

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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**NOTICE RE:  
CALENDAR OF CHIEF JUDGE GREGORY F. KISHEL  
FOR MATTERS VENUED IN FIFTH DIVISION AT DULUTH, MINNESOTA**

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To aid in the administration of all motions and other matters to be set on the calendar of Chief Judge Gregory F. Kishel at Duluth, Minnesota, counsel and parties are put on notice as follows:

1. All motions for relief from the automatic stay of 11 U.S.C. § 362(a) set on the calendar at Duluth will henceforth be administered in the “default-hearing” mode contemplated by Loc. R. Bankr. P. (D. Minn.) 9013-2(f) in the following fashion, as dictated by the monthly frequency of Chief Judge Kishel’s court session at Duluth:

a. If a response to a motion for relief from stay has been filed timely (no later than five days before the hearing), the Court will proceed to hearing as scheduled and will expect all counsel and unrepresented parties to make an appearance at Duluth in person. *If a consensual resolution is in process after the filing of a response, counsel for the movant must advise Judge Kishel’s judicial assistant of that (at 651-848-1060), no later than 9:30 a.m. on the business day next preceding the scheduled date of the hearing. Counsel may request a continuance of the hearing; advise when a stipulated order will be submitted; or request to go on the record as scheduled to memorialize the resolution. **Failure to take this action timely will subject counsel to imposition of sanctions, particularly if the expenditure of government funds and time for judicial travel to Duluth is incurred unnecessarily in reliance on the appearance of a need for an in-court hearing.***

b. If a response to a motion has not been filed, and the movant's counsel confirms with chambers staff that counsel has not received a response and no consensual resolution is in process, the movant will be excused from the requirement to have an attorney attend the hearing in Duluth in person.

c. If at the scheduled time for hearing there is no appearance in person by a party in opposition to the motion, the Court will enter the proposed order for relief from stay as quickly as possible.

d. If a debtor or other party appears in the courtroom at the scheduled time for hearing and credibly articulates a good faith intention to maintain a meritorious defense to the motion, Chief Judge Kishel may in his discretion make the finding contemplated by the third sentence of 11 U.S.C. § 362(e)(1). In that case, a final hearing will be set on his next calendar at Duluth during the following month. In such event,

i. the respondent and counsel will be ordered to file (and serve, if appropriate) a full written response to the motion, forthwith; and

ii. at the final hearing, the Court will entertain any motion by the movant for imposition of sanctions or other consequences on the respondent and respondent's counsel for any prejudice occasioned by the respondent's failure to timely and formally respond to the motion.

e. If the taking of evidence on a motion for relief from stay is required, Chief Judge Kishel will calendar a final hearing. That hearing may be set on the next monthly calendar at Duluth. If all parties consent, it may be scheduled for an earlier date, at St. Paul.

2. All motions other than motions for relief from stay that are set onto Chief Judge Kishel's Duluth calendar will still be called for hearing at the block-set time reserved for them.

In administration of those hearings:

a. A personal appearance will be required on all objections to claims of exemption, motions for turnover, objections to claims, and other proceedings commenced by trustees, and all such motions and any other motion brought by a creditor, a debtor, or any other party in interest. A trustee may appear personally, by counsel, or by a designated substitute in the person of a trustee local to Duluth.

b. The United States Trustee shall appear by counsel on all motions for dismissal under 11 U.S.C. § 707(b) and on motions for default judgment in adversary proceedings for denial or revocation of discharge. The appearance may be made via telephone if no answer or response is on file, or if the initial setting is conducted as a preliminary hearing. Advance arrangements for this must be made with Chief Judge Kishel's judicial assistant in St. Paul.

3. All scheduling conferences under Fed. R. Bankr. P. 7016 shall continue to be taken via telephonic conference call per current practice, on or off the record at Chief Judge Kishel's election.

4. The presumptive venue for all trials and evidentiary hearings in Fifth Division matters will continue to be the courtroom at Duluth. Where considerations of expense, witness and party convenience, and counsel's officing would favor a situs at St. Paul, the Court will schedule trials in St. Paul on consent of all participating parties and their attorneys.

5. If a settlement is reached in any proceedings set for trial or evidentiary hearing at Duluth, the fact of settlement must be communicated to Judge Kishel's judicial assistant (at 651-848-1060) no later than 9:30 a.m. on the business day next preceding the scheduled

commencement of the trial or evidentiary hearing. ***Failure to make this advisory timely will result in the issuance of an order to show cause to counsel for all parties, returnable at Duluth, and WILL subject counsel to imposition of sanctions at the hearing on that order to show cause, if the expenditure of government funds and time for judicial travel to Duluth is incurred unnecessarily due to the lack of the advisory.***

6. The cancellation of a trip in-person to Duluth by Chief Judge Kishel and his staff may be compelled by adverse weather conditions, calendar conflicts, or on a given calendar's lack of any scheduled matter that would merit in-person proceedings in Duluth. In such instance, Chief Judge Kishel's staff will give the greatest possible advance notice to all counsel for parties that appear of record to have an interest in the hearing. Scheduled matters that nonetheless require going on the record on the original date will be convened via telephonic conference call.

7. Chief Judge Kishel welcomes suggestions for scheduling and hearing procedures at Duluth that may further save time and expense for parties and counsel, conserve increasingly-limited government resources, and make best use of this Court's developed facilities for communication in electronic- and teleformats. All such suggestions may be directed to Anita Miller at [anita\\_miller@mnb.uscourts.gov](mailto:anita_miller@mnb.uscourts.gov) or to Judy Brooks at [judy\\_brooks@mnb.uscourts.gov](mailto:judy_brooks@mnb.uscourts.gov).