

**PROPOSED AMENDMENTS TO THE FEDERAL
RULES OF BANKRUPTCY PROCEDURE¹**

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

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6 (c) OBTAINING CREDIT.

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

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Committee Note

Subdivision (c) of the rule is amended to exclude chapter 13 cases from that subdivision. This amendment does not speak to the underlying substantive issue of whether the Bankruptcy Code requires or permits a chapter 13 debtor not engaged in business to request approval of postpetition credit.

¹ New material is underlined; matter to be omitted is lined through.

2 FEDERAL RULE OF BANKRUPTCY PROCEDURE

1 **Rule 6007. Abandonment or Disposition of Property**

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3 (b) MOTION BY PARTY IN INTEREST. A party in
4 interest may file and serve a motion requiring the trustee or
5 debtor in possession to abandon property of the estate.
6 Unless otherwise directed by the court, the party filing the
7 motion shall serve the motion and any notice of the motion
8 on the trustee or debtor in possession, the United States
9 trustee, all creditors, indenture trustees, and committees
10 elected pursuant to § 705 or appointed pursuant to § 1102 of
11 the Code. A party in interest may file and serve an objection
12 within 14 days of service, or within the time fixed by the
13 court. If a timely objection is made, the court shall set a
14 hearing on notice to the United States trustee and to other
15 entities as the court may direct. If the court grants the
16 motion, the order effects the trustee's or debtor in

- 17 possession's abandonment without further notice, unless
18 otherwise directed by the court.

Committee Note

Subdivision (b) of the rule is amended to specify the parties to be served with the motion and any notice of the motion. The rule also establishes an objection deadline. Both of these changes align subdivision (b) more closely with the procedures set forth in subdivision (a). In addition, the rule clarifies that no further action is necessary to notice or effect the abandonment of property ordered by the court in connection with a motion filed under subdivision (b), unless the court directs otherwise.

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1 **Rule 9036. Notice and Service Generally by**
2 **Electronic Transmission**

3 Whenever these rules require or permit sending a notice
4 or serving a paper by mail, the clerk, or some other person
5 as the court or these rules may direct, may send the notice
6 to—or serve the paper on—a registered user by filing it with
7 the court’s electronic-filing system. Or it may be sent to any
8 person by other electronic means that the person consented
9 to in writing. In either of these events, service or notice is
10 complete upon filing or sending but is not effective if the
11 filer or sender receives notice that it did not reach the person
12 to be served. This rule does not apply to any pleading or
13 other paper required to be served in accordance with
14 Rule 7004.~~the clerk or some other person as directed by the~~
15 ~~court is required to send notice by mail and the entity entitled~~
16 ~~to receive the notice requests in writing that, instead of~~
17 ~~notice by mail, all or part of the information required to be~~

18 ~~contained in the notice be sent by a specified type of~~
19 ~~electronic transmission, the court may direct the clerk or~~
20 ~~other person to send the information by such electronic~~
21 ~~transmission. Notice by electronic means is complete on~~
22 ~~transmission.~~

Committee Note

The rule is amended to permit both notice and service by electronic means. The use and reliability of electronic delivery have increased since the rule was first adopted. The amendments recognize the increased utility of electronic delivery, with appropriate safeguards for parties not filing an appearance in the case through the court's electronic-filing system.

The amended rule permits electronic notice or service on a registered user who has appeared in the case by filing with the court's electronic-filing system. A court may choose to allow registration only with the court's permission. But a party who registers will be subject to service by filing with the court's system unless the court provides otherwise. The rule does not make the court responsible for notifying a person who filed a paper with the court's electronic-filing system that an attempted transmission by the court's system failed. But a filer who receives notice that the transmission failed is responsible for making effective service.

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With the consent of the person served, electronic service also may be made by means that do not use the court's system. Consent can be limited to service at a prescribed address or in a specified form, and it may be limited by other conditions.

1 **Rule 9037. Privacy Protection For Filings Made with the**
2 **Court**

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4 (h) MOTION TO REDACT A PREVIOUSLY
5 FILED DOCUMENT.

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

10 (A) file a motion to redact identifying the
11 proposed redactions;

12 (B) attach to the motion the proposed
13 redacted document;

14 (C) include in the motion the docket or
15 proof-of-claim number of the previously filed
16 document; and

17 (D) serve the motion and attachment on the
18 debtor, debtor's attorney, trustee (if any), United

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19 States trustee, filer of the unredacted document,
20 and any individual whose personal identifying
21 information is to be redacted.

22 (2) *Restricting Public Access to the Unredacted*
23 *Document; Docketing the Redacted Document.* The
24 court must promptly restrict public access to the motion
25 and the unredacted document pending its ruling on the
26 motion. If the court grants it, the court must docket the
27 redacted document. The restrictions on public access
28 to the motion and unredacted document remain in
29 effect until a further court order. If the court denies it,
30 the restrictions must be lifted, unless the court orders
31 otherwise.

Committee Note

Subdivision (h) is new. It prescribes a procedure for the belated redaction of documents that were filed without complying with subdivision (a).

Generally, whenever someone discovers that information entitled to privacy protection under subdivision (a) appears in a document on file with the court—regardless of whether the case in question remains open or has been closed—that entity may file a motion to redact the document. A single motion may relate to more than one unredacted document. The moving party may be, but is not limited to, the original filer of the document. The motion must identify by location on the case docket or claims register each document to be redacted. It should not, however, include the unredacted information itself.

Subsection (h)(1) authorizes the court to alter the prescribed procedure. This might be appropriate, for example, when the movant seeks to redact a large number of documents. In that situation the court by order or local rule might require the movant to file an omnibus motion, initiate a miscellaneous proceeding, or proceed in another manner directed by the court.

Unless the court orders otherwise, the motion must identify the proposed redactions, and the moving party must attach to the motion the proposed redacted document. The attached document must otherwise be identical to the one previously filed. The court, however, may relieve the movant of this requirement in appropriate circumstances, for example when the movant was not the filer of the unredacted document and does not have access to it. Service of the motion and the attachment must be made on all of the following individuals who are not the moving party: debtor, debtor's attorney, trustee, United States trustee, the filer of the unredacted document, and any individual whose personal identifying information is to be redacted.

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Because the filing of the motion to redact may call attention to the existence of the unredacted document as maintained in the court's files or downloaded by third parties, courts should take immediate steps to protect the motion and the document from public access. This restriction may be accomplished electronically, simultaneous with the electronic filing of the motion to redact. For motions filed on paper, restriction should occur at the same time that the motion is docketed so that no one receiving electronic notice of the filing of the motion will be able to access the unredacted document in the court's files.

If the court grants the motion to redact, the court must docket the redacted document, and public access to the motion and the unredacted document should remain restricted. If the court denies the motion, generally the restriction on public access to the motion and the document should be lifted.

This procedure does not affect the availability of any remedies that an individual whose personal identifiers are exposed may have against the entity that filed the unredacted document.