

2021 Revisions to Bankruptcy Rules

- Rule 2005, subsection (c) would be amended to delete the references to 18 U.S.C. § 3146(a) and (b) and replace them with a reference to the “relevant provisions and policies of § 3142.” The change is needed because Sections 3141 through 3151 of Title 18 were repealed by the Bail Reform Act of 1984 and replaced by new provisions addressing bail. Much of § 3142 contains provisions bearing on topics not included in former 18 U.S.C. § 3146(a) and (b), thus this rule is also amended to limit the reference to the “relevant” provisions and policies of § 3142.
- Rule 3007(a)(2)(A)(ii) would be amended to clarify that the special service method required by Rule 7004(h) must be used for service of objections to claims only on insured depository institutions as defined in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. § 1813.
- Rule 7007.1 addresses corporate ownership statements. Subsection (a) would be amended to include nongovernmental corporations that seek to intervene. In addition, stylistic changes are made to subdivision (b) to reflect that some statements will be filed by nonparties seeking to intervene. The changes conform to recent amendments to Rule 8012, and to disclosure statement rules in the Federal Rules of Appellate and Civil Procedure.
- Rule 9036 would be amended to further expand the use of electronic noticing and service. It recognizes a court’s authority to provide notice or make service through the Bankruptcy Noticing Center (BNC) to entities that currently receive a high volume of paper notices from the bankruptcy courts. The rule is also reorganized to separate methods of electronic noticing and service available to courts from those available to parties. Under the amended rule, both courts and parties may serve or provide notice to registered users of the court’s electronic-filing system by filing documents with that system. Both courts and parties also may serve and provide notice to any entity by electronic means consented to in writing by the recipient. Only the courts may serve or give notice to an entity at an electronic address registered with the BNC as part of the Electronic Bankruptcy Noticing program. This [memo](#) provides more detail regarding new procedures for the BNC.

Courts may want to consider posting information regarding this change to Rule 9036 on the court website. For example, courts could post something like this:

““Effective December 1, 2021, the Director of the Administrative Office of the United States Courts has designated any entity that receives 100 or more paper bankruptcy notices in a single calendar month as a high-volume paper notice recipient pursuant to Fed. R. Bankr. P. 9036(b)(2)(B) (as amended effective December 1, 2021) (the “Rule”). The threshold number of paper notices that will cause a notice recipient to be designated as a high-volume paper notice recipient pursuant to the Rule will be reviewed annually and may be adjusted once a year, effective on December 1st of each year.

Once the threshold paper notice amount is reached, the Bankruptcy Noticing Center (BNC) will notify the notice recipient that it must register for Electronic Bankruptcy Noticing (EBN) or that, if the recipient does not register within 45 days of the date of the notification, the BNC will establish an electronic address where the Director designates the recipient to receive its notices pursuant to the Rule.”

Changes to Bankruptcy Forms – effective December 1, 2021

Revised Form	Summary of Changes	Current and Next Gen CM/ECF Changes	Statistics Changes Required	Additional Local Considerations
Form 122B	<p>In September, the Judicial Conference will consider a proposed amendment to the instructions at the top of Official Form 122B to clarify that the form is not to be used by an individual debtor filing under Subchapter V of Chapter 11.</p>	<p>None</p>	<p>None</p>	<p>Revision of the following may be necessary:</p> <ul style="list-style-type: none"> ▪ local rules ▪ standing/administrative orders ▪ local forms ▪ court manuals and procedures ▪ local CM/ECF dictionary events ▪ court websites

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

**Rule 2005. Apprehension and Removal of Debtor to
Compel Attendance for Examination**

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(c) CONDITIONS OF RELEASE. In determining what conditions will reasonably assure attendance or obedience under subdivision (a) of this rule or appearance under subdivision (b) of this rule, the court shall be governed by the relevant provisions and policies of title 18 U.S.C. § 3142.

Rule 3007. Objections to Claims

(a) TIME AND MANNER OF SERVICE.

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(2) *Manner of Service.*

(A) The objection and notice shall be served on a claimant by first-class mail to the person most recently designated on the claimant's original or amended proof of claim as the person to receive notices, at the address so indicated; and

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(ii) if the objection is to a claim of an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act, in the manner provided in Rule 7004(h).

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Rule 7007.1. Corporate Ownership Statement

(a) REQUIRED DISCLOSURE. Any nongovernmental corporation that is a party to an adversary proceeding, other than the debtor, shall file a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation. The same requirement applies to a nongovernmental corporation that seeks to intervene.

(b) TIME FOR FILING; SUPPLEMENTAL FILING. The corporate ownership statement shall:

(1) be filed with the corporation's first appearance, pleading, motion, response, or other request addressed to the court; and

(2) be supplemented whenever the information required by this rule changes.

Rule 9036. Notice and Service by Electronic Transmission

(a) IN GENERAL. This rule applies whenever these rules require or permit sending a notice or serving a paper by mail or other means.

(b) NOTICES FROM AND SERVICE BY THE COURT.

(1) *Registered Users.* The clerk may send notice to or serve a registered user by filing the notice or paper with the court's electronic-filing system.

(2) *All Recipients.* For any recipient, the clerk may send notice or serve a paper by electronic means that the recipient consented to in writing, including by designating an electronic address for receipt of notices. But these exceptions apply:

(A) if the recipient has registered an electronic address with the Administrative Office of the United States Courts' bankruptcy-noticing

program, the clerk shall send the notice to or serve the paper at that address; and

(B) if an entity has been designated by the Director of the Administrative Office of the United States Courts as a high-volume paper-notice recipient, the clerk may send the notice to or serve the paper electronically at an address designated by the Director, unless the entity has designated an address under § 342(e) or (f) of the Code.

(c) NOTICES FROM AND SERVICE BY AN ENTITY. An entity may send notice or serve a paper in the same manner that the clerk does under (b), excluding (b)(2)(A) and (B).

(d) COMPLETING NOTICE OR SERVICE. Electronic notice or service is complete upon filing or sending but is not effective if the filer or sender receives notice that it did not reach the person to be served. It is the

recipient's responsibility to keep its electronic address current with the clerk.

(e) INAPPLICABILITY. This rule does not apply to any paper required to be served in accordance with Rule 7004.