

TEN THINGS I LIKE ABOUT YOU

PRACTICE TIPS FROM JUDGE ISICOFF

ONE

I LIKE THAT YOU AND YOUR STAFF REVIEW LOCAL RULES AND MY PROCEDURES RATHER THAN CALL MY JA OR LAW CLERK TO FIND OUT THE PROPER WAY TO DO SOMETHING, OR TO FIND OUT WHAT I DO AND DO NOT EXPECT OR ALLOW WITH RESPECT TO CERTAIN MOTIONS OR HEARINGS.

All the judges have taken the time to write and post procedural preferences and guidelines on their individual webpages. Moreover, the judges and the clerk have spent a great deal of time putting together local rules and local forms with a detailed index to make it easy for you to find information. You need to make sure your staff are aware of these resources and uses them.

TWO

I LIKE THAT, IF YOU ARE NOT OPPOSING A MOTION, YOU PICK UP THE PHONE OR SEND AN EMAIL, ADVISING OPPOSING COUNSEL THAT YOU ARE NOT OPPOSING, RATHER THAN JUST NOT SHOWING UP FOR A HEARING.

If you are not opposing a motion, or you are agreeing to relief, let the movant know so that the movant can come up at the beginning of motion calendar, OR even avoid coming to court. **Don't just NOT show up.** That will mean that you have caused opposing counsel unnecessary time and expense and second, that you have used up valuable court time on a motion that could have been resolved easily. Moreover, if you don't show up, I will assume you missed the hearing by accident or carelessness, and I will issue an order to show cause requiring you to respond, and, perhaps, show up and explain to me in person why you missed the hearing.

THREE

I LIKE THAT YOU REMEMBER TO REACH OUT TO OPPOSING COUNSEL BEFORE YOU FILE A MOTION IN ORDER TO SAVE TIME AND COST.

Local Rule 9073-1(D) states *“Conference With Opposing Attorneys Required. If a motion seeks relief involving a debtor that is represented by an attorney, the trustee, or another particular adverse party that is represented by an attorney, the certificate of service for the notice of hearing shall include a certification that movant’s attorney has contacted counsel for all adverse parties to attempt to resolve the matter without hearing.”* (NOTE: this is in addition to the meet and confer requirements of Fed.R.Bankr.P. 7037 relating to discovery disputes). If possible you must try to resolve matters without filing a motion. This will save you and your client time and money. It will also save court time.

FOUR

I LIKE THAT YOU DO NOT FILE AN EX PARTE MOTION TO CONTINUE A HEARING OR A DEADLINE WITHOUT GETTING AGREEMENT FROM THE OTHER SIDE AND REPRESENTING IN THE MOTION THAT THE EXTENSION OR CONTINUANCE IS AGREED.

In the absence of a true emergency that does not allow time to confer with the other side (and long planned family vacations, or hearings or trials in other courts that have been previously set are NOT

emergencies), I will not continue a matter without a hearing, unless 1) the basis for the continuance is set out in the motion; 2) it is not requested at the last minute; and 3) the motion reflects that you have conferred with the other side before filing a motion that is not agreed. If the matter IS agreed, please call the Courtroom Deputy to get the new hearing date and include that date in the proposed order (uploaded with the motion).

FIVE

I LIKE THAT THE MOTIONS AND ORDERS YOU SUBMIT HAVE BEEN REVIEWED FOR ACCURACY, TYPOS, GRAMMAR AND PUNCTUATION ERRORS, PERSONALLY IDENTIFIABLE INFORMATION AND COMPLETENESS.

Please read everything you submit. Please make sure all of your motions have the required exhibits, the proper titles, the proper party names, are in English (as opposed to incomplete sentences that sound like gibberish), and otherwise look professional. If the motions are ex-parte motions, please make sure that you submit orders with the motions and that the orders match the motions.

Please make sure you upload orders that include any exhibits that are referred to in the order, and also contain full sentences, make sense, match the relief requested in the motion, and otherwise look professional. If the orders stem from ex-parte motions make sure that you file the CNR before uploading the order and make sure the word "Proposed" or "Exhibit ___" has been taken off the order you want me to sign. If there is a form order – USE IT (but modify it if necessary).

SIX

I LIKE IT WHEN YOU MAKE SURE THAT YOU PROPERLY SERVE ANY MOTION OR COMPLAINT THAT YOU FILE (COMPLYING WITH RULE 7004 SERVICE WHEN NECESSARY, SERVING OBJECTIONS TO CLAIM IN ACCORDANCE WITH THE ADDRESS INDICATED ON THE PROOF OF CLAIM, AND SERVING ALL THE PARTIES REQUIRED BY RULE 2002 TO BE SERVED WITH A PARTICULAR PLEADING). I ALSO LIKE IT WHEN YOU TIMELY FILE A CERTIFICATE OF SERVICE THAT SHOWS THAT THE PLEADING AND NOTICE OF HEARING, IF APPLICABLE, WERE PROPERLY SERVED.

Service of motions is governed primarily by Bankruptcy Rules 2002 and 7004. Make sure you serve everyone who needs to be served in the manner that they are required to be served in the timeframe they are required to be served. If you don't have enough time, then file a motion seeking to shorten the required time periods. Our Local Rules require that you serve any order or notice of hearing within two days after receiving the order or notice of hearing from the court, and that you immediately file a certificate of service reflecting who you served and how you served them.

SEVEN

I LIKE THAT YOU AND YOUR STAFF TAKE THE TIME TO READ THE EMAIL FROM CM/ECF (WHICH IS ACTUALLY SENT BY CHAMBER'S STAFF) EXPLAINING WHY AN ORDER HAS BEEN RETURNED TO YOU.

There is absolutely no reason whatsoever to call my JA or law clerk and ask WHY an order was returned. Every order returned includes an email WHY the order was returned. READ IT. This is one of the many reasons why it is important that your email is correct on any order you submit.

(You should, by the way, always remember to keep current in the court's case management system (CM/ECF), your primary and secondary email addresses. Additionally, if you are changing your U.S. Mail address you must also file a Notice of Change of Address in each case or proceeding in which the change is to be effected [See Local Rule 2002-1(G)(1). We had one lawyer who failed to provide a

notice of change of address and he had to respond to an order of contempt for failing to appear at several hearings that he didn't know about because he forgot to update his information with the clerk.)

EIGHT

I LIKE THAT YOU MAKE SURE YOUR CLIENTS KNOW WELL IN ADVANCE WHEN THEY DO OR DO NOT NEED TO SHOW UP FOR SOMETHING AND WHEN A MATTER HAS BEEN RESOLVED.

Something special about our bar is that so many disputes can be resolved amicably. However, many times clients show up for a hearing (a) which hearing the debtor did not need to attend even if there was no agreement or (b) that has been resolved by agreement ahead of time but without the client knowing the hearing has been canceled. Your client's time is as valuable as your time. Please make sure your client always understands when he or she needs to show up and if you do resolve something in advance of a hearing let your client know so he or she doesn't have to come to court for nothing.

NINE

I LIKE THAT YOU PROPERLY PREPARE FOR EVIDENTIARY HEARINGS AND BRING THE APPROPRIATE EXHIBITS, PROPERLY TABBED AND MARKED WITH THE CORRECT FORM OF EXHIBIT REGISTER, AND THAT YOU BRING ENOUGH COPIES, AND THAT YOUR WITNESSES KNOW WAY IN ADVANCE THEY NEED TO BE AT A HEARING.

Every adversary proceeding and evidentiary hearing has a procedures order that sets forth what the parties must do prior to the scheduled trial or hearing and what must be brought to the trial or hearing. Calendar these deadlines as soon as you get the order! And make sure any witnesses you need, including your client, know the hearing or trial date as soon as you do. That includes appraisers. YOU may know that something has been scheduled and put it on your calendar. Everyone else needs to get it on their calendar as well. In this way, if a necessary witness or your client will be unavailable on a scheduled trial or hearing date, you will know well in advance and can file a motion to reschedule, giving opposing counsel, and the court, plenty of time to adjust their schedules as well. And whatever you do DON'T show up for a trial or evidentiary hearing unprepared.

TEN

I LIKE THE FACT THAT YOU ALWAYS REMEMBER THAT LAW IS A PROFESSION, NOT A JOB. EVERYTHING I LIKE ABOUT YOU REFLECTS YOUR RECOGNITION OF THAT IMPORTANT DISTINCTION.