

Rule 2002-2

NOTICE OF PROPOSED ACTION OR ORDER WHEN NOT PROCEEDING BY MOTION - Amended [December 1, 2009]

(a) *Contents of Notice.* Unless the Court orders otherwise, whenever "notice and a hearing" are specified in the Bankruptcy Code or Bankruptcy Rules but a motion is not mandatory, the entity proposing to act or obtain an order, in lieu of proceeding by motion, may give written notice, which, together with proof of service, shall be filed with the Clerk with a copy delivered to the Judge's chambers, setting forth:

(1) a statement of the action proposed to be taken or the order to be presented, including a concise statement of the terms and conditions of, and the reasons for, the proposed action or order;

(2) the date by which objections or responses to the proposed action or order shall be served and filed;

(3) the date and time when the action will be taken or the proposed order will be presented for signature if there is no objection, and a statement that the action will be taken or the order may be entered without a hearing unless a timely objection is made; and

(4) the date on which a hearing will be held if a timely objection is made, which date shall be obtained in the manner provided by Local Bankruptcy [Rule 5070-1](#).

(b) *Time for Notice.* Unless the Court orders otherwise, if notice is to be given to all creditors under subdivision (a) of this rule, the notice shall be given at least 21 days prior to the date on which the proposed action is to be taken or the proposed order is to be presented. If the Court issues an order requiring that notice be given to fewer than all creditors, the notice shall be given at least seven days prior to such date.

(c) *Entities to Receive Notice.* Unless the Court orders otherwise, in addition to the requirements of Bankruptcy Rule 2002 and Local Bankruptcy [Rule 2002-1](#), notice under subdivision (a) of this rule shall be given to any entity having or claiming an interest in the subject matter of the proposed action or order or who otherwise would be affected by the proposed action or order.

(d) *Objection.* Unless the Court orders otherwise, any objection to the proposed action or order shall be in writing, state with particularity the reasons for the objection, and be served on the party proposing the action or order so as to be received (i) at least seven days prior to the date set for the hearing if at least 21 days' notice has been given and (ii) at least one day prior to the date set for the hearing if at least seven (but less than 21) days' notice has been given. The objection, together with proof of service, shall be filed with the Clerk and a copy thereof shall be delivered to the Judge's chambers prior to the date set for the hearing.

Comment

This rule is derived from Former Local Bankruptcy Rule 45.

This rule provides a standard procedure that may be used whenever the Bankruptcy Code requires "notice and a hearing," including, without limitation, §§ 363, 364, 554, and 725 of the Bankruptcy Code, where the entity proposing to act or obtain an order is not required, and does not intend, to proceed by motion.

The "notice and a hearing" requirements concerning the use, sale, or lease of property and the abandonment or other disposition of property are governed by

Bankruptcy Rules 6004 and 6007, respectively. To the extent not inconsistent with those Bankruptcy Rules, this rule shall apply.

Other procedures for the submission of orders are provided for by Local Bankruptcy [Rule 9074-1](#).

Local Bankruptcy [Rule 9078-1](#) governs the filing of proofs of service of notices.

Subdivisions (b) and (d) of this rule were amended in 2009 to change the 20-day time periods to 21 days. The purpose of the amendment was to conform the time periods in this rule to the 2009 time-related amendments to the Federal Rules of Bankruptcy Procedure. Throughout the Bankruptcy Rules, as well as the Local Bankruptcy Rules, most time periods that are shorter than 30 days were changed so that the number of days is in multiples of seven, thereby reducing the likelihood that time periods will end on a Saturday or Sunday.

The three-day deadline in subdivision (d) of this rule was amended to seven days in 2009 to give parties more time to consider objections before the hearing.