

UNITED STATES BANKRUPTCY COURT
for the
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES COURTHOUSE AND FEDERAL BUILDING
280 SOUTH FIRST STREET, ROOM 3035
SAN JOSE, CALIFORNIA 95113-3099

MARILYN MORGAN
UNITED STATES BANKRUPTCY JUDGE

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NOTICING PROCEDURES UNDER B.L.R. 9021-1 AND 9022-1

Bankruptcy Local Rule 9021-1(c) governs the procedure to be followed in submitting orders, and Bankruptcy Local Rule 9022-1 governs service of notice of entry of an order or judgment. The Court intends to construe strictly the provisions of Local Bankruptcy Rule Rule 9022-1(b) as described below, and any failure to comply with this rule will result in the Court's declining to sign the order as submitted and its return to the submitting party.

In order to assist the bar in this matter, the Court wishes to emphasize the following provisions of these rules:

Submission Of Orders. Bankruptcy Local Rule 9021-1(c) provides, in pertinent part, that if an order is not submitted at the conclusion of the hearing, the prevailing party (or such party as the court may direct) must submit a proposed order promptly. This proposed order either (1) shall be signed by all counsel who appeared at the hearing approving it as to form or (2) shall be accompanied by a proof of service evidencing service of the proposed order on all counsel who appeared at the hearing. As a general rule, orders not approved as to form will be lodged for seven days after service and signed thereafter.

Failure to file a proof of service evidencing service of the proposed order on counsel who appeared in the matter but has not signed the proposed order will result in the court's declining to sign the order as submitted and its return to the submitting party. Thereafter, the submitting party must submit a new order and file evidence of full compliance with this rule.

Additionally, failure to file a proof of service evidencing service of the proposed order on the debtor, any trustee, and any contesting party required to receive notice pursuant to Bankruptcy Local Rule 9022-1(b) will result in the court's declining to sign the proposed order as submitted and its return to the submitting party. Thereafter, the submitting party must submit a new proposed order and file evidence of full compliance with this rule.

Notice Of Entry Of Order Or Judgment. Bankruptcy Local Rule 9022-1(a) provides, in pertinent part, that a party submitting a form of order or judgment in contested matters and adversary proceedings shall submit (1) a list of the names and addresses of the submitting and contesting parties (including the debtor(s) and debtor(s)' counsel for all orders in response to motions for relief from the automatic stay), and the U.S. Trustee, (2) sufficient copies of the order or judgment for (a) the submitting party, (b) the contesting parties, and (c) the U.S. Trustee, and (3) two stamped envelopes addressed to the submitting party, one stamped envelope addressed to each contesting party, and a stamped envelope addressed to the U.S. Trustee.

For purposes of Bankruptcy Local Rule Rule 9022-1(b), the Court requires that the debtor and any trustee be served notice of entry of an order modifying, terminating or annulling the automatic stay unless such person or entity has stipulated in writing or in open court to such relief or was present when the order was signed in open court. Accordingly, the failure of either a debtor or a trustee to file an objection or to make an appearance with regard to the relief sought does not relieve the movant from its obligations to serve notice of entry of order or judgment.

For purposes of Bankruptcy Local Rule Rule 9022-1(b), the Court requires service of the entry of an order modifying, terminating or annulling the automatic stay on the debtor(s), debtor(s)' counsel, and any trustee. The Court does not, however, require service of the notice of entry of an order modifying, terminating or annulling the automatic stay on any other creditor or party in interest unless that party has filed an objection or requested a hearing thereon, or appeared at the hearing and orally objected to the relief sought.