

7004(h) was added by the Bankruptcy Reform Act of 1994 to provide for service by certified mail on an insured depository institution. The above draft includes those statutory amendments (without underlining new language or striking former language). No other changes have been made since publication, except for stylistic changes.

COMMITTEE NOTES ON RULES—1999 AMENDMENT

Subdivision (e) is amended so that the ten-day time limit for service of a summons does not apply if the summons is served in a foreign country.

GAP Report on Rule 7004. No changes since publication.

COMMITTEE NOTES ON RULES—2005 AMENDMENT

This amendment specifically authorizes the clerk to issue a summons electronically. In some bankruptcy cases the trustee or debtor in possession may commence hundreds of adversary proceedings simultaneously, and permitting the electronic signing and sealing of the summonses for those proceedings increases the efficiency of the clerk's office without any negative impact on any party. The rule only authorizes electronic issuance of the summons. It does not address the service requirements for the summons. Those requirements are set out elsewhere in Rule 7004, and nothing in Rule 7004(a)(2) should be construed as authorizing electronic service of a summons.

Changes Made After Publication and Comment. No changes were made after publication.

COMMITTEE NOTES ON RULES—2006 AMENDMENT

Under current Rule 7004, an entity may serve a summons and complaint upon the debtor by personal service or by mail. If the entity chooses to serve the debtor by mail, it must also serve a copy of the summons and complaint on the debtor's attorney by mail. If the entity effects personal service on the debtor, there is no requirement that the debtor's attorney also be served.

Subdivision (b)(9). The rule is amended to delete the reference in subdivision (b)(9) to the debtor's address as set forth in the statement of financial affairs. In 1991, the Official Form of the statement of financial affairs was revised and no longer includes a question regarding the debtor's current residence. Since that time, Official Form 1, the petition, has required the debtor to list both the debtor's residence and mailing address. Therefore, the subdivision is amended to delete the statement of financial affairs as a document that might contain an address at which the debtor can be served.

Subdivision (g). The rule is amended to require service on the debtor's attorney whenever the debtor is served with a summons and complaint. The amendment makes this change by deleting that portion of Rule 7004(b)(9) that requires service on the debtor's attorney when the debtor is served by mail, and relocates the obligation to serve the debtor's attorney into new subdivision (g). Service on the debtor's attorney is not limited to mail service, but may be accomplished by any means permitted under Rule 5(b) F.R.Civ.P.

Changes Made After Publication. The Committee Note was amended to add the final [second] paragraph of the Note. The new paragraph describes the reason for the deletion of the reference in the rule to the statement of affairs as a source for the debtor's address. This was a secondary reason for amending the rule, and even in the absence of public comment on the proposed amendment, the Advisory Committee believes that the additional explanation in the Committee Note is appropriate.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

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

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.

Section 3 of the Federal Deposit Insurance Act, referred to in subd. (h), is classified to section 1813 of Title 12, Banks and Banking.

AMENDMENT BY PUBLIC LAW

1994—Subd. (b). Pub. L. 103-394, §114(1), substituted "Except as provided in subdivision (h), in addition" for "In addition".

Subd. (h). Pub. L. 103-394, §114(2), added subd. (h).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under this title before Oct. 22, 1994, see section 702 of Pub. L. 103-394, set out as a note under section 101 of this title.

Rule 7005. Service and Filing of Pleadings and Other Papers

Rule 5 F.R.Civ.P. applies in adversary proceedings.

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Rule 5 F.R.Civ.P. refers to Rule 4 F.R.Civ.P. Pursuant to Rule 7002 this reference is to Rule 4 F.R.Civ.P. as incorporated and modified by Rule 7004.

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 7007. Pleadings Allowed

Rule 7 F.R.Civ.P. applies in adversary proceedings.

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 7007.1. Corporate Ownership Statement

(a) **REQUIRED DISCLOSURE.** Any corporation that is a party to an adversary proceeding, other than the debtor or a governmental unit, shall file two copies of a statement that identifies any corporation, other than a governmental unit, that directly or indirectly owns 10% or more of any class of the corporation's equity interests, or states that there are no entities to report under this subdivision.

(b) **TIME FOR FILING.** A party shall file the statement required under Rule 7007.1(a) with its first appearance, pleading, motion, response, or other request addressed to the court. A party shall file a supplemental statement promptly upon any change in circumstances that this rule requires the party to identify or disclose.

(Added Mar. 27, 2003, eff. Dec. 1, 2003; amended Apr. 30, 2007; eff. Dec. 1, 2007.)

COMMITTEE NOTES ON RULES—2003

This rule is derived from Rule 26.1 of the Federal Rules of Appellate Procedure. The information that

parties shall supply will support properly informed disqualification decisions in situations that call for automatic disqualification under Canon 3C(1)(c) of the Code of Conduct for United States Judges. This rule does not cover all of the circumstances that may call for disqualification under the subjective financial interest standard of Canon 3C, and does not deal at all with other circumstances that may call for disqualification. Nevertheless, the required disclosures are calculated to reach the majority of circumstances that are likely to call for disqualification under Canon 3C(1)(c).

The rule directs nongovernmental corporate parties to list those corporations that hold significant ownership interests in them. This includes listing membership interests in limited liability companies and similar entities that fall under the definition of a corporation in Bankruptcy Code §101.

Under subdivision (b), parties must file the statement with the first document that they file in any adversary proceeding. The rule also requires parties and other persons to file supplemental statements promptly whenever changed circumstances require disclosure of new or additional information.

The rule does not prohibit the adoption of local rules requiring disclosures beyond those called for in Rule 7007.1.

Changes Made After Publication and Comments. No changes since publication.

COMMITTEE NOTES ON RULES—2007 AMENDMENT

The rule is amended to clarify that a party must file a corporate ownership statement with its initial paper filed with the court in an adversary proceeding. The party's initial filing may be a document that is not a "pleading" as defined in Rule 7 F. R. Civ. P., which is made applicable in adversary proceedings by Rule 7007. The amendment also brings Rule 7007.1 more closely in line with Rule 7.1 F. R. Civ. P.

Changes After Publication. No changes were made after publication.

Rule 7008. General Rules of Pleading

(a) **APPLICABILITY OF RULE 8 F.R.CIV.P.** Rule 8 F.R.Civ.P. applies in adversary proceedings. The allegation of jurisdiction required by Rule 8(a) shall also contain a reference to the name, number, and chapter of the case under the Code to which the adversary proceeding relates and to the district and division where the case under the Code is pending. In an adversary proceeding before a bankruptcy judge, the complaint, counterclaim, cross-claim, or third-party complaint shall contain a statement that the proceeding is core or non-core and, if non-core, that the pleader does or does not consent to entry of final orders or judgment by the bankruptcy judge.

(b) **ATTORNEY'S FEES.** A request for an award of attorney's fees shall be pleaded as a claim in a complaint, cross-claim, third-party complaint, answer, or reply as may be appropriate.

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

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Proceedings before a bankruptcy judge are either core or non-core. 28 U.S.C. §157. A bankruptcy judge may enter a final order or judgment in a core proceeding. In a non-core proceeding, absent consent of the parties, the bankruptcy judge may not enter a final order or judgment but may only submit proposed findings of fact and conclusions of law to the district judge who will enter the final order or judgment. 28 U.S.C. §157(c)(1). The amendment to subdivision (a) of this rule requires an allegation as to whether a proceeding is core or non-core. A party who alleges that the proceeding is non-core shall state whether the party does

or does not consent to the entry of a final order or judgment by the bankruptcy judge. Failure to include the statement of consent does not constitute consent. Only express consent in the pleadings or otherwise is effective to authorize entry of a final order or judgment by the bankruptcy judge in a non-core proceeding. Amendments to Rule 7012 require that the defendant admit or deny the allegation as to whether the proceeding is core or non-core.

REFERENCES IN TEXT

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

Rule 7009. Pleading Special Matters

Rule 9 F.R.Civ.P. applies in adversary proceedings.

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 7010. Form of Pleadings

Rule 10 F.R.Civ.P. applies in adversary proceedings, except that the caption of each pleading in such a proceeding shall conform substantially to the appropriate Official Form.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991.)

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Reference to the Official Form number is deleted in anticipation of future revision and renumbering of the Official Forms.

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 7012. Defenses and Objections—When and How Presented—By Pleading or Motion—Motion for Judgment on the Pleadings

(a) **WHEN PRESENTED.** 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. The court shall prescribe the time for service of the answer when service of a complaint is made by publication or upon a party in a foreign country. A party served with a pleading stating a cross-claim shall serve an answer thereto within 21 days after service. The plaintiff shall serve a reply to a counterclaim in the answer within 21 days after service of the answer or, if a reply is ordered by the court, within 21 days after service of the order, unless the order otherwise directs. The United States or an officer or agency thereof shall serve an answer to a complaint within 35 days after the issuance of the summons, and shall serve an answer to a cross-claim, or a reply to a counterclaim, within 35 days after service upon the United States attorney of the pleading in which the claim is asserted. The service of a motion permitted under this rule alters these periods of time as follows, unless a different time is fixed by order of the court: (1) if the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served with-