

Chapter 11 Noticing: Elements of Accuracy



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Noticing, also referred to as service of process, is an important aspect of any chapter 11 bankruptcy case, requiring careful attention to detail, accurate execution, careful documentation, and a strong commitment to follow up.

Careful Attention to Detail

Attorneys and advisors prepare and file hundreds and thousands of pleadings and compliance materials with the court, on creditors, and on the United States Trustee during the course of a chapter 11 case. Almost hourly, documents are prepared, exchanged, and reviewed, for that days court filing and service to creditors using email, facsimile, messenger, overnight courier, and U.S. Mail.

Committed chapter 11 administration professionals will need to pay close attention to ensure that each notice recipient is not only receiving the right materials or pleadings, but also in accordance with case administration orders and court rules. Orders and rules which may affect the type of service applied to the materials or pleadings or the feedback necessary to provide to case professionals for document revisions. In short, the combined application of chapter 11 knowledge and attention to detail will ensure accurate chapter 11 noticing saving money and eliminating objection.

Accurate Execution

During active periods of a case, a chapter 11 company may file and need to "notice" or serve out multiple pleadings on service lists and individual "affected parties" or creditors in interest. Creditors on the notice lists may each receive pleadings via one method, but certain creditors on the notice list may have requested receipt via an additional method. Individual creditors for the same pleadings may have requested notice of the pleadings directly to them, as well as to their legal counsel.

The more involved the noticing execution, the greater the potential for error and as such, the greater the need for a strong system to organize and assist with accurate execution. Accurate execution includes, but is not limited to careful documentation of each step in the preparation, mailing, creditor response, and follow-up. It includes review, analysis, and interpretation of bankruptcy rules and case administration orders where applicable. Chapter 11 administrative professionals will provide the knowledge, skills and abilities to assist attorneys and advisors with noticing accuracy.

Careful Documentation

As part of accurate execution, carefully documenting the notice process both in the form of a court filing known as an affidavit of service and in an organized computer database is an essential aspect of the chapter 11 case. Careful documentation helps resolve notice disputes and court hearing objections, which may affect the ultimate disposition of the pleading.

A computer database should ideally be used to to organize and prepare noticing affidavits of service, as well as track sent notices and return to sender notices for accurate administrative assistance on every chapter 11 notice.

Strong Commitment to Follow Up

Once a notice has been sent to individual and group creditors, notices come back as undeliverable and creditors have inquiries about what they received. Historical record keeping and creditor follow up are in turn the last important aspect of accurate noticing. Returned notices should be associated with the creditor record to update addresses and provide supporting information in the event of a dispute. Creditor inquiries regarding received notices should be properly documented in the database as a proactive measure for future creditor interactions.

*For more information on accurate noticing techniques contact
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