

NOTICE OF MOTION OR OBJECTION

Official Form 20A, Notice of Motion or Objection, is intended to provide uniform, plain English explanations to parties regarding what they must do to respond in certain contested matters which occur frequently in bankruptcy cases. Previously, some courts have given such explanations better than others. The form is intended to make bankruptcy proceedings more fair, equitable, and efficient by aiding parties, who sometimes do not have counsel, in understanding the applicable rules.

The form is not intended to dictate the specific procedures to be used by different bankruptcy courts. The form contains optional language that can be used or adapted, depending on local procedures.

I. APPLICABLE LAW AND RULES

Rule 9014 of the Federal Rules of Bankruptcy Procedure (referred to as “Fed. R. Bankr. P.” or “Bankruptcy Rule”) requires that a person who asks the court to take certain types of action (referred to as requesting relief) do so by filing a motion and giving the person against whom the relief is sought notice of the motion and an opportunity to respond. Examples of these contested matters include motions by creditors for relief from the automatic stay under Rule 4001(a); motions by debtors to avoid liens on exempt property under Rule 4003(d); and motions by trustees to assume, reject, or assign unexpired leases under Rule 6006(a). Form 20A also should be used to give notice to the debtor when the trustee or a creditor objects to the debtor’s claim of exemptions under Rule 4003(b) or requests that the court modify the debtor’s confirmed chapter 12 or chapter 13 plan under Rule 3015(g).

Bankruptcy Rule 9009 states that the Official Forms shall be used with alterations as may be appropriate. Any adaptation of Form 20A should carry out the intent to give notice of applicable procedures in easily understood language.

II. DIRECTIONS

1. Directions for the person preparing the notice are in italics and enclosed in brackets on the Official Form. Only the language which applies to the particular motion or objection under the Bankruptcy Rules, the court’s local rules, or court order should be included in the notice. Links to local bankruptcy rules are posted on the Judiciary’s Internet web site at <http://www.uscourts.gov/rules/bk-localrules.html>. The notice may be modified to the particular requirements of the matter, but any adaptation should be consistent with the intent to give notice of applicable procedures in easily understood language. *See* Fed. R. Bankr. P. 9009.

2. The notice should be prepared and sent by the person who filed the motion or objection (the movant) unless the local rules or court order provide for some other entity to give notice.

3. The caption should be placed at the top of the page and should conform to Official Form 16A. Instructions for Official Form 16A, Caption (Full), are posted with that form.

4. The name of the movant and a description of the relief requested from the court should be inserted in the first paragraph in the spaces indicated.

5. The action which the court has been asked to take and the deadline for responding to the motion or objection should be specified in the third paragraph in the spaces indicated.

6. In the space following the third paragraph, the person preparing the notice should specify whether the person receiving the notice must file a written request for a hearing or a written response in order to oppose the motion or objection. The address of the bankruptcy clerk's office, and the names and addresses of the movant's attorney and others to be served should be set out in the spaces indicated.

7. If a hearing has been scheduled on the motion or objection, the time, date, and place for the hearing should be specified in the space provided.

8. Any additional steps required to oppose the motion or objection under the local rules or court order should be set out in the space provided.

9. The person who prepares and sends the notice should sign and date the notice and set out the preparer's name and address in the spaces indicated.

10. Copies of the notice should be filed with the court and mailed to the person against whom relief is sought, that person's attorney (if any), and other parties as required by local rules or court order.