

Memorandum



Subject	Date
Negative Notice Procedures	

To: NORTHERN NEVADA BANKRUPTCY BAR From: Hon. Gregg W. Zive
Nicholas Strozza, AUST

Pursuant to Bench Bar meetings and our discussions, the following are the proposed procedure and notice provisions for motions and matters that may be determined upon notice and opportunity to request a hearing (“negative notice”):

Procedure: Upon not less than 20 days notice to such creditors and interested parties who are entitled to notice of the particular matter, orders may be obtained on motions without a hearing, unless one is specifically requested by filing and serving a written response that complies with the Local Bankruptcy Rules within the 20 day notice period.

In the notice the moving party shall advise that any response must be filed and served on the moving party and all other interested parties, and a hearing date obtained from the clerk of the court upon filing the objection. The notice shall also advise that if a response is not timely filed and served and a hearing date is not obtained, the motion will be granted by the court.

If the response period expires without the filing of any response and request for hearing, the moving party shall lodge a proposed order with the notation (negative notice) and file a declaration attesting that no response and request for hearing was served upon the moving party and that the order may be entered. Appended to the declaration shall be a copy of the motion, notice and proof of service of the notice and motion. The proposed order and declaration shall be lodged and filed within 14 days of the expiration of the response period or the motion will be deemed denied.

If a timely response is filed and served and a hearing date obtained from the clerk of the court, the responding party shall give not less than 10 days notice of the hearing to the moving party and all other interested parties entitled to notice of the hearing. The response shall clearly state in the caption that it is a response to a negative notice motion.

The following motions and matters, and such others that the Court may determine, may be filed on negative notice:

Motions to sell personal property, except for sales of all or substantially all of the debtor's assets. 11 U.S.C. Section 363(b)(1).

Motions to pay auctioneers commissions/fees.

Motions to extend exclusivity under 11 U.S.C. Section 1121(d).

Motions to abandon property of the estate. 11 U.S.C. Section 554.

Motions to establish deadlines to file claims, provided that a specific bar date is proposed and allows at least 60 days notice for filing claims.

Objections to claims. (**CAUTION:** Objections to claims require thirty (30) days notice, FRBP 3007, so the forms must be modified).

Sample "Notice" and "Declaration" forms are attached hereto.

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Attorneys for Client

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:

Case No.: BK-N-55-55555-GWZ

Chapter __

DEBTOR,

NOTICE OF

Debtor.

[No Hearing Unless An Objection Is Set And
Noticed By A Party In Interest]

_____/

PLEASE TAKE NOTICE THAT: _____

NOTICE IS FURTHER GIVEN THAT: pursuant to Local Rule 9014, it is the duty of any objecting party to timely set the objection for hearing and properly notice all parties in interest. An objection may be set for hearing by obtaining a hearing date from the Clerk of the United States Bankruptcy Court at (775) 784-5074. After a hearing date is obtained, the objection must be timely: 1) filed with the United States Bankruptcy Court Clerk (located at 300 Booth Street, Reno, NV 89509), 2) served on above named counsel and all other interested parties (trustee, debtor, U.S. Trustee, etc.), and 3) noticed to other parties in interest as required by the Federal Rules of Bankruptcy Procedure. The opposition must set forth all relevant facts and must contain a legal memorandum.

NOTICE IS FURTHER GIVEN THAT: if an objection is not filed, set for hearing, served, and properly noticed **WITHIN TWENTY (20) DAYS FROM THE DATE BELOW, AN ORDER GRANTING THE ABOVE REQUESTED RELIEF MAY BE ENTERED BY THE UNITED STATES BANKRUPTCY COURT WITHOUT FURTHER NOTICE OR HEARING**, pursuant to 11 U.S.C. § 102(1)(B)(i).

Dated this ____ day of _____, 2002.

BANKRUPTCY LAWYER, #5555
555 Bankruptcy Way, Suite 555
Reno, NV 89505

Attorneys for Client

CERTIFICATE OF SERVICE

I hereby swear under penalty of perjury that I am an employee of Bankruptcy Lawyer and that on the date stated below I deposited in the U.S. Mail, with proper first class postage affixed thereto, a true and correct copy (as indicated) of MOTION TO _____, and NOTICE OF MOTION
TO _____, addressed to:

Motion and Notice to:

Notice Only to:

STAFF

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Attorneys for Client

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

Case No.: BK-N-55-55555-GWZ
Chapter __

DEBTOR,

DECLARATION IN SUPPORT OF ENTRY
OF ORDER UPON NEGATIVE NOTICE OF

Debtor.

[No Hearing Unless An Objection Is Set And
Noticed By A Party In Interest]

BANKRUPTCY LAWYER, after being first duly sworn, declares under penalty of perjury the following:

1. I am an attorney licensed to practice in the State of Nevada and this Court and am counsel for Client in the above-entitled matter.
2. On _____ I caused to be filed the MOTION TO _____, together with the NOTICE OF MOTION TO _____, (the "Motion" and "Notice"). Attached hereto are true and correct copies of the Motion, Notice and proper proof of service of same. The Notice sets forth the deadline of _____, and the requirement that an objection be filed, set, served, and noticed by that date.
3. No opposition has been timely filed, as reflected on the Docket, and no opposition has been

served upon me, therefore the Order, lodged herewith, may be entered, pursuant to 11 U.S.C. § 102(1)(B)(i).

Dated this ____ day of _____, 2002.

BANKRUPTCY LAWYER, #5555
555 Bankruptcy Way, Suite 555
Reno, NV 89505

Attorneys for Client