

## **Rule 2002-1**

### **Notice to Creditors & Other Interested Parties**

#### **(a) Notice**

- (1) Unless otherwise provided in the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or these rules, whenever the Code or Rules authorizes any act, or authorizes the Court to enter an order, "after notice and hearing" or a similar phrase, the party giving the notice shall clearly state in the notice:
  - (A) The purpose of the notice;
  - (B) What a party receiving the notice must do in order to object to the action contemplated by the notice and the time within which an objecting party must act; and
  - (C) That the act may be performed or the Court may enter an order without an actual hearing or further notice unless a written objection is timely served and filed.
- (2) A notice may be included with a motion in which case the pleading shall be captioned as a motion and notice.

#### **(b) Service of Notice**

- (1) To Whom Given
  - (A) "Notice," as used in this rule shall mean notice to all creditors, equity security holders, indenture trustees, the debtor, the chairperson of any committee appointed in the case, the United States trustee, and any other parties in interest.
  - (B) Less inclusive notice may be given if not prohibited by the Code or Rules and specifically allowed by the Court or local rules. Notice is appropriate if it reaches all those with a potential good faith objection to the proposed order or action.
- (2) By Whom Given

Any party seeking an order or other authority based on notice and hearing shall be responsible to give such notice as is required.

(3) How Given

All notices shall be by first-class mail, unless the recipient is a registered participant in the CM/ECF system in the case in which the pleading or other paper is being filed. If the recipient is a registered participant, the Notice of Electronic Filing (NEF) is deemed the equivalent of service of the pleading or other paper by first-class mail; provided, however, if the pleading or other paper filed is to be considered at a hearing scheduled to occur within 48 hours (excluding weekends and holidays) of the filing, then at or before the time of filing, the filer shall serve the filed papers or pleadings by separate email upon all recipients entitled to service who are registered participants, or shall make such service by facsimile or by hand delivery.

(4) Certification of Giving Notice

~~(A)~~ As soon as practicable, a party giving notice pursuant to this rule shall forthwith file as a separate document, an affidavit of mailing or unsworn declaration under penalty of perjury, which shall include a list of ~~the names and addresses to whom notice was sent~~ *all entities entitled to notice and the physical address to which notice was sent, or a designation that the entity is a registered participant in the CM/ECF system in the case.* If the notice was given to a Master Mailing List (MML) or Limited Mailing List (LML), the affidavit or declaration shall also state the date on which it was retrieved from the database of the court.

~~(B)~~ ~~No separate Certificate of Service of the notice and other filings to be considered by the court need be filed if all of the entities entitled to notice are registered participants in the CM/ECF system in the case; provided that the filer designates on the document that all entities entitled to notice of the notice and other filings are registered participants in the CM/ECF system in the case.~~

(c) **Time Allowed for Objections**

(1) The moving party shall provide at least twenty-one (21) days, plus three (3) additional days if required by FRBP 9006(f), for objections prior to presentation of an order or the taking of an action, unless a different time is prescribed.

(2) A motion for an order reducing the time for making objections to a proposed action may be made and granted after notice and hearing for cause shown. Notice of such a motion shall clearly state the reasons supporting the necessity for a reduction of time and that objections may be made to the requested reduction. The objections will be considered by the court at the time of hearing on the motion for the principal relief requested. A motion for an order as to the principal relief requested and for the reduction in time may be combined provided both motions are clearly captioned and the requests separated in the body of the combined pleading.

**(d) Mailing Lists**

- (1) The addressees of notices shall be in accordance with FRBP 2002(g). Notice required to be given to all creditors is presumed to be appropriate if provided to all entities on an MML or LML retrieved from the database of the court within five (5) days of the notice, and as required by FRBP 2002 and 9036.

(A) Master Mailing List (MML)

A Master Mailing List is maintained by the office of the Clerk for each pending case. This list is updated in accordance with FRBP 2002(g). The Master Mailing List is produced and maintained using the matrix provided by the debtor pursuant to LBR 1007-2, requests from governmental agencies, written requests by entities who wish to be added, deleted or have their addresses changed, and proofs of claim.

(B) Limited Mailing List (LML)

A Limited Mailing List is maintained by the office of the Clerk and is based on an order of the Court. A party desiring that a Limited Mailing List be established in a case shall do so by notice and hearing. The proposed order establishing a Limited Mailing List shall contain a list of each entity to be listed on the Limited Mailing List, with directions, if appropriate, as to classes or types of entities to be added. The order shall also state the scope and duration of the order. Once established, the Limited Mailing List will be maintained by the Clerk in the manner provided in subparagraph (A) above.

(C) Changes to Mailing Lists

Withdrawal by an attorney from a case is not sufficient for removal of such attorney's name from the Master Mailing List or the Limited Mailing List, however, a formal notice of appearance in a case by an attorney is sufficient to add such attorney to the Master Mailing List or the Limited Mailing List. A written request to receive all notices will be sufficient to add such requesting party to both the Master Mailing List and the Limited Mailing List.

- (2) Notice in Non-lead Consolidated or Joint Administration Cases

In order to be presumed appropriate, notice given to the MML or LML of a non-lead case that was consolidated or where joint administration was ordered shall include, in addition to the names contained on the MML or LML of the non-lead case, all entities that filed a request for notice in the lead case after the cases were consolidated or joint administration ordered.

- (3) A party in interest who wishes to receive all notices, in addition to notices required to be sent to the MML or LML, shall give notice to the MML or LML as appropriate, and file a certificate of mailing as required by sub-section (b)(4) above.

**(e) Signing of Orders Where No Objection is Pending**

- (1) If no objection is made as provided in paragraph (f) of this Rule or if withdrawal of an objection is filed or the objecting party has endorsed the related order, an actual hearing is not required for any "notice and hearing" matter.
- (2) The submission of ex parte orders shall be as prescribed in LBR 9013-1.

**(f) Objection**

- (1) A party objecting to an act or the entry of an order contemplated by a notice shall file with the Clerk and serve on the moving party a written objection within the time set forth in the notice. The objection shall state briefly the grounds therefore.
- (2) If an objection states no grounds, the Court may strike the objection on ex parte motion of the moving party. The moving party, however, may make such ex parte motion to strike only after the objecting party fails within seven (7) days to respond to a request by the moving party for a brief statement of the grounds for the objection.
- (3) If an objection is filed, the moving party shall promptly request a hearing date from the Clerk.

**~~(g) Closing Case Where no Action Taken after Notice or Objection~~**

~~Issues raised by notice and hearing will be deemed moot for purposes of case closing thirty (30) days following the time to object to an act or entry of an order or from the filing of an objection unless:~~

- ~~(1) An order has been presented ex parte if no objection has been filed;~~
- ~~(2) A hearing has been requested if an objection has been filed; or~~
- ~~(3) A motion and an affidavit or statement under penalty of perjury have been filed requesting that the case remain open.~~

## **Related Provisions**

FRBP 2002	Notices to Creditors, Equity Security Holders, Administrators in Foreign Proceedings, Persons Against Whom Provisional Relief is Sought in Ancillary and Other Cross-Border Cases, United States, and United States Trustee
FRBP 9006	Computing and Extending Time
FRBP 9007	General Authority to Regulate Notices
FRBP 9014	Contested Matters

FRCP 5(b)(2)(E) & (b)(3) Serving and Filing Pleadings and Other Papers

LBR 9013-1	Motions and Orders
LBR 9073-1	Hearings

11 USC 102(1)	Rules of Construction
11 USC 350	Closing and Reopening Cases

**LBR 2002-1**  
~~**AUGUST 1, 2012**~~

## ***Rule 4001-5***

### ***Voluntary Modification of Debt Secured by Debtor's Residence***

***(a) Definition of Mortgage Creditor***

*For purposes of this rule, the term “mortgage creditor” includes any creditor secured by a mortgage, deed of trust, or land sale contract on real property that was used as the debtor's principal residence at the time the petition was filed.*

***(b) Negotiation Does Not Violate Stay***

*A mortgage creditor is authorized to negotiate with the debtor for a modification of the secured obligation at any time during the pendency of the debtor's case. Any such modification is voluntary on the part of the mortgage creditor and the debtor. If the debtor is represented by counsel, that counsel may consent to allow the mortgage creditor to communicate directly with the debtor. A mortgage creditor's contact with the debtor and/or the debtor's counsel for the purpose of negotiating a loan modification shall not be considered a violation of the automatic stay imposed by 11 U.S.C. § 362. If a debtor consents in writing (through counsel if the debtor is represented), participation by a secured creditor in a mediation, either pursuant to state law or by agreement of the parties, shall not constitute a violation of the automatic stay imposed by 11 U.S.C. § 362.*

***(c) Court Approval***

*The terms of any agreement reached under this section are subject to approval by the court.*

### ***Related Provisions***

*11 USC 362                      Automatic Stay*

*LBR 4001-5*

***Rule 5009-1***

***Closing Cases***

- (a) Issues raised by notice and hearing ~~will~~ *shall* be deemed moot for purposes of case closing thirty (30) days following the time to object to an act or entry of an order or from the filing of an objection unless:
- (1) An order has been presented ex parte if no objection has been filed;
  - (2) A hearing has been requested if an objection has been filed; or
  - (3) A motion and an affidavit or statement under penalty of perjury have been filed requesting that the case remain open.
- (b) *Issues raised by motion, which do not require notice, shall be deemed moot for purposes of case closing if no order has been submitted within 60 days of the date the motion was filed.*

*NOTE: Section (a) of this rule was transferred from LBR 2002-1(g); Section (b) is new.*

## Rule 7054-1

### Costs - Taxation/Payment

(a) Cost Bill

*A party desiring a bill of costs from the Clerk shall include the costs in the judgment. Within fourteen (14) days after entry of the judgment, the prevailing party shall give fourteen (14) days notice and hearing of the costs to the opposing party.*

~~A party allowed costs may, within ten (10) days after entry of judgment, file and serve on the attorney for the opposing party a bill of costs. The bill shall state the time that the costs thereon will be taxed, which time shall be no less than one (1) day from the date the bill is served on the opposing party. With the bill shall be filed a certification that the opposing party was served.~~

(b) Objection and Hearing

~~Before the costs are taxed, A~~ a party objecting to any cost contained in the bill shall file his *an* objection in writing, specifying the ground of the objection. The Clerk will hear the objection.

(c) Taxation

~~After the hearing, or, if no objection is filed, on the date stated in the cost bill, the Clerk may enter an order taxing the costs~~ *the prevailing party should submit the Bill of Costs on the prescribed form for the Clerk's signature.* The taxation of costs made by the Clerk shall be final unless modified on appeal as provided in subparagraph (d).

(d) Appeal

A party may appeal the decision of the Clerk in the taxation of costs by filing a motion to re-tax with the Court within ~~five~~ *seven* (57) days of the taxation by the Clerk. The party appealing shall give notice and opportunity for a hearing to the opposing party. The motion will be heard upon the same papers and evidence used before the Clerk.

### Related Provisions

FRBP 7054(b)

*Judgments; Costs*

**LBR 7054-1**

~~MAY 1, 1996~~