

APPEARANCE AT HEARINGS: General Rules and Exceptions

Appearance in-Person Appearance Waived

Updated June 21, 2020

Honorable Vincent P. Zurzolo

United States Bankruptcy Judge
Central District of California, Los Angeles Division

Courtroom 1368, Roybal Federal Building
255 E. Temple St., Los Angeles, CA 90012 **213-894-3755**

I. General Rules: Appear In-Person and Be Prepared

A. Appearance Required

1. **In-Person Requirement.** When a hearing is going forward, in-person appearances are required for all parties or by a party if that party does not have counsel. Failure to appear at the hearing may result in the court imposing sanctions on the counsel and/or the party. See **LBRs 7016-1(a, g), 9011-2, 9011-3 and 9013-1(j)**,
2. **Limited Telephonic Appearances.** An in-person appearance occasionally may be substituted by a telephonic appearance, such as:
 - (a) When the courtroom is closed to the public due to a public health issue (see separately posted notice regarding Covid-19 procedures); or
 - (b) When the courtroom is open to the public, and a request to appear by telephone is made and approved in advance (*requests are rarely granted, except in medical emergencies*).Instructions for making a requested are posted on a separate notice on this webpage, titled “TELEPHONIC APPEARANCES vs. IN-PERSON APPEARANCES”
3. **Waiver Possible Except for Mistakes.** There are scenarios in which in-person appearances **could be waived but will not be waived**, because one or more parties made mistakes that are described in section II below.

B. Preparing for Court Hearings. Please access other links on Judge Zurzolo’s webpage.

1. **Instructions/Procedures.** These are posted for specific situations:
 - ** Chapter 11 Debtors Who are Individuals – Use of LBR Forms and VZ Forms
 - ** Chapter 13 Miscellaneous Procedures and Requirements
 - ** Order Setting Procedures for Adversary Proceeding Status Conferences
 - ** Pre-Trial Procedure: Instructions for Preparing Pretrial Stipulation
 - ** Procedures Regarding Trials and Evidentiary Hearings
2. **Forms.** Numerous forms are posted for either mandatory or optional use when filing motions, status reports, and other documents need at court hearings.

II. Appearances Waived vs. Appearances Required

- A. **Appearances Waived.** Often, appearances may be waived when an order approving a settlement has been entered, when the motion is unopposed and the relief requested meets all legal standards and is supported by evidence, or when the movant has voluntarily dismissed the motion.
- B. **Appearances Not Waived Even if a Motion is Unopposed.** There are many scenarios in which in-person appearances can be waived but will not be waived because one or more of the parties made mistakes described in the scenarios below.

(1) Relief from Stay Hearings

(a) Appearance **Waived**. Generally, appearances at a hearing are waived if a movant establishes cause to grant a relief from stay motion and there is no written opposition to the motion. **If so**, a **tentative ruling** will be posted to grant the motion, waive appearances, and indicate which boxes in the appropriate relief from stay order should be checked.

(b) Appearance **Not** Waived Even if a Motion is Unopposed. Common situations in which an appearance at a hearing is not waived even when an opposition to a motion has not been filed:

1. The movant seeks annulment or relief from the co-debtor stay, but the relief requested is **not warranted by the law** or is **not supported by evidence submitted**.
2. The movant **seeks relief that Judge Zurzolo rarely, if ever, grants**, such as:
 - A. **Real Property RFS Motion:** Page 5, checkboxes **8** or **10**.
 - B. **Personal Property RFS Motion:** Page 5, checkboxes **7, 8**, or **9**.
 - C. **Unlawful Detainer RFS Motion:** Page 5, checkboxes **7, 8, 9, 10** or **11**.
 - D. **Non-Bankruptcy Forum RFS Motion:** Page 5, checkbox **6**.

(2) Adversary Proceeding Conferences and Hearings

(a) Appearances **Waived**. Common scenarios in which appearances may be waived, and such waiver will be indicated in a tentative ruling:

1. **Default Judgment:** A motion for default judgment establishes cause to be granted.
2. **Settlement:** At least 2 court days before a hearing, an order is entered granting (A) a stipulation to settle adversary proceeding, or (B) a motion for order approving a settlement.
3. **Dismissal:** At least 2 court days before a hearing, (A) an order is entered granting a motion to dismiss the adv. proc. or approving a stipulation to dismiss the adv. proc. or (B) a notice of dismissal of adv. proc. was filed before a response to the complaint was filed. The correct LBR form to prepare and file is **F 7041-1.ADV.VOLUNTARY.DISMISSAL**

(b) Appearances **Not** Waived. Common scenarios in which appearances are not waived:

1. **Insufficient Cause Shown:** The movant seeks a default judgment that is **not warranted by the law** and the alleged facts are **not supported by evidence submitted**.
2. **Incomplete Settlement:** The parties file a settlement document or stipulation, but **an order approving the settlement or stipulation is not entered** at least 2 court days before the hearing.
3. **Ineffective Dismissal of Adv. Proc.:** The plaintiff is no longer pursuing the action but **fails to file a notice of dismissal** pursuant to FRCP 41(a) and instead files a “withdrawal” of motion. The correct LBR form to file is: **F 7041-1.ADV.VOLUNTARY.DISMISSAL**

(3) Chapter 13 Confirmation and Miscellaneous Motion Hearings:

(a) Appearances Waived

1. **Plan Confirmation:** Appearance at a hearing on chapter 13 plan confirmation **is waived only if** the hearing is listed on the Consent Calendar published by the chapter 13 trustee.
2. **Miscellaneous Motion:** Appearance at a hearing on a chapter 13 miscellaneous motion **is waived only if** (A) movant establishes cause to grant the motion **AND** (B) a tentative ruling is posted granting the motion without the need for oral argument or appearance.

(b) Appearances Not Waived Even if a Motion is Unopposed. Common situations in which appearances are not waived even when an opposition has not been filed:

1. **Insufficient Cause Shown:** The movant seeks relief which is **not warranted by the law** and the alleged facts are **not supported by evidence submitted**.
2. **Incomplete Settlement:** The parties file a settlement document or stipulation, but **an order approving the settlement/stipulation is not entered** at least 2 court days before the hearing.
3. **Ineffective Dismissal of Motion:** A movant is longer pursuing its motion but **fails to file a notice of dismissal** of motion pursuant to LBR 9013-1(k), and instead files a “withdrawal” of motion. The correct LBR form to file is: **F 9013-1.5.MOTION.VOL.DISMISSAL**

(4) Hearings on Miscellaneous Motions under any Chapter

(a) Appearances Waived. The court often waives appearances at hearings on contested matters and other motions. **If so**, the posted calendar will indicate that a **hearing is vacated** because the hearing is moot or has been continued; or it will indicate in a **tentative ruling** that oral argument and appearances are waived and that a proposed order must be lodged. Example scenarios are:

1. **Motion Granted.** Movant establishes legal and evidentiary cause to grant the motion and there is no written opposition;
2. **Motion Settled.** The parties file a settlement document/stipulation and an order approving the settlement/stipulation is entered at least 2 court days before the hearing; or
3. **Motion Denied.** The motion is denied, and follow-up action must be taken.

(b) Appearances Not Waived Even if a Motion is Unopposed. Common scenarios in which appearances are not waived even when an opposition to a motion has not been filed:

1. **Insufficient Cause Shown.** The movant seeks relief which is **not warranted by the law** and the alleged facts are **not supported by evidence submitted**.
2. **Incomplete Settlement.** The parties file a settlement document/stipulation, but **an order approving the settlement/stipulation is not entered** at least 2 court days before the hearing.
3. **Ineffective Dismissal of Motion.** A movant no longer pursues its motion but **fails to file a notice of dismissal of motion** pursuant to LBR 9013-1(k), and instead files a “withdrawal” of motion. The correct LBR form to file is: **F 9013-1.5.MOTION.VOL.DISMISSAL**