

Updated Guidelines for Preparing, Submitting, and Serving Orders

PREPARATION (PARTS ONE - FIVE)

PART ONE: CONTENTS AND FORMATTING OF ORDERS PREPARED BY PARTIES

Paper Size and Orientation:

- Draft the order on an 8 x 11 page in portrait orientation.

Margin:

- Set all page margins (top, sides, and bottom) to 1” (one inch).
 - This space is needed for the imprint of the case number and docket entry numbers on the top of each page. It also facilitates readability.
- On the FIRST page, add 3 more inches of blank space (in addition to the one-inch margin) for a total of 4” from the top of the page.
 - The first page of the order must have a blank space of 4” from the top edge of the page to allow room for the judge’s signature.

Font:

- Although any 12-point regular font is generally acceptable, Times New Roman and Century Schoolbook are preferred.
- The Court may reject orders with fonts that are difficult or distracting to read.

Caption:

- Each order should contain a descriptive caption identifying the court, parties, case number, case type, and bankruptcy chapter.
 - Review local form orders for guidance regarding formatting.

Title:

- Use a descriptive title that references the motion and clarifies the disposition of the order.
 - An appropriate title will provide the docketing clerk (and all future persons searching the docket) with enough information to quickly identify the underlying motion and the disposition.
 - Example: “Order Granting Motion for Stay Relief”.
- Underline the title and use all capitals.
- Use single spacing between lines if the title is more than one line long.
- Avoid overly long titles.
 - Use of ECF numbers can help streamline bulky titles.
- Do not include the word “proposed” in the title of the order.
- Orders addressing agreed matters should include in the title that the matter is agreed.
- If the order cancels or reschedules a hearing, say so in the title.

Body (Introduction/Factual Findings/Decree):

- Double-space the lines of text in the body of the order.

Introduction

- The first sentence should refer to the underlying motion or objection.
 - Most orders commence with the phrase: “This matter came before the Court on ...”.
- State which party filed the motion.
- Include the ECF No. of the motion.
- If a hearing was held, include the date and time of the hearing in the introduction.
 - This phrase clarifies for the record that due process requirements were met.
 - The information also allows the judge and chambers staff to quickly check hearing notes and digital audio recordings if detailed analysis of the order is needed.
 - If the matter was heard on a chapter 13 calendar day, the judge may have additional requirements. Refer to the judge’s web page for further guidance.
- Representations to the Court supporting entry of the order may be set forth in this section.

Findings of Fact (Optional)

- Most orders will not contain findings of fact. Instead, the order will simply refer to the motion and state the disposition.
- For orders in which a factual finding is appropriate, factual findings should be included ABOVE the decretal line.
- Start the factual finding with the words: “The Court finds that”.
 - If multiple paragraphs of factual findings are required, the Court prefers use of letters (rather than numbers) to designate the paragraphs.
- The order should briefly state the source of the factual information and method through which it was presented to the Court. Typically, this will include:
 - The agreement of the parties (i.e., stipulated facts),
 - Evidence presented at an evidentiary hearing,
 - Affidavits or other sworn evidence, or
 - Proffer of an attorney at a hearing (without objection by the opposing party).

Decree (Disposition and Relief)

- Begin the decretal section with the words “It is ordered that ...”.

- This phrase should only be used ONCE, at the beginning of the decretal section.
- Use numbered paragraphs after the introductory phrase.
- In the first decretal paragraph, state the disposition (granted, denied, or granted in part and denied in part).
 - If the Court did not grant relief precisely as requested in the motion, include the phrase “solely as set forth herein” after the word “granted”.
- In the following paragraphs, state any specific relief that should occur as a result of the disposition.
- Do not include findings of fact in the decretal paragraphs.
- End the decretal section with three number symbols (###) centered in the middle of the page.

Submitting Party and Service Directive:

- The order should indicate who submitted it to the Court.
 - All proposed orders must include the name, law firm, mailing address, phone/fax number and the e-mail address of the party submitting the order. This information should be included below the line containing the “###” symbols.
- Include a service directive to the submitting party that comports with L.R. 9073-1(B).
 - Example: *“Attorney Smith is directed to serve this order upon all non-registered users or registered users who have yet to appear electronically in this case and file a conforming certificate of service.”*

PART TWO: ORDERS PREPARED BY THE COURT

Some orders are entered by the Court using a general form. These orders should not be drafted and submitted by parties unless the judge specifically directs otherwise.

- Order Upon Conversion of Case Under Chapter 13 to Case Under Chapter 7 by the Debtor
- Order Setting Filing and Disclosure Requirements for Pretrial and Trial
- Order Dismissing Chapter 7 Case for Failure to Appear at the § 341 Meeting of Creditor
- Order Confirming Chapter 13 Plan
- Order for Relief in Involuntary Case and Order Setting Deadline for Filing Schedules, Statements and Other Documents
- Order Upon Conversion of Case Under Chapter 12 to Case Under Chapter 7 by the Debtor
- Order Allowing Installment Payments
- Order Reopening Case to Issue Discharge of Debtor Upon Filing of Debtor's Certification of Completion of Postpetition Instructional Course Concerning Personal Financial Management

PART THREE: DETAILED INSTRUCTIONS FOR SPECIFIC ORDERS

Agreed Orders

- The record must reflect that the matter is agreed. This can happen in two ways:
 - Via submission of an agreed motion.
 - By a representation in the text of the order clarifying that since the filing of the motion, the parties have subsequently agreed to entry of an order.
 - Use of the word “Agreed” in the title alone is insufficient.
- If the agreed order resolves a matter set for hearing, include two things:
 - A decretal paragraph identifying the date and time of the hearing and cancelling the hearing, and
 - The words “AND CANCELLING HEARING” in the title to alert the docketing clerk to the cancellation.
- Note: If the matter has been set for hearing, attorneys should plan to attend the hearing until/unless the agreed order is entered upon the docket.

Amended Orders

- Include a footnote after the word “Amended” describing the nature of the amendment.
- Check the judge’s web page for additional requirements.

Chapter 13 Consent Calendar Orders

- An order submitted in a chapter 13 case that was submitted in a matter heard only on the chapter 13 consent calendar must state in the introductory paragraph “came before the Court on the Chapter 13 Consent Calendar” and not reflect that it was heard “by the Court,” as required by Local Rule 5005-1(G)(1)(d).

Ex Parte Orders

- Check Local Rules to determine whether the motion may be filed *ex parte*.
- If *ex parte* filing of a motion is permitted by Local Rules, then the accompanying order should be uploaded immediately after the filing of the motion.

Stay Relief Orders

- In rem relief:
 - The most common form of stay relief granted by the Court is in rem relief, which is restricted to an assertion of rights against property only rather than the debtor personally. Include a statement clarifying this distinction.
 - Example: "The relief granted in this order permits the Creditor to seek and obtain an in rem judgment against the property only

- and does not permit the creditor to seek or obtain in personam relief against the Debtor".
- Specifically define the property.
 - For real property, use a legal description.
 - For vehicles, use the VIN.
 - For other personal property, define the property as precisely as possible.
- State precisely what the creditor can do with the property as a result of entry of the order.
 - For example:
 - "Movant may commence and prosecute a mortgage foreclosure action in state court against real property, the legal description of which is ..."
 - "Movant may take possession of and sell [the collateral defined in the Motion] ..."
 - General statements such as "Movant may enforce its rights" are insufficient.
- In personam relief:
 - Less commonly, the Court will permit a party to continue litigation against the debtor personally.
 - Specifically define the suit that may proceed as a result of the order, including the court in which the matter is being heard.
 - Example: "Creditor may continue to prosecute the case styled as *Smith v. Jones*, Case No. XX-XXXXX in the Eleventh Judicial Circuit of the State of Florida".
- If stay relief involves property that is the subject of an action pending in a Florida state court, be sure to serve the clerk of the applicable Florida state court as an interested party with the order granting stay relief, in the manner described in L.R. 4001-1(K), including listing the case number of the state court action immediately below the name of the state court clerk on the certificate of service.

PART FOUR: JUDGMENTS

- Generally
 - Judgments must comply with all applicable Federal, Bankruptcy, and Local Rules. *See* Local Rule 9021-1.
- Default Judgment:
 - To obtain a default judgment, file a motion for default judgment that complies with Bankruptcy Rule 7055(b) and Local Rule 7055-1 and attend any scheduled hearing.
 - If the Court grants the motion for default judgment, upload an appropriate order granting the motion. The relief contained in the judgment cannot exceed the amount requested in the complaint. Fed. R. Civ. P. 54(c).
 - Requests for attorneys' fees must comply Bankruptcy Rule 7054 and any relevant portions of Federal Rule of Civil Procedure 54.
 - After entry of the order, upload the default judgment to CM/ECF.
 - Include an ECF number reference to the order granting a default in the text of the judgment.
- Separate Judgment Rule:
 - The federal rules make a significant distinction between a decision and a judgment. Under the "separate judgment rule", judgments must be set forth in a separate document. Bankruptcy Rule 7058; Fed. R. Civ. P. 58.
- Single Judgment Rule:
 - If the complaint seeks relief against multiple parties or involves multiple claims, only one final judgment will be entered after all of the claims against all of the parties have been determined, unless the court expressly determines that there is no just reason for delay. Bankruptcy Rule 7054(a); Fed. R. Civ. P. 54(b).
- Post-Judgment Interest:
 - Post-judgment interest is controlled by 28 U.S.C. § 1961.
 - Determine the applicable federal interest rate and provide a memorandum indicating the amount owed if the judgment is entered on a particular date.
 - Use a table format to clearly designate dates, applicable rates, and amounts due for each period and in total.
- Fees and Costs:
 - Occasionally, the court may grant costs to the prevailing party when permitted by applicable law and procedural rules. *See* 28 U.S.C.

§§ 1920 and 1924; Bankruptcy Rules 7054 and 7058; Local Rules 7054-1 and 8021-1.

- Do not include the amount of costs in the text of the judgment.
 - After the entry of judgment, timely file a Local Form "Bill of Costs".
 - If you object to the clerk's action in taxing costs, file a motion to review the clerk's taxation of costs. Bankruptcy Rule 7054(b)(1); Local Rule 7054-1(E).
- Motions for attorney fees and requests for costs must comply with Bankruptcy Rule 7054 and Local Rule 7054-1.

SUBMISSION (PARTS FIVE & SIX)

PART FIVE: SUBMITTING ORDERS

Method of submission:

- All orders must be uploaded to CM/ECF.
 - CM/ECF requires use of special filing credentials. Consult the Court's web page for further information.
- In special circumstances, the judge may direct an alternate form and manner of submission. Check these Guidelines and the judge's web page for further information.

When to submit:

- Submit orders AFTER the matter has been resolved, whether by a hearing or agreement of the parties.
- Do not submit contested orders (proposed competing orders) through CM/ECF.
 - Refer to the judge's web page for specific instructions.
- Comply with all applicable Local Rules regarding the timing of submission of orders.

How to submit:

- Upload orders to CM/ECF in pdf format.
 - The Court strongly prefers searchable pdf files.
- In some instances, the judge may specifically direct submission of an order to the chambers inbox in a word processing format.
 - Refer to the judge's web page for specific instructions.
- During the upload process, link the order to the pleading that the order resolves.

PART SIX: SPECIAL SUBMISSIONS

- As a general rule, orders should NOT be submitted to the chambers inbox. There are only two situations in which it is appropriate to submit an order to the judge's chambers inbox:
 - The Court has specifically directed the parties to submit an order to the chambers inbox, or
 - The parties are incapable of resolving differences as to the form of order.
- If the judge directs submission of proposed findings of fact and conclusions of law, submit the proposed findings of fact and conclusions of law in Microsoft Word to the judge's chambers inbox.
 - Each submitting party must copy all other interested parties on the submission to the judge's chambers inbox.

Chief Judge Laurel Myerson Isicoff
Judge A. Jay Cristol
Judge Robert A. Mark
Judge Scott M. Grossman
Judge Peter D. Russin
Judge Erik P. Kimball
Judge Mindy A. Mora

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- If proposed competing orders are necessary, submit those documents to the judge's chambers inbox with a brief email explaining why the parties were incapable of resolving their differences as to the form order.
 - Each submitting party must copy all other interested parties on the submission to the judge's chambers inbox.

SERVICE (PART SEVEN)

PART SEVEN: SERVICE OF ORDERS

- Check the Local Rules for provisions addressing electronic docketing of orders, service and certificate of service requirements.
- Include a service directive in the order and timely serve the order within three business days of entry.
 - It is the responsibility of the submitting party (not the Court) to timely serve the order on all required parties and file a certificate of service reflecting the date and manner of service as required under Local Rule 5005-1(G)(2).