

**JUDGE DALES'S PROCEDURES GOVERNING
LIVE TESTIMONY DURING MOTION DAY HEARINGS
(FED. R. BANKR. P. 9014(e))**

To avoid confusion, delay, and unnecessary expense, and to comply with Fed. R. Bankr. P. 9014(e), effective on and after June 1, 2012, the following procedures will apply in matters assigned to the Honorable Scott W. Dales:

1. Except as otherwise provided herein, any hearing scheduled on the court's regular motion day shall not be conducted as an evidentiary hearing, and the court will not permit witnesses to testify except in the form of affidavit or solemn declaration as contemplated in Fed. R. Civ. P. 43(c) and 28 U.S.C. § 1746.
2. The following hearings scheduled on the court's regular motion day may be conducted as evidentiary hearings at which each party shall be prepared to proceed with witnesses in attendance and other evidence:
 - a. Matters with respect to which the court has entered an order or hearing notice expressly advising parties that the hearing will be a full evidentiary hearing at which witnesses will be allowed to testify in person;
 - b. Final hearings on motions for relief from stay, as contemplated in LBR 4001-1(c);
 - c. Motions to continue the automatic stay under 11 U.S.C. § 362(c);
 - d. Motions for authority to sell, use or lease property under 11 U.S.C. § 363 (including cash collateral), or to obtain credit under 11 U.S.C. § 364;
 - e. Motions for injunctive relief under Fed. R. Civ. P. 65;
 - f. Motions to convert under 11 U.S.C. § 1112(b); and
 - g. Chapter 11 and Chapter 12 confirmation hearings.
3. Any party who seeks an exception to the procedure described in Paragraph 1 shall, at least 14 days in advance of the hearing: (1) consult with opposing parties regarding the need for live testimony, in order to seek consensus; and (2) file a written request, on notice to opposing parties, for an evidentiary hearing, which may result in a telephone conference with the court regarding the need for evidence and the nature of the hearing.
4. Nothing in these procedures, including the use of affidavit or solemn declaration, shall abridge a party's cross-examination rights, if asserted, or preclude the court from adjourning any motion for a full evidentiary hearing as appropriate.
5. Nothing in these procedures shall preclude interested parties from consenting to the court's hearing testimony from a witness at a hearing on the court's regular motion day, or from seeking an adjournment of an evidentiary hearing, subject to court approval.