

United States Bankruptcy Court Eastern District of Missouri



**Thomas F. Eagleton U. S. Courthouse
St. Louis, MO**

Federal Rules of Bankruptcy Procedure Summary of Amendments – Effective December 1, 2021

The following summary details the amendments to the Federal Rules of Bankruptcy Procedure that have been approved by the United States Supreme Court and United States Congress and become effective on December 1, 2021. These amendments to the Federal Rules of Bankruptcy Procedure do not require changes to the Bankruptcy Court's Local Rules. A copy of this summary can be found on the Court's website at <http://www.moeb.uscourts.gov/rules-and-procedures>. Redline and clean copies of the amendments to the Federal Rules of Bankruptcy Procedure as well as a more detailed explanation of the amendments can be found on the United States Courts' website at: <https://www.uscourts.gov/rules-policies/pending-rules-and-forms-amendments>

- 1. Rule 2005 - Apprehension and Removal of Debtor to Compel Attendance for Examination**
 - Rule 2005 has been amended to replace the reference to 18 U.S.C. § 3146(a) and (b) with a reference to “relevant provisions and policies of title 18 U.S.C. § 3142.”
 - 18 U.S.C. § 3146 does not discuss conditions to assure attendance or appearance, but instead provides for the penalties for failure to appear. The topic of conditions to assure attendance or appearance is discussed in 18 U.S.C. § 3142.

- Because 18 U.S.C. § 3142 also contains provisions bearing on topics beyond conditions to assure attendance or appearance not included in former, the rule is amended to limit the reference to 18 U.S.C. § 3142 to only “relevant” provisions and policies of § 3142.

2. Rule 3007 – Objections to Claim

- Rule 3007(a)(2)(A)(ii) has been amended to clarify that the special service method required by Rule 7004(h) must be used for service of objections to claims only on insured depository institutions as defined in Section 3 of the Federal Deposit Insurance Act, 12 U.S.C. § 1813.

Practice Point:

The FDIC operates a searchable data base titled BankFind that allows users to locate current and former FDIC-insured banking institutions. BankFind can be accessed at: <https://banks.data.fdic.gov/bankfind-suite/>

- Rule 7004(h) was enacted by Congress as part of the Bankruptcy Reform Act of 1994 and applies only to insured depository institutions that are insured by the Federal Deposit Insurance Corporation. This does not include credit unions, which are insured by the National Credit Union Administration or private insurance. A credit union may be served with an objection to a claim via first-class mail sent to the person designated for receipt of notice on the credit union’s proof of claim, pursuant to Rule 3007(a)(2)(A).

Practice Point:

It is good practice to also send objections to a claim to the address listed at: <https://cu.mo.gov/licenseeSearch>

3. Rule 7007.1 – Corporate Ownership Statement

- Rule 7007.1 has been amended to conform to recent amendments to Rule 8012 and Rule 26.1 of the Appellate Rules, and the anticipated amendment to Rule 7.1 of the Civil Rules. Specifically, Rule 7007.1(a) has been amended to encompass nongovernmental corporations that seek to intervene. Thus, nongovernmental corporations seeking to intervene in an adversary proceeding must file a Corporate Ownership Statement pursuant to Rule 7007.1(a).

Practice Point:

An example of an entity seeking to intervene might include organizations such as the Land Clearance for Redevelopment Authority.

- Additionally, stylistic changes have been made to Rule 7007.1(b) to reflect that some statements will be filed by nonparties seeking to intervene. Specifically, the opening words of Rule 7007.1(b) stating, “A party shall file the...,” have been replaced with “The corporate ownership statement shall...”

4. Rule 9036 - Notice and Service by Electronic Transmission

- The Administrative Office of the United States Courts has a program for providing notice to high-volume paper notice recipients titled Electronic Bankruptcy Noticing. Under this program, when the Bankruptcy Noticing Center (BNC) has sent by mail more than a designated number of notices in a calendar month (initially set at 100) from bankruptcy courts to an entity, the Director of the Administrative Office notifies the entity they are a high-volume paper notice recipient and informs them they must register for Electronic Bankruptcy Noticing by providing an electronic address to the BNC by a date certain. If, within a time specified by the Director, the notified entity enrolls in Electronic Bankruptcy Noticing with the BNC, it will be sent notices electronically at the address maintained by the BNC upon a start date determined by the Director. If the notified entity does not timely enroll in Electronic Bankruptcy Noticing, they will be informed that court-generated notices will be sent to an electronic address designated by the Director. Any designation by the Director, however, is subject to the entity's right under § 342(e) and (f) of the Code to designate an address at which it wishes to receive notices in chapter 7 and chapter 13 cases, including at its own electronic address that it registers with the BNC.
- Rule 9036 has been amended to account for the Administrative Office of the United States Courts' Electronic Bankruptcy Noticing program. Additionally, the title of Rule 9036 has been revised to reflect its applicability more accurately to methods of electronic noticing and service. Rule 9036 does not preclude noticing and service by physical means otherwise authorized by Courts or the Federal Rules of Bankruptcy Procedure.
- Rule 9036 has been reorganized to separate methods of electronic noticing and service available to courts from those available to parties. Both courts and parties may serve or provide notice to registered users of the court's electronic filing system by filing documents with that system. Both courts and parties also may serve and provide notice to any entity by electronic means consented to in writing by the recipient. Only courts may serve or give notice to an entity at an electronic address registered with the BNC as part of the Electronic Bankruptcy Noticing program.