

**CHAMBERS PROCEDURES: JUDGE ELIZABETH E. BROWN  
UNITED STATES BANKRUPTCY COURT, DISTRICT OF COLORADO**

**Court Filings: Notice and Service Requirements**

In bankruptcy, matters are brought to the Court's attention by a party filing a motion requesting court action. Local Bankruptcy Rule 9013-1 governs general motion practice in this district. You should consult this rule and Federal Bankruptcy Rules 2002, 7004, 9013, and 9014 before filing a motion. A copy of these and other rules are available on the Court's website.

**Notice.** Giving "notice" entails informing other interested parties of the request you have made to the Court by mailing to the parties a copy of the notice describing the motion you have filed. The notice must be in substantial compliance with Local Bankruptcy Form 9013-1.1, also found on the Court's website. Some motions only require notice to a limited list of parties, but unless you are well versed in these rules and know that you can limit notice, you would be wise to send the notice to the entire creditors' mailing matrix. Better safe than sorry! If you do not give notice to a party that is required to receive notice by the rules, then the Court may deny your request on this basis. Or worse, if the Court grants it but later a creditor informs the Court that it did not receive notice, then the Order may not be binding on that creditor.

**Service.** There is a difference between giving "notice" of a motion and "serving" a party with a motion. The source of these requirements are set forth in the Rules, including those referenced above. Generally speaking, all creditors should receive a general notice so that they have an opportunity to provide input on the proposed action. But parties whose *individual rights may be directly impacted* by the motion must be "served" with a copy of the motion and notice. For example, if the trustee wants to sell the debtor's business "free and clear of any liens" (meaning the purchaser will acquire the property free of any pre-existing liens against the property), then the entire creditor body should be given notice of this proposed action, but in addition those creditors who hold liens of record against the property must be "served" with the motion. Giving notice may be as simple as sending the notice in the mail addressed to the post office box of the creditor. "Serving" a creditor whose lien rights may be impacted by the motion may require sending the notice, *the motion, and all its attachments* to the creditor's registered agent or a named officer of the company. Bankruptcy Rule 7004 governs the manner in which a party must be served. This rule refers to service of a complaint but it also applies to motions impacting individual party rights. The manner of service required under this rule differs depending on the identity of the party. Governmental agencies must be served differently than a private company. An "insured depository institution," which includes many banks, requires a completely different form of service. The purpose behind these technical rules governing service is to ensure that the motion and notice will be placed into the hands of decision makers more quickly than merely mailing it to a post office box.

**File both Notice and Motion with the Court.** In addition to giving notice to creditors generally and serving those whose rights will be directly impacted, you must always file with the Court both the notice and the motion.

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**File a Certificate of Service with the Court.** The Court must receive two more filings as well. First, you must file a certificate of service, in the form of Local Bankruptcy Form 9013-1.2. On this form, you must indicate the identity of the parties you served or to whom you gave notice and the manner in which you provided it.

**File a Certificate Requesting Court Action after Objection Period Ends.** Finally, in this district, the bankruptcy court has adopted a procedure designed to avoid unnecessary hearings. When a party has filed a motion and sent it out on notice and served it on any necessary parties, it will not be sent to the judge for action unless and until one or more parties have filed a certificate requesting court action. There are two different forms that may be filed. Local Bankruptcy Form 9013-1.3 is the Movant's Certificate on Non-Contested Matter and this is the form that you should file if no party timely objected to your motion and notice. Local Bankruptcy Form 9013-1.4 is the Certificate of Contested Matter and Request for Hearing, which should be filed if the motion drew any objections. **If you do not file one of these forms, the matter will never be sent to the judge for review.** This procedure allows the parties time to negotiate and resolve objections whenever possible and leaves them in control of when they actually bring the matter to the court's attention.