

NOTICE OF TEMPORARY MODIFICATION
OF APPEARANCE PROCEDURES BEFORE
JUDGE THOMAS P. AGRESTI

Date: March 16, 2020

Public health authorities have advised public and private agencies to promptly take necessary and appropriate precautions to reduce exposure to novel coronavirus (COVID-19) and slow the spread of the disease. The United States District Court for the Western District of Pennsylvania has taken proactive action as set forth in its *Administrative Order Concerning Jury Trials and Certain Other Proceedings Relative to COVID-19 Matters*, found at Misc. No. 2:20-mc-394-MRH. The United States Bankruptcy Court for the Western District of Pennsylvania has also undertaken proactive measures as set forth in its *Standing Order Re: Telephonic Appearance at Hearings Mandatory*, found at Misc. Proc. #20-204. The gist of these measures includes requiring counsel and parties-in-interest to utilize technologies providing for remote participation in proceedings before the Court, and thus enabling “social distancing” to avoid and minimize the spread of COVID- 19.

Consistent with these proactive measures, all counsel and parties-in- interest having matters on Judge Agresti’s docket are advised that the Court remains open, with temporary modifications in terms of the manner in which contested matters are heard before the Court. That is, unless otherwise ordered by the Court:

(1) **Mandatory Telephonic Hearings:**

- (A) All matters, except for sale motions and evidentiary hearings, shall be heard telephonically by Judge Agresti consistent with the procedures set forth below.
- (B) Because *telephonic participation is mandatory* until further notice, parties should not seek leave of court to participate telephonically.
- (C) Evidentiary hearings shall be separately noticed by the Court. All sale motions shall be filed, served, and processed utilizing procedures previously in existence for cases before Judge Agresti, *provided however*, the modification to self-scheduled hearing date selections as set forth in Paragraph 2(A) below shall apply to all sale motions.

(2) **Modification to Self-Scheduling:**

- (A) Going forward, motions which are self-scheduled on Judge Agresti's docket shall utilize a self-scheduled hearing date that is not prior to May 1, 2020. Stated in other words, any party preparing and filing a self-scheduled matter from and after the date of this notice shall select a hearing date that is on the published hearing dates for Judge Agresti that is **on or after May 1, 2020.**
- (B) Going forward when noticing any self-scheduled motion, counsel and parties-in-interest are directed to complete, file and serve the attached *Notice of Telephonic Hearing and Response Deadline Regarding Motion of [Name of Party] for [Insert Relief Sought]* which is annexed hereto at ***Exhibit "A."***
- (C) With respect to any future motion or application to be filed, and to the extent any party-in-interest has an emergency matter or desires a telephonic hearing prior to May 1, 2020, counsel to such parties (or the party, if appearing *pro se*) shall not self-schedule such motion or application. Rather, ***any party seeking a hearing prior to May 1, 2020*** shall set forth in their motion or application the reason why an earlier hearing is necessary, and the Court shall, upon review of the reasons stated, separately schedule a telephonic hearing on the same.
- (D) As to matters currently scheduled or self-scheduled prior to May 1, 2020, the Court is reviewing those matters and is determining whether such matters shall go forward telephonically as scheduled or should be continued. Orders or text orders shall be entered by Judge Agresti in each particular case where such motions or applications are currently pending which shall provide instructions to counsel and the parties.

(3) **Mechanics of Telephonic Participation:**

- (A) Parties wishing to appear telephonically must register (and pay the regular charge) with ***CourtCall at (866) 582-6878 no later than twenty-four (24) hours prior to a scheduled hearing.***
- (B) Registrants must provide CourtCall with the following information:

- (i) case name and number;
 - (ii) name of the judge conducting the hearing;
 - (iii) the hearing date and time(s);
 - (iv) the participant's name, address, and telephone number;
 - (v) the name of the party or parties whom the participant represents;
 - (vi) the matter(s) on which the participant wishes to be heard or whether the participant intends to monitor the proceedings in "listen-only" mode; and
 - (vii) any other information required by CourtCall.
- (C) ***All parties appearing by telephone must abide by the following directives at all times during the conduct of telephonic hearings:***
- (i) Use of a speaker phone, cellular phone, or phone located in a public place is prohibited;
 - (ii) All parties must use their "mute" buttons when not speaking;
 - (iii) Placing the Court on "hold" during the call is prohibited;
 - (iv) Conversations with any party, other than the Court, are prohibited; and
 - (v) Any interference with the call, including background noise which disturbs the proceedings, is prohibited.
- (D) ***Failure to comply with these telephonic procedures may result in the Court imposing sanctions.***
- (E) All parties appearing telephonically must dial-in to CourtCall not less than ten (10) minutes prior to the scheduled start of the hearing. Parties participating telephonically should be aware that, based on the Court's docket, a hearing may not begin until after the time scheduled. In that event, parties who wish to participate must remain on the line until the case is called.
- (F) The Court will not call a case a second time. Parties who do not appear when the case is called will be deemed to have waived their appearance and the Court will proceed with the hearing, and the Court may enter an order adjudicating the matter.

- (G) To the extent counsel represents a party-in-interest, and the party-in-interest would like to attend the telephonic hearing, the party-in-interest may directly register for CourtCall and participate in such fashion according to the procedures set forth above. Alternatively, the party-in-interest may request relief pursuant to Paragraph 4 below.

- (4) **Further Relief:** The Court may review or amend these temporary procedures on a case-by-case basis, to the extent there is cause and extenuating circumstances to do so. To the extent counsel or any party-in-interest desires relief from any of these interim procedures, such party shall file with the Court a written motion to modify the applicable procedures. In any such motion, the party requesting relief shall state with particularity the modification sought and the reason why it is necessary or appropriate for the Court to modify the applicable procedure.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

In re:

DEBTOR NAME(S),	:	Case No. _____-TPA
	:	Chapter 13
	:	
Debtor(s).	:	
MOVANT NAME(S),	:	
Movant(s),	:	
v.	:	
	:	
RESPONDENT NAME(S),	:	
Respondent(s).	:	

**NOTICE OF TELEPHONIC HEARING AND RESPONSE DEADLINE
REGARDING MOTION OF [NAME OF MOVANT] FOR [RELIEF REQUESTED]**

TO THE RESPONDENT(S):

You are hereby notified that the Movant seeks an order affecting your rights or property.

You are further instructed to file with the Clerk and serve upon the undersigned attorney for Movant a response to the Motion by no later than _____, 20__ (*i.e.*, seventeen (17) days after the date of service below), in accordance with the Federal Rules of Bankruptcy Procedure, the Local Rules of this Court, and the general procedures of the presiding judge as found on the Court's webpage at www.pawb.uscourts.gov. If you fail to timely file and serve a written response, an order granting the relief requested in the Motion may be entered and the hearing may not be held. Please refer to the calendar posted on the Court's webpage to verify if a default order was signed or if the hearing will go forward as scheduled.

You should take this Notice and the Motion to a lawyer at once.

A hearing will be held on _____, 20__, at ____:____ __.m. before Judge Thomas P. Agresti in (choose one: Courtroom C, 54th Floor U.S. Steel Tower, 600 Grant Street, Pittsburgh, PA 15219 OR the Erie Bankruptcy Courtroom, U.S. Courthouse, 17 South Park Row, Erie, PA 16501). Only a limited time of ten (10) minutes is being provided on the calendar. No witnesses will be heard. If there is an issue of fact, an evidentiary hearing will be scheduled by the Court for a later date.

Date of Service: ____, __ 20__

Attorney for Movant/Applicant

Signature

Address

Telephone Number

Attorney I.D. No.

EXHIBIT "A"