



UNCORKING SOLUTIONS



38TH ANNUAL INSOLVENCY CONFERENCE • MAY 14-17, 2026 • HYATT REGENCY SONOMA, SANTA ROSA, CA

OPENING ADDRESS | CHIEF JUDGE JULIA BRAND (USBC S.D. Cal.)

First-Day Motions: Perspectives from the Bench

YIP Judges' Roundtable on chapter 11 first-day motions



Cash Collateral

- **Purpose**

Seeks authority to use a secured lender's cash collateral, such as cash, deposit accounts, or receivables, to fund ongoing operations.

- **Necessity And Evidentiary Support**

What are the most important facts to include in your motion and supporting declaration(s)?

- **Scope Of Interim Relief**

What provisions are suitable on an interim basis, and which ones should await a final hearing?

- **Drafting Orders**

What terms do judges scrutinize most closely in proposed cash collateral orders?

Discussion prompts for the roundtable



Prepetition Payroll

- **Purpose**

To pay employee wages earned pre-petition to stabilize operations and prevent key employees from leaving.

- **Necessity and Evidentiary Support**

What are the most important facts to include in your motion (hint: timing is important) and supporting declaration(s)?

- **Knowing Your Client's Numbers**

At the hearing, to what extent do you need to know your client's finances? If your client's available funds only narrowly covers the requested prepetition payroll amount, how could you potentially address this?

- **Limits on Relief**

What limits, beyond the statutory cap found in 11 U.S.C. § 507(a)(4), may exist with respect to such relief?

Discussion prompts for the roundtable



Other First Day Motions

- Utilities:**

Used to keep utility services in place after a filing and address protections for the providers.

- Cash Management:**

Used to allow the debtor to keep using existing bank accounts and payment systems without interruption.

- Debtor-in-Possession (“DIP”) Financing:**

Used when the debtor needs new funding after the filing to continue operating during the case.

- Critical Vendor**

Used to pay essential suppliers to prevent supply chain interruptions and to ensure continued supply of good/services

- Joint Administration**

Used to promote efficiency and reduce administrative costs by managing related cases under a single docket.

- Customer Programs**

Used to continue and/or honor prepetition obligations such as warranties, rebates, or other loyalty programs to maintain goodwill.

What important factors are often missed with other typical, or less frequent, first day motions?

Discussion prompts for the roundtable



First-Day Motions & Beyond: Professionalism and Decorum

- **Proper Preparation Prevents Poor Performance**

What are the “must-do” preparation tasks before a first-day motion hearing?

- **Hypothetical 1**

You’re up for argument on the first of your motions (cash collateral), and the judge says, “Counsel, go ahead.” How do you begin your argument?

- **Hypothetical 2**

At the first-day hearing, the judge asks a detailed question about a key point in your declaration (numbers, timing, or operational facts), and you realize you do not know the answer and cannot confirm it on the spot. What is the most professional way to respond, and what steps should counsel take in real time to address the gap?

Discussion prompts for the roundtable



Key Takeaways

- **Pigs Get Fed, Hogs Get Slaughtered:** For interim relief, stick to what is reasonable/necessary for your client.
- **Know Your Court, Know Your Rules!** Know the local rules, standing orders, and chambers procedures before you file and before you argue.
- **Keep Calm and Carry On:** If you don't know an answer, say so plainly and commit to follow up. When the court redirects you from your intended narrative, address the question directly, then return to your core points.

Thank You!