherwise, no hearing will be held absent the timely filing of an objection. If an objection has been timely filed, the Court will notify the moving and objecting parties of the date and time of any hearing.

(4) *Form.* A notice of presentment of a proposed order shall be substantially in the following [form](#).

Comment

Subdivision (a) of this rule, which is derived from Former Local Bankruptcy Rule 17 and is an adaptation of Civil Rule 77.1 of the Local District Rules, applies to the settlement of orders, judgments, and decrees following a hearing or decision.

Subdivision (b) of this rule, which is derived from Former Local Bankruptcy Rule 46, applies in situations in which "notice and a hearing" are not required by the Bankruptcy Code.

Subdivision (c) of this rule, which is new and is an adaptation of former Standing Order 186, applies only to the types of proceedings specified therein and where it is anticipated that the relief requested will be uncontested.

Subdivision (c)(1) of this rule was amended in 2008 to delete from the list of motions that may be made on presentment a motion to terminate the automatic stay pursuant to § 362 of the Bankruptcy Code in a chapter 13 case. The purpose of this amendment is to assure that the Court will properly hear, and consider the accuracy of, allegations of default in cases concerning an individual debtor.

A motion is mandatory if required by the Bankruptcy Rules, the Local Bankruptcy Rules, or an order of the Court.

Times for the presentment of and objections to proposed orders are specified in this rule to promote uniformity in practice. If notice of presentment is given by mail, three additional days must be added in accordance with Bankruptcy Rule 9006(f).

Subdivision (a) of this rule was amended in 2009 to change

the time periods from 15 to 14 days. The purpose of the amendment was to conform the time periods in this rule to the 2009 time-related amendments to the Federal Rules of Bankruptcy Procedure. Throughout the Bankruptcy Rules, as well as the Local Bankruptcy Rules, most time periods that are shorter than 30 days were changed so that the number of days is in multiples of seven, thereby reducing the likelihood that time periods will end on a Saturday or Sunday.

Subdivision (a) and the heading of this rule were amended in 2009 so that the rule also will apply when the Court directs a party to submit an order, judgment, or decree.