



Chambers of
Andrea K. McCord
Bankruptcy Judge

To: The Bankruptcy Bar
From: Judge Andrea K. McCord
Re: Procedural Requirements
DA: July 17, 2019

To facilitate a streamlined hearing process, the Court requests that all actions to continue or vacate a hearing be filed at least forty-eight (48) hours prior to the scheduled hearing. Exceptional circumstances shall only be considered if communicated to the Courtroom Deputy within the forty-eight (48) hours prior to the hearing. Attached hereto is a Memorandum from Judge Jeffery Graham regarding motions to continue and telephonic appearances that this Court is adopting.

Further, all pleadings filed with this Court shall comply with S.D.Ind. L.R. 9013-1(a) ("all requests . . . shall state with particularity the order or relief sought, and contain a short and plain statement concerning the factual basis or grounds for the motion") or S.D.Ind. L.R. 9013-1(d) ("objections . . . shall contain a short, plain statement concerning the factual or legal basis for the objection. The failure to state a sufficient legal or factual basis for the objection may result in the objection being overruled without a hearing").



Chambers of
Jeffrey J. Graham
Bankruptcy Judge

To: Terre Haute Division Bar Members
From: Jeffrey J. Graham, Judge
Re: Motions to continue and telephonic appearances

In advance of its monthly hearing date in Terre Haute, the Court typically receives numerous motions to continue in the 48 hours prior the hearing date. These motions pose a challenge to the Court and its staff in preparing for the hearings. They also pose a challenge to the Chapter 13 trustee in that they create a significant distraction from the work needed to prepare for court and to substantively resolve those matters that are set.

With those challenges in mind, the Court asks that all motions to continue be filed **at least three days** before a scheduled hearing. If the motion is filed within three days of the scheduled hearing, it must reflect opposing counsel's consent or otherwise state a compelling reason for the requested continuance. In the very least, the motion must reflect that a *timely* attempt to obtain opposing counsel's consent was made. Failure to state that such an attempt was timely made may result in the motion being summarily denied.

Similarly, last-minute requests to appear telephonically also present a challenge and a distraction to the Court. These, too, should be timely made if and when possible, presumably three or more days prior to the scheduled hearing.

Please keep in mind that if you appear telephonically, you will not be permitted to present evidence or examine any witnesses. Counsel should presume that every hearing has the potential to be an evidentiary hearing—unless the Court states that it isn't (for instance, status and pre-trial conferences are generally not evidentiary in nature). It is counsel's responsibility to determine what evidence is necessary to prevail on his or her position. As such, if the Court grants a request to appear telephonically, the Court is making no representation that evidence is not needed or that the requesting party is absolved from having to present evidence if evidence is necessary to the Court's ruling. The requesting party bears the risk of not appearing in person.