

CHANGES TO FEDERAL RULES OF BANKRUPTCY PROCEDURE EFFECTIVE DECEMBER 1, 2019

The following amendments to the Federal Rules of Bankruptcy Procedure will take effect December 1, 2019.

A brief summary of each rule amendment (in blue text) is followed by the text of the rule amendments (in red and black). Where applicable, information about related changes to local rules, procedures and forms are included as a “Clerk’s Note.”

The summaries in blue text are provided solely as a convenience to attorneys and parties and should NOT be used as a substitute for thorough review of the full text of the rule changes, which are also available at:

<http://www.uscourts.gov/rules-policies/pending-rules-and-forms-amendments>

Rule 4001: Rule 4001(c) sets forth the requirements for obtaining post-petition credit. Subdivision (c) no longer applies in a Chapter 13 case.

Rule 4001. Relief from Automatic Stay; Prohibiting or Conditioning the Use, Sale, or Lease of Property; Use of Cash Collateral; Obtaining Credit; Agreements

(c) OBTAINING CREDIT.

(4) Inapplicability in a Chapter 13 Case. This subdivision (c) does not apply in a chapter 13 case.

Rule 6007: Rule 6007(b) is amended to designate the parties to be served with a motion to compel the trustee to abandon property under 11 U.S.C. § 554(b). Changes also make the rule consistent with Rule 6007(a) to clarify that once an order has been entered on a motion filed under subdivision (b), no further action is necessary to notice or effect the abandonment of property outlined in the motion.

Rule 6007. Abandonment or Disposition of Property

(b) MOTION BY PARTY IN INTEREST. A party in interest may file and serve a motion requiring the trustee or debtor in possession to abandon property of the estate. **Unless otherwise directed by the court, the party filing the motion shall serve the motion and any notice of the motion on the trustee or debtor in possession, the United States trustee, all creditors, indenture trustees, and committees elected pursuant to § 705 or appointed pursuant to § 1102 of the Code. A party in interest may file and serve an objection within 14 days of service, or within the time fixed by the court. If a timely objection is made, the court shall set a hearing on notice to the United States trustee and to other entities as the court may direct. If the court grants the motion, the order effects the trustee's or debtor in possession's abandonment without further notice, unless otherwise directed by the court.**

Clerk's Note: The Notice and Service Requirements List and the ECF User's Manual will be updated to reflect the new service requirements.

Rule 9036: Rule 9036 is amended to permit both notice and service by electronic means. Note that a filer who receives notice that the transmission failed is responsible for making effective service.

Rule 9036. Notice and Service Generally by ~~Electronic Transmission~~

Whenever these rules require or permit sending a notice or serving a paper by mail, the clerk, or some other person as the court or these rules may direct, may send the notice to—or serve the paper on—a registered user by filing it with the court's electronic-filing system. Or it may be sent to any person by other electronic means that the person consented to in

writing. In either of these events, service or notice is complete upon filing or sending but is not effective if the filer or sender receives notice that it did not reach the person to be served. This rule does not apply to any pleading or other paper required to be served in accordance with Rule 7004. ~~the clerk or some other person as directed by the court is required to send notice by mail and the entity entitled to receive the notice requests in writing that, instead of notice by mail, all or part of the information required to be contained in the notice be sent by a specified type of electronic transmission, the court may direct the clerk or other person to send the information by such electronic transmission. Notice by electronic means is complete on transmission.~~

Clerk's Note: LR 5005-1(E) will be reviewed for possible amendment during next local rules update process.

Rule 9037: Rule 9037 adds subdivision (h) to address procedures for redacting personal identifiers in previously filed documents not in compliance with Rule 9037(a). This change also requires that public access to the motion to redact and the unredacted document be restricted by the court. If the motion to redact is granted, the redacted document must be docketed by the court.

Rule 9037. Privacy Protection for Filings Made with the Court

(h) MOTION TO REDACT A PREVIOUSLY FILED DOCUMENT.

(1) **Content of Motion; Service.** Unless the court orders otherwise, if an entity seeks to redact from a previously filed document information that is protected under subdivision (a), the entity must:

(A) File a motion to redact identifying the proposed redactions;

(B) Attach to the motion the proposed redacted document;

(C) Include in the motion the docket or proof-of-claim number of the previously filed document; and

(D) Serve the motion and attachment on the debtor, debtor's attorney, trustee (if any), United States trustee, filer of the unredacted document, and any individual whose personal identifying information is to be redacted

(2) **Restricting Public Access to the Unredacted Document; Docketing the Redacted Document.** The court must promptly restrict public access to the motion and the unredacted

document pending its ruling on the motion. If the court grants it, the court must docket the redacted document. The restrictions on public access to the motion and unredacted document remain in effect until a further court order. If the court denies it, the restrictions must be lifted, unless the court orders otherwise.

Clerk's Note: The ECF Manual and Notice and Service Requirements List will be updated to reflect the new requirements for motions to redact.

Forms Effective December 1, 2019

Official Form 122A-1: The proposed change to Official Form 122A-1 adds an instruction to line 14a to remind a debtor that if there is no presumption of abuse, that Official Form 122A-2 should not be filled out or filed.

Director's Form 1340: The Director's Form 1340 is a standard application for payment of unclaimed funds. In addition to this application, our website will be modified to include other information to assist in the unclaimed funds application process.