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CHANGES MADE BY COURT

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re
SOCALDEAL, INC.,

Debtor.

Case No. 2:18-bk-12119-RK
Chapter 7

ORDER REQUIRING 21 DAYS NOTICE TO ALL CREDITORS AND NOTICE PARTIES ON TRUSTEE’S MOTION FOR ORDER APPROVING SETTLEMENT PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 9019 DESPITE 14 DAY NOTICE PERIOD ON MOTIONS DETERMINED AFTER NOTICE OF OPPORTUNITY TO REQUEST HEARING UNDER LOCAL BANKRUPTCY RULE 9013-1(o)

The Court, having read and considered the *Motion for Order Approving Settlement Pursuant to Federal Rule of Bankruptcy Procedure 9019* [Docket No. 135] (“Motion”) filed by David M. Goodrich, the chapter 7 trustee (the “Trustee”) for the bankruptcy estate (the “Estate”) of SoCalDeal, Inc., the notice of the Motion [Docket No. 136], the Declaration of Faye C. Rasch in Support of the Motion [Docket No. 137], and the Declaration of Faye C. Rasch that no party requested a hearing on the Motion [Docket No.138],

1 **IT IS ORDERED:**

2 1. The court determines that Trustee’s service on all creditors and other notice parties of
3 the Notice of Motion for Order Approving Settlement Pursuant to Federal Rule of
4 Bankruptcy Procedure 9019 under the procedure in Local Bankruptcy Rule 9013-1(o)
5 for Motions and Matters Determined After Notice of Opportunity to Request Hearing,
6 giving notice of an opportunity to respond and request a hearing within 14 days of
7 service of the notice, is inadequate for a motion to approve a compromise or settlement
8 under Federal Rule of Bankruptcy Procedure 9019 because Federal Rule of Bankruptcy
9 Procedure 2002(a)(3) requires that all creditors and notice parties be given 21 days
10 notice by mail of a hearing on approval of a compromise or settlement (other than an
11 agreement under Federal Rule of Bankruptcy Procedure 4001(d). While a hearing on a
12 motion to approve a compromise or settlement pursuant to Federal Rule of Bankruptcy
13 Procedure 9019 is not required as the trustee or debtor-in-possession in a Chapter 11
14 case may alternatively use the notice of opportunity to respond and request a hearing
15 procedure of Local Bankruptcy Rule 9013-1(o) through the “after notice and a hearing”
16 provisions of Federal Rule of Bankruptcy Procedure 102(1)(B)(i), which “authorizes an
17 act without an actual hearing if such notice is given properly and if—(i) such a hearing
18 is not requested timely by a party in interest;” Thus, the Trustee may utilize Local
19 Bankruptcy Rule 9013-1(o) to serve notice of the motion, but because Federal Rule of
20 Bankruptcy Procedure 2002(a)(3) requires 21 days notice to all creditors and other
21 notice parties in interest, proper notice for purposes of Federal Rule of Bankruptcy
22 Procedure 102(1)(B)(i) means 21 days notice under Federal Rule of Bankruptcy
23 Procedure 2002(a)(3), which is more required notice than the 14 days notice given
24 under Local Bankruptcy Rule 9013-1(o). Although in this case, Trustee waited 21 days
25 from service before he filed the declaration of nonopposition to the motion as required
26 by Local Bankruptcy Rule 9013-1(o)(3), the notice of the motion does not comply with
27 Federal Rule of Bankruptcy Procedure 9019(a) and Federal Rule of Bankruptcy
28 Procedure 2002(a)(3) because the creditors and other notice parties did not have 21 days

1 notice and opportunity to respond and request a hearing. That is, Trustee filed the
2 motion under the court's Local Bankruptcy Rule 9013-1(o) and only gave notice that an
3 opposition must be filed 14 days after service of the notice of motion. Such notice is
4 insufficient. Federal Rule of Bankruptcy Procedure 9019(a) requires that the notice of a
5 motion to approve compromise or settlement be given as provided in Federal Rule of
6 Bankruptcy Procedure 2002(a). Under Federal Rule of Bankruptcy Procedure
7 2002(a)(3), all creditors and notice must be given at least 21 days' notice by mail of the
8 hearing on the approval of a compromise or settlement. Since there is no hearing on the
9 motion determined after notice and opportunity to request a hearing procedure of Local
10 Bankruptcy Rule 9013-1(o) permitted under Federal Rule of Bankruptcy Procedure
11 102(1)(B)(i), alternatively, as the party making a motion under Federal Rule of
12 Bankruptcy Procedure 9019 for approval of a compromise or settlement, Trustee must
13 give notice to all creditors and notice parties that they have an opportunity to respond to
14 the motion and request a hearing within a time period of no less than 21 days from
15 service. Accordingly, the court orders that Trustee re-serve the notice of motion based
16 on the minimum 21 days notice required by Federal Rule of Bankruptcy Procedure
17 2002(a)(3). The court will post a copy of this order on the Opinions page of the court's
18 website as guidance for practitioners who are filing and serving motions to approve
19 compromise or settlement under Federal Rule of Bankruptcy Procedure 9019, utilizing
20 the Motions Determined After Notice of Opportunity to Request Hearing procedures of
21 Local Bankruptcy Rule 9013-1(o).


- 22 2. The court determines that Trustee's service of the Notice of Motion for Order
23 Approving Settlement Pursuant to Federal Rule of Bankruptcy Procedure 9019 is also
24 inadequate because one creditor, Harvest Commercial Capital, LLC, was not served as
25 indicated on the proof of service of the notice of motion. Harvest Commercial Capital,
26 LLC, is listed as a creditor on the Debtor's amended bankruptcy schedules, filed on
27 September 16, 2019, as having a secured claim in the amount of \$299,430.00 and the
28 creditor must be served with notice pursuant to Federal Rule of Bankruptcy Procedure

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2002(a)(3). Accordingly, the court orders that Trustee serve the notice of motion on
Creditor Harvest Commercial Capital, LLC, based on the minimum 21 days notice
required by Federal Rule of Bankruptcy Procedure 2002(a)(3).

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Date: August 19, 2021



Robert Kwan
United States Bankruptcy Judge