

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

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

7 * * * * *

8 (f) OTHER NOTICES. Except as provided in
9 subdivision (l) of this rule, the clerk, or some other person as
10 the court may direct, shall give the debtor, all creditors, and
11 indenture trustees notice by mail of:

12 * * * * *

13 (7) entry of an order confirming a chapter 9, 11,
14 ~~or 12,~~ or 13 plan;

15 * * * * *

16 (h) NOTICES TO CREDITORS WHOSE CLAIMS
17 ARE FILED. ~~In a chapter 7 case, after 90 days following~~

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

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18 ~~the first date set for the meeting of creditors under § 341 of~~
19 ~~the Code,~~

20 (1) Voluntary Case. In a voluntary chapter 7
21 case, chapter 12 case, or chapter 13 case, after 70 days
22 following the order for relief under that chapter or the
23 date of the order converting the case to chapter 12 or
24 chapter 13, the court may direct that all notices required
25 by subdivision (a) of this rule be mailed only to:

- 26 • the debtor;
- 27 • the trustee;
- 28 • all indenture trustees;
- 29 • creditors that hold claims for which proofs of
30 claim have been filed; and
- 31 • creditors, if any, that are still permitted to file
32 claims because an extension was granted
33 under Rule 3002(c)(1) or (c)(2).

34 (2) Involuntary Case. In an involuntary chapter

35 7 case, after 90 days following the order for relief under
36 that chapter, the court may direct that all notices
37 required by subdivision (a) of this rule be mailed only
38 to:

- 39 • the debtor;
- 40 • the trustee;
- 41 • all indenture trustees;
- 42 • creditors that hold claims for which proofs of
43 claim have been filed; and
- 44 • creditors, if any, that are still permitted to file
45 claims by reason of ~~because~~ an extension was
46 granted pursuant to ~~under~~ Rule 3002(c)(1) or
47 (c)(2).

48 (3) Insufficient Assets. In a case where notice of
49 insufficient assets to pay a dividend has been given to
50 creditors pursuant to under subdivision (e) of this rule,
51 after 90 days following the mailing of a notice of the

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52 time for filing claims ~~pursuant to~~ under
53 Rule 3002(c)(5), the court may direct that notices be
54 mailed only to the entities specified in the preceding
55 sentence.

56 * * * * *

57 (k) NOTICES TO UNITED STATES TRUSTEE.

58 Unless the case is a chapter 9 municipality case or unless the
59 United States trustee requests otherwise, the clerk, or some
60 other person as the court may direct, shall transmit to the
61 United States trustee notice of the matters described in
62 subdivisions (a)(2), (a)(3), (a)(4), (a)(8), (a)(9), (b), (f)(1),
63 (f)(2), (f)(4), (f)(6), (f)(7), (f)(8), and (q) of this rule and
64 notice of hearings on all applications for compensation or
65 reimbursement of expenses.

66 * * * * *

Committee Note

Subdivision (f) is amended to add cases under chapter 13 of the Bankruptcy Code to paragraph (7).

Subdivision (h) is amended to add cases under chapters 12 and 13 of the Bankruptcy Code and to conform the time periods in the subdivision to the respective deadlines for filing proofs of claim under Rule 3002(c).

Subdivision (k) is amended to add a reference to subdivision (a)(9) of this rule. This change corresponds to the relocation of the deadline for objecting to confirmation of a chapter 13 plan from subdivision (b) to subdivision (a)(9). The rule thereby continues to require transmittal of notice of that deadline to the United States trustee.

1 **Rule 2004. Examination**

2 * * * * *

3 (c) COMPELLING ATTENDANCE AND
4 PRODUCTION OF DOCUMENTS OR
5 ELECTRONICALLY STORED INFORMATION. The
6 attendance of an entity for examination and for the
7 production of documents or electronically stored
8 information, whether the examination is to be conducted
9 within or without the district in which the case is pending,
10 may be compelled as provided in Rule 9016 for the
11 attendance of a witness at a hearing or trial. As an officer of
12 the court, an attorney may issue and sign a subpoena on
13 behalf of the court ~~for the district in which the examination~~
14 ~~is to be held where the case is pending~~ if the attorney is
15 admitted to practice in that court ~~or in the court in which the~~
16 ~~case is pending~~.

17 * * * * *

Committee Note

Subdivision (c) is amended in two respects. First, the provision now refers expressly to the production of electronically stored information, in addition to the production of documents. This change is an acknowledgment of the form in which information now commonly exists and the type of production that is frequently sought in connection with an examination under Rule 2004.

Second, subdivision (c) is amended to bring its subpoena provision into conformity with the current version of F.R.Civ.P. 45, which Rule 9016 makes applicable in bankruptcy cases. Under Rule 45, a subpoena always issues from the court where the action is pending, even for a deposition in another district, and an attorney admitted to practice in the issuing court may issue and sign it. In light of this procedure, a subpoena for a Rule 2004 examination is now properly issued from the court where the bankruptcy case is pending and by an attorney authorized to practice in that court, even if the examination is to occur in another district.

1 **Rule 8012. ~~Corporate Disclosure Statement~~**

2 (a) ~~WHO MUST FILE~~ NONGOVERNMENTAL
3 CORPORATIONS. Any nongovernmental ~~corporate party~~
4 corporation that is a party to a proceeding appearing in the
5 district court or BAP must file a statement that identifies any
6 parent corporation and any publicly held corporation that
7 owns 10% or more of its stock or states that there is no such
8 corporation. The same requirement applies to a
9 nongovernmental corporation that seeks to intervene.

10 (b) DISCLOSURE ABOUT THE DEBTOR. The
11 debtor, the trustee, or, if neither is a party, the appellant must
12 file a statement that:

13 (1) identifies each debtor not named in the
14 caption; and

15 (2) for each debtor that is a corporation,
16 discloses the information required by Rule 8012(a).

17 ~~(b)(c)~~ TIME TO FILE; SUPPLEMENTAL

18 FILING. ~~A party must file the~~ A Rule 8012 statement must:

19 (1) be filed with ~~its~~ the principal brief or upon
20 filing a motion, response, petition, or answer in the
21 district court or BAP, whichever occurs first, unless a
22 local rule requires earlier filing.;

23 (2) ~~Even if the statement has already been filed,~~
24 ~~the party's principal brief must be included~~ include a
25 ~~statement~~ before the table of contents in the principal
26 brief.; and

27 (3) ~~A party must supplement its statement be~~
28 supplemented whenever the ~~required~~ information
29 required by Rule 8012 changes.

Committee Note

The rule is amended to conform to recent amendments to F.R.App.P. 26.1. Subdivision (a) is amended to encompass nongovernmental corporations that seek to intervene on appeal.

New subdivision (b) requires disclosure of the name of all of the debtors in the bankruptcy case. The names of the debtors are not always included in the caption of

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appeals. It also requires, for corporate debtors, disclosure of the same information required to be disclosed under subdivision (a).

Subdivision (c), previously subdivision (b), now applies to all the disclosure requirements in Rule 8012.

1 **Rule 8013. Motions; Intervention**

2 (a) CONTENTS OF A MOTION; RESPONSE;
3 REPLY.

4 (1) *Request for Relief.* A request for an order or
5 other relief is made by filing a motion with the
6 district or BAP clerk, ~~with proof of service on the~~
7 ~~other parties to the appeal.~~

8 * * * * *

Committee Note

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

1 **Rule 8015. Form and Length of Briefs; Form of**
2 **Appendices and Other Papers**

3 * * * * *

4 (g) ITEMS EXCLUDED FROM LENGTH. In
5 computing any length limit, headings, footnotes, and
6 quotations count toward the limit, but the following items do
7 not:

- 8 • ~~the~~ cover page;
- 9 • ~~a corporate~~ disclosure statement under Rule
10 8012;
- 11 • ~~a~~ table of contents;
- 12 • ~~a~~ table of citations;
- 13 • ~~a~~ statement regarding oral argument;
- 14 • ~~an~~ addendum containing statutes, rules, or
15 regulations;
- 16 • certificates of counsel;
- 17 • ~~the~~ signature block;

- 18 • ~~the~~ proof of service; and
- 19 • any item specifically excluded by these rules
- 20 or by local rule.

21 * * * * *

Committee Note

The amendment to subdivision (g) is made to reflect recent amendments to Rule 8011(d) that eliminated the requirement of proof of service when filing and service are completed using a court’s electronic-filing system. Because each item listed in Rule 8015(g) will not always be required, the initial article is deleted. The word “corporate” is deleted before “disclosure statement” to reflect a concurrent change in the title of Rule 8012.

1 **Rule 8021. Costs**

2 * * * * *

3 (d) BILL OF COSTS; OBJECTIONS. A party who
4 wants costs taxed must, within 14 days after entry of
5 judgment on appeal, file with the bankruptcy clerk, ~~with~~
6 ~~proof of service, and serve~~ an itemized and verified bill of
7 costs. Objections must be filed within 14 days after service
8 of the bill of costs, unless the bankruptcy court extends the
9 time.

Committee Note

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