

Rule 2002-4

NEGATIVE NOTICE PROCEDURE

(a) ***Matters Authorized to Be Considered on Negative Notice.*** The Court has established a list (the “Negative Notice List”) of motions, objections, and other papers that may be considered by the Court without an actual hearing under the negative notice procedure described in this rule if no party in interest files a response to the relief requested. The Negative Notice List is posted on the Court’s website, www.flmb.uscourts.gov, and may be supplemented or otherwise amended by the Court from time to time. If permitted by the presiding judge, other motions, objections, and other matters may be considered by the Court using the negative notice procedure.

(b) ***Manner of Service.*** Motions, objections, and other papers filed pursuant to this negative notice procedure shall:

(1) Be served in the manner and on the parties as required by the applicable provisions of the Federal Rules of Bankruptcy Procedure, Local Rules, or Court order, and shall be filed with proof of such service in accordance with the provisions of Local Rule 9013-3; and

(2) Contain a negative notice legend prominently displayed on the face of the first page of the paper. The negative notice legend shall be in the following form:

NOTICE OF OPPORTUNITY TO OBJECT AND REQUEST FOR HEARING

If you object to the relief requested in this paper you must file a response with the Clerk of Court at [address] [and, if the moving party is not represented by an attorney, mail a copy to the moving party at [address]] within [number] days from the date of the attached proof of service, plus an additional three days if this paper was served on any party by U.S. Mail.

If you file and serve a response within the time permitted, the Court will either notify you of a hearing date or the Court will consider the response and grant or deny the relief requested in this paper without a hearing. If you do not file a response within the time permitted, the Court will consider that you do not oppose the relief requested in the paper, and the Court may grant or deny the relief requested without further notice or hearing.

You should read these papers carefully and discuss them with your attorney if you have one. If the paper is an objection to your claim in this bankruptcy case, your claim may be reduced, modified, or eliminated if you do not timely file and serve a response.

(c) ***Time for Filing Responses.*** For the purpose of completing the negative notice legend, the number of days during which parties may respond that is placed in the negative notice legend shall be 21 days, except as set forth on the Negative Notice List, plus an additional three days for service if any party was served by U.S. Mail.

(d) ***Hearings.*** In the event a party in interest files a response within the time permitted in the negative notice legend, the Court may, but need not, schedule a hearing on the motion, objection, or other matter upon notice to the movant's attorney, the objecting party or parties, and others as may be appropriate.

(e) ***Consideration Without a Hearing.*** If no response is filed within the time permitted in the negative notice legend as computed under Fed. R. Bankr. P. 9006(a) and (f), the Court will consider the matter in chambers without further notice or hearing upon the submission by the movant of a proposed form of order granting the relief. The movant shall submit the proposed order after the expiration of the response period and within three business days of such expiration. If the movant fails to submit a proposed form of order within this time, the Court may enter an order denying, disapproving, or overruling the matter without prejudice for lack of prosecution. In addition to any other requirements, the proposed order shall recite that:

(1) The motion, objection, or other matter was served upon all interested parties with the Local Rule 2002-4 negative notice legend informing the parties of their opportunity to respond within 21 (or other) days of the date of service;

(2) No party filed a response within the time permitted; and

(3) The Court therefore considers the matter to be unopposed.

(f) ***Court May Schedule a Hearing Even if No Response is Filed.*** Nothing in this rule precludes the Court from conducting a hearing on the motion, objection, or other matter even if no response is filed within the time permitted in the negative notice legend.

Notes of Advisory Committee

2020 Amendment

This amendment revises the Negative Notice Legend to simplify the language and eliminate the requirement for service by mail on the moving party's attorney unless the moving party is not represented by an attorney. This amended rule is effective August 1, 2020.