

Individual Practices of Phillip J. Shefferly
U.S. Bankruptcy Court for the Eastern District of Michigan
Southern Division
211 W. Fort St., Suite 1950
Detroit, Michigan 48226
Courtroom 1975

Chambers Staff:

Courtroom Deputy - John Moses
Judicial Assistant - Janice Zielinski
Chambers Support Clerk - Cheryl London
Law Clerk - Barbara Bailey

I. Communications with Chambers

- A. Chambers staff cannot give legal or procedural advice. The Court's procedures are governed by the Federal Rules of Bankruptcy Procedure and Local Rules of Bankruptcy Procedure for the Eastern District of Michigan, which are available on this website. This memorandum is intended as a supplement to those rules, and not as a substitute.
- B. Telephone calls. Telephone calls to chambers are permitted, but should be made only when necessary. Counsel having questions concerning scheduling matters should contact the Courtroom Deputy, John Moses, directly at (313) 234-0043. Do not call any other of Judge Shefferly's chambers staff with respect to any scheduling matters. Chambers personnel cannot provide case information. All calls pertaining to case information and docket entries should be directed to the Auto Attendant at (313) 234-0065, or parties may view case dockets on PACER. In addition, calls regarding ECF Procedures should be directed to the ECF help desk at (313) 319-6188.

- C. Letters. Letters to Judge Shefferly are discouraged; written communications should be made only by pleadings. Copies of correspondence between counsel should not be sent to Judge Shefferly and will be discarded. Letters to Judge Shefferly from pro se litigants may, at Judge Shefferly's discretion, be treated as pleadings and docketed as such.
- D. Facsimiles. Faxes to chambers are not permitted unless specifically requested by Judge Shefferly. When permitted, the use of the chambers fax number is for that time only.
- E. Requests for adjournments. Requests for adjournments should be made strictly in conformance with L.B.R. 5071-1, except that one adjournment of a hearing on a motion or an initial scheduling conference in an adversary proceeding shall be permitted by telephone to John Moses if all counsel participating in the hearing or the conference have agreed.

II. Motions

- A. Filing of motion papers. The Court's ECF Procedure 3(b) only permits traditional papers to be filed in very limited circumstances. In those circumstances, where a motion may be filed in traditional paper rather than electronically, the paper should be filed at Intake on the 17th floor. Unless specifically requested by Judge Shefferly, copies of pleadings should not be brought to chambers. If traditional paper pleadings are being mailed to the Court for filing, they should be addressed to U.S. Bankruptcy Court, Intake Dept., 211 W. Fort St., 17th Floor, Detroit, Michigan 48226.
- B. Oral argument on motions. Generally, when a response to a motion is filed, the

Court will schedule oral argument on the motion. The parties will be notified of the date and time of argument. Ordinarily, evidence will not be taken at the time of oral argument unless the Court has previously notified the parties otherwise.

- C. Motion day. Generally, Judge Shefferly's motion day is Friday, except for motions in Chapter 13 cases, which are ordinarily heard on Tuesday. Counsel does *not* need to check in with the Courtroom Deputy either in chambers or in the courtroom. Cases will be called generally in the order in which they appear on the docket, which is posted outside the courtroom and on the Court's website.
- D. Pro hac vice appearance. Pro hac vice appearances are not permitted. For the requirements and procedures for admission to the bar, counsel are directed to Rule 83.20(c)(1) of the Local Rules for the U.S. District Court, Eastern District of Michigan.
- E. Participation by telephone. Participation by telephone is permitted at Judge Shefferly's discretion. Counsel must request approval to participate by telephone at least one day in advance of the hearing. Requests to participate by telephone in a hearing scheduled to be held in open court must be made by contacting Cheryl London at (313) 234-0044.
- F. Discovery disputes. Discovery motions are not encouraged. Counsel must always comply with the "meet and confer" requirements of L.B.R. 9014-1(h).

III. Orders

- A. Submission of Orders. The procedure for entry of an order in a contested matter or adversary proceeding is set forth in L.B.R. 9021-1. The mechanism to submit an

order electronically is contained in ECF Procedure 7. If an order is submitted electronically but does not conform to L.B.R. 9021-1 and ECF Procedure 7, the Court will not enter it, but will instead send an email response to the person who submitted the proposed order, explaining why it was not entered.

- B. Orders to show cause. Orders to show cause are issued by the Court. Orders to show cause will not be issued upon motion by a party, as there is no provision in the Bankruptcy Rules authorizing a party to request an order to show cause.
- C. Inquiries to chambers regarding the status of orders. Telephone calls to chambers concerning the status of orders that have been submitted for entry are strongly discouraged unless the order pertains to (1) a request for expedited hearing or shortening of time to file a pleading or take other action; (2) a time sensitive matter; or (3) an order that has been submitted for entry for more than seven days. In the event that an inquiry must be made, it shall be directed to Cheryl London.

IV. Status Conferences

- A. Location. Status conferences and scheduling conferences in adversary proceedings are generally held in chambers unless indicated otherwise on the notice. Always check the location set forth on the notice of the conference.
- B. Initial scheduling conference in an adversary proceeding. Generally, these are held on Monday. A Fed. R. Civ. P. 26(f) report must be filed five days in advance of the scheduling conference.
- C. Initial Chapter 11 case status conference. The initial Chapter 11 case status conference is scheduled by the Court upon order issued shortly after the case is filed.

Debtor's counsel is responsible for sending notice to the 20 largest creditors. The order will indicate whether the initial status conference will be conducted in chambers or on the record in the courtroom. To the extent practicable, the Court schedules the initial Chapter 11 status conference on the same day as the § 341 meeting.

- D. Participation by telephone. Participation in a status conference or a scheduling conference by telephone is permitted at Judge Shefferly's discretion. Counsel must request approval to participate by telephone at least one day in advance of the hearing. Requests to participate by telephone in a status conference or scheduling conference must be made by contacting Janice Zielinski at (313) 234-0040.

V. Trials and Evidentiary Hearings

- A. Court Recorder. Please respect the Court Recorder's function. Speak clearly. Do not speak while someone else is speaking. New attorneys should give the Court Recorder their business card to ensure correct information in the record. If the spelling of names of cases, people, places, or things is important, counsel should give a list of such words to the Court Recorder at the start of trial.
- B. Exhibits. For trials and evidentiary hearings, parties must strictly comply with L.B.R. 7016-1(d). At least one day prior to trial or evidentiary hearing, counsel shall arrange with Cheryl London to have all documentary exhibits marked and provide copies of all exhibits to opposing counsel. At the trial or evidentiary hearing, counsel shall have five copies of all exhibits: one for Judge Shefferly and one each for the witness, opposing counsel, the Court Recorder, and the Law Clerk.

- C. Transcripts. Counsel are responsible for promptly raising any issue concerning the accuracy of transcripts certified by the official Court Recorder. Counsel should contact Cheryl London with material errors.

VI. Default Judgments

- A. Applications for default judgments will not be accepted absent the following:
1. A description of the nature of the claim;
 2. An affidavit representing that this Court has subject matter jurisdiction over the action;
 3. An affidavit representing that this Court has personal jurisdiction over the defendant;
 4. An affidavit representing that the defendant is not (i) an infant; (ii) an incompetent; or (iii) in the military;
 5. An original certificate of default stating that the defendant was properly served and failed to answer/appear, entered by the Clerk of the Court;
 6. All required substantiating documentation.
- B. If the plaintiff seeks an award of damages in the motion for default judgment, the plaintiff must also include:
1. A request for an amount equal to or less than the principal amount demanded in the complaint;
 2. Definitive information and documentation such that the amount provided for in the proposed judgment can be calculated. If this requirement cannot be satisfied, a default judgment may be granted as to liability, and damages will

be determined at an evidentiary hearing;

3. An affidavit representing that no part of the judgment sought has been paid, other than as indicated in the motion;
4. A request for interest, if interest is sought, on the principal amount not to exceed the judgment rate under Michigan law or other applicable authority if a different rate is sought; and
5. The calculations made in arriving at the proposed judgment amount.

- C. The application for default judgment must be accompanied by a proposed judgment pursuant to L.B.R. 7055-1.

VII. Settlements

Counsel are required to strictly comply with L.B.R. 9019-1 regarding the settlement of an adversary proceeding or contested matter.

VIII. Chapter 11 Plans of Reorganization and Disclosure Statements

Judge Shefferly uses a fast track system for all Chapter 11 cases unless it is determined that it is not practical. Judge Shefferly's requirements for information to include in the combined chapter 11 plan and disclosure statement can be found on this Court's website.

IX. Law Clerks, Internships, and Externships

Judge Shefferly is not currently accepting applications for law clerks, internships, or externships. If a position becomes available, a notice will be posted on this website.

X. Reaffirmation Agreement Hearings

- A. Pro se cases. In all pro se cases where the debtor signs one or more reaffirmation agreements, the Court will schedule a hearing to determine whether or not the

reaffirmation agreement(s) will be approved.

- B. Debtor represented. In cases where the debtor is represented by counsel, the Court will schedule a hearing only if required by L.B.R. 4008-1.

XI. Motions to Extend or Impose the Automatic Stay

- A. Every motion to extend or impose a stay under § 362(c) of the Bankruptcy Code must be accompanied by an affidavit signed by the Debtor setting forth the facts upon which the motion is based.
- B. The procedure for scheduling a hearing or a motion to extend or impose a stay under § 362(c) of the Bankruptcy Code is set forth in L.B.R. 4001-5.