

**JUDICIAL PRACTICES AND PROCEDURES**  
**UNITED STATES BANKRUPTCY JUDGE DEREK J. BAKER**

Judge Derek J. Baker was appointed as a Bankruptcy Judge for the United States Bankruptcy Court for the Eastern District of Pennsylvania on February 19, 2025. Prior to his appointment, Judge Baker maintained a private practice based in Philadelphia. Judge Baker is a former chair of the Eastern District of Pennsylvania Bankruptcy Conference and a Fellow of the American College of Bankruptcy. Judge Baker obtained his B.A. with University Honors from Lock Haven University of Pennsylvania and a J.D. from the University of Dayton School of Law.

John Barbetta ([John\\_Barbetta@paeb.uscourts.gov](mailto:John_Barbetta@paeb.uscourts.gov); (215) 408-2839) is Judge Baker's Courtroom Deputy.

Chris Caruso ([Christopher\\_Caruso@paeb.uscourts.gov](mailto:Christopher_Caruso@paeb.uscourts.gov); (215) 408-2824) handles Judge Baker's ESR needs.

**PRELIMINARY GENERAL MATTERS**

1. *Correspondence With the Court*

Judge Baker discourages unsolicited correspondence from counsel. Judge Baker will, however, occasionally invite and/or direct counsel to report on the status of matters via letters. Such letters, if requested, must be filed on the docket. Counsel should not raise or address substantive legal issues or seek relief from the Court via letter. Judge Baker will not consider matters raised via correspondence that should be raised properly by motion practice. All correspondence which relates to Judge Baker's calendar must be directed to Judge Baker's Courtroom Deputy.

2. *Communications With Law Clerk*

Judge Baker permits counsel to speak directly with his law clerk, subject to the limitations that law clerks are not permitted to give legal advice or discuss the merits of pending matters. Scheduling matters should be first taken up with Judge Baker's Courtroom Deputy.

3. *Telephone Conferences and Use of Facsimile Machines*

Judge Baker welcomes the use of telephone conferences, particularly when they relate to Pre-Trial scheduling matters and potential settlement conferences. **The Judge's Judicial Assistant** handles the scheduling of all telephone conferences and, therefore, all inquiries regarding the scheduling of telephone conferences should be

directed to Judge Baker's Judicial Assistant. All pertinent parties should be consulted for availability prior to contacting Chambers and any requests should be made at least 24 hours in advance.

Judge Baker does not accept facsimile or electronic mail correspondence or pleadings from counsel unless requested and approved in advance.

4. Pro Hac Vice Admissions

Judge Baker prefers that written requests for admission pro hac vice be submitted in accordance with Local Rule 2090-1(b). As a matter of professional courtesy and in keeping with a "national practice," however, Judge Baker liberally grants oral motions made in open court at the time of the hearing or trial. The fee required under Local Rule 2090-1(b) must be paid whether the request for admission pro hac vice is made by written application and motion or by oral motion in open court.

5. Chambers Copies of Filed Papers

Parties shall not submit courtesy copies of pleadings, memoranda or other filed documents unless specifically requested by Chambers.

## LITIGATION GENERALLY

The following practices and procedures pertain to litigation generally, whether contested matters in motion practice or trials in adversary proceedings or any other matter that results in a court appearance.

1. Scheduling Hearings

Judge Baker conducts hearings on matters in respective cases on the dates and times set forth on the Court's website: <https://www.paeb.uscourts.gov> on Judge Baker's page. Consistent with Local Rule 5070-1, parties must obtain the actual hearing date that a matter may be scheduled. **Counsel are directed to use L.B.F. 9014-3B (noting both Video Conference and In Person) for the scheduling of all hearings before Judge Baker.** As attorneys for the United States trustee and Chapter 13 trustee appear consistent with this schedule, a matter erroneously scheduled at a time other than the date and time set forth by rule may be continued. If a party files a motion without a notice of hearing consistent with the Local Rules, it will be referred to the Judge who will dismiss the motion without prejudice subject to refile with the appropriate notice.

2. Scheduling of Expedited Hearings

Local Rule 9014-2(a)(12) and 5070-1(g) govern requests for expedited hearings.

Counsel is strongly encouraged to notify Judge Baker's Courtroom Deputy by telephone that a motion for expedited consideration will be filed. Upon the filing of a motion for expedited hearing with the Clerk's Office, Judge Baker's Courtroom Deputy will consult with the Judge to determine the appropriate course of action and counsel will be so advised.

All motions for expedited consideration shall include a statement of counsel that certifies that counsel has consulted, or has attempted to consult, with all interested parties and the results of such consultation, as required by Local Rule 5070-1(g)(1). **In matters in which relief is requested that directly affects one (1) or more specific respondents, consistent with the Local Rule, Judge Baker ordinarily will not grant or schedule an expedited hearing without this certification regarding the consent noting time availability of such respondent for the requested expedited hearing.** Judge Baker may deny the request for an expedited hearing if no Certification is included with the Motion.

When submitting a proposed order for the scheduling of an expedited hearing, counsel are required to use the form of order available on the Court's website under Judge Baker's Practices and Procedures.

Upon entry of an order granting expedited consolidation, the movant must make the service dictated by the order and timely file an appropriate certificate of service. Failure to comply may result in a continuance of the hearing.

### 3. Continuances and Extensions

#### a. General Policy

Counsel must first contact opposing counsel to seek consent to the requested continuance. As a matter of professionalism and civility, counsel should liberally consent to a reasonable request for a continuance, unless such a request materially prejudices their client. If all parties consent, a request for a continuance will usually be granted. Request for continuances can be arranged by telephone through Judge Baker's Courtroom Deputy. Requests for continuances should be made no later than 3:00 PM on the day before the hearing.

Request for continuances are not considered when a hearing has been specifically listed by the Court absent separate motion and order of the Court in exceptional circumstances. Trial dates may be continued only by motion and order of the Court which will only be granted in exceptional circumstances.

b. Need for Filing Formal Motion

All requests for a continuance which are not consensual shall be made by written motion. Judge Baker may dispose of a contested continuance request on the papers alone without awaiting a response per Local Rule 9014-2(a)(11) and 5070-1(f). If Judge Baker believes a response may be helpful, Judge Baker will schedule a telephone conference to decide whether cause exists to grant a continuance. Counsel are urged to file their motions for the continuance as soon as they become aware of the need for a continuance and well in advance of a listed hearing.

c. Need for Court Appearance

If a request for continuance is not granted, an appearance at the originally noticed time is required.

4. Settlements

a. General Approach and Philosophy

Judge Baker actively encourages settlement discussions and will participate in telephone conferences or chambers settlement conferences if all parties in interest agree. Judge Baker will participate in such conferences only to the extent that his role as fact finder will not be jeopardized if such discussions are unsuccessful. Requests for settlement conferences, whether by telephone or in chambers, should be directed to Judge Baker's Judicial Assistant.

b. Mediation

Judge Baker will ask parties to consider participation in the mediation program provided for in the Local Rules in all Adversary Proceedings and any contested matter deemed appropriate by Judge Baker. If all parties agree to mediation, a mediator will be assigned. The parties may jointly select a mediator. If parties do not identify a proposed mediator in their communication to the Court indicating their willingness to mediate, the Court may appoint a mediator from among the approved list of mediators.

***Mediation will not automatically suspend any of the deadlines established in any Pre-Trial Order or other dates set by the Court.***

c. Referral of Settlement Negotiations to Another Bankruptcy Judge

When all parties in interest are in agreement and mediation under the Local Rules is either inappropriate or has been unsuccessful, a request for a settlement conference with another bankruptcy judge may be entertained.

d. Need for Court Appearance when Settlement is Reported

Settlements should be reported to Judge Baker’s Courtroom Deputy as soon as possible. Upon such report, any pending appearances are excused and any necessary motions for court approval shall be filed in accordance with Fed. R. Bankr. P. 9019(n)(6) and Local Rule 5070-2(b), as applicable. If the necessary motions for court approval are not timely filed, Judge Baker will proceed under Local Rule 5070-2(c).

e. Need for Filing Settlement Motion and Appearances

If a motion for court approval is filed and no response is received to the proposed settlement, a certification of no response may be filed, and the Court may dispose of the motion without a hearing. Counsel may contact Judge Baker’s Courtroom Deputy to determine if an appearance is necessary. Any objection to a proposed settlement will require a court appearance.

### UNCONTESTED MATTERS

When a motion or application is uncontested because no responsive pleading was filed by the deadline set forth in the Notice of Motion, counsel for the moving party may file a certificate of no response and notify Judge Baker’s Courtroom Deputy that the matter is uncontested. If, a moving party is aware that a respondent intends to appear and contest the request for relief, notwithstanding the failure to file a timely response, the moving party is expected to appear at the scheduled hearing unless an Order is entered before a hearing or is specifically excused.

Judge Baker highlights Local Rule 9014-3(k). Even in uncontested matters, the moving party continues to bear the burden of satisfying its evidentiary burden, whether through the unopposed verified averments in the pleadings or through testimony and exhibits if necessary. If the moving party must demonstrate “cause” for relief, or if the moving party requests that findings be made, evidence may be required **even if the motion is uncontested**. A non-exhaustive listing of sections of the Bankruptcy Code seeking relief where cause or other factual findings may be required are:

#### Bankruptcy Code Sections

107(b)	324(a)	362(c)(4)
107(c)	348(b)	362(d)
303(e)	349(a)	363
303(f)	361	364
303(g)	362(c)(3)	365

366	1104	1208
502	1112	1225
503	1113	1228
506	1121(d)	1230
554(b)	1126(e)	1301
707	1129	1325
721	1144	1307
1102(a)	1206	1330

### **Federal Rules of Bankruptcy Procedures**

1018	3012	6006
1019	4001	6007
2012	5004	9018
2007	6003	
3001-3008	6004	

In such matters, the party seeking relief shall submit such appropriate verifications, declarations, or other evidential supports to justify the relief requested in the motion. In appropriate circumstances, Judge Baker will accept a proffer or affidavit. See the “Trial” tab on Judge Baker’s Practices and Procedures.

Failure to appear at a hearing on a Motion - even if a Certificate of No Objection has been filed – when appearance has not been excused will result in Dismissal of the Motion without prejudice for lack of prosecution. See Fed.R.Civ.P.41(b) (incorporated by Fed. R. Bankr. P. 7041 and 9014(c).)

In addition, the following matters require an appearance notwithstanding the absence of a filed answer or other response:

1. Motions to withdraw as debtor’s counsel (without concurrent substitution of counsel/or a concurrent entry of appearance);
2. Motions to reconsider or vacate orders;
3. Motions to extend or impose the automatic stay pursuant to § 362(c)(3) or (c)(4) (the debtor seeking such relief shall also appear in connection with such motion);
4. Objections to proofs of claim;
5. Motions to sell property pursuant to § 363;

6. Reaffirmation Agreements without counsel certification under § 524(c)(3)
7. Motions requesting that a dismissal order include provisions which restrict the filing of a new bankruptcy case or which provide in rem relief;
8. Motions for default judgments in adversary proceedings.

### **APPEARANCE BY VIDEO CONFERENCE**

Judge Baker presumptively schedules all matters in a hybrid format which allows counsel to appear either in person or remotely based on counsel's preferences; however, Judge Baker will be in-person, in the Courtroom, for all scheduled matters unless otherwise announced on the Court's website under Judge Baker's Practices and Procedures. Due to the limitations imposed by applicable law and Fed. R. Civ. P. 43(a) (incorporated Fed. R. Bankr. P 9017), unless the presentation is expected to be very brief and/or without cross examination, when witnesses are intended to be present and testify, **the Court strongly prefers that the witness and any participant questioning such witness be present in the Courtroom unless prior arrangements are specifically made with Judge Baker's Courtroom Deputy.** See the "Trial" tab on Judge Baker's Practices and Procedures.

1. Remote Appearance By Zoom Video Conference ("Zoom"). The ability to participate remotely may be rescinded if a party fails to comply with Court directives.
2. Zoom Procedures
  - a. Punctuality. As with in-person hearings, remote participants must be present in the "virtual courtroom" at the time their case is called. Parties must account for the time needed to connect to the hearing and be cleared through any applicable waiting room. Accordingly, all parties should join the conference not less than ten (10) minutes prior to the start of the hearing.
  - b. Joining Hearings Remotely. After entering the appropriate Zoom credentials, participants will be placed into a waiting room and admitted into the main conference by the video conference host.
  - c. Entering a Remote Appearance. Once parties are connected through Zoom, they MUST provide their full names as their "screen names" when entering the Meeting ID to join the hearing. In hearings with a large number of participants, the Court may use the screen names to take the entry of appearances for the record.

- d. Rules for Remote Participation. All parties participating remotely must abide by the following directives at all times. Failure to comply with the Court's procedures may result in the Court imposing sanctions, including but not limited to, revoking the party's privilege to participate remotely.
- i. Basic Prohibitions. Any of the following actions are prohibited while participating remotely: (I) use of a telephone or device while in a vehicle or a public place; (II) conversing with anyone outside of the hearing; (III) failing to keep an audio microphone on "mute" when the participant is not speaking; or (IV) allowing any background noise to interfere or disturb the proceedings. Once a participant's hearing is called, they must remain seated and stationary at all times.
  - ii. Hearing Attire and Surroundings. Appropriate professional courtroom attire is required. Participants should be mindful of their backgrounds and office décor so as to not distract or detract from the court proceedings. Virtual backgrounds are permitted only if such backgrounds are solid and neutral. Any virtual background must be dignified and respectful. The background may not contain a message that is political, that may influence the witness, or that is otherwise inappropriate. To prevent image distortion, participants should refrain from having a large light source (i.e., windows) directly behind them.
  - iii. Minimization of Noise Interference. Participants must make a concerted effort to minimize all background noise and shall silence any devices that may make noise (e.g., telephones, cell phones, messaging and email alerts). All parties are responsible for the quality of their audio connection, and to that end, the Court strongly recommends that participants wear a corded headset with a microphone during hearings. Should participants choose to use a wireless device, such as AirPods or Bluetooth-enabled devices, they must remain in close proximity to the connection source and avoid movement that would interfere with the signal. The Court cannot rely on a legal argument it cannot hear.
  - iv. Recording. Other than the Court, no participant may record

any part of the hearing, whether by use of Zoom recording capabilities, third-party applications, photographs, screenshots, or by any other means.

e. Off-Record Discussions Between Parties. Should participants wish to speak with each other or with clients off the record, participants should disconnect from Zoom, speak off the record, and then log back in. The video conference host will then admit returning participants into the main conference.

### **CONTESTED MATTER PRACTICE AND PROCEDURE**

As set forth in the Federal Rules of Bankruptcy Procedures, the historic practices of the Eastern District of Pennsylvania and the form of Notice of Hearing (L.B.F. 9014-3B) Local Rules, the initial hearing on a motion as set forth in the Notice of Motion is the date and time set for disposition of the relief sought and includes, as required, the presentation of evidence; however, the hearing is not peremptory. Judge Baker strongly encourages parties to utilize the form of Witness/Exhibit List available on the Court's website under Judge Baker's Practices and Procedures. **Parties should file an anticipated witness and exhibit list no later than three (3) business days before the scheduled hearing date.**

All motions scheduled on the regular motion calendar before Judge Baker will be presumptively scheduled for argument/presentation of evidence lasting 15 minutes per side. Upon request made to Judge Baker's Courtroom Deputy on or before 3:00 p.m. the day before argument that the arguing counsel has practiced for less than five (5) years, Judge Baker will increase the time allotted for that particular motion to 25 minutes per side.

In any contested matter, if the presenting party believes that the presentation of evidence or argument is anticipated to take more than 45 minutes in the aggregate, the presenting party shall confer with its opposing counsel and notify Judge Baker's Courtroom Deputy no later than three (3) business days prior to the scheduled hearing date of the need to schedule a specially listed hearing. The matter will be taken off the regular motion calendar and will be specifically listed at a date and time convenient to the parties and the Court. Parties should file an anticipated witness and exhibit list no later than three (3) business days before the scheduled hearing date.

In any contested matter, if the movant or any respondent believes that substantial discovery is necessary, the parties shall jointly contact Judge Baker's Courtroom Deputy no later than one (1) week prior to the scheduled hearing date to request the scheduling of an initial status conference.

Judge Baker's Practices and Procedures related to "Discovery" shall govern discovery and any discovery disputes related to any Contested Matter.

Judge Baker's Practices and Procedures related to "Trial" shall govern the presentation of argument and evidence on any Contested Matter.

## **ADVERSARY PROCEEDINGS**

**Counsel is reminded of the specific Local Rules affecting adversary proceedings. Judge Baker requires compliance with the Local Rules in connection with adversary proceedings assigned to him.**

1. *Scheduling Initial Conference.*

Upon the closing of the pleadings in an adversary proceeding, Judge Baker's Chambers will contact counsel about participating in a Preliminary Pre-Trial Conference. In such a Conference, which will be convened remotely, the parties will discuss which Pre-Trial activities (mediation, discovery, designation of experts and exchange of expert reports, dispositive motions, etc.) will be necessary.

2. *Final Pre-Trial Conference*

Based upon the Preliminary Pre-Trial Conference, Judge Baker will prepare and enter a Pre-Trial Order that will set the dates by which all Pre-Trial activities must be completed. The Pre-Trial Order will also set the date and time of the final Pre-Trial/Settlement Conference, which will ordinarily be held remotely, but in open court.

3. *Other Pre-Trial Conferences*

Judge Baker will entertain requests for other Pre-Trial Conferences (for scheduling or settlement purposes) by telephone request directed to Judge Baker's Judicial Assistant. Prior to scheduling, Judge Baker's Judicial Assistant will confirm whether all parties agree to the proposed conference.

4. *Arbitration*

Adversary proceedings may be assigned to compulsory arbitration in accordance with Local Rule 9019-1. If a trial *de novo is* demanded following arbitration, Judge Baker will issue a Pre-Trial Order requiring the submission of a Joint Pre-Trial Statement and scheduling a trial during the Pre-Trial Conference.

5. Scheduling and Expedited Discovery regarding Injunctions Sought In Adversary Proceedings

a. TRO/Preliminary Injunction

Motions for temporary restraining orders or for preliminary injunctions must be filed with the Clerk's Office **with notice given to opposing parties** in compliance with Fed. R. Bankr. P. 7065. Hearings on motions for temporary restraining orders or preliminary injunctions are scheduled in the same manner as requests for expedited hearings in contested matters.

b. Expedited Discovery

Motions for expedited discovery shall be filed with the Clerk's Office and **served upon opposing parties**. Such a motion will be determined summarily.

Judge Baker's Practices and Procedures related to "Discovery" shall govern discovery and any discovery disputes related to any Adversary Proceeding; however, Judge Baker presumptively employs a 105-day discovery period for all Adversary Proceedings.

Judge Baker's Practices and Procedures related to "Trial" shall govern the presentation of argument and evidence on any Adversary Proceeding.

## DISCOVERY

**Counsel is reminded of the specific discovery deadlines provided for in the Federal Rules of Civil Procedure as incorporated by the Federal Rules of Bankruptcy Procedure. Judge Baker requires compliance as a matter of course with such deadlines in matters assigned to him.**

1. Initial Meeting

Promptly after the filing of a responsive pleading on a contested matter (where the parties determine that discovery will be necessary) or in an adversary proceeding, the parties shall promptly convene the initial discovery conference contemplated under Fed. R. Civ. 26(f) for purposes of discussing the requisite discovery obligations and demands.

2. Discovery Period and Extensions

Extensions of deadlines which do not affect a scheduled trial date and to which the

parties agree may be made by stipulation, and submitted to the Court for approval which are routinely granted. Requests to extend dates without agreement or to reschedule a trial date must be presented by Motion. The Court may decide the motion on the papers, schedule a conference call or set the matter for hearing at the discretion of the Court.

3. Discovery Conferences and Dispute Resolution

Discovery must be proportional to the needs of the case. Parties are expected to work cooperatively and civilly to address discovery issues. Parties are strongly encouraged to resolve any discovery disputes on their own. If the parties are unable to resolve disputes, Judge Baker will entertain conference calls for the purpose of resolving discovery disputes. Such requests should be directed to Judge Baker's Judicial Assistant and should be made on no less than 24 hours advance notice. In seeking such conference, the parties should advise Chambers of the general nature of the dispute. Resolutions by discovery conference are generally in the nature of "discovery parameters" and not to address specific directives, the propriety of specific discovery requests or to obtain orders.

Specific Motions for Protective Orders, Motions to Compel or Motions to Compel (with sanctions for noncompliance with discovery requests or prior orders) may be made only by written motion. Local Rule 7026-1. Parties are reminded of the obligations to have met and conferred in good faith before filing a motion related to a discovery dispute. See Fed. R. Civ. P. 26(c)(1) and 37(a)(1). E.D. Pa. Local Rule 26.1(f) (as incorporated by Local Rule 7026-(a) & (c)) must be followed. The conference under the Federal Rules of Civil Procedure and E.D. Pa. Local Rule 26.1(f) should be specific and substantive and the certification should note specific details of the parties' efforts to resolve the dispute. Failure to do so will usually bar relief. Judge Baker may summarily deny discovery motions if such motion does not contain the required certifications and/or if parties or their counsel have merely exchanged emails or other correspondence but have not made a good faith effort to have a substantive verbal communication (i.e., speak to each other by telephone or video conference) regarding the discovery dispute.

4. Confidentiality Agreements

Judge Baker will consider approval of confidentiality agreements within the bounds of §107 of the Bankruptcy Code and federal common law. For documents filed under seal, parties are referred to Local Rule 5003-1.

5. Expert Witnesses

Judge Baker requires the advance identification of expert witnesses in the joint Pre-

Trial Statement as provided in the Pre-Trial Order.

6. eDiscovery

All electronic discovery issues must be addressed by the parties as part of their discovery conference held under Fed. R. Civ. P. 26(f).

## TRIAL PROCEDURE

A Form of Pre-Trial Order utilized by Judge Baker in Adversary Proceedings and Contested Matters is available on the Court's website under Judge Baker's Practices and Procedures.

1. Need for Joint Pre-Trial Statement

Counsel are expected to advise the Court well in advance of the scheduled hearing date if any contested matter (including objections to a claim) will likely involve multiple witnesses, extensive use of documentary evidence or complex legal issues. Upon receipt of such advice from counsel, Judge Baker may engage in more active pre-hearing management of the matter, which may include requiring the submission of a joint Pre-Trial Statement in the form prescribed by his Pre-Trial Order.

2. Scheduling of Cases

Proceedings will be scheduled for trial at a Pre-Trial Conference, including the time allocated for trial. Unless otherwise directed by the Pre Trial Order, the Court will conduct the trial using the "chess clock" procedure with each party having an equal amount of allocated trial time. At the end of each session, Judge Baker will advise the parties of their allocated trial time remaining.

3. Filing of Memoranda and Briefs

a. Before Hearing

Judge Baker ordinarily does not require that memoranda of law be filed prior to a hearing. If a party chooses to file a pre-hearing memorandum of law, a copy should be served on all other interested parties.

b. After hearing

Memoranda are required only if requested at the conclusion of proceedings in Court. Parties desiring to submit post-hearing memoranda will generally be permitted to do so, unless the parties have already completed pre-hearing briefing. Depending upon the circumstances, Judge Baker may refrain from deciding matters from the bench if parties wish an opportunity to brief certain

issues.

c. Reply and Surreply Memoranda/Briefs

Reply and surreply memoranda/briefs generally will be permitted if requested and included in any briefing order entered by the Court. Judge Baker will not consider any reply or surreply briefs submitted which are not part of the briefing order entered by the Court.

d. Length

Unless authorized by the Court in the briefing order, initial memoranda of law shall not exceed 25 pages, including all footnotes and a following typeface convention consistent with Fed. R. Bankr. P. 8015(a)(4) and (5). Reply and surreply memoranda (if permitted) shall not exceed 15 pages, including all footnotes and a following typeface convention consistent with Fed. R. Bankr. P. 8015(a)(4) and (5).

e. Proposed Findings of Fact and Conclusions of Law

Judge Baker requires proposed findings of fact and conclusions of law in contested matters or adversary proceedings, unless otherwise indicated at the conclusion of the proceedings in court.

4. Opening Statements and Summations

Opening statements and summations should be brief and concise, limited to discussion of facts in evidence and applicable law.

5. Exhibits

a. Marking of Exhibits and Number of Copies

Exhibits should be pre-marked and exchanged with opposing counsel prior to the hearing. Judge Baker strongly encourages parties to utilize the form of Exhibit List available on the Court's website under Judge Baker's Practices and Procedures.

At the hearing/trial the original exhibit should be given to the witness during his or her testimony and counsel should have sufficient copies of each exhibit for all parties as it is being used. Judge Baker does not require, but does encourage, counsel to provide a courtesy copy of an exhibit for his review on the bench during the testimony. However, if any party objects to the court viewing exhibits or a particular exhibit during the trial, Judge Baker will

refrain from doing so until it is admitted into evidence or until an objection over its admission must be resolved, except to the extent necessary to make evidentiary rulings or to rule on the admissibility of the document.

When the exhibits are particularly numerous, Judge Baker encourages the use of a binder and index so as to facilitate the trial. A form of Exhibit List is available on the Court's website under Judge Baker's Practices and Procedures. Parties should file an Exhibit List no later than three (3) business days before a scheduled hearing date.

*b. Offering Exhibits in Evidence*

Exhibits should ordinarily be offered in evidence at the conclusion of the party's case in chief, rather than during the midst of the presentation of the case, unless otherwise justified by the circumstances.

*6. Witnesses*

Parties expecting to present witnesses at a hearing/trial should file a list of witnesses expected to be called no later than three (3) business days before the scheduled hearing date.

*a. Use of Rule 43(c) Affidavits*

When an expert witness will be providing expert testimony (including an appraisal), Judge Baker requires counsel to submit the expert's written report in lieu of direct examination provided the expert is available at the hearing for cross-examination and redirect examination. *See In re Adair*, 965 F.2d 777 (9th Cir. 1992).

For other witnesses, Judge Baker generally encourages the use of Rule 43(c) affidavits or proffers in lieu of direct testimony provided the declarant is available at the hearing for cross examination and redirect examination.

Unless otherwise ordered in the Pre-Trial Order, Judge Baker requires any Experts Reports and or Rule 43(c) Affidavits/Witness Declarations to be filed (and served on the opposing party) no later than 3:00 p.m. on the business day before the hearing.

*b. Examination of Witnesses or Argument by More Than One Counsel*

Judge Baker will permit more than one attorney for a party to examine different witnesses or argue different points of law if permission is asked in advance of any such examination and the circumstances warrant.

Circumstances are presumed for co-presentation/co-examination when one of the counsel involved has been practicing for less than five (5) years.

c. Examination of Witnesses Beyond Redirect

If Judge Baker chooses to direct questions to a witness, he will usually do so after direct and cross-examination has been completed and before counsel is offered the opportunity for redirect and recross examination. Judge Baker does not favor examination of a witness after redirect and recross.

d. Matters Involving Out-of-Town Parties or Witnesses

Judge Baker will try to accommodate out-of town parties or witnesses when scheduling trials. Counsel should make the Court aware of such circumstances at the final Pre-Trial/Settlement Conference.

e. Examinations of Witnesses Out of Sequence

Judge Baker will permit counsel to examine witnesses out of turn if all parties consent or for the legitimate convenience of the witnesses.

f. Videotaped Testimony

Judge Baker will permit the use of videotaped testimony to the extent agreed by all parties or as allowed by the Federal Rules of Bankruptcy Procedure. Arrangements to have equipment set up in the courtroom and/or cleared through security should be done in advance by contacting Judge Baker's Courtroom Deputy.

7. Reading of Material Into the Record

Judge Baker usually will not permit the reading of substantial material into the record; however, Judge Baker will accept joint deposition designations from the parties into evidence for consideration.

8. Rule 52(c) Motions

Such motions are permitted under Fed. R. Bankr. P. 7052 and 9014 and may be made orally or in writing.

9. Side Bars

Side-bar conferences will be entertained when necessary.

10. In Limine Motions

Judge Baker's Pre-Trial Order contains a deadline for the filing of such motions.

**COURTROOM DECORUM AND CONDUCT OF COUNSEL  
IN MATTERS PENDING BEFORE JUDGE BAKER**

Judge Baker believes that the resolution of disputes, whether by agreement or by the court after a matter is ripe for decision, and that the progress of a case or proceeding under the Bankruptcy Code can be either greatly aided or impeded by the attitudes and behavior of counsel and the parties involved in the proceeding. Judge Baker, therefore, subscribes the Code of Civility, adopted by the Supreme Court of Pennsylvania by Order dated December 6, 2000. In August, 1998, the American Bar Association House of Delegates adopted “Guidelines for Litigation Conduct.” Links to sites where these are reproduced in full follow. Counsel are encouraged to read each of these and become familiar with them.

*[Pennsylvania Supreme Court Code of Civility](#)*

*[American Bar Association Guidelines for Litigation Conduct](#)*