

# Memorandum



Subject Negative Notice Procedures	Date May 24, 2006
To: NORTHERN NEVADA BANKRUPTCY BAR	From: Hon. Gregg W. Zive Nicholas Strozza, AUST

Pursuant to Bench Bar meetings and our discussions, the following are the proposed procedure and notice provisions for motions and matters that may be determined upon notice and opportunity to request a hearing (“negative notice”):

Procedure: Upon not less than 20 days notice to such creditors and interested parties who are entitled to notice of the particular matter, orders may be obtained on motions without a hearing, unless one is specifically requested by filing and serving a written response that complies with the Local Bankruptcy Rules within the 20 day notice period.

In the notice the moving party shall advise that any response must be filed and served on the moving party and all other interested parties, and a hearing date obtained from the clerk of the court upon filing the objection. The notice shall also advise that if a response is not timely filed and served and a hearing date is not obtained, the motion will be granted by the court.

If the response period expires without the filing of any response and request for hearing, the moving party shall lodge a proposed order with the notation (negative notice) and file a declaration attesting that no response and request for hearing was served upon the moving party and that the order may be entered. Appended to the declaration shall be a copy of the motion, notice and proof of service of the notice and motion. The proposed order and declaration shall be lodged and filed within 14 days of the expiration of the response period or the motion will be deemed denied.

If a timely response is filed and served and a hearing date obtained from the clerk of the court, the responding party shall give not less than 10 days notice of the hearing to the moving party and all other interested parties entitled to notice of the hearing. The response shall clearly state in the caption that it is a response to a negative notice motion.

The following motions and matters, and such others that the Court may determine, may be filed on negative notice:

Motions to sell personal property, except for sales of all or substantially all of the debtor's assets. 11 U.S.C. Section 363(b)(1).

Motions to pay auctioneers commissions/fees.

Motions to extend exclusivity under 11 U.S.C. Section 1121(d).

Motions to abandon property of the estate. 11 U.S.C. Section 554.

Motions to establish deadlines to file claims, provided that a specific bar date is proposed and allows at least 60 days notice for filing claims.

Objections to claims. (**CAUTION:** Objections to claims require thirty (30) days notice, FRBP 3007, so the forms must be modified).

Sample "Notice" and "Declaration" forms are attached hereto.