

Rule Amendments to Implement Changes in Connection with Amendment to Rule 9006(a) and the Manner by Which Time is Computed Under the Rules

Effective December 1, 2009

Report of the Advisory Committee

Rule 9006(a)

Rule (Click number to go to rule)	Current Deadline	New Deadline
2006 , 2007 , 2008 , 2015.3 , 6004 , 9006 , and 9027	5 days	7 days
1007 , 2003 , 2015.1 , 2015.2 , 2016 , 3020 , 4001 , 6004 , 6006 , 7004 , 7012 , 8001 , 8002 , 8003 , 8006 , 8009 , 8015 , 8017 , 9027 , and 9033	10 days	14 days
1007 , 1019 , 1020 , 2015 , 2015.1 , 2016 , 3015 , 4001 , 4002 , 6004 , 6007 , and 8009	15 days	14 days
1011 , 2002 , 2003 , 2007.2 , 2015.3 , 3001 , 3015 , 3019 , 6003 , 7012 , 8002 , 9027 , and 9033	20 days	21 days
2002 , 3017 , and 4004	25 days	28 days

Amendments to Bankruptcy Rules 4008, 7052 and 9021, and New Bankruptcy Rule 7058

Report of the Advisory Committee

Rule	Description
4008	Amended to insert a requirement that the Official Form of a reaffirmation cover sheet be filed with the court along with the reaffirmation agreement. The cover sheet will include the information necessary to assist the court in determining what action to take regarding the proposed reaffirmation.
7052	Amended to clarify that entry of judgment in an adversary proceeding means the entry of a judgment or order under the Bankruptcy Rules rather than under the Federal Rules of Civil Procedure.
7058 (new)	Makes Rule 58 of the Federal Rules of Civil Procedure applicable in adversary proceedings.
9021	Amended in connection with the addition of Rule 7058. Since that rule governs in adversary proceedings, Rule 9021 no longer needs to make Rule 58 of the Federal Rules of Civil Procedure applicable in those actions. This amendment and the addition of Rule 7058 results in the explicit adoption of the separate document requirement for judgments in adversary proceedings, while the effectiveness of an order or judgment in other actions within the case is determined under Rule 5003, which does not include the separate document requirement.

New Official Form 27: Reaffirmation Cover Sheet

Effective December 1, 2009

Report of the Advisory Committee

Form	Description
New Official Form 27	Implements the proposed amendments to Rule 4008 scheduled to take effect on December 1, 2009. The form requires the disclosure of financial information necessary for the court to determine whether a reaffirmation agreement creates a presumption of undue hardship for the debtor under § 524(m) of the Bankruptcy Code. It also requires the debtor to identify and explain any differences between the income and expenses reported on schedules I and J and the income and expenses reported in the debtor's statement in support of the reaffirmation agreement.

Technical Amendments and Amendments Necessary to Implement New 14-Day Deadline for Filing a Notice of Appeal

Effective December 1, 2009

Report of the Advisory Committee

Rule	Description
2016	Technical amendment to correct a cross reference in the rule to a subsection of the Code that was changed by a 2005 amendment to the Code. The amendment also changes the deadline for filing a supplemental statement to conform to the time computation amendments that change all 10 day periods to 14 day periods.
7052	Amended by limiting the time for filing post judgment motions for amended or additional findings. The deadline is set at 14 days in contrast to the 28-day deadline included in the Federal Rules of Civil Procedure. This is necessary because the deadline for filing a notice of appeal under Bankruptcy Rule 8002 is 14 days rather than the 30 days allowed under Rule 4(a)(1)(A) F. R. App. P.
9006(f)	Technical amended to correct a cross reference to subparagraphs of Rule 5(b)(2) F. R. Civ. P. Those subparagraphs were renumbered as a part of the civil rules restyling project.
9015	Amended by deleting the reference to Rule 50 F. R. Civ. P. from the list of civil rules that are applicable in cases and proceedings. Subdivision (c) is added to make Rule 50 applicable in cases and proceedings, but it limits the time for filing certain post judgment motions to 14 days rather than 28 days as set out in the civil rules.
9023	Amended to limit the time for filing a post judgment motion for a new trial or for the court to order sua sponte a new trial to 14 days after entry of judgment. This is necessary because the deadline for filing a notice of appeal under Rule 8002 is 14 days.

Amendments to Local Bankruptcy Rules for the Middle District of Alabama to Implement Changes in Connection with Amendment to Rule 9006(a) and the Manner by Which Time is Computed Under the Rules

Effective December 1, 2009

Rule (Click number to go to rule)	Summary	Current Deadline	New Deadline
1006-1(g)	Time to pay filing fee or file application to pay in installments for petitions accepted by the Clerk which do not comply with provisions of LBR 1006-1, or where payment is not honored.	3 days	72 hours
1017-1(a) and (f)	Time to file a response to a Notice of Dismissal filed under LBR 1017.	20	21
2003-1(b)(2)	Time to file proof of service of a continued meeting of creditors and notice of extended complaint deadline (Local Form 2-Ch. 7 and Local Form 2-Ch. 13).	10	14
2003-1(f)	Time for debtor to file interrogatories following order excusing appearance at § 341 meeting of creditors.	10	14
2004-1(d) and (e)	Time to file an objection to a Notice of 2004 Examination.	20	21
2015-1(a)(6)	Time for debtor in possession to provide Bankruptcy Administrator copies of declaration pages for all insurance policies maintained by debtor.	10	14
3015-1(b)	Time following filing of petition for debtor to file Ch. 13 plan.	15	14
3015-2(b)	Time to file objection to motion to modify Ch. 13 plan filed after confirmation.	20	21
4001-1(b)	Time to file response to motion for relief from stay in a Ch. 7 case.	20	21
4002-1(c)(2)	Time for debtor to produce proof of payment under a proposed or confirmed Ch. 13 plan following a written request for such proof made by the trustee or party in interest.	10	14
4002-1(c)(3)	Time for Ch. 13 debtor to produce proof of insurance following a written request by any creditor holding an interest in property the debtor is contractually obligated to insure.	10	14
4002-1(c)(4)	Noticing period for Ch. 13 trustee requests for documents to be brought by debtor to a regular or adjourned § 341 meeting.	5	7
9007-1 (b)	Time to file a response to motions filed under LBR 9007-1 negative noticing procedures.	20	21
9027-1	Time for party who removes a civil action to the Bankruptcy Court to file a complete copy of the record.	20	21

One Hundred Eleventh Congress
of the
United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday,
the sixth day of January, two thousand and nine*

An Act

To make technical amendments to laws containing time periods affecting judicial proceedings.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Statutory Time-Periods Technical Amendments Act of 2009”.

SEC. 2. AMENDMENTS RELATED TO TITLE 11, UNITED STATES CODE.

Title 11, United States Code, is amended—

- (1) in section 109(h)(3)(A)(ii), by striking “5-day” and inserting “7-day”;
- (2) in section 322(a), by striking “five days” and inserting “seven days”;
- (3) in section 332(a), by striking “5 days” and inserting “7 days”;
- (4) in section 342(e)(2), by striking “5 days” and inserting “7 days”;
- (5) in section 521(e)(3)(B), by striking “5 days” and inserting “7 days”;
- (6) in section 521(i)(2), by striking “5 days” and inserting “7 days”;
- (7) in section 704(b)(1)(B), by striking “5 days” and inserting “7 days”;
- (8) in section 749(b), by striking “five days” and inserting “seven days”; and
- (9) in section 764(b), by striking “five days” and inserting “seven days”.

SEC. 3. AMENDMENTS RELATED TO TITLE 18, UNITED STATES CODE.

Title 18, United States Code, is amended—

- (1) in section 983(j)(3), by striking “10 days” and inserting “14 days”;
- (2) in section 1514(a)(2)(C), by striking “10 days” each place it appears and inserting “14 days”;
- (3) in section 1514(a)(2)(E), by inserting after “the Government” the following: “, excluding intermediate weekends and holidays.”;
- (4) in section 1963(d)(2), by striking “ten days” and inserting “fourteen days”;
- (5) in section 2252A(c), by striking “10 days” and inserting “14 days”;

(6) in section 2339B(f)(5)(B)(ii), by striking “10 days” and inserting “14 days”;

(7) in section 2339B(f)(5)(B)(iii)(I), by inserting after “trial” the following: “, excluding intermediate weekends and holidays”;

(8) in section 2339B(f)(5)(B)(iii)(III), by inserting after “appeal” the following: “, excluding intermediate weekends and holidays”;

(9) in section 3060(b)(1), by striking “tenth day” and inserting “fourteenth day”;

(10) in section 3432, by inserting after “commencement of trial” the following: “, excluding intermediate weekends and holidays”;

(11) in section 3509(b)(1)(A), by striking “5 days” and inserting “7 days”; and

(12) in section 3771(d)(5)(B), by striking “10 days” and inserting “14 days”.

SEC. 4. AMENDMENTS RELATED TO THE CLASSIFIED INFORMATION PROCEDURES ACT.

The Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) in section 7(b), by striking “ten days” and inserting “fourteen days”;

(2) in section 7(b)(1), by inserting after “adjournment of the trial,” the following: “excluding intermediate weekends and holidays,”; and

(3) in section 7(b)(3), by inserting after “argument on appeal,” the following: “excluding intermediate weekends and holidays,”.

SEC. 5. AMENDMENT RELATED TO THE CONTROLLED SUBSTANCES ACT.

Section 413(e)(2) of the Controlled Substances Act (21 U.S.C. 853(e)(2)) is amended by striking “ten days” and inserting “fourteen days”.

SEC. 6. AMENDMENTS RELATED TO TITLE 28, UNITED STATES CODE.

Title 28, United States Code, is amended—

(1) in section 636(b)(1), by striking “ten days” and inserting “fourteen days”;

(2) in section 1453(c)(1), by striking “not less than 7 days” and inserting “not more than 10 days”; and

(3) in section 2107(c), by striking “7 days” and inserting “14 days”.

H. R. 1626—3

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall take effect on December 1, 2009.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

II Action Items

- A. Proposed Amendments to Bankruptcy Rules 9006, 1007, 1011, 1019, 1020, 2002, 2003, 2006, 2007, 2007.2, 2008, 2015, 2015.1, 2015.2, 2015.3, 2016, 3001, 3015, 3017, 3019, 3020, 4001, 4002, 4004, 6003, 6004, 6006, 6007, 7004, 7012, 8001, 8002, 8003, 8006, 8009, 8015, 8017, 9006, 9027, and 9033 Submitted for Final Approval by the Standing Committee and Submission to the Judicial Conference to Implement the Time-Computation Project.

The Advisory Committee on Bankruptcy Rules recommends that the Standing Committee approve the proposed amendments to Bankruptcy Rules 9006, 1007, 1011, 1019, 1020, 2002, 2003, 2006, 2007, 2007.2, 2008, 2015, 2015.1, 2015.2, 2015.3, 2016, 3001, 3015, 3017, 3019, 3020, 4001, 4002, 4004, 6003, 6004, 6006, 6007, 7004, 7012, 8001, 8002, 8003, 8006, 8009, 8015, 8017, 9006, 9027, and 9033 for submission to the Judicial Conference to implement the Time-Computation Project as set out below. These amendments are to become effective on December 1, 2009.

1. *Public Comment.*

The preliminary draft of proposed amendments to Bankruptcy Rules 9006, 1007, 1011, 1019, 1020, 2002, 2003, 2006, 2007, 2007.2, 2008, 2015, 2015.1, 2015.2, 2015.3, 2016, 3001, 3015, 3017, 3019, 3020, 4001, 4002, 4004, 6003, 6004, 6006, 6007, 7004, 7012, 8001, 8002, 8003, 8006, 8009, 8015, 8017, 9006, 9027, and 9033 were published for comment in August 2007. A public hearing on the preliminary draft of the Time-Computation Amendments was scheduled for January 16, 2008, but there were no requests to appear at the hearings.

The Advisory Committee received comments on Rule 9006(a) and the Time-Computation Rule Template as set out immediately after Rule 9006. The only other Time-Computation Amendment on which the Committee received comments was the proposed amendment to Rule 8002, on which we received 40 comments. Again, those comments are described below immediately after Rule 8002.

2. *Synopsis of Proposed Amendments to Implement the Time-Computation Project.*

- (a) **Rule 9006(a) (Time Computation Template Rule)** replaces subdivision (a) with the template being adopted throughout the Federal Rules for computing time. There are minor differences from the template in the Committee Note that include changes specific to bankruptcy law and practice. The amendment is offered in conjunction with proposed amendments to the deadlines set out in 39 rules. Those amendments include changes only in the time periods.

(b) **Rules 1007, 1011, 1019, 1020, 2002, 2003, 2006, 2007, 2007.2, 2008, 2015, 2015.1, 2015.2, 2015.3, 2016, 3001, 3015, 3017, 3019, 3020, 4001, 4002, 4004, 6003, 6004, 6006, 6007, 7004, 7012, 8001, 8002, 8003, 8006, 8009, 8015, 8017, 9006, 9027, and 9033** are each amended to make the deadlines under the rules multiples of seven days for any period less than 30 days. The various deadlines in these rules are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

The changes to the Bankruptcy Rules to implement the Time-Computation project, other than the changes to Rule 9006(a), are limited to changes in the deadlines as set out above.

3. *Text of Proposed Bankruptcy Rules Amendments to Implement the Time-Computation Project (on next page).*

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

Rule 9006. Computing and Extending Time

1 ~~(a) COMPUTATION. In computing any period of~~
2 ~~time prescribed or allowed by these rules or by the Federal~~
3 ~~Rules of Civil Procedure made applicable by these rules, by~~
4 ~~the local rules, by order of court, or by any applicable statute,~~
5 ~~the day of the act, event, or default from which the designated~~
6 ~~period of time begins to run shall not be included. The last~~
7 ~~day of the period so computed shall be included, unless it is~~
8 ~~a Saturday, a Sunday, or a legal holiday, or, when the act to~~
9 ~~be done is the filing of a paper in court, a day on which~~
10 ~~weather or other conditions have made the clerk's office~~
11 ~~inaccessible, in which event the period runs until the end of~~
12 ~~the next day which is not one of the aforementioned days.~~
13 ~~When the period of time prescribed or allowed is less than 8~~
14 ~~days, intermediate Saturdays, Sundays, and legal holidays~~
15 ~~shall be excluded in the computation. As used in this rule and~~
16 ~~in Rule 5001(c), "legal holiday" includes New Year's Day,~~
17 ~~Birthday of Martin Luther King, Jr., Washington's Birthday,~~
18 ~~Memorial Day, Independence Day, Labor Day, Columbus~~
19 ~~Day, Veterans Day, Thanksgiving Day, Christmas Day, and~~

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

2 FEDERAL RULES OF BANKRUPTCY PROCEDURE

20 ~~any other day appointed as a holiday by the President or the~~
21 ~~Congress of the United States, or by the state in which the~~
22 ~~court is held.~~

23 (a) COMPUTING TIME. The following rules apply
24 in computing any time period specified in these rules, in the
25 Federal Rules of Civil Procedure, in any local rule or court
26 order, or in any statute that does not specify a method of
27 computing time.

28 (1) Period Stated in Days or a Longer Unit.
29 When the period is stated in days or a longer unit of time:

30 (A) exclude the day of the event that triggers
31 the period;

32 (B) count every day, including intermediate
33 Saturdays, Sundays, and legal holidays; and

34 (C) include the last day of the period, but if
35 the last day is a Saturday, Sunday, or legal holiday, the period
36 continues to run until the end of the next day that is not a
37 Saturday, Sunday, or legal holiday.

38 (2) Period Stated in Hours. When the period is
39 stated in hours:

40 (A) begin counting immediately on the
41 occurrence of the event that triggers the period;

42 (B) count every hour, including hours during
43 intermediate Saturdays, Sundays, and legal holidays; and

44 (C) if the period would end on a Saturday,
45 Sunday, or legal holiday, then continue the period until the
46 same time on the next day that is not a Saturday, Sunday, or
47 legal holiday.

48 (3) Inaccessibility of Clerk's Office. Unless the
49 court orders otherwise, if the clerk's office is inaccessible:

50 (A) on the last day for filing under Rule
51 9006(a)(1), then the time for filing is extended to the first
52 accessible day that is not a Saturday, Sunday, or legal
53 holiday; or

54 (B) during the last hour for filing under Rule
55 9006(a)(2), then the time for filing is extended to the same
56 time on the first accessible day that is not a Saturday, Sunday,
57 or legal holiday.

58 (4) "Last Day" Defined. Unless a different time
59 is set by a statute, local rule, or order in the case, the last day
60 ends:

61 (A) for electronic filing, at midnight in the
62 court's time zone; and

63 (B) for filing by other means, when the
64 clerk's office is scheduled to close.

COMMITTEE NOTE

Subdivision (a). Subdivision (a) has been amended to simplify and clarify the provisions that describe how deadlines are computed. Subdivision (a) governs the computation of any time period found in a Federal Rule of Bankruptcy Procedure, a Federal Rule of Civil Procedure, a statute, a local rule, or a court order. In accordance with Bankruptcy Rule 9029(a), a local rule may not direct that a deadline be computed in a manner inconsistent with subdivision (a).

The time-computation provisions of subdivision (a) apply only when a time period must be computed. They do not apply when a fixed time to act is set. The amendments thus carry forward the approach taken in *Violette v. P.A. Days, Inc.*, 427 F.3d 1015, 1016 (6th Cir. 2005) (holding that Civil Rule 6(a) “does not apply to situations where the court has established a specific calendar day as a deadline”), and reject the contrary holding of *In re American Healthcare Management, Inc.*, 900 F.2d 827, 832 (5th Cir. 1990) (holding that Bankruptcy Rule 9006(a) governs treatment of date-certain deadline set by court order). If, for example, the date for filing is “no later than November 1, 2007,” subdivision (a) does not govern. But if a filing is required to be made “within 10 days” or “within 72 hours,” subdivision (a) describes how that deadline is computed.

Subdivision (a) does not apply when computing a time period set by a statute if the statute specifies a method of computing time. *See, e.g.*, 11 U.S.C. § 527(a)(2) (debt relief agencies must provide a written notice to an assisted person “not later than 3 business days” after providing bankruptcy assistance services).

Subdivision (a)(1). New subdivision (a)(1) addresses the computation of time periods that are stated in days. It also applies to time periods that are stated in weeks, months, or years. *See, e.g.*,

Federal Rule of Civil Procedure 60(c)(1) made applicable to bankruptcy cases under Rule 9024. Subdivision (a)(1)(B)'s directive to "count every day" is relevant only if the period is stated in days (not weeks, months, or years).

Under former Rule 9006(a), a period of eight days or more was computed differently than a period of less than eight days. Intermediate Saturdays, Sundays, and legal holidays were included in computing the longer periods, but excluded in computing the shorter periods. Former Rule 9006(a) thus made computing deadlines unnecessarily complicated and led to counterintuitive results.

Under new subdivision (a)(1), all deadlines stated in days (no matter the length) are computed in the same way. The day of the event that triggers the deadline is not counted. All other days — including intermediate Saturdays, Sundays, and legal holidays — are counted, with only one exception: If the period ends on a Saturday, Sunday, or legal holiday, then the deadline falls on the next day that is not a Saturday, Sunday, or legal holiday. An illustration is provided below in the discussion of subdivision (a)(5). Subdivision (a)(3) addresses filing deadlines that expire on a day when the clerk's office is inaccessible.

Where subdivision (a) formerly referred to the "act, event, or default" that triggers the deadline, new subdivision (a) refers simply to the "event" that triggers the deadline; this change in terminology is adopted for brevity and simplicity, and is not intended to change meaning.

Periods previously expressed as less than eight days will be shortened as a practical matter by the decision to count intermediate Saturdays, Sundays, and legal holidays in computing all periods. Many of those periods have been lengthened to compensate for the

change. *See, e.g.*, Rules 2008 (trustee's duty to notify court of acceptance of the appointment within five days is extended to seven days); 6004(b) (time for filing and service of objection to proposed use, sale or lease of property extended from five days prior to the hearing to seven days prior to the hearing); and 9006(d) (time for giving notice of a hearing extended from five days prior to the hearing to seven days).

Most of the 10-day periods were adjusted to meet the change in computation method by setting 14 days as the new period. *See, e.g.*, Rules 1007(h) (10-day period to file supplemental schedule for property debtor becomes entitled to acquire after the commencement of the case is extended to 14 days); 3020(e) (10-day stay of order confirming a chapter 11 plan extended to 14 days); 8002(a) (10-day period in which to file notice of appeal extended to 14 days). A 14-day period also has the advantage that the final day falls on the same day of the week as the event that triggered the period — the 14th day after a Monday, for example, is a Monday. This advantage of using week-long periods led to adopting seven-day periods to replace some of the periods set at less than 10 days, 21-day periods to replace 20-day periods, and 28-day periods to replace 25-day periods. Thirty-day and longer periods, however, were generally retained without change.

Subdivision (a)(2). New subdivision (a)(2) addresses the computation of time periods that are stated in hours. No such deadline currently appears in the Federal Rules of Bankruptcy Procedure. But some statutes contain deadlines stated in hours, as do some court orders issued in expedited proceedings.

Under subdivision (a)(2), a deadline stated in hours starts to run immediately on the occurrence of the event that triggers the deadline. The deadline generally ends when the time expires. If, however, the time period expires at a specific time (say, 2:17 p.m.) on a Saturday,

Sunday, or legal holiday, then the deadline is extended to the same time (2:17 p.m.) on the next day that is not a Saturday, Sunday, or legal holiday. Periods stated in hours are not to be “rounded up” to the next whole hour. Subdivision (a)(3) addresses situations when the clerk’s office is inaccessible during the last hour before a filing deadline expires.

Subdivision (a)(2)(B) directs that every hour be counted. Thus, for example, a 72-hour period that commences at 10:23 a.m. on Friday, November 2, 2007, will run until 9:23 a.m. on Monday, November 5; the discrepancy in start and end times in this example results from the intervening shift from daylight saving time to standard time.

Subdivision (a)(3). When determining the last day of a filing period stated in days or a longer unit of time, a day on which the clerk’s office is not accessible because of the weather or another reason is treated like a Saturday, Sunday, or legal holiday. When determining the end of a filing period stated in hours, if the clerk’s office is inaccessible during the last hour of the filing period computed under subdivision (a)(2) then the period is extended to the same time on the next day that is not a weekend, holiday, or day when the clerk’s office is inaccessible.

Subdivision (a)(3)’s extensions apply “[u]nless the court orders otherwise.” In some circumstances, the court might not wish a period of inaccessibility to trigger a full 24-hour extension; in those instances, the court can specify a briefer extension.

The text of the rule no longer refers to “weather or other conditions” as the reason for the inaccessibility of the clerk’s office. The reference to “weather” was deleted from the text to underscore that inaccessibility can occur for reasons unrelated to weather, such as an outage of the electronic filing system. Weather can still be a

reason for inaccessibility of the clerk's office. The rule does not attempt to define inaccessibility. Rather, the concept will continue to develop through caselaw. *See, e.g.*, William G. Phelps, *When Is Office of Clerk of Court Inaccessible Due to Weather or Other Conditions for Purpose of Computing Time Period for Filing Papers under Rule 6(a) of Federal Rules of Civil Procedure*, 135 A.L.R. Fed. 259 (1996) (collecting cases). In addition, many local provisions address inaccessibility for purposes of electronic filing. *See, e.g.*, D. Kan. Rule 5.4.11 ("A Filing User whose filing is made untimely as the result of a technical failure may seek appropriate relief from the court.").

Subdivision (a)(4). New subdivision (a)(4) defines the end of the last day of a period for purposes of subdivision (a)(1). Subdivision (a)(4) does not apply in computing periods stated in hours under subdivision (a)(2), and does not apply if a different time is set by a statute, local rule, or order in the case. A local rule may provide, for example, that papers filed in a drop box after the normal hours of the clerk's office are filed as of the day that is date-stamped on the papers by a device in the drop box.

28 U.S.C. § 452 provides that "[a]ll courts of the United States shall be deemed always open for the purpose of filing proper papers, issuing and returning process, and making motions and orders." A corresponding provision exists in Rule 5001(a). Some courts have held that these provisions permit an after-hours filing by handing the papers to an appropriate official. *See, e.g., Casalduc v. Diaz*, 117 F.2d 915, 917 (1st Cir. 1941). Subdivision (a)(4) does not address the effect of the statute on the question of after-hours filing; instead, the rule is designed to deal with filings in the ordinary course without regard to Section 452.

Subdivision (a)(5). New subdivision (a)(5) defines the "next" day for purposes of subdivisions (a)(1)(C) and (a)(2)(C). The Federal Rules of Bankruptcy Procedure contain both forward-looking time

periods and backward-looking time periods. A forward-looking time period requires something to be done within a period of time *after* an event. *See, e.g.*, Rules 1007(c) (the schedules, statements, and other documents shall be filed by the debtor within 14 days of the entry of the order for relief”); 1019(5)(B)(ii) (“the trustee, not later than 30 days after conversion of the case, shall file and transmit to the United States trustee a final report and account”); and 7012(a) (“If a complaint is duly served, the defendant shall serve an answer within 30 days after the issuance of the summons, except when a different time is prescribed by the court.”).

A backward-looking time period requires something to be done within a period of time *before* an event. *See, e.g.*, Rules 6004(b) (“an objection to a proposed use, sale, or lease of property shall be filed and served not less than seven days before the date set for the proposed action”); 9006(d) (“A written motion, other than one which may be heard *ex parte*, and notice of any hearing shall be served not later than seven days before the time specified for such hearing”). In determining what is the “next” day for purposes of subdivisions (a)(1)(C) and (a)(2)(C), one should continue counting in the same direction — that is, forward when computing a forward-looking period and backward when computing a backward-looking period. If, for example, a filing is due within 10 days *after* an event, and the tenth day falls on Saturday, September 1, 2007, then the filing is due on Tuesday, September 4, 2007 (Monday, September 3, is Labor Day). But if a filing is due 10 days *before* an event, and the tenth day falls on Saturday, September 1, then the filing is due on Friday, August 31.

Subdivision (a)(6). New subdivision (a)(6) defines “legal holiday” for purposes of the Federal Rules of Bankruptcy Procedure, including the time-computation provisions of subdivision (a). Subdivision (a)(6) continues to include within the definition of “legal

holiday” days that are declared a holiday by the President or Congress.

For forward-counted periods — *i.e.*, periods that are measured after an event — subdivision (a)(6)(C) includes certain state holidays within the definition of legal holidays, and defines the term “state” — for purposes of subdivision (a)(6) — to include the District of Columbia and any commonwealth or territory of the United States. Thus, for purposes of subdivision (a)(6)’s definition of “legal holiday,” “state” includes the District of Columbia, Guam, American Samoa, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands.

However, state legal holidays are not recognized in computing backward-counted periods. For both forward- and backward-counted periods, the rule thus protects those who may be unsure of the effect of state holidays. For forward-counted deadlines, treating state holidays the same as federal holidays extends the deadline. Thus, someone who thought that the federal courts might be closed on a state holiday would be safeguarded against an inadvertent late filing. In contrast, for backward-counted deadlines, not giving state holidays the treatment of federal holidays allows filing on the state holiday itself rather than the day before. Take, for example, Monday, April 21, 2008 (Patriot’s Day, a legal holiday in the relevant state). If a filing is due 14 days after an event, and the fourteenth day is April 21, then the filing is due on Tuesday, April 22 because Monday, April 21 counts as a legal holiday. But if a filing is due 14 days before an event, and the fourteenth day is April 21, the filing is due on Monday, April 21; the fact that April 21 is a state holiday does not make April 21 a legal holiday for purposes of computing this backward-counted deadline. But note that if the clerk’s office is inaccessible on Monday, April 21, then subdivision (a)(3) extends the April 21 filing deadline forward to the next accessible day that is not

a Saturday, Sunday or legal holiday – no earlier than Tuesday, April 22.

Changes Made After Publication:

The reference to Rule 6(a)(1) in subdivision (a)(3)(A) at line 50 of the rule as it was published was corrected by referring instead to Rule 9006(a)(1).

The Standing Committee changed Rule 9006(a)(6) to exclude state holidays from the definition of “legal holiday” for purposes of computing backward-counted periods; conforming changes were made to the Committee Note to subdivision (a)(6). In addition, the term “possession” was deleted from the definition of “state” in subdivision (a)(6), and a conforming change was made to the Committee Note.

Rule 1007. Lists, Schedules, Statements, and Other Documents; Time Limits²

- 1 (a) CORPORATE OWNERSHIP STATEMENT,
2 LIST OF CREDITORS AND EQUITY SECURITY
3 HOLDERS, AND OTHER LISTS
4 * * * * *

² Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

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25 subdivision (b)(1) shall be filed by the debtor within ~~15~~ 14
26 days of the entry of the order for relief. In a voluntary case,
27 the documents required by paragraphs (A), (C), and (D) of
28 subdivision (b)(3) shall be filed with the petition. Unless the
29 court orders otherwise, a debtor who has filed a statement
30 under subdivision (b)(3)(B), shall file the documents required
31 by subdivision (b)(3)(A) within ~~15~~ 14 days of the order for
32 relief. In a chapter 7 case, the debtor shall file the statement
33 required by subdivision (b)(7) within 45⁴ days after the first
34 date set for the meeting of creditors under § 341 of the Code,
35 and in a chapter 11 or 13 case no later than the date when the
36 last payment was made by the debtor as required by the plan
37 or the filing of a motion for a discharge under §
38 1141(d)(5)(B) or § 1328(b) of the Code. The court may, at
39 any time and in its discretion, enlarge the time to file the
40 statement required by subdivision (b)(7). The debtor shall
41 file the statement required by subdivision (b)(8) no earlier
42 than the date of the last payment made under the plan or the
43 date of the filing of a motion for a discharge under §§
44 1141(d)(5)(B), 1228(b), or 1328(b) of the Code. Lists,

⁴The Committee on Practice and Procedure has approved for publication in August 2008 an amendment to this deadline. Under the proposal, the 45-day deadline would become a 60-day deadline.

45 schedules, statements, and other documents filed prior to the
46 conversion of a case to another chapter shall be deemed filed
47 in the converted case unless the court directs otherwise.
48 Except as provided in § 1116(3), any extension of time to file
49 schedules, statements, and other documents required under
50 this rule may be granted only on motion for cause shown and
51 on notice to the United States trustee, any committee elected
52 under § 705 or appointed under § 1102 of the Code, trustee,
53 examiner, or other party as the court may direct. Notice of an
54 extension shall be given to the United States trustee and to
55 any committee, trustee, or other party as the court may direct.

56 * * * * *

57 (f) STATEMENT OF SOCIAL SECURITY
58 NUMBER. An individual debtor shall submit a verified
59 statement that sets out the debtor's social security number, or
60 states that the debtor does not have a social security number.
61 In a voluntary case, the debtor shall submit the statement with
62 the petition. In an involuntary case, the debtor shall submit
63 the statement within ~~15~~ 14 days after the entry of the order for
64 relief.

65 * * * * *

66 (h) INTERESTS ACQUIRED OR ARISING AFTER
67 PETITION. If, as provided by § 541(a)(5) of the Code, the

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68 debtor acquires or becomes entitled to acquire any interest in
69 property, the debtor shall within ~~10~~ 14 days after the
70 information comes to the debtor's knowledge or within such
71 further time the court may allow, file a supplemental schedule
72 in the chapter 7 liquidation case, chapter 11 reorganization
73 case, chapter 12 family farmer's debt adjustment case, or
74 chapter 13 individual debt adjustment case. If any of the
75 property required to be reported under this subdivision is
76 claimed by the debtor as exempt, the debtor shall claim the
77 exemptions in the supplemental schedule. The duty to file a
78 supplemental schedule in accordance with this subdivision
79 continues notwithstanding the closing of the case, except that
80 the schedule need not be filed in a chapter 11, chapter 12, or
81 chapter 13 case with respect to property acquired after entry
82 of the order confirming a chapter 11 plan or discharging the
83 debtor in a chapter 12 or chapter 13 case.

84

* * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. Each deadline in the rule of fewer than 30 days is amended to substitute a deadline that is a multiple of seven

days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 1011. Responsive Pleading or Motion in Involuntary and Cross-Border Cases⁵

1

* * * * *

2

(b) DEFENSES AND OBJECTIONS; WHEN

3

PRESENTED. Defenses and objections to the petition shall

4

be presented in the manner prescribed by Rule 12

5

F. R. Civ. P. and shall be filed and served within ~~20~~ 21 days

6

after service of the summons, except that if service is made

7

by publication on a party or partner not residing or found

8

within the state in which the court sits, the court shall

9

prescribe the time for filing and serving the response.

10

* * * * *

COMMITTEE NOTE

⁵ Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 1019. Conversion of a Chapter 11 Reorganization Case, Chapter 12 Family Farmer’s Debt Adjustment Case, or Chapter 13 Individual’s Debt Adjustment Case to a Chapter 7 Liquidation Case

1

* * * * *

2

(5) *Filing Final Report and Schedule of*

3

Postpetition Debts.

4

(A) Conversion of Chapter 11 or Chapter 12

5

Case. Unless the court directs otherwise, if a chapter 11 or

6

chapter 12 case is converted to chapter 7, the debtor in

7

possession or, if the debtor is not a debtor in possession, the

8

trustee serving at the time of conversion, shall:

9

(i) not later than ~~15~~ 14 days after

10

conversion of the case, file a schedule of unpaid debts

11

incurred after the filing of the petition and before conversion

12 of the case, including the name and address of each holder of
13 a claim; and

14 (ii) not later than 30 days after
15 conversion of the case, file and transmit to the United States
16 trustee a final report and account;

17 (B) Conversion of Chapter 13 Case. Unless
18 the court directs otherwise, if a chapter 13 case is converted
19 to chapter 7,

20 (i) the debtor, not later than ~~15~~ 14 days
21 after conversion of the case, shall file a schedule of unpaid
22 debts incurred after the filing of the petition and before
23 conversion of the case, including the name and address of
24 each holder of a claim; and

25 (ii) the trustee, not later than 30 days
26 after conversion of the case, shall file and transmit to the
27 United States trustee a final report and account;

28 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 1020. Small Business Chapter 11 Reorganization Case⁶

1 (a) SMALL BUSINESS DEBTOR DESIGNATION.
2 In a voluntary chapter 11 case, the debtor shall state in the
3 petition whether the debtor is a small business debtor. In an
4 involuntary chapter 11 case, the debtor shall file within ~~15~~ 14
5 days after entry of the order for relief a statement as to
6 whether the debtor is a small business debtor. Except as
7 provided in subdivision (c), the status of the case as a small
8 business case shall be in accordance with the debtor's

⁶ Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

9 statement under this subdivision, unless and until the court
10 enters an order finding that the debtor's statement is incorrect.

11 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

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 Trustee⁷

1 (a) TWENTY-ONE-DAY NOTICES TO PARTIES IN
2 INTEREST. Except as provided in subdivisions (h), (i), (l),
3 (p), and (q) of this rule, the clerk, or some other person as the

⁷ Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

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4 court may direct, shall give the debtor, the trustee, all creditors
5 and indenture trustees at least ~~20~~ 21 days' notice by mail of:

6 * * * * *

7 (b) ~~TWENTY-FIVE-EIGHT-DAY~~ TWENTY-EIGHT-DAY NOTICES TO
8 PARTIES IN INTEREST. Except as provided in subdivision
9 (l) of this rule, the clerk, or some other person as the court may
10 direct, shall give the debtor, the trustee, all creditors and
11 indenture trustees not less than ~~25~~ 28 days notice by mail of
12 the time fixed (1) for filing objections and the hearing to
13 consider approval of a disclosure statement or, under
14 § 1125(f), to make a final determination whether the plan
15 provides adequate information so that a separate disclosure
16 statement is not necessary; and (2) for filing objections and the
17 hearing to consider confirmation of a chapter 9, chapter 11, or
18 chapter 13 plan.

19 * * * * *

20 (o) NOTICE OF ORDER FOR RELIEF IN
21 CONSUMER CASE. In a voluntary case commenced by an
22 individual debtor whose debts are primarily consumer debts,
23 the clerk or some other person as the court may direct shall
24 give the trustee and all creditors notice by mail of the order for
25 relief within ~~20~~ 21 days from the date thereof.

26 * * * * *

27 (q) NOTICE OF PETITION FOR RECOGNITION OF
28 FOREIGN PROCEEDING AND OF COURT'S INTENTION
29 TO COMMUNICATE WITH FOREIGN COURTS AND
30 FOREIGN REPRESENTATIVES.

31 (1) *Notice of Petition for Recognition.* The clerk,
32 or some other person as the court may direct, shall forthwith
33 give the debtor, all persons or bodies authorized to administer
34 foreign proceedings of the debtor, all entities against whom
35 provisional relief is being sought under § 1519 of the Code, all
36 parties to litigation pending in the United States in which the
37 debtor is a party at the time of the filing of the petition, and
38 such other entities as the court may direct, at least ~~20~~ 21 days'
39 notice by mail of the hearing on the petition for recognition of
40 a foreign proceeding. The notice shall state whether the
41 petition seeks recognition as a foreign main proceeding or
42 foreign nonmain proceeding.

43 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 2003. Meeting of Creditors or Equity Security Holders⁸

1 (a) DATE AND PLACE. Except as otherwise
 2 provided in § 341(e) of the Code, in a chapter 7 liquidation or
 3 a chapter 11 reorganization case, the United States trustee
 4 shall call a meeting of creditors to be held no fewer than ~~20~~
 5 21 and no more than 40 days after the order for relief. In a
 6 chapter 12 family farmer debt adjustment case, the United
 7 States trustee shall call a meeting of creditors to be held no
 8 fewer than ~~20~~ 21 and no more than 35 days after the order for
 9 relief. In a chapter 13 individual's debt adjustment case, the

⁸ Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

10 United States trustee shall call a meeting of creditors to be
11 held no fewer than ~~20~~ 21 and no more than 50 days after the
12 order for relief. If there is an appeal from or a motion to
13 vacate the order for relief, or if there is a motion to dismiss
14 the case, the United States trustee may set a later date for the
15 meeting. The meeting may be held at a regular place for
16 holding court or at any other place designated by the United
17 States trustee within the district convenient for the parties in
18 interest. If the United States trustee designates a place for the
19 meeting which is not regularly staffed by the United States
20 trustee or an assistant who may preside at the meeting, the
21 meeting may be held not more than 60 days after the order for
22 relief.

23 * * * * *

24 (d) REPORT OF ELECTION AND RESOLUTION
25 OF DISPUTES IN A CHAPTER 7 CASE.

26 * * * * *

27 (2) *Disputed Election.* If the election is disputed,
28 the United States trustee shall promptly file a report stating
29 that the election is disputed, informing the court of the nature
30 of the dispute, and listing the name and address of any
31 candidate elected under any alternative presented by the
32 dispute. No later than the date on which the report is filed,

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33 the United States trustee shall mail a copy of the report to any
34 party in interest that has made a request to receive a copy of
35 the report. Pending disposition by the court of a disputed
36 election for trustee, the interim trustee shall continue in
37 office. Unless a motion for the resolution of the dispute is
38 filed no later than ~~10~~ 14 days after the United States trustee
39 files a report of a disputed election for trustee, the interim
40 trustee shall serve as trustee in the case.

41

* * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 2007. Review of Appointment of Creditors' Committee Organized Before Commencement of the Case

1

* * * * *

2

(b) SELECTION OF MEMBERS OF COMMITTEE.

3

The court may find that a committee organized by unsecured

4

creditors before the commencement of a chapter 9 or chapter

5

11 case was fairly chosen if:

6

(1) it was selected by a majority in number and

7

amount of claims of unsecured creditors who may vote under

8

§ 702(a) of the Code and were present in person or

9

represented at a meeting of which all creditors having

10

unsecured claims of over \$1,000 or the 100 unsecured

11

creditors having the largest claims had at least ~~five~~ seven days

12 notice in writing, and of which meeting written minutes
13 reporting the names of the creditors present or represented
14 and voting and the amounts of their claims were kept and are
15 available for inspection;
16 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 2007.2. Appointment of Patient Care Ombudsman in a Health Care Business Case⁹

1 (a) ORDER TO APPOINT PATIENT CARE
2 OMBUDSMAN. In a chapter 7, chapter 9, or chapter 11 case
3 in which the debtor is a health care business, the court shall

⁹ Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

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4 order the appointment of a patient care ombudsman under
5 § 333 of the Code, unless the court, on motion of the United
6 States trustee or a party in interest filed no later than ~~20~~ 21
7 days after the commencement of the case or within another
8 time fixed by the court, finds that the appointment of a patient
9 care ombudsman is not necessary under the specific
10 circumstances of the case for the protection of patients.

11 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 2008. Notice to Trustee of Selection

1 The United States trustee shall immediately notify the
2 person selected as trustee how to qualify and, if applicable,
3 the amount of the trustee’s bond. A trustee that has filed a
4 blanket bond pursuant to Rule 2010 and has been selected as
5 trustee in a chapter 7, chapter 12, or chapter 13 case that does
6 not notify the court and the United States trustee in writing of
7 rejection of the office within ~~five~~ seven days after receipt of
8 notice of selection shall be deemed to have accepted the
9 office. Any other person selected as trustee shall notify the
10 court and the United States trustee in writing of acceptance of
11 the office within ~~five~~ seven days after receipt of notice of
12 selection or shall be deemed to have rejected the office.

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

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Rule 2015. Duty to Keep Records, Make Reports, and Give Notice of Case or Change of Status¹⁰

1 (a) TRUSTEE OR DEBTOR IN POSSESSION. A
2 trustee or debtor in possession shall:

3 * * * * *

4 (6) in a chapter 11 small business case, unless the
5 court, for cause, sets another reporting interval, file and
6 transmit to the United States trustee for each calendar month
7 after the order for relief, on the appropriate Official Form, the
8 report required by § 308. If the order for relief is within the
9 first 15 days of a calendar month, a report shall be filed for
10 the portion of the month that follows the order for relief. If
11 the order for relief is after the 15th day of a calendar month,
12 the period for the remainder of the month shall be included in
13 the report for the next calendar month. Each report shall be
14 filed no later than ~~20~~ 21 days after the last day of the calendar
15 month following the month covered by the report. The
16 obligation to file reports under this subparagraph terminates
17 on the effective date of the plan, or conversion or dismissal of
18 the case.

19 * * * * *

¹⁰ Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

20 (d) FOREIGN REPRESENTATIVE. In a case in
21 which the court has granted recognition of a foreign
22 proceeding under chapter 15, the foreign representative shall
23 file any notice required under § 1518 of the Code within ~~15~~
24 14 days after the date when the representative becomes aware
25 of the subsequent information.

26

* * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

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Rule 2015.1. Patient Care Ombudsman¹¹

1 (a) **REPORTS.** A patient care ombudsman, at least ~~10~~
2 14 days before making a report under § 333(b)(2) of the
3 Code, shall give notice that the report will be made to the
4 court, unless the court orders otherwise. The notice shall be
5 transmitted to the United States trustee, posted conspicuously
6 at the health care facility that is the subject of the report, and
7 served on: the debtor; the trustee; all patients; and any
8 committee elected under § 705 or appointed under § 1102 of
9 the Code or its authorized agent, or, if the case is a chapter 9
10 municipality case or a chapter 11 reorganization case and no
11 committee of unsecured creditors has been appointed under
12 § 1102, on the creditors included on the list filed under Rule
13 1007(d); and such other entities as the court may direct. The
14 notice shall state the date and time when the report will be
15 made, the manner in which the report will be made, and, if the
16 report is in writing, the name, address, telephone number,
17 email address, and website, if any, of the person from whom
18 a copy of the report may be obtained at the debtor's expense.

¹¹ Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

19 (b) AUTHORIZATION TO REVIEW
20 CONFIDENTIAL PATIENT RECORDS. A motion by a
21 patient care ombudsman under § 333(c) to review
22 confidential patient records shall be governed by Rule 9014,
23 served on the patient and any family member or other contact
24 person whose name and address has been given to the trustee
25 or the debtor for the purpose of providing information
26 regarding the patient's health care, and transmitted to the
27 United States trustee subject to applicable nonbankruptcy law
28 relating to patient privacy. Unless the court orders otherwise,
29 a hearing on the motion may not be commenced earlier than
30 ~~15~~ 14 days after service of the motion.

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

9 shared or agreed to share the compensation with any other
10 entity. The statement shall include the particulars of any such
11 sharing or agreement to share by the attorney, but the details
12 of any agreement for the sharing of the compensation with a
13 member or regular associate of the attorney's law firm shall
14 not be required. A supplemental statement shall be filed and
15 transmitted to the United States trustee within ~~15~~ 14 days
16 after any payment or agreement not previously disclosed.

17 (c) DISCLOSURE OF COMPENSATION PAID OR
18 PROMISED TO BANKRUPTCY PETITION PREPARER.
19 Before a petition is filed, every ~~Every~~ bankruptcy petition
20 preparer for a debtor shall ~~file~~ deliver to the debtor, a the
21 declaration under penalty of perjury ~~and transmit the~~
22 ~~declaration to the United States trustee within 10 days after~~
23 ~~the date of the filing of the petition, or at another time as the~~
24 ~~court may direct, as required by § 110(h)(1) (2).~~ The
25 declaration shall ~~must~~ disclose any fee, and the source of any

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26 fee, received from or on behalf of the debtor within 12
27 months of the filing of the case and all unpaid fees charged to
28 the debtor. The declaration shall also ~~must~~ describe the
29 services performed and documents prepared or caused to be
30 prepared by the bankruptcy petition preparer. The declaration
31 shall be filed with the petition. The petition preparer shall file
32 a ~~A~~ supplemental statement ~~shall be filed~~ within ~~10~~ 14 days
33 after any payment or agreement not previously disclosed.

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5 day periods become 7 day periods
- 10 day periods become 14 day periods
- 15 day periods become 14 day periods
- 20 day periods become 21 day periods
- 25 day periods become 28 day periods

Subdivision (c) is amended to reflect the 2005 amendment to § 110(h)(1) of the Bankruptcy Code which now requires that the declaration be filed with the petition. The statute previously required

that the petition preparer file the declaration within 10 days after the filing of the petition. The amendment to the rule also corrects the cross reference to § 110(h)(1), which was redesignated as subparagraph (h)(2) of § 110 by the 2005 amendment to the Code.

Other changes are stylistic.

Rule 3001. Proof of Claim

1

* * * * *

2

(e) TRANSFERRED CLAIM.

3

* * * * *

4

(2) *Transfer of Claim Other than for Security*

5

after Proof Filed. If a claim other than one based on a

6

publicly traded note, bond, or debenture has been transferred

7

other than for security after the proof of claim has been filed,

8

evidence of the transfer shall be filed by the transferee. The

9

clerk shall immediately notify the alleged transferor by mail

10

of the filing of the evidence of transfer and that objection

11

thereto, if any, must be filed within ~~20~~ 21 days of the mailing

12

of the notice or within any additional time allowed by the

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13 court. If the alleged transferor files a timely objection and the
14 court finds, after notice and a hearing, that the claim has been
15 transferred other than for security, it shall enter an order
16 substituting the transferee for the transferor. If a timely
17 objection is not filed by the alleged transferor, the transferee
18 shall be substituted for the transferor.

19 * * * * *

20 (4) *Transfer of Claim for Security after Proof*
21 *Filed.* If a claim other than one based on a publicly traded
22 note, bond, or debenture has been transferred for security
23 after the proof of claim has been filed, evidence of the terms
24 of the transfer shall be filed by the transferee. The clerk shall
25 immediately notify the alleged transferor by mail of the filing
26 of the evidence of transfer and that objection thereto, if any,
27 must be filed within ~~20~~ 21 days of the mailing of the notice or
28 within any additional time allowed by the court. If a timely
29 objection is filed by the alleged transferor, the court, after

30 notice and a hearing, shall determine whether the claim has
31 been transferred for security. If the transferor or transferee
32 does not file an agreement regarding its relative rights
33 respecting voting of the claim, payment of dividends thereon,
34 or participation in the administration of the estate, on motion
35 by a party in interest and after notice and a hearing, the court
36 shall enter such orders respecting these matters as may be
37 appropriate.

38

* * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 3015. Filing, Objection to Confirmation, and Modification of a Plan in a Chapter 12 Family Farmer's Debt Adjustment or a Chapter 13 Individual's Debt Adjustment Case

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(b) CHAPTER 13 PLAN. The debtor may file a chapter 13 plan with the petition. If a plan is not filed with the petition, it shall be filed within ~~15~~ 14 days thereafter, and such time may not be further extended except for cause shown and on notice as the court may direct. If a case is converted to chapter 13, a plan shall be filed within ~~15~~ 14 days thereafter, and such time may not be further extended except for cause shown and on notice as the court may direct.

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(g) MODIFICATION OF PLAN AFTER CONFIRMATION. A request to modify a plan pursuant to § 1229 or § 1329 of the Code shall identify the proponent and shall be filed together with the proposed modification. The clerk, or some other person as the court may direct, shall give

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16 the debtor, the trustee, and all creditors not less than ~~20~~ 21
17 days notice by mail of the time fixed for filing objections and,
18 if an objection is filed, the hearing to consider the proposed
19 modification, unless the court orders otherwise with respect
20 to creditors who are not affected by the proposed
21 modification. A copy of the notice shall be transmitted to the
22 United States trustee. A copy of the proposed modification,
23 or a summary thereof, shall be included with the notice. If
24 required by the court, the proponent shall furnish a sufficient
25 number of copies of the proposed modification, or a summary
26 thereof, to enable the clerk to include a copy with each notice.
27 Any objection to the proposed modification shall be filed and
28 served on the debtor, the trustee, and any other entity
29 designated by the court, and shall be transmitted to the United
30 States trustee. An objection to a proposed modification is
31 governed by Rule 9014.

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 3017. Court Consideration of Disclosure Statement in a Chapter 9 Municipality or Chapter 11 Reorganization Case

1 (a) HEARING ON DISCLOSURE STATEMENT
2 AND OBJECTIONS. Except as provided in Rule 3017.1,
3 after a disclosure statement is filed in accordance with Rule
4 3016(b), the court shall hold a hearing on at least ~~25~~ 28 days'
5 notice to the debtor, creditors, equity security holders and
6 other parties in interest as provided in Rule 2002 to consider
7 the disclosure statement and any objections or modifications
8 thereto. The plan and the disclosure statement shall be

9 mailed with the notice of the hearing only to the debtor, any
10 trustee or committee appointed under the Code, the Securities
11 and Exchange Commission and any party in interest who
12 requests in writing a copy of the statement or plan.
13 Objections to the disclosure statement shall be filed and
14 served on the debtor, the trustee, any committee appointed
15 under the Code, and any other entity designated by the court,
16 at any time before the disclosure statement is approved or by
17 an earlier date as the court may fix. In a chapter 11
18 reorganization case, every notice, plan, disclosure statement,
19 and objection required to be served or mailed pursuant to this
20 subdivision shall be transmitted to the United States trustee
21 within the time provided in this subdivision.

22 * * * * *

23 (f) NOTICE AND TRANSMISSION OF
24 DOCUMENTS TO ENTITIES SUBJECT TO AN
25 INJUNCTION UNDER A PLAN. If a plan provides for an

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26 injunction against conduct not otherwise enjoined under the
27 Code and an entity that would be subject to the injunction is
28 not a creditor or equity security holder, at the hearing held
29 under Rule 3017(a), the court shall consider procedures for
30 providing the entity with:

- 31 (1) at least ~~25~~ 28 days' notice of the time fixed for
32 filing objections and the hearing on confirmation of the plan
33 containing the information described in Rule 2002(c)(3); and
34 (2) to the extent feasible, a copy of the plan and
35 disclosure statement.

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 3019. Modification of Accepted Plan in a Chapter 9 Municipality or Chapter 11 Reorganization Case¹⁵

* * * * *

1 (b) MODIFICATION OF PLAN AFTER
2 CONFIRMATION IN INDIVIDUAL DEBTOR CASE. If
3 the debtor is an individual, a request to modify the plan under
4 § 1127(e) of the Code is governed by Rule 9014. The request
5 shall identify the proponent and shall be filed together with
6 the proposed modification. The clerk, or some other person
7 as the court may direct, shall give the debtor, the trustee, and
8 all creditors not less than ~~20~~ 21 days' notice by mail of the
9 time fixed to file objections and, if an objection is filed, the
10 hearing to consider the proposed modification, unless the
11 court orders otherwise with respect to creditors who are not
12 affected by the proposed modification. A copy of the notice

¹⁵ Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

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13 shall be transmitted to the United States trustee, together with
14 a copy of the proposed modification. Any objection to the
15 proposed modification shall be filed and served on the debtor,
16 the proponent of the modification, the trustee, and any other
17 entity designated by the court, and shall be transmitted to the
18 United States trustee.

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 3020. Deposit; Confirmation of Plan in a Chapter 9 Municipality or Chapter 11 Reorganization Case

11 provide to the requesting creditor a copy of the return,
12 including any attachments, or a transcript of the tax return, or
13 provide a written statement that the documentation does not
14 exist.

15 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 4004. Grant or Denial of Discharge

1 (a) TIME FOR FILING COMPLAINT OBJECTING
2 TO DISCHARGE; NOTICE OF TIME FIXED. In a chapter
3 7 liquidation case a complaint objecting to the debtor's

56 FEDERAL RULES OF BANKRUPTCY PROCEDURE

4 discharge under § 727(a) of the Code shall be filed no later
5 than 60 days after the first date set for the meeting of
6 creditors under § 341(a). In a chapter 11 reorganization case,
7 the complaint shall be filed no later than the first date set for
8 the hearing on confirmation. At least ~~25~~ 28 days' notice of
9 the time so fixed shall be given to the United States trustee
10 and all creditors as provided in Rule 2002(f) and (k) and to
11 the trustee and the trustee's attorney.

12 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 6003. Interim and Final Relief Immediately Following the Commencement of the Case— Applications for Employment; Motions for Use, Sale, or Lease of Property; and Motions for Assumption or Assignment of Executory Contracts

1 Except to the extent that relief is necessary to avoid
2 immediate and irreparable harm, the court shall not, within 20
3 21 days after the filing of the petition, grant relief regarding
4 the following:

- 5 (a) an application under Rule 2014;
- 6 (b) a motion to use, sell, lease, or otherwise incur an
7 obligation regarding property of the estate, including a
8 motion to pay all or part of a claim that arose before the filing
9 of the petition, but not a motion under Rule 4001; and
- 10 (c) a motion to assume or assign an executory contract
11 or unexpired lease in accordance with § 365.

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to

substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 6004. Use, Sale, or Lease of Property¹⁷

1 * * * * *

2 (b) OBJECTION TO PROPOSAL. Except as

3 provided in subdivisions (c) and (d) of this rule, an objection

4 to a proposed use, sale, or lease of property shall be filed and

5 served not less than ~~five~~ seven days before the date set for the

6 proposed action or within the time fixed by the court. An

7 objection to the proposed use, sale, or lease of property is

8 governed by Rule 9014.

9 * * * * *

¹⁷ Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

10 (d) SALE OF PROPERTY UNDER \$2,500.

11 Notwithstanding subdivision (a) of this rule, when all of the
12 nonexempt property of the estate has an aggregate gross value
13 less than \$2,500, it shall be sufficient to give a general notice
14 of intent to sell such property other than in the ordinary
15 course of business to all creditors, indenture trustees,
16 committees appointed or elected pursuant to the Code, the
17 United States trustee and other persons as the court may
18 direct. An objection to any such sale may be filed and served
19 by a party in interest within ~~15~~ 14 days of the mailing of the
20 notice, or within the time fixed by the court. An objection is
21 governed by Rule 9014.

22 * * * * *

23 (g) SALE OF PERSONALLY IDENTIFIABLE
24 INFORMATION.

25 * * * * *

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26 (2) *Appointment.* If a consumer privacy
27 ombudsman is appointed under § 332, no later than ~~5~~ seven
28 days before the hearing on the motion under § 363(b)(1)(B),
29 the United States trustee shall file a notice of the
30 appointment, including the name and address of the person
31 appointed. The United States trustee's notice shall be
32 accompanied by a verified statement of the person appointed
33 setting forth the person's connections with the debtor,
34 creditors, any other party in interest, their respective attorneys
35 and accountants, the United States trustee, or any person
36 employed in the office of the United States trustee.

37 (h) **STAY OF ORDER AUTHORIZING USE, SALE,**
38 **OR LEASE OF PROPERTY.** An order authorizing the use,
39 sale, or lease of property other than cash collateral is stayed
40 until the expiration of ~~10~~ 14 days after entry of the order,
41 unless the court orders otherwise.

* * * * *

- B. Proposed Amendments to Bankruptcy Rules 4008, 7052 and 9021, and Proposed New Bankruptcy Rule 7058, Submitted for Final Approval by the Standing Committee and Submission to the Judicial Conference.

The Advisory Committee on Bankruptcy Rules recommends that the Standing Committee approve the proposed amendments to Bankruptcy Rules 4008, 7052 and 9021, and proposed new Bankruptcy Rule 7058 for submission to the Judicial Conference. These amendments and addition to the Rules are to become effective on December 1, 2009.

1. *Public Comment.*

The preliminary draft of proposed amendments to Bankruptcy Rules 4008, 7052 and 9021, and proposed new Bankruptcy Rules 1017.1 and 7058, were published for comment in August 2007. A public hearing on the preliminary draft of the amendments and additions to the Bankruptcy Rules was scheduled for January 25, 2008, but there were no requests to appear at the hearing.

We received comments on many of the proposed additions and amendments, and the Advisory Committee reviewed these comments and, with the exception of proposed Rule 1017.1, approved the amendments to the rules either as published or with slight changes that are described in the Changes Made After Publication section.

The Advisory Committee received five comments on proposed new Rule 1017.1, which would have revised the process for granting an extension of time to complete the credit counseling requirement for individual debtors. The comments asserted that the rule is unnecessary because very few cases have arisen in which there was any request for an extension, and each of those cases was filed shortly after the effective date of the 2005 amendments to the Bankruptcy Code. The commentators noted that individual debtors and their attorneys seem to have adjusted to the new process, and the nearly universal availability of credit counseling briefing services has made the need for the time extensions almost nonexistent. Therefore, the Committee concluded that there is no need for the rules to adopt a process for these matters, and it withdraws proposed new Rule 1017.1.

2. *Synopsis of Proposed General Amendments:*

- (a) **Rule 4008** is amended to insert a requirement that the Official Form of a reaffirmation cover sheet be filed with the court along with the reaffirmation agreement. The cover sheet will include the information necessary to assist the court in determining what action to take regarding the proposed reaffirmation.
- (b) **Rule 7052** is amended to clarify that entry of judgment in an adversary proceeding means the entry of a judgment or order under the Bankruptcy Rules rather than under the Federal Rules of Civil Procedure.

- (c) **Rule 7058** is new, and it makes Rule 58 of the Federal Rules of Civil Procedure applicable in adversary proceedings.
 - (d) **Rule 9021** is amended in connection with the addition of Rule 7058. Since that rule governs in adversary proceedings, Rule 9021 no longer needs to make Rule 58 of the Federal Rules of Civil Procedure applicable in those actions. This amendment and the addition of Rule 7058 results in the explicit adoption of the separate document requirement for judgments in adversary proceedings, while the effectiveness of an order or judgment in other actions within the case is determined under Rule 5003, which does not include the separate document requirement.
3. *Text of Proposed Amendments to Rules 4008, 7052, and 9021, and New Rule 7058 (on next page).*

Rule 4008. Filing of Reaffirmation Agreement; Statement in Support of Reaffirmation Agreement*

1 (a) FILING OF REAFFIRMATION AGREEMENT.

2 A reaffirmation agreement shall be filed no later than 60 days
3 after the first date set for the meeting of creditors under
4 § 341(a) of the Code. The reaffirmation agreement shall be
5 accompanied by a cover sheet, prepared as prescribed by the
6 appropriate Official Form. The court may, at any time and in
7 its discretion, enlarge the time to file a reaffirmation
8 agreement.

9 * * * * *

COMMITTEE NOTE

Subdivision (a) of the rule is amended to require that the entity filing the reaffirmation agreement with the court also include Official Form 27, the Reaffirmation Agreement Cover Sheet. The form includes information necessary for the court to determine whether the proposed reaffirmation agreement is presumed to be an undue hardship for the debtor under § 524(m) of the Code.

*Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

Changes Made After Publication:

No changes since publication.

Rule 7052. Findings by the Court**

- 1 Rule 52 F. R. Civ. P. applies in adversary proceedings.
2 In these proceedings, the reference in Rule 52 F. R. Civ. P. to
3 the entry of judgment under Rule 58 F. R. Civ. P. shall be
4 read as a reference to the entry of a judgment or order under
5 Rule 5003(a).

**In addition, the Advisory Committee on Bankruptcy Rules has recommended approval of a proposed amendment to Rule 7052 on page 98 as part of the time-computation project, which also would take effect on December 1, 2009, if the Judicial Conference and the Supreme Court approve and if Congress takes no action to the contrary. The rule as amended provides that: “Rule 52 F. R. Civ. P. applies in adversary proceedings, except that any motion under subdivision (b) of that rule for amended or additional findings shall be filed no later than 14 days after entry of judgment. In these proceedings, the reference in Rule 52 F. R. Civ. P. to the entry of judgment under Rule 58 F. R. Civ. P. shall be read as a reference to the entry of a judgment or order under Rule 5003(a).”

COMMITTEE NOTE

The rule is amended to clarify that the reference in Rule 52 F. R. Civ. P. to Rule 58 F. R. Civ. P. and its provisions is construed as a reference to the entry of a judgment or order under Rule 5003(a).

Changes Made After Publication:

No changes since publication.

Rule 7058. Entering Judgment in Adversary Proceeding

- 1 Rule 58 F. R. Civ. P. applies in adversary proceedings.
- 2 In these proceedings, the reference in Rule 58 F. R. Civ. P. to
- 3 the civil docket shall be read as a reference to the docket
- 4 maintained by the clerk under Rule 5003(a).

COMMITTEE NOTE

This rule makes Rule 58 F. R. Civ. P. applicable in adversary proceedings and is added in connection with the amendments to Rule 9021.

Changes Made After Publication:

No changes since publication.

Rule 9021. Entry of Judgment

1 ~~Except as otherwise provided herein, Rule 58~~
2 ~~F. R. Civ. P. applies in cases under the Code. Every~~
3 ~~judgment entered in an adversary proceeding or contested~~
4 ~~matter shall be set forth on a separate document. A judgment~~
5 ~~or order is effective when entered as provided in under Rule~~
6 ~~5003. The reference in Rule 58 F. R. Civ. P. to Rule 79(a) F.~~
7 ~~R. Civ. P. shall be read as a reference to Rule 5003 of these~~
8 ~~rules.~~

COMMITTEE NOTE

The rule is amended in connection with the amendment that adds Rule 7058. The entry of judgment in adversary proceedings is governed by Rule 7058, and the entry of a judgment or order in all other proceedings is governed by this rule.

Changes Made After Publication:

No changes since publication.

- C. Proposed Amendments to Official Forms 1 and 8, and Proposed New Official Form 27 Submitted for Final Approval by the Standing Committee and Submission to the Judicial Conference.

The Advisory Committee on Bankruptcy Rules recommends that the Standing Committee approve the proposed amendments to Official Forms 1 and 8, and Proposed New Official Form 27 for submission to the Judicial Conference. The amendments to Official Forms 1 and 8 are to become effective on December 1, 2008. Proposed new Official Form 27 is to become effective on December 1, 2009, in conjunction with a proposed amendment to Bankruptcy Rule 4008.

1. *Synopsis of Proposed Amendments to Exhibit D of Official Form 1 and Official Form 8, and Proposed New Official Form 27.*
 - (a) **Exhibit D to Official Form 1** is amended to delete any reference to a requirement that the debtor file a motion to obtain an order to permit the debtor to complete the required credit counseling briefing after the commencement of the case. It is also amended to clarify that the debtor still must complete the briefing even if the request is granted. It also warns the debtor that the case may be dismissed if the court concludes that no postponement of the obligation is warranted.
 - (b) **Official Form 8** is amended to resolve ambiguities in the form and to implement changes to the Code in 2005 by adding a section covering personal property subject to an unexpired lease.
 - (c) **New Official Form 27** requires the disclosure and certification of information necessary for the court to make its determination under §524(m) as to whether the reaffirmation agreement creates a presumption of undue hardship.
2. Text of Proposed Amendments to Exhibit D of Official Form 1 and Official Form 8, and Proposed New Official Form 27.

United States Bankruptcy Court

District Of _____

In re _____,
Debtor

Case No. _____
Chapter _____

REAFFIRMATION AGREEMENT COVER SHEET

This form must be completed in its entirety and filed, with the reaffirmation agreement attached, within the time set under Rule 4008. It may be filed by any party to the reaffirmation agreement.

1. Creditor's Name: _____
2. Amount of the debt subject to this reaffirmation agreement:
\$_____ on the date of bankruptcy \$_____ to be paid under reaffirmation agreement
3. Annual percentage rate of interest: _____% prior to bankruptcy
_____ % under reaffirmation agreement (_____ Fixed Rate _____ Adjustable Rate)
4. Repayment terms (if fixed rate): \$_____ per month for _____ months
5. Collateral, if any, securing the debt: Current market value: \$_____ Description: _____
6. Does the creditor assert that the debt is nondischargeable? ___Yes ___ No
(If yes, attach a declaration setting forth the nature of the debt and basis for the contention that the debt is nondischargeable.)

Debtor's Schedule I and J Entries

Debtor's Income and Expenses as Stated on Reaffirmation Agreement

7A. Total monthly income from \$_____ Schedule I, line 16

7B. Monthly income from all \$_____ sources after payroll deductions

8A. Total monthly expenses \$_____ from Schedule J, line 18

8B. Monthly expenses \$_____

9A. Total monthly payments on \$_____ reaffirmed debts not listed on Schedule J

9B. Total monthly payments on \$_____ reaffirmed debts not included in monthly expenses

10B. Net monthly income \$_____ (Subtract sum of lines 8B and 9B from line 7B. If total is less than zero, put the number in brackets.)

11. Explain with specificity any difference between the income amounts (7A and 7B):

12. Explain with specificity any difference between the expense amounts (8A and 8B):

If line 11 or 12 is completed, the undersigned debtor, and joint debtor if applicable, certifies that any explanation contained on those lines is true and correct.

Signature of Debtor (only required if
line 11 or 12 is completed)

Signature of Joint Debtor (if applicable, and only
required if line 11 or 12 is completed)

Other Information

Check this box if the total on line 10B is less than zero. If that number is less than zero, a presumption of undue hardship arises (unless the creditor is a credit union) and you must explain with specificity the sources of funds available to the Debtor to make the monthly payments on the reaffirmed debt: _____

Was debtor represented by counsel during the course of negotiating this reaffirmation agreement?
_____Yes _____No

If debtor was represented by counsel during the course of negotiating this reaffirmation agreement, has counsel executed a certification (affidavit or declaration) in support of the reaffirmation agreement?
_____Yes _____No

FILER'S CERTIFICATION

I hereby certify that the attached agreement is a true and correct copy of the reaffirmation agreement between the parties identified on this Reaffirmation Agreement Cover Sheet.

Signature

Print/Type Name & Signer's Relation to Case

D. Proposed Amendments to Bankruptcy Rules 2016, 7052, 9006(f), 9015, and 9023 Submitted for Final Approval by the Standing Committee and Submission to the Judicial Conference Without Publication.

The Advisory Committee recommends that the following amendments be approved and submitted to the Judicial Conference without publication. The amendments to Rules 2016 and 9006(f) are technical amendments necessary to correct cross references in the rules to provisions of the Bankruptcy Code and to the Federal Rules of Civil Procedure that were amended and renumbered. The amendments to Rules 7052, 9015, and 9023 are necessary to implement the new 14-day deadline for the filing of a notice of appeal. The Advisory Committee recommends that these amendments become effective on December 1, 2009.

1. *Synopsis of Proposed Amendments to Rules 2016, 7052, 9006(f), 9015, and 9023.*
 - (a) **Rule 2016** is amended to correct a cross reference in the rule to a subsection of the Code that was changed by a 2005 amendment to the Code. The amendment also changes the deadline for filing a supplemental statement to conform to the time computation amendments that change all 10 day periods to 14 day periods.
 - (b) **Rule 7052** is amended by limiting the time for filing post judgment motions for amended or additional findings. The deadline is set at 14 days in contrast to the 28-day deadline included in the Federal Rules of Civil Procedure. This is necessary because the deadline for filing a notice of appeal under Bankruptcy Rule 8002 is 14 days rather than the 30 days allowed under Rule 4(a)(1)(A) F. R. App. P.
 - (c) **Rule 9006** is amended to correct a cross reference to subparagraphs of Rule 5(b)(2) F. R. Civ. P. Those subparagraphs were renumbered as a part of the civil rules restyling project.
 - (d) **Rule 9015** is amended by deleting the reference to Rule 50 F. R. Civ. P. from the list of civil rules that are applicable in cases and proceedings. Subdivision (c) is added to make Rule 50 applicable in cases and proceedings, but it limits the time for filing certain post judgment motions to 14 days rather than 28 days as set out in the civil rules.
 - (e) **Rule 9023** is amended to limit the time for filing a post judgment motion for a new trial or for the court to order sua sponte a new trial to 14 days after entry of judgment. This is necessary because the deadline for filing a notice of appeal under Rule 8002 is 14 days.
2. *Text of Proposed Amendments to Rules 2016, 7052, 9006(f), 9015, and 9023 (on next page).*

Rule 2016. Compensation for Services Rendered and Reimbursement of Expenses*

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(c) DISCLOSURE OF COMPENSATION PAID OR PROMISED TO BANKRUPTCY PETITION PREPARER. Before a petition is filed, every ~~Every~~ bankruptcy petition preparer for a debtor shall ~~file~~ deliver to the debtor, a the declaration under penalty of perjury ~~and transmit the declaration to the United States trustee within 10 days after the date of the filing of the petition, or at another time as the court may direct,~~ as required by § 110(h)(1)(2). The declaration shall ~~must~~ disclose any fee, and the source of any fee, received from or on behalf of the debtor within 12 months of the filing of the case and all unpaid fees charged to the debtor. The declaration shall also ~~must~~ describe the services performed and documents prepared or caused to be

*Additional proposed amendments to Rule 2016 are on pages 38-40.

15 prepared by the bankruptcy petition preparer. The declaration
16 shall be filed with the petition. The petition preparer shall file
17 a ~~supplemental statement shall be filed~~ within ~~10~~ 14 days
18 after any payment or agreement not previously disclosed.

COMMITTEE NOTE

Subdivision (c) is amended to reflect the 2005 amendment to § 110(h)(1) of the Bankruptcy Code which now requires that the declaration be filed with the petition. The statute previously required that the petition preparer file the declaration within 10 days after the filing of the petition. The amendment to the rule also corrects the cross reference to § 110(h)(1), which was redesignated as subparagraph (h)(2) of § 110 by the 2005 amendment to the Code.

Other changes are stylistic.

Rule 7052. Findings by the Court**

1 Rule 52 F. R. Civ. P. applies in adversary proceedings,
2 except that any motion under subdivision (b) of that rule for
3 amended or additional findings shall be filed no later than 14
4 days after entry of judgment.

COMMITTEE NOTE

The rule is amended by limiting the time for filing post judgment motions for amended or additional findings. In 2009, Rule 52 F. R. Civ. P. was amended to extend the deadline for filing those post judgment motions to no later than 28 days after entry of the judgment. That deadline corresponds to the 30-day deadline for filing a notice of appeal in a civil case under Rule 4(a)(1)(A) F. R. App. P. In a bankruptcy case, the deadline for filing a notice of appeal is 14 days. Therefore, the 28-day deadline for filing a motion for amended or additional findings would effectively override the notice of appeal deadline under Rule 8002(a) but for this amendment.

** In addition, the Advisory Committee on Bankruptcy Rules has recommended approval of a substantive amendment to Rule 7052 on page 90, which also would take effect on December 1, 2009, if the Judicial Conference and the Supreme Court approve and if Congress takes no action to the contrary. The rule as amended provides that: "Rule 52 F. R. Civ. P. applies in adversary proceedings, except that any motion under subdivision (b) of that rule for amended or additional findings shall be filed no later than 14 days after entry of judgment. In these proceedings, the reference in Rule 52 F. R. Civ. P. to the entry of judgment under Rule 58 F. R. Civ. P. shall be read as a reference to the entry of a judgment or order under Rule 5003(a)."

Rule 9006. Time^{***}

1

* * * * *

2

(f) ADDITIONAL TIME AFTER SERVICE BY MAIL

3

OR UNDER RULE ~~5(b)(2)(C) or (D)~~ 5(b)(2)(D), (E), or (F)

4

F. R. Civ. P. When there is a right or requirement to act or

5

undertake some proceedings within a prescribed period after

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service and that service is by mail or under Rule 5 ~~(b)(2)(C)~~

7

~~or (D)~~ (b)(2)(D), (E), or (F) F.R.Civ.P., three days are added

8

after the prescribed period would otherwise expire under Rule

9

9006(a).

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* * * * *

COMMITTEE NOTE

Subdivision (f) is amended to conform to the changes made to Rule 5(b)(2) of the Federal Rules of Civil Procedure as a part of the Civil Rules Restyling Project. As a part of that project, subparagraphs (b)(2)(C) and (D) of that rule were rewritten as subparagraphs (b)(2)(D), (E), and (F). The cross reference to those rules contained in subdivision (f) of this rule is corrected by this amendment.

^{***}Additional proposed amendments to Rule 9006(d) are on page 80.

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applicable in cases and proceedings, but it limits the time for filing certain post judgment motions to 14 days after the entry of judgment. The amendment is necessary because Rule 50 F. R. Civ. P. was amended in 2009 to extend the deadline for the filing of these post judgment motions to 28 days. That deadline corresponds to the 30-day deadline for filing a notice of appeal in a civil case under Rule 4(a)(1)(A) F. R. App. P. In a bankruptcy case, the deadline for filing a notice of appeal is 14 days. Therefore, the 28-day deadline for filing these post judgment motions would effectively override the notice of appeal deadline under Rule 8002(a) but for this amendment.

Other amendments are stylistic.

Rule 9023. New Trials; Amendment of Judgments

1 Except as provided in this rule and Rule 3008, Rule 59
2 F. R. Civ. P. applies in cases under the Code, ~~except as~~
3 ~~provided in Rule 3008-~~ A motion for a new trial or to alter or
4 amend a judgment shall be filed, and a court may on its own
5 order a new trial, no later than 14 days after entry of
6 judgment.

COMMITTEE NOTE

The rule is amended to limit to 14 days the time for a party to file a post judgment motion for a new trial and for the court to order sua sponte a new trial. In 2009, Rule 59 F. R. Civ. P. was amended

to extend the deadline for these actions to 28 days after the entry of judgment. That deadline corresponds to the 30-day deadline for filing a notice of appeal in a civil case under Rule 4(a)(1)(A) F. R. App. P. In a bankruptcy case, however, the deadline for filing a notice of appeal is 14 days. Therefore, the 28-day deadline for filing a motion for a new trial or a motion to alter or amend a judgment would effectively override the notice of appeal deadline under Rule 8002(a) but for this amendment.

Rule 1006-1 Payment of Filing Fee

(g) Petitions accepted by the Clerk which do not comply with this rule, or petitions filed in cases where payment is not honored, or is later dishonored, are subject to dismissal upon ~~3 days~~ 36 hours written notice given by the Clerk.

Rule 1017-1 Dismissal

(a) The Trustee, the Clerk or the Bankruptcy Administrator may serve notice of dismissal in accordance with the provisions of this rule. Where a Notice of Dismissal is served pursuant to this rule, and a response is not filed within ~~20~~ 21 days of service of the Notice, a case may be dismissed by the Court without further notice or hearing. Notices under this rule shall be served upon each debtor and their attorney of record, if any.

(f) Notices served under this rule shall contain the following legend featured prominently on the first page of the notice:

**PURSUANT TO LBR 1017-1, THIS CASE MAY BE DISMISSED,
WITHOUT FURTHER NOTICE OR HEARING, UNLESS A
RESPONSE IS FILED AND SERVED UPON THE PARTY SERVING
THIS NOTICE WITHIN ~~20~~ 21 DAYS OF THE DATE OF SERVICE.**

Rule 2003-1 Meetings of Creditors Continuances and Appearances

(b) In cases under Chapters 7 or 13, debtors seeking to continue a meeting of creditors shall first telephone the Trustee and attempt to resolve the matter informally. If the Trustee consents, the meeting of creditors shall be continued, upon two conditions:

(2) Debtor's counsel shall mail notice of the continued meeting of creditors and notice of the extended complaint deadline to all parties in interest on Local Form 2 and file proof of service not later than ~~10~~ 14 days after the date of the initial setting.

(f) Where a debtor's appearance has been excused, the debtor shall file completed interrogatories on a form prescribed by the trustee and/or Bankruptcy Administrator and shall promptly respond to any reasonable follow-up questions, unless the debtor is physically unable to execute the same, not later than ~~10~~ 14 days after the date of the order excusing the debtor's personal appearance.

Rule 2004-1 Examination

(d) The person to be examined, or any party in interest, may file an objection to the Notice of Examination not more than ~~20~~21 days after service.

(e) The Notice of Examination shall contain the following legend in those cases where an agreement has not been reached:

THE PERSON TO BE EXAMINED SHALL APPEAR AT THE TIME AND PLACE SET FORTH HEREIN AND MAKE HIMSELF AVAILABLE FOR EXAMINATION UNLESS HE HAS FILED AN OBJECTION NOT MORE THAN ~~20~~ 21 DAYS AFTER SERVICE. FAILURE TO APPEAR OR TIMELY OBJECT MAY BE PUNISHED AS A CONTEMPT OF COURT.

Rule 2015-1 Duty to Keep Records, Make Reports - Debtors in Possession

(a) In cases under Chapter 11 Debtors in Possession shall:

(6) Insurance Policies. The debtor must provide to the bankruptcy administrator within ~~ten~~ ~~(10)~~ 14 days of the filing date, copies of the declaration pages for all insurance policies maintained by the debtor. At all times, the debtor must maintain adequate hazard and liability insurance on all property of the debtor as well as any other insurance required by applicable law or court order, i.e., workman's compensation insurance. The debtor must notify the Bankruptcy Administrator within two business days of receipt of written notice of any changes in the terms of the policies, including cancellation or non-renewal.

Rule 3015-1 Chapter 13 Plans and Amended Chapter 13 Plans

(b) A Chapter 13 Plan shall be filed with the petition if practicable, but not later than ~~15~~ 14 days thereafter, unless the Court approves, for good cause shown, an extension of time. If a Chapter 13 Plan is not filed with the petition, the Debtor shall serve copies upon all parties in interest and attach proof of service to any such plan filed at any time other than with the petition.

Rule 3015-2 Objections to Confirmation of Chapter 13 Plans

(b) Objections to motions to modify Chapter 13 Plans after confirmation shall be filed not later than ~~20~~ 21 days after service of the motion to modify. Copies shall be served upon each debtor, counsel for the debtor and the Chapter 13 Trustee.

Rule 4001-1 Automatic Stay-Relief From

(b) Motions for Relief From the Automatic Stay in cases filed under Chapter 7 shall contain the following legend featured prominently on the first page of the motion:

PURSUANT TO LBR 4001-1, THE MOVING PARTY SEEKS RELIEF FROM THE AUTOMATIC STAY. UNLESS A RESPONSE IS FILED WITH THE COURT, AND SERVED UPON THE MOVING PARTY ~~20~~ 21 DAYS FROM THE DATE OF SERVICE OF THIS MOTION, THE MOTION MAY BE GRANTED BY THE COURT WITHOUT FURTHER NOTICE OR HEARING.

Rule 4002-1 Duties of Debtor

(c) In cases under Chapter 13, debtors shall:

(2) Produce proof of any such payment within ~~10~~ 14 days of a written request made by the Trustee or any party in interest, without the service of formal discovery or order of the Court;

(3) If a debtor is under a contractual obligation to insure any property, the debtor shall provide proof of insurance within ~~10~~ 14 days of a written request made by any creditor who holds an interest in such property;

(4) Upon ~~5~~ 7 days notice, bring such other documents reasonably requested by the Trustee to the Section 341 meeting of creditors or any adjourned meeting of creditors;

Rule 9007-1 Negative Notice Procedure

(b) Motions filed under this rule shall contain a negative notice legend in substantially the following form prominently displayed on the face of the first page of the motion:

PURSUANT TO LBR 9007-1, THIS MOTION WILL BE TAKEN UNDER ADVISEMENT BY THE COURT AND MAY BE GRANTED UNLESS A PARTY IN INTEREST FILES A RESPONSE WITHIN ~~20~~ 21 DAYS OF THE DATE OF SERVICE. RESPONSES MUST BE FILED WITH THE CLERK AND SERVED UPON THE MOVING PARTY. RESPONSES MUST BE FILED ELECTRONICALLY WITH THE CLERK OR BY U.S. MAIL ADDRESSED TO THE CLERK, U.S. BANKRUPTCY COURT, ONE CHURCH STREET, MONTGOMERY ALABAMA 36104.

Rule 9027-1 Removal

Any party who removes a civil action or proceeding to this Court shall, within ~~20~~ 21 days of filing the notice of removal, file a complete copy of the record.