

**Federal Rules of Bankruptcy Procedure**  
**Amendments**

**Rule 1017(c)**

This is a new section. It provides that the U.S. trustee must serve a motion to dismiss under §707(a)(3) or §1307(c)(9) only on the debtor, trustees and any other entities as the court directs. This amendment, along with that of Rule 2002, will result in the avoidance of the expense incurred by sending notice of the motion to all creditors in a chapter 7 case.

**Rule 1017(d)**

The old subdivision (c) is now subdivision (d) with some stylistic changes.

**Rule 1017(f)**

This subdivision is the same as the old (d) except that it provides that Rule 9014 governs motions to suspend all proceedings in a case or to dismiss for substantial abuse of chapter 7 under §707(b).

**Rule 1019(6)**

This subdivision now provides that a holder of an administrative expense claim incurred after commencement of a case but before conversion to a chapter 7 case must file a request for payment under §503(a) within a time fixed by the court, instead of a proof of claim under §501 and Rules 3001(a)-(d) and 3002. The court need not fix a time for filing requests for payment if it appears that there are not sufficient assets to pay preconversion administrative expenses. If a time is fixed, it may be enlarged as provided in Rule 9006(b). The court may also permit tardy filing under §503(a).

**Rule 2002(a)(4)**

This paragraph is amended to conform to the amendments to Rule 1017, which eliminate the requirement that all creditors receive notice of a hearing on the United States trustee's motion to dismiss a case for debtor's failure to file the list of creditors, schedules or the statement of financial affairs within the time specified by §707(a)(3). Additionally, this paragraph is amended to conform to the amendment to Rule 1017 which requires that notice of a hearing on dismissal of a case for failure to pay the filing fee be served only on debtor and the trustee.

**Rule 2002(f)(2)**

This rule now provides for notice of the suspension of proceedings under §305.

**Rule 2003**

The United States trustee is now required to mail a copy of a report of a disputed election to any party in interest that has requested one. If the election is for a trustee, the amended rule gives a party in interest ten days from the filing of the report, rather than from the date of the meeting of the creditors, to file a motion to resolve the dispute.

**Rule 3020**

This amended rule is intended to provide sufficient time for a party to request a stay

pending appeal of an order confirming a plan under chapter 9 or 11 before the plan is implemented and an appeal becomes moot. Unless otherwise ordered by the court any transfer of assets, issuance of securities and cash distributions provided for in the plan may not be made prior to the expiration of the ten day period. This stay of a confirmation order does not affect the time for filing a notice of appeal from the confirmation order in accordance with Rule 8002.

In its discretion, the court may order that this rule is not applicable so the plan may be implemented and distributions made immediately. Alternatively, the court may order that the stay is for a period of less than ten days.

### **Rule 3021**

This rule is amended to conform to the amendments to Rule 3020 regarding the ten day stay of an order confirming a plan in a chapter 9 or 11 case.

### **Rule 4001(a)(3)**

This amended rule is intended to provide sufficient time for a party to request a stay pending appeal of an order granting relief from an automatic stay before the order is enforced or implemented. The stay under this rule is not applicable to orders granted ex parte in accordance with Rule 4001(a)(2). Additionally, the stay of the order does not affect the time for filing a notice of appeal in accordance with Rule 8002. While the enforcement and implementation of an order granting relief from the automatic stay is temporarily stayed under this paragraph, the automatic stay continues to protect the debtor, and the moving party may not take any steps that would violate the automatic stay.

In its discretion, the court may order that this rule is not applicable and thus the prevailing party may immediately enforce and implement the order granting relief from the automatic stay. Alternatively, the court may order that the stay under this paragraph is for a period of less than ten days.

### **Rule 4004(b)**

The word “filed” is substituted for the word “made” to avoid confusion regarding when a motion is made for the purpose of applying these rules. A motion for extension of time for filing a complaint objecting to discharge is to be *filed* before the time has expired.

### **Rule 4007(c)**

As discussed above, the word “filed” is substituted for the word “made” to avoid confusion.

### **Rule 6004(g)**

This amended rule is intended to provide sufficient time for a party to request a stay pending appeal of an order authorizing the use, sale or lease of property under §363(b) before the order is implemented. It does not affect the time for filing a notice of appeal in accordance with Rule 8002. The rule does not apply to orders regarding the use of cash collateral, nor does it affect the trustee’s right to use, sell or lease property without court order to the extent allowed under §363.

In its discretion, the court may order that this rule is not applicable so the property may be used, sold or leased immediately. Alternatively, the court may order that the stay is for a period

of less than ten days.

**Rule 6006(d)**

This amended rule is intended to provide sufficient time for a party to request a stay pending appeal of an order authorizing the assignment of an executory contract or unexpired lease under §365(f) before the assignment is consummated. The stay does not affect the time for filing a notice of appeal in accordance with Rule 8002.

In its discretion, the court may order that this rule is not applicable so the executory contract or unexpired lease may be assigned immediately. Alternatively, the court may order that the stay is for a period of less than ten days.

**Rule 7001**

This rule is amended to recognize that an adversary proceeding is not necessary to obtain injunctive or other equitable relief that is provided for in a plan under circumstances in which substantive law permits the relief.

**Rule 7004**

The ten day time limit for service of a summons does not apply if the summons is served in a foreign country.

**Rule 7062**

Several exceptions to Rule 62(a) are deleted from this section because of the amendment to Rule 9014 that renders this rule inapplicable in contested matters unless the court orders otherwise.

**Rule 9006**

This rule is amended to conform to the abrogation of Rule 1017(b)(3).

**Rule 9014**

This rule is amended to delete Rule 7062 from the list of Part VII rules that automatically apply in a contested matter.

**Federal Rules of Bankruptcy Procedure**  
**Amendments**

**Rule 1017. Dismissal or Conversion of a Case; Suspension**

- (a) **VOLUNTARY DISMISSAL; DISMISSAL FOR WANT OF PROSECUTION OR OTHER CAUSE.**  
Except as provided in §§707(a)(3), 707(b), and 1307(b) of the Code, and in Rule 1017(b), (c), and (e), a case shall not be dismissed on motion of the petitioner, for want of prosecution or other cause, or by consent of the parties, before a hearing on notice as provided in Rule 2002. For the purpose of the notice, the debtor shall file a list of creditors with their addresses within the time fixed by the court unless the list was previously filed. If the debtor fails to file the list, the court may order the debtor or another entity to prepare and file it.

- (b)(3) *This section provided for notice of dismissal for failure to pay the filing fee; it was deleted as unnecessary, since Rule 2002(f) provides for notice to creditors of the dismissal of the case.*

- (c) **DISMISSAL OF VOLUNTARY CHAPTER 7 OR CHAPTER 13 CASE FOR FAILURE TO TIMELY FILE LIST OF CREDITORS, SCHEDULES, AND STATEMENT OF FINANCIAL AFFAIRS.**  
The court may dismiss a voluntary chapter 7 or chapter 13 case under §707(a)(3) or §1307(c)(9) after a hearing on notice served by the United States trustee on the debtor, the trustee, and any other entities as the court directs.

*This section was added. It provides that the U.S. trustee, who is the only entity with standing to file a motion to dismiss under §707(a)(3) or §1307(c)(9), must serve the motion only on the debtor, the trustees and any other entities as the court directs. This amendment, along with that of Rule 2002, will result in the avoidance of the expense incurred by sending notice of the motion to all creditors in a chapter 7 case.*

- (d) *The old subdivision (c) is now subdivision (d), with some stylistic changes. The old subdivision (d) is now subdivision (f), with the changes discussed below.*

- (f) **PROCEDURE FOR DISMISSAL, CONVERSION, OR SUSPENSION.**

*The new subdivision (f) is the same as the old subdivision (d) except that it provides that Rule 9014 governs motions to suspend all proceedings in a case or to dismiss for substantial abuse of chapter 7 under §707(b).*

**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)(B) *This paragraph is amended to clarify that a motion for an extension of time to file a statement of intention must be made by written motion filed before the time expires, or by oral request made at a hearing before the time expires.*

(6) **POSTPETITION CLAIMS; PRECONVERSION ADMINISTRATIVE EXPENSES; NOTICE.**

A request for payment of an administrative expense incurred before conversion of the case is timely filed under §503(a) of the Code if it is filed before conversion or a time fixed by the court. If the request is filed by a governmental unit, it is timely filed if it is filed before conversion or within the later of a time fixed by the court or 180 days after the date of conversion. A claim of a kind specified in §348(d) may be filed in accordance with Rules 3001(a)-(d) and 3002. Upon the filing of the schedule of unpaid debts incurred after the commencement of the case and before conversion, the clerk, or some other person as the court may direct, shall give notice to those entities listed on the schedule of the time for filing a request for payment of an administrative expense and, unless a notice of insufficient assets to pay a dividend is mailed in accordance with Rule 2002(e), the time for filing a claim of a kind specified in §348(d).

*This subdivision is amended to provide that a holder of an administrative expense claim incurred after commencement of a case but before conversion to a chapter 7 case must file a request for payment under §503(a) within a time fixed by the court, instead of a proof of claim under §501 and Rules 3001(a)-(d) and 3002. The 180 day period for governmental units is intended to conform to §502(b)(9) and Rule 3002(c)(1). It is not necessary for the court to fix a time for filing requests for payment if it appears that there are insufficient assets to pay preconversion administrative expenses. If the court fixes a time for filing a request for payment of administrative expenses, such time may be enlarged as provided in Rule 9006(b). If an administrative expense claimant fails to timely file the request, it may be tardily filed under §503(a) if permitted by the court for cause.*

*The final sentence of Rule 1019(6) is deleted because it is unnecessary in view of the other amendments to this paragraph.*

**Rule 2002. Notices to Creditors, Equity Security Holders, United States, and United States Trustee**

(a)(4) in a chapter 7 liquidation, a chapter 11 reorganization case, or a chapter 12 family farmer debt adjustment case, the hearing on the dismissal of the case or the conversion of the case to another chapter, unless the hearing is under §707(a)(3) or §707(b) or is on dismissal of the case for failure to pay the filing fee;

*This paragraph is amended to conform to the amendments to Rule 1017, which eliminate the requirement that all creditors receive notice of a hearing on a*

the motion by the United States trustee to dismiss a case for debtor's failure to file list of creditors, schedules or the statement of financial affairs within the time specified by §707(a)(3).

*This paragraph is also amended to conform to Rule 1017(b) which requires that notice of the hearing on dismissal of a case for failure to pay the filing fee be served only on debtor and the trustee.*

- (f)(2) *This paragraph is amended to provide for notice of the suspension of proceedings under §305.*

### **Rule 2003. Meeting of Creditors or Equity Security Holders**

- (d) **REPORT OF ELECTION AND RESOLUTION OF DISPUTES IN A CHAPTER 7 CASE.**

(1) Report of Undisputed Election. In a chapter 7 case, if the election of a trustee or a member of a creditors' committee is not disputed, the United States trustee shall promptly file a report of the election, including the name and address of the person or entity elected and a statement that the election is undisputed.

(2) Disputed Election. If the election is disputed, the United States trustee shall promptly file a report stating that the election is disputed, informing the court of the nature of the dispute, and listing the name and address of any candidate elected under any alternative presented by the dispute. No later than the date on which the report is filed, the United States trustee shall mail a copy of the report to any party in interest that has made a request to receive a copy of the report. Pending disposition by the court of a disputed election for trustee, the interim trustee shall continue in office. Unless a motion for the resolution of the dispute is filed no later than 10 days after the United States trustee files a report of disputed election for trustee, the interim shall serve as trustee in the case.

*This subdivision is amended to require the United States trustee to mail a copy of a report of a disputed election to any party in interest that has requested the copy. Additionally, if the election is for a trustee, the amended rule will give*

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*party in interest ten days from the filing of the report, rather than from the date of the meeting of creditors, to file a motion to resolve the dispute.*

*The substitution in this subdivision of "United States trustee" for "presiding officer" is stylistic.*

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

- (e) STAY OF CONFIRMATION ORDER. An order confirming a plan is stayed until the expiration of 10 days after the entry of the order, unless the court orders otherwise.

*This section is added to provide sufficient time for a party to request a stay pending appeal of an order confirming a plan under chapter 9 or chapter 11 before the plan is implemented and an appeal becomes moot. Unless the court orders otherwise, any transfer of assets, issuance of securities and cash distributions provided for in the plan may not be made before the expiration of the 10-day period. The stay of confirmation order under this subdivision does not affect the time for filing a notice of appeal from the confirmation order in accordance with Rule 8002.*

*In its discretion, the court may order that Rule 3020(e) is not applicable so the plan may be implemented and distributions made immediately. Alternatively, the court may order that the stay under Rule 3020(e) is for a period of less than 10 days.*

### **Rule 3021. Distribution Under Plan**

Except as provided in Rule 3020(e), after a plan is confirmed, distribution shall be made to creditors whose claims have been allowed . . . .

*This rule is amended to conform to the amendments to Rule 3020 regarding the ten-day stay of an order confirming a plan in a chapter 9 or chapter 11 case.*

### **Rule 4001. Relief from Automatic Stay; Prohibiting or Conditioning the Use, Sale, or Lease of Property; Use of Cash Collateral; Obtaining Credit; Agreements**

#### **(a)(3) STAY OF ORDER.**

An order granting a motion for relief from an automatic stay made in accordance with Rule 4001(a)(1) is stayed until the expiration of 10 days after the entry of the order, unless the court orders otherwise.

*This paragraph is added to provide sufficient time for a party to request a stay pending appeal of an order granting relief from an automatic stay before the order is enforced or implemented. The stay under this paragraph is not applicable to orders granted ex parte in accordance with Rule 4001(a)(2).*

*The stay of the order does not affect the time for filing a notice of appeal in accordance with Rule 8002. While the enforcement and implementation of an order granting relief from the automatic stay is temporarily stayed under paragraph (a)(3), the automatic stay continues to protect the debtor, and the moving party may not foreclose on collateral or take any other steps that would violate the automatic stay.*

*The court may, in its discretion, order that Rule 4001(a)(3) is not applicable and thus the prevailing party may immediately enforce and implement the order granting relief from the automatic stay. Alternatively, the court may order that the stay under this paragraph is for a fixed period less than 10 days.*

### **Rule 4004. Grant or Denial of Discharge**

(a) *This subdivision is amended for clarification.*

- (b) *In this subdivision, the word “filed” is substituted for the word “made” to avoid confusion regarding the time when a motion is “made” for the purpose of applying these rules. The rule now requires that a motion for extension of time for filing a complaint objecting to discharge be filed before the time has expired.*

**Rule 4007. Determination of Dischargeability of a Debt**

- (c) *This subdivision is amended for clarification. As discussed above, the word “filed” is substituted for the word “made” to avoid confusion.*

**Rule 6004. Use, Sale, or Lease of Property**

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

*This subdivision is added to provide sufficient time for a party to request a stay pending appeal of an order authorizing the use, sale or lease of property under §363(b) before the order is implemented. It does not affect the time for filing a notice of appeal in accordance with Rule 8002.*

*This rule does not apply to orders regarding the use of cash collateral, nor does it affect the trustee’s right to use, sell or lease property without court order to the extent allowed under §363.*

*In its discretion, the court may order that this rule is not applicable so the property may be used, sold or leased immediately. Alternatively, the court may order that the stay under this rule is for a fixed period less than ten days.*

**Rule 6006. Assumption, Rejection or Assignment of an Executory Contract or Unexpired Lease**

- (d) **STAY OR ORDER AUTHORIZING ASSIGNMENT.**  
**An order authorizing the trustee to assign an executory contract or unexpired lease under §365(f) is stayed until the expiration of 10 days after the entry of the order, unless the court orders otherwise.**

*This subdivision is added to provide sufficient time for a party to request a stay pending appeal of an order authorizing the assignment of an executory contract or unexpired lease under §365(f) before the assignment is consummated. This stay does not affect the time for filing a notice of appeal in accordance with Rule 8002.*

*In its discretion, the court may order that this rule is not applicable so the executory contract or unexpired lease may be assigned immediately.*

*Alternatively, the court may order that the stay under this rule is for a fixed period less than ten days.*

**Rule 7001. Scope of Rules of Part VII**

*This rule is amended to recognize that an adversary proceeding is not necessary to obtain injunctive or other equitable relief that is provided for in a plan under circumstances in which substantive law permits the relief. There are also some stylistic amendments to this rule.*

**Rule 7004. Process; Service of Summons, Complaint**

*This rule 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.*

**Rule 7062. Stay of Proceedings to Enforce a Judgment**

Rule 62 F.R. Civ.P. applies in adversary proceedings.

*Several exceptions to Rule 62(a) are deleted from this section because of the amendments to Rule 9014 that renders this rule inapplicable in contested matters unless the court orders otherwise.*

**Rule 9006. Time**

*This rule is amended to conform to the abrogation of Rule 1017(b)(3).*

**Rule 9014. Contested Matters**

*This rule is amended to delete Rule 7062 from the list of Part VII rules that automatically apply in a contested matter.*