

B-9013-1

Motions Initiating Contested Matters and Other Requests for Relief

(a) Except as otherwise authorized by Federal Rule of Bankruptcy Procedure 6006, every application, motion, or other request for an order from the court, including motions initiating contested matters, shall be filed separately from any other request, except that requests for alternative relief may be filed together. All such requests shall be named in the caption, shall state with particularity the order or relief sought and the grounds for the motion.

(b) Motions seeking relief from the automatic stay or adequate protection may not be joined with any other request or objection except abandonment.

(c) The application, motion, or other request should be accompanied by a proposed form of order.

Commentary

Different types of relief can be subject to very different procedural requirements. Some must be set for hearing on notice to all creditors, others receive a hearing only if an objection is filed, and different deadlines apply to different requests. This rule avoids the confusion that will result if multiple requests for relief are combined in a single motion. It requires each request for relief to be filed separately from any other, unless alternative relief is sought.

In everyday life, choosing between alternatives often involves a choice between mutually exclusive options; you can go one way or the other, but not both. It is much the same with alternative relief. The court is asked to choose between available remedies; it may do one thing or the other, but not both. If both options could be selected, or if the court is asked to do more than one thing in a given situation, the relief sought is not alternative.

Requests for alternative relief will generally use the conjunction “or” in the motion’s title or prayer, rather than the word “and,” *i.e.*, “motion to convert or dismiss,” not “motion to dismiss and objection to confirmation.” In the event a movant is not certain whether alternative relief is being sought, separate motions should be filed. There is no penalty for filing separately.

Pursuant to Rule 9014(c), certain provisions applicable to adversary proceedings are incorporated into contested matters. Absent from provisions incorporated by Rule 9014(c) are Fed. R. Bankr. P. 7018, 7019, and 7020, which respectively reference Fed. R. Civ. P. 18, 19, and 20. It is clear from this omission that joinder of claims, and joinder of parties, are not contemplated in a contested matter. A contested matter is essentially a discrete action seeking one form of relief as to a single party.

HISTORICAL AND REGULATORY NOTES

Pursuant to Order Amending Local Bankruptcy Rules dated May 21, 2012, this rule was amended for clarification and to add a commentary.

Pursuant to Order Amending Local Bankruptcy Rules dated November 30, 2007, paragraph (a) of this rule was amended to conform to the provisions of the amended national rules.

This rule was amended to conform with current practices pursuant to Order Amending Local Rules dated December 7, 2001, with an effective date of January 1, 2002.

By Order Amending Local Rules dated April 30, 2001, this rule was revised effective June 4, 2001.