The order below is hereby signed.

Signed: March 30 2016



S. Martin Teel, Jr.
United States Bankruptcy Judge

## UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF COLUMBIA

In re	)	
	)	
STEPHEN THOMAS YELVERT	ON, )	Case No. 09-00414
	)	(Chapter 7)
Debtor	. )	Not deemed worthy of
	)	publication in West's
	)	Bankruptcy Reporter.

## MEMORANDUM DECISION AND ORDER DENYING DEBTOR'S MOTION TO DEMAND PER FEDERAL RULES OF EVIDENCE, RULE 201(e), TO BE HEARD TO OBJECT TO JUDICIAL NOTICE

The issue of the propriety of the court's taking judicial notice of any fact can be raised incident to the litigation of any matter in this case, and under Fed. R. Evid. 201(e), if the court takes judicial notice of a fact before giving notice to a party, "the party, on request, is still entitled to be heard." The rule permits advance notice, but (contrary to the debtor's position in Debtor's Motion to Demand per Federal Rules of Evidence, Rule 201(e), to be Heard to Object to Judicial Notice (Dkt. No. 965)) does not require advance notice. See Job v. Calder (In re Calder), 907 F.2d 953, 955 n.2 (10th Cir. 1990); MacMillan Bloedel Ltd. v. Flintkote Co., 760 F.2d 580, 587 (5th Cir. 1985) (holding that party "did not properly challenge the

district court's procedure, for there is nothing in the record to indicate that it filed a motion after the district court took notice seeking an opportunity to be heard concerning the propriety of taking judicial notice"); Kalos v. United States, 87 Fed. Cl. 230, 241 (2009), aff'd, 368 F. App'x 127 (Fed. Cir. 2010) (advance notice not required, and a Fed. R. Civ. P. 59(e) motion satisfied the Fed. R. Evid. 201(e) requirement of an opportunity to be heard). It is

ORDERED that Debtor's Motion to Demand per Federal Rules of Evidence, Rule 201(e), to be Heard to Object to Judicial Notice (Dkt. No. 965) is denied without prejudice to the debtor's invoking Fed. R. Evid. 201(e) in the course of the litigation of any matter in this case, including the debtor's invoking Fed. R. Evid. 201(e) after the court makes a ruling that includes the court's taking judicial notice without advance notice.

[Signed and dated above.]
Copies to: Debtor; recipients of e-notification of filings.