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The Bankruptcy Court and COVID-19

Monday, June 22, 2020 • 1:00 -2:15 pm EDT

SPEAKERS:

Robert J. Ambrogi,
Moderator
Law Office of
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Boston

Hon. Hannah L.
Blumenstiel
U.S. Bankruptcy Court
(N.D. Cal.)
San Francisco

Una M. O'Boyle
U.S. Bankruptcy Court
(D. Del.)
Wilmington

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UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In Re:)
)
Third Amended Order Governing)
The Conduct of Hearings Due to)
Coronavirus Disease 2019 (COVID-19))
)

**THIRD AMENDED ORDER GOVERNING THE CONDUCT OF
HEARINGS DUE TO CORONAVIRUS DISEASE 2019 (COVID-19)**

WHEREAS, on March 13, 2020, in response to the threat of Coronavirus Disease 2019 (COVID-19), the Court entered its Interim Order re Cessation of Hand Deliveries (“Hand Deliveries Order”). Pursuant to the Hand Deliveries Order, among other things, the Court prohibited the hand delivery of documents to the Bankruptcy Court and modified certain Local Rules and Chambers’ Procedures to provide for electronic delivery of documents.

WHEREAS, on March 16, 2020, the Bankruptcy Court entered its General Order (“General Order”) governing the conduct of all hearings, status conferences, trials and any other matters scheduled to be held in open court (“Court Hearings”). Pursuant to the General Order, among other things, all Court Hearings that are not time sensitive were continued to a date to be determined on or after April 15, 2020, and Court Hearings were limited to being held (i) telephonically, or (ii) by a combination of telephonically and video conference.

WHEREAS, on March 31, 2020, the Bankruptcy Court entered its Amended Order Governing the Conduct of Hearings due to Coronavirus Disease 2019 (COVID-19) (the “Amended Order”). Pursuant to the Amended Order, among other things, all Court Hearings that are not time sensitive were continued to a date to be determined by the presiding judge on or after May 1, 2020, and Court Hearings were limited to being held (i) telephonically, or (ii) by a combination of telephonically and video conference.

WHEREAS, on April 20, 2020, the Bankruptcy Court entered its Second Amended Order Governing the Conduct of Hearings due to Coronavirus Disease 2019 (COVID-19) (the “Second Amended Order”). Pursuant to the Second Amended Order, among other things, all Court Hearings that are not time sensitive were continued to a date to be determined by the presiding judge on or after May 18, 2020, and Court Hearings were

limited to being held (i) telephonically, or (ii) by a combination of telephonically and video conference.

WHEREAS, the Bankruptcy Court finds that it is advisable to amend its previous orders.

NOW, THEREFORE, it is hereby ORDERED as follows:

1. This Order supersedes and replaces the General Order issued March 16, 2020, the Amended Order issued March 31, 2020, and the Second Amended Order issued April 20, 2020.
2. This Order is effective immediately.
3. The Hand Deliveries Order remains in effect, provided, however, that any judge is authorized, but not directed, to annul or to modify any of the provisions of the Hand Deliveries Order, on a case by case basis, solely as it applies to said judge.
4. The continuation of non-time sensitive matters under the Second Amended Order is terminated, effective May 18, 2020.
5. At the discretion of the presiding judge, on a case by case basis, Court Hearings that are held prior to June 1, 2020 shall be held (i) telephonically, or (ii) by a combination of telephonically and video conference.
6. The manner of submitting evidence in Court Hearings held prior to June 1, 2020 shall be determined, on a case by case basis, by the presiding judge.
7. Local Rule 9029-3(b)(iii) is hereby amended on an interim basis as follows:

Status Information. For each motion, the agenda shall provide whether the matter is going forward, whether a continuance is requested (and any opposition to the continuance, if known), whether any or all of the objections have been resolved and any other pertinent status information, including whether the presentation of live witness(es) is expected, and, if so, the identity and location of the witness(es), and which party is presenting the witness(es). Counsel responsible for submitting the agenda shall consult with other parties in interest to identify all witnesses that will be presented.

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8. The Bankruptcy Court will continue to monitor the situation and will amend this Order from time to time as appropriate.



Christopher S. Sontchi
Chief United States Bankruptcy Judge

Dated: May 11, 2020

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In Re:)
)
CESSATION OF HAND DELIVERIES)
)

INTERIM ORDER

WHEREAS, the Bankruptcy Court is monitoring the outbreak of Coronavirus Disease 2019 (COVID-19). Given the risk of transmission and the potentially serious consequences, the Bankruptcy Court has implemented procedures to protect Court personnel and the public from the spread of this disease.

NOW, THEREFORE, it is hereby Ordered as follows:

1. Effective, March 16, 2020, the Bankruptcy Court will no longer accept hand delivery of any documents.
2. Local Rules 3007-1 (Omnibus Objection to Claims); 7007-4 (Notice of Completion of Briefing or Certificate of No Objection, and Notice of Completion of Briefing Binder); 8003-1 (Transmittal of Notice of Appeal to Bankruptcy Judge); 8024-1 (Notice of Disposition of Appeal); 9006-1(e) (Shortened Notice); 9013-1(j) (Certificate of No Objection); 9019-1(Certificate of Counsel); 9029-3 (Hearing Agenda Required); and the General Chambers Procedures are modified as follows:
 - a. Unless otherwise directed by Chambers, copies of Notices of Completion of Briefing, Certificates of No Objection, Certificates of Counsel, and Notices of Appeal shall not be provided to the Court via hand delivery, email nor any other method.
 - b. Notices of Disposition of Appeal and Motions to Shorten Notice shall be provided to Chambers solely by email to the applicable Courtroom Deputy and Judicial Assistant.
 - c. Hearing Agendas shall be provided to Chambers solely by email to the applicable Courtroom Deputy and Judicial Assistant. The documents referenced in the Agenda shall not be provided. If possible, counsel will provide via email a copy of the Agenda with hyperlinks to the relevant

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docket entries or some similar method of allowing access to the relevant materials through the Agenda.

- d. Claims Binders and Fee Binders (with relevant documents) shall be provided to Chambers by email to the applicable Courtroom Deputy and Judicial Assistant.
3. All proposed orders must be submitted and uploaded via CM/ECF with the exception of proposed orders for Chapter 7 and Chapter 13 consumer cases.
4. As necessary (such as regarding a first day hearing), disposition of matters may be noted on the docket with an order to follow.
5. Counsel is requested to compress the size of documents submitted in pdf format prior to submitting the documents via email.
6. Notwithstanding the foregoing, the Court will allow the hand delivery of documents for use in the courtroom during a contested hearing or trial, such as exhibit binders.



Christopher S. Sontchi
Chief United States Bankruptcy Judge

Dated: March 13, 2020

Delaware Bankruptcy Court Video appearance Procedures:

Requirements:

- Access to a phone
- PC or laptop
- WebCam (**turn the microphone off**)
- Testing of the connection is **highly** recommended

If participating by audio only:

- Call Courtcall as usual

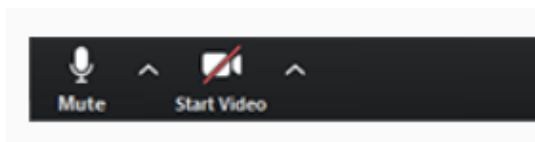
If participating by video:

- Courtcall will supply audio as usual.
- For Video, click on the link provided by chambers (you may be prompted to install either the Zoom or skype for business web app depending on which method is being used for the hearing)
- Once connected, ensure the microphone is muted.

Followup:

- If you encounter any issues in getting connected, please first contact your IT department.
- Please see below for visual reference. Please NOTE: Make sure your microphone is muted on whatever meeting connection method you are attempting to use.

Zoom:



Skype:



NOTICE REGARDING TELEPHONIC CHAPTER 7 § 341
MEETINGS IN THE DISTRICT OF DELAWARE

(Effective April 29, 2020)

On March 16, 2020, the United States Trustee for Regions 3 & 9 issued a notice continuing all in-person chapter 7, 12, and 13 section 341 meetings scheduled through April 10, 2020, with the exception that section 341 meetings could proceed through telephonic or other alternative means not requiring any personal appearances. That notice has been amended to extend the applicable time period, and now the United States Trustee provides notice that the continuance of in-person section 341 meetings is extended for cases filed through July 10, 2020 until further notice.

Given the foregoing, this notice addresses the protocol for telephonic appearances for **chapter 7** section 341 meetings only. Chapter 13 debtors should refer to their standing trustee's protocol or website for additional information.

All debtor attorneys and debtors are encouraged to participate in section 341 meetings by telephone, or by such remote means as the trustee has established and noticed. Attorneys and debtors may call in from separate locations. Creditors and creditor attorneys may appear remotely and should use the information provided below or on the docket to participate.

All parties are encouraged to contact the case trustee, check the case docket, and the [UST website](#) for up-to-date information about section 341 meetings of creditors.

Unless otherwise instructed, to participate in a telephonic section 341 meeting, you should use the Call-In Number and Passcode assigned to your trustee, which will be posted to the case docket prior to the section 341 meeting date.

Unless otherwise directed by your trustee, please call-in five minutes before your assigned meeting time and mute your telephone until your case is called.

Please follow the instructions below to ensure a smooth telephonic section 341 meeting of creditors.

- You must use a touch-tone phone.
- If you have a choice, use a landline phone, instead of a cell phone.
- Dial the call-in number and then enter the passcode, which consists of 7 numbers and is followed by a # sign.
- Make the call from a quiet area where there is as little background noise as possible.
- Mute your phone and do not speak until the bankruptcy trustee calls your case. (Other meetings of creditors will likely be in session when you call in. You will still be able to hear the trustee even when your phone is muted.)
- Unmute your phone when the trustee calls your case so that the trustee can hear you.
- Wait until the trustee calls your case before speaking because more than one case may be waiting on the conference line at any given time.
- When speaking, identify yourself.

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- Do not put the phone on hold at any time after the call is connected.
- Once your meeting of creditors is finished, hang up.
- If you become disconnected before your meeting of creditors is finished, call back.
- If you are calling in from another country, please see the additional information available at:
<https://www.mymeetings.com/audioconferencing/pdf/GlobalAccessDialingInformation.pdf>

Debtor's counsel must verify on the record that they have confirmed their client's identity prior to the section 341 meeting of creditors, either via Facetime or Skype or other means.

Required documents for the section 341 meeting of creditors should be provided to the trustee **a week prior to the section 341 meeting of creditors**. These documents should include information sufficient for the trustee to verify the debtor's SSN. Debtors shall have these documents available during the section 341 meeting of creditors in the event there are questions about the information in the documents.

The section 341 meeting of creditors will be recorded by the trustee. Any other recordings are prohibited.

Trustee	Call-In Number	Passcode
Beskroner, Don	1-877-953-7561	8538112
Burtch, Jeffrey	1-877-921-5228	3621788
Carickoff, David	1-888-480-9260	3970474
Giuliano, Alfred	1-866-687-1508	5411546
Miller, George	1-888-456-5124	4466989

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**THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

Notice Regarding Videoconferencing During The Implementation of COVID-19 Court Procedures

The Bankruptcy Court has implemented court procedures in response to the outbreak of the Novel Coronavirus 2019 (COVID-19). Beginning Wednesday, March 18, 2020, when the Court permits witness testimony, either Zoomgov or Skype For Business will be leveraged (per the discretion of Chambers) along with CourtCall to facilitate videoconference hearings. Parties must use one of these two applications or download the appropriate Plug-in, when prompted, to participate. Parties are encouraged to seek guidance from their respective IT departments to assist if needed. Chambers staff will provide instructions to all participants scheduled to appear by videoconference.

Please note that the number of participants on CourtCall is unlimited, but the Zoom and Skype conference solutions will be limited. The videoconference will be coordinated through Chambers though parties will still be able to participate through CourtCall. Video participants must also dial into CourtCall for audio. Instructions can be found on our website under the **Information regarding Court Operations & Procedures during COVID-19**.

Thank you for your cooperation. We are committed to continuing the work of the Court in a manner that is consistent with public health guidelines for the health and safety of the public and our staff.

Dated: April 23, 2020

ZOOM HEARINGS

Do's and Don'ts

Audio

- Sound quality over ear buds, cell phones and land lines are poor. Please consider investing in a high-quality headset. Also, please mute your phone when not speaking.
- Speaker phones should be used as a last resort.
- Be mindful of your microphone if you are using earbuds. It often rubs against your clothes and creates background noise.

Video

- Please put your proper name on your screen ID while in Zoom. Using only your first name or "iPhone" or "Ron's iPhone" or "The Dude Abides" is inappropriate and unhelpful. Remember this is a court appearance so formality should be preserved. Also, using your name helps as a cheat sheet for the judge. This is not necessary with the local bar but is very helpful with co-counsel and witnesses.
- Be cognizant of lighting. If you have a bright light or window to the side or behind you, or you are in the dark we cannot see your face. This is a problem with witnesses as we must be able to discern the expression on the witness's face to take the testimony.
- Consider using an appropriate virtual background (no Star Wars themes) if you are appearing from a location that is not a business setting, such as a bedroom. Again, this is a court appearance.

Etiquette

- Please wear court attire. For men this means coat and tie. For women it is suitable business attire.
- Please remember that if you or your co-counsel intends to speak, you should be on Zoom with your video turned on. Appearing by Zoom without showing your video may help you but it does not help the court.
- It is unnecessary to stand when addressing the Court but it is appreciated.

Questions?

- Any questions?
 - Please use the Raise Hand function on Zoom.

Faculty

Robert J. Ambrogi is a sole practitioner with the Law Office of Robert J. Ambrogi in Boston who represents clients at the intersection of law, media and technology. A news media veteran, he is the only person ever to hold the top editorial positions at the two leading national U.S. legal newspapers, the *National Law Journal* and *Lawyers Weekly USA*. He is also internationally known for his writing and blogging about the internet and technology. Mr. Ambrogi represents a range of businesses and individuals, concentrating in print and electronic media companies, and the editorial, sales, marketing and technology professionals who work in them. He also counsels businesses and individuals in employment matters. An established professional in alternative dispute resolution, Mr. Ambrogi has been an arbitrator since 1994, focusing on labor and employment and securities disputes. He is a mediator in a range of civil disputes, and completed the training required by Massachusetts law to protect confidentiality. Mr. Ambrogi received his B.A. in English and journalism in 1976 from the University of Massachusetts at Amherst and his J.D. in 1980 from Boston College Law School.

Hon. Hannah L. Blumenstiel is a U.S. Bankruptcy Judge for the Northern District of California in San Francisco. Prior to her appointment on Feb. 11, 2013, Judge Blumenstiel was an associate (2003-08) and then a partner (2008-12) with Winston & Strawn LLP, where she focused her practice on creditors' rights litigation in state and federal court, including bankruptcy court. From 2001 to 2003, Judge Blumenstiel was an associate with Murphy Sheneman Julian & Rogers LLP, where she represented debtors, creditors and trustees in bankruptcy cases and adversary proceedings. She served as a law clerk to Hon. Charles M. Caldwell of the U.S. Bankruptcy Court for the Southern District of Ohio (Eastern Division) from 1998 to 2001, and from 1997-98, she represented the State of Ohio's interests in bankruptcy cases as an assistant attorney general with the Revenue Recovery Section of the Ohio Attorney General's Office. Judge Blumenstiel sits on ABI's Board of Directors. She received her J.D. from Capital University Law School in 1997 while working full-time for the Columbus Bar Association as director of its *pro bono* initiative, "Lawyers for Justice," and her B.A. from Ohio State University in 1992.

Una M. O'Boyle is the clerk of the U.S. Bankruptcy Court for the District of Delaware in Wilmington. Prior to joining the Delaware court, she spent 25 years in the U.S. Bankruptcy Court for the Southern District of New York, first as law clerk to Judge Tina L. Brozman and Judge Burton R. Lifland, then as chief deputy of the court. Between clerkships, Ms. O'Boyle was an associate at Weil, Gotshal and Manges' Business Finance & Restructuring group. She is admitted to practice in New York, New Jersey and the U.S. Supreme Court, and she is a member of ABI, the International Women's Insolvency & Restructuring Confederation and the Federal Bar Council. In addition, she is president-elect of the National Conference of Bankruptcy Clerks and an advisory board member of *Practical Law*. Ms. O'Boyle received her J.D. from New York Law School in 1991.

Brian L. Shaw is a partner in the Financial Restructuring and Bankruptcy Department of Fox Rothschild LLP in Chicago and has 25 years of experience representing debtors, secured and unsecured creditors, creditor and equity committees, chapter 7 and 11 trustees, and plaintiffs and defendants in bankruptcy and creditor rights-related litigation. He was previously a member of Shaw Fishman Glantz & Towbin LLC. Mr. Shaw is a Fellow of the American College of Bankruptcy and formerly

served as ABI's President, Chairman of the Board of Directors and Vice President-Membership. He is also a past chair of the Chicago Bar Association's Bankruptcy and Reorganization Committee. Mr. Shaw previously served as a contributing editor of the *ABI Journal* and has authored and co-authored numerous articles in such publications as the *Norton Bankruptcy Law Letter*, *The Bankruptcy Strategist*, *Business Credit* and *Credit Today*, as well as for the Illinois Institute of Continuing Legal Education, and he has spoken on a variety of bankruptcy-related topics at national and regional conferences. He also chaired ABI's inaugural Professional Development Program and regularly serves on the faculty of ABI's Litigation Skills Symposium. Mr. Shaw is admitted to practice in the State of Illinois, as well as the U.S. District Courts for the Northern District of Illinois, Central District of Illinois, Eastern District of Wisconsin, Western District of Michigan and Northern District of Indiana, the U.S. Courts of Appeals for the Third, Seventh and Eighth Circuits, and the U.S. Supreme Court of the United States. He is also admitted to the Federal Trial Bar for the Northern District of Illinois. Mr. Shaw received his J.D. *magna cum laude* from the University of Illinois College of Law.

Matt Wapnick has served as CourtCall's director of Business Development in Los Angeles since 2010 and spearheads the design and development of CourtCall's proprietary video platform, which is used daily in courts across the U.S. and Canada. Focusing on product development and growth, he leverages CourtCall's technology to create innovative programs that support the complex and ever-changing remote-participation requirements of the courts and customers CourtCall serves. Previously, Mr. Wapnick focused on marketing, having worked in new media/online advertising for several years prior to joining CourtCall. He received his B.A. in communication and advertising from the University of Southern California.