

F.R.Civ.P. shall be read as a reference to Rule 5003 of these rules.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

*Subdivision (a).* This rule is derived from Rule 58 F.R.Civ.P. The requirement that a judgment entered in an adversary proceeding or contested matter be set forth on a separate document is to eliminate uncertainty as to whether an opinion or memorandum of the court is a judgment. There is no sound reason to require that every order in a case under the Code be evidenced by a separate document.

*Subdivision (b)* establishes a procedure for entering a judgment of a bankruptcy court for the recovery of money or property in an index of judgments kept by the clerk of the district court. It clarifies the availability of the same remedies for the enforcement of a bankruptcy court judgment as those provided for the enforcement of a district court judgment. See 28 U.S.C. §§1961–63. When indexed in accordance with subdivision (b) of this rule a judgment of the bankruptcy court may be found by anyone searching for liens of record in the judgment records of the district court. Certification of a copy of the judgment to the clerk of the district court provides a basis for registration of the judgment pursuant to 28 U.S.C. §1963 in any other district. When so registered, the judgment may be enforced by issuance of execution and orders for supplementary proceedings that may be served anywhere within the state where the registering court sits. See 7 Moore, *Federal Practice* 2409–11 (2d ed. 1971). The procedures available in the district court are not exclusive, however, and the holder of a judgment entered by the bankruptcy court may use the remedies under Rules 7069 and 7070 even if the judgment is indexed by the clerk of the district court.

*Subdivision (c)* makes it clear that when a district court hears a matter reserved to it by 28 U.S.C. §§1471, 1481, its judgments are entered in the district court's civil docket and in the docket of the bankruptcy court. When the district court acts as an appellate court, Rule 8016(a) governs the entry of judgments on appeal.

NOTES OF ADVISORY COMMITTEE ON RULES—1987  
AMENDMENT

Former subdivision (a) was derived from Rule 58 F.R.Civ.P. As amended, Rule 9021 adopts Rule 58. The reference in Rule 58 to Rule 79(a) F.R.Civ.P. is to be read as a reference to Rule 5003.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

**Rule 9022. Notice of Judgment or Order**

(a) JUDGMENT OR ORDER OF BANKRUPTCY JUDGE. Immediately on the entry of a judgment or order the clerk shall serve a notice of entry in the manner provided in Rule 5(b) F.R.Civ.P. on the contesting parties and on other entities as the court directs. Unless the case is a chapter 9 municipality case, the clerk shall forthwith transmit to the United States trustee a copy of the judgment or order. Service of the notice shall be noted in the docket. Lack of notice of the entry does not affect the time to appeal or relieve or authorize the court to relieve a party for failure to appeal within the time allowed, except as permitted in Rule 8002.

(b) JUDGMENT OR ORDER OF DISTRICT JUDGE. Notice of a judgment or order entered by a district judge is governed by Rule 77(d) F.R.Civ.P. Unless the case is a chapter 9 municipality case,

the clerk shall forthwith transmit to the United States trustee a copy of a judgment or order entered by a district judge.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 23, 2001, eff. Dec. 1, 2001.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

*Subdivision (a)* of this rule is an adaptation of Rule 77(d) F.R.Civ.P.

*Subdivision (b)* complements Rule 9021(b). When a district court acts as an appellate court, Rule 8016(b) requires the clerk to give notice of the judgment on appeal.

NOTES OF ADVISORY COMMITTEE ON RULES—1991  
AMENDMENT

This rule is amended to enable the United States trustee to be informed of all developments in the case so that administrative and supervisory functions provided in 28 U.S.C. §586(a) may be performed.

COMMITTEE NOTES ON RULES—2001 AMENDMENT

Rule 5(b) F.R.Civ.P., which is made applicable in adversary proceedings by Rule 7005, is being restyled and amended to authorize service by electronic means—or any other means not otherwise authorized under Rule 5(b)—if consent is obtained from the person served. The amendment to Rule 9022(a) authorizes the clerk to serve notice of entry of a judgment or order by electronic means if the person served consents, or to use any other means of service authorized under Rule 5(b), including service by mail. This amendment conforms to the amendments made to Rule 77(d) F.R.Civ.P.

*Changes Made After Publication and Comments.* No changes were made.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subd. (b), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

**Rule 9023. New Trials; Amendment of Judgments**

Rule 59 F.R.Civ.P. applies in cases under the Code, except as provided in Rule 3008.

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Rule 59 F.R.Civ.P. regulates motions for a new trial and amendment of judgment. Those motions must be served within 10 days of the entry of judgment. No similar time limit is contained in Rule 3008 which governs reconsideration of claims.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

**Rule 9024. Relief from Judgment or Order**

Rule 60 F.R.Civ.P. applies in cases under the Code except that (1) a motion to reopen a case under the Code or for the reconsideration of an order allowing or disallowing a claim against the estate entered without a contest is not subject to the one year limitation prescribed in Rule 60(c), (2) a complaint to revoke a discharge in a chapter 7 liquidation case may be filed only within the time allowed by §727(e) of the Code, and (3) a complaint to revoke an order confirming a plan may be filed only within the time allowed by §1144, §1230, or §1330.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 23, 2008, eff. Dec. 1, 2008.)

## NOTES OF ADVISORY COMMITTEE ON RULES—1983

Motions to reopen cases are governed by Rule 5010. Reconsideration of orders allowing and disallowing claims is governed by Rule 3008. For the purpose of this rule all orders of the bankruptcy court are subject to Rule 60 F.R.Civ.P.

Pursuant to §727(e) of the Code a complaint to revoke a discharge must be filed within one year of the entry of the discharge or, when certain grounds of revocation are asserted, the later of one year after the entry of the discharge or the date the case is closed. Under §1144 and §1330 of the Code a party must file a complaint to revoke an order confirming a chapter 11 or 13 plan within 180 days of its entry. Clauses (2) and (3) of this rule make it clear that the time periods established by §§727(e), 1144 and 1330 of the Code may not be circumvented by the invocation of F.R.Civ.P. 60(b).

NOTES OF ADVISORY COMMITTEE ON RULES—1991  
AMENDMENT

Clause (3) is amended to include a reference to §1230 of the Code which contains time limitations relating to revocation of confirmation of a chapter 12 plan. The time periods prescribed by §1230 may not be circumvented by the invocation of F.R.Civ.P. 60(b).

## COMMITTEE NOTES ON RULES—2008 AMENDMENT

The rule is amended to conform to the changes made to the Federal Rules of Civil Procedure through the restyling of those rules effective on December 1, 2007.

## REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

**Rule 9025. Security: Proceedings Against Sureties**

Whenever the Code or these rules require or permit the giving of security by a party, and security is given in the form of a bond or stipulation or other undertaking with one or more sureties, each surety submits to the jurisdiction of the court, and liability may be determined in an adversary proceeding governed by the rules in Part VII.

## NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is an adaptation of Rule 65.1 F.R.Civ.P. and applies to any surety on a bond given pursuant to §303(e) of the Code, Rules 2001, 2010, 5008, 7062, 7065, 8005, or any other rule authorizing the giving of such security.

**Rule 9026. Exceptions Unnecessary**

Rule 46 F.R.Civ.P. applies in cases under the Code.

## REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

**Rule 9027. Removal**

## (a) NOTICE OF REMOVAL.

(1) *Where Filed; Form and Content.* A notice of removal shall be filed with the clerk of the district and division within which is located the state or federal court where the civil action is pending. The notice shall be signed pursuant to Rule 9011 and contain a short and plain statement of the facts which entitle the party filing the notice to remove, contain a statement that upon removal of the claim or

cause of action the proceeding is core or non-core and, if non-core, that the party filing the notice does or does not consent to entry of final orders or judgment by the bankruptcy judge, and be accompanied by a copy of all process and pleadings.

(2) *Time for Filing; Civil Action Initiated Before Commencement of the Case Under the Code.* If the claim or cause of action in a civil action is pending when a case under the Code is commenced, a notice of removal may be filed only within the longest of (A) 90 days after the order for relief in the case under the Code, (B) 30 days after entry of an order terminating a stay, if the claim or cause of action in a civil action has been stayed under §362 of the Code, or (C) 30 days after a trustee qualifies in a chapter 11 reorganization case but not later than 180 days after the order for relief.

(3) *Time for filing; civil action initiated after commencement of the case under the Code.* If a claim or cause of action is asserted in another court after the commencement of a case under the Code, a notice of removal may be filed with the clerk only within the shorter of (A) 30 days after receipt, through service or otherwise, of a copy of the initial pleading setting forth the claim or cause of action sought to be removed, or (B) 30 days after receipt of the summons if the initial pleading has been filed with the court but not served with the summons.

(b) NOTICE. Promptly after filing the notice of removal, the party filing the notice shall serve a copy of it on all parties to the removed claim or cause of action.

(c) FILING IN NON-BANKRUPTCY COURT. Promptly after filing the notice of removal, the party filing the notice shall file a copy of it with the clerk of the court from which the claim or cause of action is removed. Removal of the claim or cause of action is effected on such filing of a copy of the notice of removal. The parties shall proceed no further in that court unless and until the claim or cause of action is remanded.

(d) REMAND. A motion for remand of the removed claim or cause of action shall be governed by Rule 9014 and served on the parties to the removed claim or cause of action.

## (e) PROCEDURE AFTER REMOVAL.

(1) After removal of a claim or cause of action to a district court the district court or, if the case under the Code has been referred to a bankruptcy judge of the district, the bankruptcy judge, may issue all necessary orders and process to bring before it all proper parties whether served by process issued by the court from which the claim or cause of action was removed or otherwise.

(2) The district court or, if the case under the Code has been referred to a bankruptcy judge of the district, the bankruptcy judge may require the party filing the notice of removal to file with the clerk copies of all records and proceedings relating to the claim or cause of action in the court from which the claim or cause of action was removed.

(3) Any party who has filed a pleading in connection with the removed claim or cause of action, other than the party filing the notice of removal, shall file a statement admitting or