

06/19/2020

Clerk, U.S. Bankruptcy Court  
District of Montana  
Butte Division**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA****In Re: BANKRUPTCY COURT  
OPERATIONS UNDER  
EXIGENT  
CIRCUMSTANCES  
ATTRIBUTABLE TO  
COVID-19 AND RELATED  
CORONAVIRUS****GENERAL ORDER NO.  
2020-9-BPH****ORDER**

At Butte in said District this 19<sup>th</sup> day of June 2020.

This Court has entered a series of General Orders as a result of COVID-19.

Generally, these orders have adopted measures intended to minimize contact between individuals.<sup>1</sup> In conjunction with the District Court, this Court entered Administrative Order 20-21 that outlined a plan for phased resumption of operations. This Order outlines the manner in which the Court will proceed.

**IT IS HEREBY ORDERED** that:

1. Beginning the week of June 22, 2020, Judge Hursh will resume traveling to each division for hearings.
2. Parties may appear by video and shall utilize the procedure identified by Montana Local Bankruptcy Rule (“LBR”) 5074-1(b) and notify the Clerk’s

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<sup>1</sup> See General Orders 2020-4, 5, 6, 7, 8.

office of their intent to appear by video at any hearing.

3. Although disfavored, the Court will also liberally permit parties to appear by telephone if that is their preference, or there is a health reason related to COVID-19 that requires a telephonic appearance.<sup>2</sup> If a party or witness involved in an evidentiary hearing requests to appear telephonically, the Court will exercise its discretion and evaluate the extent to which their telephonic participation in the hearing will diminish or undermine the overall integrity of the hearing. All requests to appear telephonically shall be made by motion to the court and filed at least three (3) business days prior to the hearing.

4. After all motions to continue and motions to appear telephonically are filed with the Court, this Court will evaluate its calendar and may reset the scheduled time of any hearing, so that matters are staggered throughout the day and the number of people in the courtroom at any given time is limited.<sup>3</sup>

5. If matters are reset, and the time allotted to a particular contested evidentiary hearing is only 60 minutes, the parties will be obliged to complete the matter within the allotted time. As a result, parties are encouraged to work with

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<sup>2</sup> At this stage the Court does not intend to scrutinize requests to appear telephonically, or the reasoning for the request.

<sup>3</sup> As a result, it is imperative that counsel pro-actively manage their case, so that an appropriate filing is filed with the Court at least three (3) business days prior to the hearing. For an explanation of the Court's expectations regarding the various filings due (3) business days prior to the hearing, see *In re Schwiebert*, 2020 Mont. B.R. 219.

each other, identify those factual issues that require an evidentiary hearing, and stipulate to the facts that are not in dispute in conjunction with filing their witness and exhibit list.<sup>4</sup> Further, an opening remark by either or both parties identifying the legal issue(s) that must be adjudicated is encouraged.<sup>5</sup>

BY THE COURT:



Hon. Benjamin P. Hursh  
United States Bankruptcy Court  
District of Montana

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<sup>4</sup> The Court has encouraged parties to call each other and discuss the issues in a case prior to any hearing, as an alternative to email. The Court reiterates this advice.

<sup>5</sup> Historically, when matters were set at 9:00 a.m., and taken up one after another, the Court has indulged presentations that were inefficient and expansive. This is not a criticism of counsel. It is merely the recognition that counsel will take as much time as permitted. Parties will no longer have the luxury of time. The Court expects counsel to identify the factual issue(s) that are disputed in a contested hearing and focus their examination and cross examination of any witness on those issues.