

**UNITED STATES BANKRUPTCY COURT**  
**SOUTHERN DISTRICT OF FLORIDA**  
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**In Re:**

**Administrative Order 2022-07**

**Amendment of Local Rules and MMM  
and Student Loan Procedures to Reflect  
Abrogation of the Requirement for Filing a  
Certificate of Contested Matter**

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The Court has determined that, because the current case administration process no longer necessitates a requirement for parties to file a certificate of contested matter in matters served on negative notice, this Court's Local Form "Certificate of Contested Matter" should be abrogated and that Local Rules, MMM procedures, Student Loan procedures and related local forms that reference filing this certificate must be amended to remove the requirement and also to incorporate other corresponding additional technical amendments necessary to implement this change. Accordingly, it is

**ORDERED**, as follows:

- (1) Local Rule 3007-1 is amended as Interim Local Rule 3007-1 in section (D)(2) by substituting the following text as section (D)(2) of Interim Local Rule 3007-1:

*(D)(2) It shall be the responsibility of the objecting party, after the claimant's time to respond has expired and if the claimant has failed to respond, to submit the Local Form "Order Sustaining \_\_\_\_'s Objection to Claim" regarding claimants who did not contest the objection. If a claimant files a response contesting the objection, the court will schedule a hearing in accordance with the procedures contained in Local Rule 9073-1(A). The "Notice of Hearing" shall be served by the objecting party to the extent required by Local Rule 9073-1(B).*

- (2) Local Rule 4001-1 is amended as Interim Local Rule 4004-1 in section (C) by substituting the following text as section (C) of Interim Local Rule 4001-1:

*(C) Requests for Relief on Negative Notice. Subject to the limitation in chapter 7 and chapter 13 cases set forth below, creditors in chapter 7, 11, 12, or 13 cases, in which the debtor is represented by an attorney, may seek relief from stay on negative notice if the motion meets the requirements of the Guidelines referred to in subdivision (B) above, is served in accordance with subdivision (A) above, and includes above the preamble and below*

the title of the motion the following bulletin in bold print so as to make it more prominent than the remainder of the text:

***Any interested party who fails to file and serve a written response to this motion within 14 days after the date of service stated in this motion, pursuant to Local Rule 4001-1(C), will be deemed to have consented to the entry of an order granting the relief requested in the motion.***

When this bulletin is included in the motion, no hearing will be scheduled unless a response is filed. Notwithstanding Bankruptcy Rule 9006(f), the failure of parties, properly served, to file a response within 14 days after service of the motion shall be deemed a consent to the granting of the requested relief. After the time to respond has expired, the moving party shall submit a proposed order pursuant to Local Rule 5005-1(G), including the following language in the order's preamble:

“and the movant by submitting this form of order having represented that the motion was served on all parties required by Local Rule 4001-1, that the 14-day response time provided by that rule has expired, that no one has filed, or served on the movant, a response to the motion, and that [either] the form of order was attached as an exhibit to the motion [or] the relief to be granted in this order is the identical relief requested in the motion”.

If an objection is filed, the court will schedule a hearing in accordance with the procedures contained in Local Rule 9073-1(A). The “Notice of Hearing” shall be served by the movant to the extent required by Local Rule 9073-1(B). The option provided in this subdivision is not intended to limit the court's ability to grant or deny relief sooner than 14 days after service of the motion, or the court's discretion to grant relief without a hearing either by consent of the parties or on verified motions which allege, pursuant to 11 U.S.C. § 362(f), that immediate, irreparable harm will result from the failure to grant emergency relief without a hearing.

A party filing a motion for relief from stay pursuant to this subdivision is deemed to have agreed to extend the provision of 11 U.S.C. § 362(e) to a date 60 days after issuance of the “Notice of Hearing”.

- (1) ***Chapter 7.*** *Negative notice under this rule is not available for a motion for relief from stay filed (a) prior to the commencement of the meeting of creditors in the case; or (b) in any chapter 7 case in which the debtor is not represented by an attorney.*
- (2) ***Chapter 13.*** **Except in any chapter 13 case in which the debtor is not represented by an attorney,** a motion seeking relief from the automatic stay may be filed on negative notice in a chapter 13 case in which the debtor's chapter 13 plan (a) provides for the surrender of collateral to the movant, (b) provides for the movant's claim to be paid by the debtor directly to the movant rather than through the chapter 13 trustee's office, or (c) does not provide for the payment of the movant's claim. The movant must include a statement in the motion specifying one of the foregoing reasons as the basis for filing the motion on negative notice. Any such motion is exempt from this District's guideline

requirement that an affidavit of indebtedness and indebtedness worksheet be affixed to the motion.

- (a) **Pre-Confirmation.** Prior to confirmation of a chapter 13 plan, a creditor may file a motion for relief from the automatic stay on negative notice (serving all interested parties), in the manner outlined under this rule.
- (b) **Post-Confirmation (Ex Parte).** After confirmation of a chapter 13 plan, a creditor may file a motion (serving all interested parties) seeking an order confirming that the automatic stay is not in effect. Movant may file such motion on an ex parte basis, and the court may enter an order granting the motion without a hearing.
- (c) **Pro Se Debtors.** Negative notice under this rule is not available for a motion for relief from the automatic stay or seeking confirmation that the automatic stay is not in effect filed in any chapter 13 case in which the debtor is not represented by an attorney.

(3) Local Rule 6004-1 is amended as Interim Local Rule 6004-1 in section (D) by substituting the following text as section (D) as Interim Local Rule 6004-1:

**(D) Use, Sale, or Lease on Negative Notice.** Unless otherwise ordered by the court, notice of a proposed use, sale or lease of property--other than the proposed use of cash collateral, not in the ordinary course of business, pursuant to Bankruptcy Rule 6004(a) and 11 U.S.C. §363(b), a motion seeking relief under 11 U.S.C. §§363(f), (g) or (h), or a motion seeking relief affecting a pro se debtor--may use the following negative notice procedures:

- (1) Any motion using these procedures shall include above the preamble and below the title of the notice the following bulletin in bold print:

**Pursuant to Bankruptcy Rule 6004 and Local Rule 6004-1(D), this proposed use, sale or lease will be deemed approved without necessity of a hearing or order if no objection to the use, sale or lease is filed and served within 21 days from the date of service of this [notice][motion].**

An interested party's failure to timely file an objection shall be deemed a consent to the use, sale, or lease.

- (2) If no objection is filed or served, the proponent shall file a report pursuant to Bankruptcy Rule 6004(f) certifying the lack of any response to the notice and the effectuation of the use, sale, or lease, or if the proposal is by motion the proponent shall submit a proposed order pursuant to Local Rule 5005-1(G), including the following language in the order's preamble:

"and the movant by submitting this form of order having represented that the motion was served on all parties required by Local Rule 6004-1, that the 21-day response time provided by Local

Rule 6004-1(D) has expired, that no one has filed, or served on the movant, a response to the motion, and that [either] the form of order was attached as an exhibit to the motion [or] the relief to be granted in this order is the identical relief requested in the motion,”

(3) If an objection to the proposed use, sale, or lease of property is filed, the court will schedule a hearing in accordance with the procedures contained in Local Rule 9073-1(A). The “Notice of Hearing” shall be served by the movant to the extent required by Local Rule 9073-1(B).

(4) Local Rule 6007-1 is amended as Interim Local Rule 6007-1 in section (B)(1) by substituting the following text as section (B)(1) of Interim Local Rule 6007-1:

**(B) Other Abandonment.** Except for abandonment by a chapter 7 trustee at the §341 meeting or post-conversion meeting, the following provisions apply to abandonment by a trustee or debtor in possession in all cases:

**(1) Abandonment by Chapter 7, 11 or 12 Trustee or Debtor in Possession by Negative Notice.** Notices of proposed abandonment either by a trustee (other than by a chapter 7 trustee at the §341 meeting) or by a chapter 11 or 12 debtor in possession, shall include the following bulletin at the conclusion of the body of the notice, in print either highlighted or bold, so as to make it more prominent than any other text:

**Pursuant to Bankruptcy Rule 6007, the proposed abandonment will be deemed approved without necessity of a hearing or order if no objection is filed and served within 14 days after the date of service of this notice.**

Upon receipt of a timely filed objection, the court will schedule a hearing in accordance with the procedures contained in Local Rule 9073-1(A). The “Notice of Hearing” shall be served by the movant to the extent required by Local Rule 9073-1(B).

(5) Local Rule 9013-1 is amended as Interim Local Rule 9013-1 in section (D)(2) by substituting the following text as section (D)(2) of Interim Local Rule 9013-1:

**(2) Use of Bulletin; Procedures.** Subject to the limitations of Local Rule 9013(D)(1), whenever the Bankruptcy Code or Bankruptcy Rules provide that an order may be entered “after notice and a hearing” or similar phrase, the motion may include above the preamble and below the title of the motion the following bulletin in bold print:

**Any interested party who fails to file and serve a written response to this motion within 21 days after the date of service stated in this motion shall, pursuant to Local Rule 9013-1(D), be deemed to have consented to the entry of an order in the form attached to this motion. Any scheduled hearing may then be canceled.**

Each motion filed under this subdivision must attach a proposed order as an exhibit. When this bulletin is included in the motion, a party properly served who fails to file a written response within 21 days after service of the motion shall be deemed to have consented to the entry of the order. Within seven days after the expiration of the 21 days' notice period, if no response is received or filed, the moving party shall submit to the court a proposed order pursuant to Local Rule 5005-1(G), including the following language in the order's preamble:

“and the movant by submitting this form of order having represented that the motion was served on all necessary parties, that the 21-day response time provided by that rule has expired, that no one has filed, or served on the movant, a response to the motion, and that the form of order was attached as an exhibit to the motion.”

If a response contesting the relief requested is filed, the court will schedule a hearing in accordance with the procedures contained in Local Rule 9073-1(A). The “Notice of Hearing” shall be served by movant to the extent required by Local Rule 9073-1(B).

- (6) All cross-references in the Local Rules to these Amended Local Rules adopted as Interim Local Rules by this Order, including any references contained in the official comments thereto, and in all court forms, guidelines, and clerk's instructions, shall be deemed to refer, respectively, to the Interim Local Rules adopted by this Order.
- (7) The Clerk is directed to provide notice on the Court website of entry of this Order and to update the Local Rules, MMM and Student Loan procedures and Local Forms to reflect adoption of these Interim Local Rules.

**ORDERED** in the Southern District of Florida, this 15<sup>th</sup> day of July 2022.



Laurel Myerson Isicoff  
Chief United States Bankruptcy Judge

c: All SD Bankruptcy Judges  
Joe Falzone, Clerk of Court