

From: [Treace, Jeneane \(USTP\)](#)
To:

Cc:

Subject: "Negative Notice" for hearings on fee applications filed with TFRs
Date: Friday, January 24, 2020 6:52:00 PM
Attachments: [UST Form 101-7-NFR.pdf](#)
[UST Form 101-7-NFR Instructions.pdf](#)
[general order no 24 2018.pdf](#)

Good evening.

We support panel trustees properly using the “negative notice” procedure available under General Order No. 24-2018 in conjunction with the Trustee’s Notice of Final Report (NFR).

Section 602 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, codified at 28 U.S.C. § 589b, required the Attorney General to issue uniform forms for final reports by trustees under chapters 7, 12, and 13 of the Bankruptcy Code (uniform forms). The uniform forms were developed through the Federal Rulemaking process, and the initial forms took effect on April 1, 2009. Based on comments from users, modifications were made to the forms. The modified uniform forms took effect on October 1, 2010. The NFR is a mandatory national uniform form that cannot be modified. But there are three alternatives for the section with the hearing and objection information. See attached instructions.

General Order 24-2018 establishes a procedure for noticing hearings, providing an opportunity to object, and cancelling the hearing if an objection is not timely filed. This notice procedure may be used only for certain pleadings and requests for relief. Approved pleading #13 is requests for compensation pursuant to sections 330 and 331 in cases under chapters 7, 11, and 12. Therefore, it appears the procedure may be applied to hearings on fee applications filed with the TFR. (Approved pleading #14 is “motions by a chapter 7 trustee to approve a final report.” There is no such pleading. Pursuant to the Amended MOU, courts do not approve final reports; the United States Trustee does.) General Order 24-2018 provides that “Notices

filed pursuant to these procedures must be in the form attached to [this] Order as EXHIBIT A.”

Trustees cannot modify either form. But, trustees could file the NFR, separately file the GO 24-2018 notice form, and serve both notices together.

Trustees should add GO 24-2018 language to the free form section of the NFR (“NOTICE ALTERNATIVE 3”). For example-

Pursuant to General Order 24-2018, the Court may consider the Application(s) without further notice or hearing if no party in interest files a response or objection within 21 days from the date of service of this notice. If you object to the relief requested in the Application(s) you must timely file your objection with the Bankruptcy Court [_____] and serve a copy on the Trustee, the Applicant, the United States Trustee, and any other appropriate persons by the objection deadline. The response or objection must explain your position and be actually received by the Bankruptcy Clerk within the required time.

A hearing on the Application(s) has been scheduled for _____, at _____, in Courtroom _____, _____. If an objection or response is timely filed and served, the hearing will proceed as scheduled. If you do not file a response or objection within the time permitted, the Court may grant the relief requested without further notice or hearing provided that an order approving the relief requested is entered at least one business day prior to the scheduled hearing. If no objection is timely filed, but no order is entered granting the relief requested at least one business day prior to the hearing, the hearing will be held at the time and place as scheduled.

--Jeneane

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