

United States Bankruptcy Court  
Eastern District of Missouri

## Federal Rules of Bankruptcy Procedure Summary of Amendments – Effective December 1, 2020

The following summary details the amendments to the Federal Rules of Bankruptcy Procedure that have been approved by the United States Supreme Court and become effective on December 1, 2020. These amendments to the Federal Rules of Bankruptcy Procedure do not require changes to the Bankruptcy Court's Local Rules. A copy of the summary below can be found on the Court's website at <http://www.moeb.uscourts.gov/rules-and-procedures>. A redline copy and clean copy of the Federal Rules of Bankruptcy Procedure can be found on the United States Courts' website at <https://www.uscourts.gov/rules-policies>.

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**1. Rule 2002 - Notices to Creditors, Equity Security Holders, Administrators in Foreign Proceedings, Persons Against Whom Provisional Relief is Sought in Ancillary and Other Cross-Border Cases, United States, and United States Trustee**

- Subdivision (f) is amended to add cases under chapter 13 of the Bankruptcy Code to paragraph (7). Subdivision (f), Paragraph (7) previously required the clerk, or someone else designated by the clerk, to give notice to the debtor, all creditors, and indenture trustees of the “entry of an order confirming a chapter 9, 11, or 12 plan.” The amendment now includes chapter 13 plans within this provision.

**Practice Point:** The Bankruptcy Court has elected to take responsibility for giving notice to the debtor, all creditors, and indenture trustees through the Bankruptcy Notice Center.

- Subdivision (h) is amended to apply to cases filed under chapters 7, 12 and 13 of the Bankruptcy Code and to conform the time periods in the subdivision to the respective deadlines for filing proofs of claim under Rule 3002(c). Rule 2002(h) provides an exception to the general noticing requirements set forth in Rule 2002(a). Rule 2002(a) generally requires the clerk (or some other party as directed by the court) to give “the debtor, the trustee, all creditors and indenture trustees” at least 21 days’ notice of certain matters in bankruptcy cases. But Rule 2002(h) eliminates that requirement in chapter 7 cases with respect to creditors that fail to file a timely proof of claim. This amendment makes this exception also applicable to chapter 12 and 13 cases and changes the time provisions in the subdivision to conform to recent amendments to Rule 3002 setting deadlines for filing proofs of claim.

- Subdivision (k) is amended to add a reference to subdivision (a)(9) of this rule. Rule 2002(k) provides for transmitting notices under specified parts of Rule 2002 to the U.S. trustee, including notices under subdivision (b). Because the deadline for giving notice of the time for filing objections to confirmation of chapter 13 plans was recently moved from subdivision (b) to subdivision (a)(9), currently not specified in subdivision (k), the provision is amended to include a reference to (a)(9) to ensure that the U.S. trustee continues to receive notice of this deadline. The rule thereby continues to require transmittal of notice of that deadline to the U.S. Trustee.

## **2. Rule 2004 - Examination**

Subdivision (c) is amended in two respects:

- Subdivision (c) now refers expressly to the production of electronically stored information, in addition to the production of physical documents. The amendment acknowledges the change in the form in which information now commonly exists and the type of production that is frequently sought in connection with examinations under Rule 2004.
- Subdivision (c) is amended to bring its subpoena provision into conformity with the current version of F.R.Civ.P. 45, made applicable to bankruptcy cases via Rule 9016. Under F.R.Civ.P. 45, a subpoena always issues from the court where the action is pending, even for a deposition in another district, and an attorney admitted to practice in the issuing court may issue and sign it. With this amendment a subpoena for a Rule 2004 examination is now properly issued from the court where the bankruptcy case is pending and by an attorney authorized to practice in that court, even if the examination is to occur in another district.

## **3. Rule 8012 - Disclosure Statement**

- Rule 8012 requires a nongovernmental corporate party to a bankruptcy appeal in the district court or bankruptcy appellate panel to file a statement identifying any parent corporation and any publicly held corporation that owns 10% or more of the party's stock (or file a statement that there is no such corporation). It is modeled on FRAP 26.1.
- Rule 8012 is amended to conform to recent amendments to F.R.App.P. 26.1. Subdivision (a) is amended to encompass nongovernmental corporations that seek to intervene on appeal.

- New subdivision (b) requires disclosure of the name of all of the debtors in the bankruptcy case. The names of the debtors are not always included in the caption of appeals. It also requires, for corporate debtors, disclosure of the same information required to be disclosed under subdivision (a).
- Subdivision (c), previously subdivision (b), now applies to all the disclosure requirements in Rule 8012

#### **4. Rule 8013 - Motions; Intervention**

- Subdivision (a)(1) is amended to delete the reference to proof of service. This change reflects the recent amendment to Rule 8011(d) that eliminated the requirement of proof of service when filing and service are completed using a court's electronic-filing system.

#### **5. Rule 8015 – Form and Length of Briefs; Form of Appendices and Other Papers**

- Subdivision (g) lists the items that are excluded from calculation of the length of a brief.
- Subdivision (g) is amended to delete the initial article of each item listed, because each item listed in Subdivision (g) is not always be required.
- Subdivision (g) is amended to reflect recent amendments to Rule 8011(d) that eliminated the requirement of proof of service when filing and service are completed using a court's electronic-filing system.
- Subdivision (g) lists "corporate disclosure statement under Rule 8012" as an item excluded from calculation of the length of a brief. The word "corporate" has been deleted before "disclosure statement" to reflect changes to Rule 8012.

#### **6. Rule 8021 – Costs**

- Subdivision (d) is amended to delete the reference to proof of service. This change reflects the recent amendment to Rule 8011(d) that eliminated the requirement of proof of service when filing and service are completed using a court's electronic-filing system.