



U.S. Bankruptcy Court, District of Minnesota

**Rule 9013-1. Motions – Form**

- (a) **MOTION REQUIREMENTS.** Except as otherwise provided, a party making a motion must file and serve:
- (1) A notice of hearing and motion that substantially complies with Local Form 9013-1;
  - (2) A concise memorandum of facts and law;
  - (3) If facts are at issue, a verification of the motion or exhibits;
  - (4) A proposed witness list with the name, address, and substance of the proposed testimony, if applicable;
  - (5) A proposed order; and
  - (6) If required, proof of service.
- (b) **RESPONSE REQUIREMENTS.** A party who wishes to respond to a motion must file and serve a response. A response may include a request for an order denying the motion or a request for an order imposing costs, fees, and expenses, but must not include a request for any other relief. The response must include:
- (1) A concise memorandum of facts and law;
  - (2) If facts are at issue, a verification of the response or exhibits;
  - (3) A proposed witness list with the name, address, and substance of the proposed testimony, if applicable;
  - (4) A proposed order; and
  - (5) If required, proof of service.
- (c) **EXHIBITS.** Filing Users must submit all exhibits or attachments in electronic form in accordance with the clerk's instructions on the court's website, unless ordered otherwise.
- (d) **RELIEF WITHOUT HEARING.** If no response opposing a motion is timely filed, the court may enter an order granting the motion without a hearing.



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- (e) SEALED DOCUMENTS. A party seeking to file documents under seal must file a motion in accordance with this rule. The documents proposed to be filed under seal must be filed in accordance with the clerk's instructions on the court's website.
- (f) CERTAIN MOTIONS BY TRUSTEE IN CHAPTER 7 OR 13 CASES. Unless the court orders otherwise, the trustee in a chapter 7 or 13 case is not required to file a memorandum of facts and law for the following motions:
- (1) To dismiss a bankruptcy case under Federal Rule of Bankruptcy Procedure 1017;
  - (2) For examination of an entity under Federal Rule of Bankruptcy Procedure 2004;
  - (3) For turnover of property;
  - (4) Objecting to a claim of exemption under Federal Rule of Bankruptcy Procedure 4003; or
  - (5) Objecting to a proof of claim under Federal Rule of Bankruptcy Procedure 3007.

[Effective April 15, 1997. Amended effective January 9, 2006; April 1, 2013; May 1, 2015; December 1, 2017; May 1, 2019; October 1, 2019; amended and renumbered as 9013-1 on July 17, 2023.]

[Former Local Rule 9013-1 effective April 15, 1997. Amended effective January 1, 2002. Abrogated effective July 17, 2023.]

**2023 Advisory Committee Notes**

The language in former Local Rule 9013-1 was removed as duplicative of Fed. R. Bankr. P. 9013. Local Rule 9013-2 was renumbered to Local Rule 9013-1. Local Form 9013-2 was renumbered to 9013-1 and restyled to make it consistent with certain rule changes. The language in former Local Rule 9013-2 was restyled and reorganized. As stated in the 2013 Advisory Committee Notes to Fed. R. Bankr. P. 9006, "Rule 9013 governs the form of motions and the parties who must be served. Rule 9014 prescribes the procedures applicable to contested matters, including the method of serving motions commencing contested matters and subsequent papers."

Information concerning the presentation of evidence at hearings found in former Local Rule 9013-2(c)(2) was moved to Local Rule 9017-1. The information in former subsection (d) was moved to Local Rule 9001-1(g). Amended subsections (e) and (f) regarding exhibits and sealed documents now advise filers to file such documents in accordance with the clerk's instructions, which are available on the court's website at [www.mnb.uscourts.gov](http://www.mnb.uscourts.gov). Former subsection (h) was removed as unnecessary. A waiver of discharge under 11 U.S.C. §§ 727(a)(10), 1141(d)(4), 1228(a), or 1328(a) requires court approval and Fed. R. Bankr. P. 9013(a) states, "A request for an order, except when an application is authorized by these rules, shall be by written motion, unless made during a hearing."

Subsection (f) was added to include the information that used to appear in now abrogated Local Rule 9013-5, except for references to a motion to approve compromise or settlement and a motion for sale of property. Reference to a motion to approve compromise or settlement was removed as it is now addressed in Local Rule 9019-1(a) for chapter



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7 trustees. Reference to a motion for sale of property was removed as unnecessary. *See* Fed. R. Bankr. P. 6004(a). While a memorandum of facts and law is not required for the motions listed in subsection (f), the motion itself should provide the factual and legal basis for the relief sought.