

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA

IN RE:

VOLUNTARY NOTICE PROCEDURE
FOR CERTAIN MATTERS PENDING
BEFORE JUDGE SACCA

STANDING ORDER NO. 2016-JRS

Unless otherwise directed by the Court, the following notice procedure can be utilized by counsel, without further order of the Court, in cases under all chapters pending before the Honorable James R. Sacca, regardless of when the case was filed.

A. If a party elects to use the following procedures, the following matters may be considered by the Court without an actual hearing. No hearing will be held on the following matters if (a) no party in interest objects to the relief requested in the motion prior to the objection deadline set forth below **and** (2) an order has been entered by the Court approving the motion in advance of the hearing date. Unless otherwise ordered by the Court, this notice procedure may be used only for—

(1) Motions and notices with regard to the use, sale (including disbursement of proceeds), or lease of property pursuant to Bankruptcy Rule 6004, but excluding motions concerning substantially all of the assets in a Chapter 11 or 12 case;

(2) Motions and notices with regard to the abandonment or disposition of property pursuant to Bankruptcy Rule 6007;

(3) Motions and notices with regard to proposed compromises and settlements pursuant to Bankruptcy Rule 9019;

(4) Motions to extend time to object to the list of property a debtor claims as exempt pursuant to Bankruptcy Rule 4002(b);

(5) Motions to extend time to object to the discharge of a debtor pursuant to Bankruptcy Rule 4004(a) or to file a complaint objecting to the dischargeability of a debt under 11 U.S.C. § 523(c) pursuant to Bankruptcy Rule 4007(c);

(6) Motions to extend time to file a motion to dismiss for abuse under 11 U.S.C. § 707(b) pursuant to Bankruptcy Rule 1017(e);

(7) Motions by a chapter 13 debtor to (a) modify a plan, (b) suspend, extend or excuse plan payments or excuse default on plan payments, (c) to retain a tax refund or insurance proceeds, (d) to obtain credit or incur debt, including motions to approve a loan modification filed by the debtor or the lender and (e) determine the secured status of a claim or “strip” a junior lien;

(8) In chapter 7 cases, motions for relief from the automatic stay pursuant to 11 U.S.C. §§ 362(d)(1) or (d)(2); provided, however, if this notice procedure is used, then the movant is deemed to have waived the 30-day automatic termination of 11 U.S.C. § 362(e). See also Paragraph E below;

(9) In chapter 13 cases, motions for relief from the co-debtor stay pursuant to 11 U.S.C. § 1301;

(10) In chapter 7 and 13 cases, motions by debtors to vacate or reconsider dismissal of a case or to reopen a closed case, other than motions to (a) reopen to file personal financial management course certificates or (b) vacate or reconsider a dismissal to pay a filing fee or file required documents if the dismissal was based on such failure, which motions the Court may grant without hearing;

(11) Motions to declare debtors ineligible for discharge pursuant to 11 U.S.C. § 1328(f) and Bankruptcy Rule 4004(a);

(12) Motions to convert under 11 U.S.C. § 706(b);

(13) Motions to dismiss under 11 U.S.C. §§ 707(a) and 707(b) or for failure to comply with 11 U.S.C. § 109(h);

(14) Motions objecting to discharge under 11 U.S.C. §§ 727(a)(8) and 727(a)(9);

(15) Motions to avoid liens pursuant to 11 U.S.C. § 522(f);

(16) Applications for compensation pursuant to 11 U.S.C. §§ 330 and 331 and Bankruptcy Rule 2016;

(17) Motions by a chapter 7 trustee to approve a final report or to pay taxes;

(18) Objections to proofs of claim other than claims filed by the United States; and

(19) All other motions and notices in chapter 11 cases other than motions (A) for relief from the automatic stay; (B) to dismiss or convert the case; (C) for approval of a disclosure statement; (D) for confirmation of a plan; (E) to appoint a trustee or examiner; (F) to approve and authorize the debtor’s incurrence of and entry into (but not the subsequent modification of) post-petition financing on a secured basis or otherwise for the granting of liens against assets of the estate, (G) to use cash collateral and (H) the use, sale or lease of substantially all assets.

This notice procedure may not be used if a request for one of the types of relief listed above is combined with a request for relief for which a hearing is required.

B. Motions filed pursuant to this notice procedure must contain a notice legend prominently displayed on the face of the first page of the motion immediately below the caption. The notice legend must provide notice that substantially complies with the following:

“NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING

[NAME OF MOVANT] has filed a [TITLE OF MOTION] on [DATE]. Pursuant to Standing Order No. 2016-JRS, the Court may consider this matter without further notice or a hearing if no party in interest files an objection within [twenty-one (21) days, but fourteen (14) days for items 7(d), (8), (9) and (11) above and thirty (30) days for items 7(e) and (18) above] from the date of service of this notice. **If you object to the relief requested in this pleading, you must timely file your objection with the Bankruptcy Clerk at [ADDRESS FOR THE DIVISION IN WHICH THE CASE IS PENDING], and serve a copy on the movant’s attorney, [NAME AND ADDRESS], and any other appropriate persons by the objection deadline. The response or objection must be actually received by the Bankruptcy Clerk within the required time.**

A hearing on the pleading has been scheduled for [DATE not less than 7 days after the objection deadline], at [TIME], in [LOCATION including Courtroom]. If an objection or response is timely filed and served, the hearing will proceed as scheduled. **If you do not file a response or objection within the time permitted, the Court may grant the relief requested without further notice or hearing provided that an order is entered approving the motion prior to the scheduled hearing. If no objection is timely filed, but no order is entered granting the motion prior to the hearing, the hearing will be held at the time and place as scheduled.”**

C. If the Bankruptcy Rules, Local Rules or this Standing Order do not specify the number of days’ notice that must be given, the time for filing a required response or objection shall be 21 days from the date of service of the notice.

D. Notice of the date, time, and place of the hearing shall be scheduled in accordance with procedures determined by the Court located on the Chamber’s webpage.

E. With respect to motions for relief from the automatic stay or to abandon property in chapter 7 cases, no order will be entered granting such relief using these procedures unless

(1) the Chapter 7 trustee is served with the motion by U.S. mail if a Report of No Distribution has **not** yet been filed; and

(2) either of the following:

(a) the Chapter 7 trustee either (i) affirmatively consents to the order or has no opposition to the order as shown by an electronic or other signature on the order (including by express permission) or (ii) filed a Report of No Distribution; or

(b) the objection deadline is not less than ten (10) days after the conclusion of the Section 341 Meeting of Creditors.

F. The Chapter 13 trustee shall not be required to file an objection to any motion by the objection deadline. No order will be entered in a Chapter 13 case without a hearing using these procedures unless the Chapter 13 trustee either affirmatively consents to the order or has no opposition to the order as shown by an electronic or other signature on the order (including by express permission). If no other party in interest objects by the deadline, a proposed order may be submitted to the Court for consideration prior to the hearing date as long as the proposed order indicates the Chapter 13 trustee's consent or no opposition as set forth above.

G. Nothing in this rule is intended to preclude the Court from hearing a matter if no objection is filed within the time permitted in the notice legend. **If a proposed order submitted pursuant to these procedures granting a motion has not been entered prior to the hearing, counsel for the movant must attend the hearing. If the proposed order has not been entered prior to the hearing, DO NOT call Chambers asking if you have to attend the hearing or if the Court has considered the proposed order or if the proposed order will be entered.** The Clerk typically enters orders on the docket within four business days after submission by counsel if there are no changes required. It is the responsibility of movant's counsel to present proposed orders to the Court sufficiently in advance of the hearing to ensure that the Court has adequate time to review the matter and sign the proposed order and for the Clerk to enter the order on the docket. If counsel is concerned about being able to present a proposed order in sufficient time for it to be entered prior to a hearing, counsel should calendar the hearing for a date sufficiently after the objection deadline to permit counsel to comply with the obligations under these procedures. Proposed orders should not be submitted prior to the expiration of the objection deadline.

H. Proposed orders submitted to the Court granting relief using these procedures must expressly state that (1) movant's counsel certifies that notice of the opportunity to object and for hearing was provided pursuant to the procedures in Standing Order No. 2016-JRS and that no objection to the motion was filed prior to the objection deadline, (2) that the Court has considered the motion and all other matters of record, including the lack of objection thereto, and (3) based on the forgoing, no further notice or hearing is required and the Court finds that good cause exists to grant the relief requested in the motion.

I. Use of these procedures is voluntary. If counsel elects not to use these notice procedures, counsel should **not** call Chambers asking if attendance at the hearing is necessary because no objections have been filed.

IT IS SO ORDERED, this 5th day of January, 2016.



JAMES R. SACCA
UNITED STATES BANKRUPTCY JUDGE