

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

IN RE:)
)
ESI SERVICE CORP.,) Case No. 16-07208-JMC-7A
)
Debtor.)

LIMITED OBJECTION TO TRUSTEE’S MOTION TO ESTABLISH CERTAIN NOTICE, CASE MANAGEMENT AND ADMINISTRATIVE PROCEDURES AND APPROVE PROPOSED FORM 309D

Nancy J. Gargula, United States Trustee, by counsel, Laura A. DuVall, Trial Attorney, objects to the Trustee’s Motion to Establish Certain Notice, Case Management and Administrative Procedures and Approve Proposed Form 309d (“Case Management Motion”) filed by interim Chapter 7 Trustee Deborah Caruso (“Trustee Caruso”) on September 26, as docket number 29. In support of her Objection, the United States Trustee states as follows:

JURISDICTION AND STANDING

This court has jurisdiction under 28 U.S.C. § 1334. Venue is proper under 28 U.S.C. § 1409. This matter is a core proceeding. 28 U.S.C. § 157(b). The United States Trustee has standing to file an objection to the Case Management Motion. 11 U.S.C. § 307.

ARGUMENT

Trustee Caruso, by filing the Case Management Motion, seeks to streamline the case and limit various notices to the parties in an effort reduce the costs incurred by the estate. Attached to the Case Management Motion is the Notice, Case Management and Administrative Procedures (“Case

Management Procedures”) which outlines the proposed service and noticing to be discussed more fully below.

Fed. R. Bank. P. 2002(a) requires,

[T]he clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and the indenture trustees at least 21 days’ notice by mail of: . . .

(2) a proposed use, sale or lease of property of the estate other than in the ordinary course of business, unless the court for cause shown shortens the time or directs another method of giving notice;

(3) the hearing on approval of a compromise or settlement of a controversy other than approval of an agreement pursuant to Rule 4001(d), unless the court for cause shown directs that the notice not be sent;

The Case Management Procedures provide that notices pursuant to Rule 2002(a)(2) and (3) shall be sent as follows: “All Court Filings shall be served on the Core Group, the Request for Notice List, the Appearance List (collectively the “Service List”) and the Affected Entities, according to the notice procedures described herein.” See Section D(2) of the Case Management Procedures.

The Case Management Procedures specifically restrict notice of “[a]ll Court Filings for which particular notices are required by Bankruptcy Rules 2002(a)(2), 2002(a)(3) . . . , shall be served on those entities on the Service List and each Affected Entity, except as modified herein and unless otherwise authorized by the Court.” See Section D(3)(d)(i).

The Case Management Motion and Case Management Procedures do not mirror the language of the Rule 2002(a). The United States Trustee raises the issue through this Limited Objection with the Court to ensure that all parties are aware of this issue and request the Court decide if the Case Management

Motion and Case Management Procedures meet the intent of Rule 2002(a).

CONCLUSION

WHEREFORE, for the reasons set forth above the United States Trustee objects to the Case Management Motion and requests that the Court determine if the Case Management Procedures comply with Rule 2002 and, grant such further relief as is just and proper.

Respectfully submitted,

NANCY J. GARGULA
UNITED STATES TRUSTEE

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CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2016, a copy of the foregoing Objection was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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I further certify that on October 3, 2016, a copy of the foregoing Objection was mailed by first-class U.S. Mail, postage prepaid, and properly addressed to the following:

None.

/s/ Laura A. DuVall
Laura A. DuVall