

ORDER SETTING PROCEDURES FOR ADVERSARY PROCEEDING STATUS CONFERENCES

Hon. Vincent P. Zurzolo
U.S. Bankruptcy Judge, Central District of California

Revised November 2017

A. SERVICE OF SUMMONS: MANNER; TIME FRAME; ANOTHER SUMMONS

1. **Manner**: A summons must be served in the manner provided in FRBP 7004 for the type of defendant being served. Service on some parties must be done by certified mail.
2. **Time Frame**: Pursuant to FRBP 7004(e), a summons must be served no later than seven (7) days after it is issued, unless service is to be made in a foreign country.
3. **Request Another Summons**: If a summons is not timely served, or another summons is required to add a party, the party seeking another summons must do so by filing the LBR form [F 7004-1.2.REQUEST.ANOTHER.SUMMONS](#). A MS Word version of the form is posted on the LBR Forms page of the website at www.cacb.uscourts.gov :

B. SERVING DOCUMENTS WITH SUMMONS / COMPLAINT; PROOF OF SERVICE

1. **Pre-Status Conference Instructions**: A copy of this “Order Setting Procedures for Adversary Proceeding Status Conferences” must be attached to every copy of the complaint served upon a party, and the affidavit of service must state that this order as well as a copy of the summons and complaint and, if applicable, a copy of the Debtor Assistance Program Notice was served.

C. REQUESTS TO EXTEND RESPONSE DEADLINE OR CONTINUE HEARING

1. **Response Deadline**: A stipulation to extend the response deadline is effective only after the court enters an order approving the stipulation. A request (motion or stipulation) to extend the deadline to a date within seven (7) days of the status conference will likely be denied unless the status conference is continued to permit the Court adequate time to review filed documents.

2. **Continue a Status Conference**: A motion or stipulation to continue a hearing will not be granted unless adequate cause is provided. “Discussing settlement” is not ordinarily adequate cause. A status conference may be continued to allow a settlement agreement to be executed and filed if the request contains a copy of the settlement or a substantial recitation of its terms and the request is filed at least three (3) court days prior to the status conference date. Parties must comply with all applicable filing deadlines unless a settlement is timely reached.

D. DISPUTES ABOUT CORE PROCEEDING, JURISDICTION, FINAL ORDER, OR RIGHT TO JURY TRIAL

Each dispute identified below may be resolved at the status conference. To raise any such dispute, the party or parties must file and serve a memorandum of points and authorities and evidence in support of their positions no later than fourteen (14) days before the Status Conference. Any response must be filed and served no later than seven (7) days before the Status Conference. The failure of any party to timely file and serve documents will be deemed consent to the Court's determination about any such dispute.

Relevant Disputes that must be addressed before the initial status conference are:

1. **Core**: Is the adversary proceeding is core within the meaning of 28 U.S.C. § 157(b)?
2. **Jurisdiction**: Does the court have jurisdiction?
3. **Entering a Final Order**: Does the court have the authority to enter a final order?
4. **Jury Trial**: Is there a right to a jury trial?

E. PREPARING FOR THE STATUS CONFERENCE

1. **FRBP 7026(f)(1): Confer 21 Days Prior to Initial Status Conference.** The date of the initial status conference is the FRBP 7026(f)(1) "scheduling conference"; all parties must confer 21 days or more prior to this date on all matters set forth in FRBP 7026(f)(1).
2. **Determining Whether You Must File a Status Report:**
 - a. **YES:** A status report must be prepared and filed no later than fourteen (14) days before the date set for each status conference if either of the following scenarios occur:
 1. **At Least One Defendant Has Filed a Response: File a Joint Status Report.** The plaintiff(s) and all parties who have been timely served with the complaint must prepare and file a Joint Status Report
 2. **No Defendant Filed Response; and Summons not Served on All Defendants: File a Unilateral Status Report.** The plaintiff(s) must prepare and file a Unilateral Status Report in which plaintiff(s) identify any defendants not timely served and indicate the status of obtaining another summons (if relevant).

Judge Zurzolo has a mandatory status report format. Failure to use this form may result in monetary sanctions and/or continuing the status conference to require parties to prepare and file a status report properly. A MS Word version of the form is posted on Judge Zurzolo's page of the website at www.cacb.uscourts.gov :

- * Under "**Judges**", select "**Zurzolo, V.**"
- * Select "**Forms**"
- * Select "**Adversary Proceeding Status Report**"

b. NO: Do not file a status report if either of the following steps have been taken no later than fourteen (14) days before a status conference:

1. **Default Has Been Entered or Requested Against All Defendants:** This means:
 - a. A “Notice That the Clerk Has Entered Default” has been entered against all defendants who were timely served with a summons / complaint, and who did not file a response to the complaint; or
 - b. Plaintiff(s) have filed a request for entry of default against each non-responding defendant using LBR form F 7055-1.REQ.ENTER.DEFAULT, and are waiting for a “Notice that the Clerk has Entered Default” to be entered for each non-responding defendant.
2. **Default Has Been Entered on All Defendant, and a Motion for Default Judgment Has Been Filed and Set for Hearing:** This means a “Notice that the Clerk has Entered Default” has been entered against all defendants, AND plaintiff(s) filed a motion for default judgment and set the motion for hearing. A calendar of available dates to hear a motion for default judgment is available on Zurzolo’s page of the website at www.cacb.uscourts.gov :

- * Under “**Judges**”, select “**Zurzolo, V.**”
- * Select “**Self-Calendaring**”
- * Select “**Dates**”
- * Select **the year that is correct**
- * Identify an available **Tuesday @ 11:00 a.m.** which allows time for proper service of the motion
- * Put that date in the caption of the Notice of Motion for Default Judgment

F. AT THE STATUS CONFERENCE

1. Attendance in Person

A. REQUIRED: Attendance is required unless specifically waived by Judge Zurzolo in an order or by a posted tentative ruling. If a party is represented by an attorney, the attorney required to appear is the attorney who will act as trial counsel or who is responsible for preparing for trial. **See LBR 7016-1(a)(1).** Corporations, partnerships and other legal entities must be represented by an attorney. **See LBR 9011-2(a).**

B. WAIVED: If Judge Zurzolo waives appearances, such waiver will only be stated in an order entered on the adversary proceeding docket, or posted as a tentative ruling on the court’s website. Judge Zurzolo does not permit parties to not appear at a status conference simply because parties entered into a stipulation or filed some other request to not appear. Do not call chambers to request waiver of appearance.

C. **TELEPHONIC APPEARANCE:** In rare situations, Judge Zurzolo may allow an attorney to appear by telephone. When making a request to appear by phone, please follow Judge Zurzolo’s Telephonic Appearance Instructions on his page of the court’s website at www.cacb.uscourts.gov :

- * Under “**Judges**”, select “**Zurzolo, V.**”
- * Select “**Forms**”
- * Select “**Adversary Proceeding Status Report**”

2. **Rulings to Anticipate:** Please be prepared for Judge Zurzolo to make rulings on at least the following matters:

A. DISPUTES ABOUT CORE, JURISDICTION, ENTERING FINAL ORDER, and RIGHT TO JURY TRIAL: Please see section D above.

B. DEADLINES and DATES: Judge Zurzolo may set deadlines to amend pleadings and join parties, complete discovery, complete mediation, and for conducting a hearing on pre-trial motions (including motions for summary judgment).

Judge Zurzolo may also set a date to conduct a pre-trial conference or continued status conference. Judge Zurzolo rarely sets a trial date at the status conference. If a trial is to be set, those dates usually are selected at a pre-trial conference.

C. FUTURE PRETRIAL CONFERENCE; PRETRIAL STIPULATION: In most adversary proceedings on path for a trial, and in which Judge Zurzolo sets a date for a pretrial conference, Judge Zurzolo will order parties to prepare and file a pretrial stipulation. The format that must be used is located on Judge Zurzolo’s page of the website at www.cacb.uscourts.gov:

- * Under “**Judges**”, select “**Zurzolo, V.**”
 - (1) * Select “**Forms**”
 - * Select “**Pretrial Procedures: Model Pretrial Stipulation**”
 - * Select “**Pretrial Procedures: Model Order on Pretrial Stipulation**”
 - (2) * Select “**Instructions/Procedures**”
 - * Select “**Pretrial Procedures: Instructions for Preparing Model Pretrial Stipulation and Model Order on Pretrial Stipulation**”