

AMENDMENTS TO
FEDERAL RULES OF BANKRUPTCY PROCEDURE¹
AND
LOCAL BANKRUPTCY RULES, DISTRICT OF ALASKA

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¹ Does not include amendments that incorporated Chapter 15, Ancillary and Cross-Border Cases.

For a detailed synopsis of the amendments to Rules 8, 26 and 56 of the Federal Rules of Civil Procedure and the amendments to the Local District Court Rules, please visit the US District Court's web site at: <http://www.akd.uscourts.gov/>.

AMENDMENTS TO FEDERAL RULES OF BANKRUPTCY PROCEDURE

Rule 1007 is amended in subdivision (a) to shorten the time from 15 to seven days for the debtor to file a list of creditors after the entry of an order for relief in an involuntary case. Subdivision (c) of the rule is amended to extend from 45 to 60 days the time for individual debtors in chapter 7 to file the statement of completion of a course in personal financial management. The latter amendment is proposed in conjunction with the proposed amendment to Rule 5009.

Rule 1007. Lists, Schedules, Statements, and Other Documents; Time Limits

(a) CORPORATE OWNERSHIP STATEMENT, LIST OF CREDITORS AND EQUITY SECURITY HOLDERS, AND OTHER LISTS.

(2) *Involuntary Case.* In an involuntary case, the debtor shall file, within seven days after entry of the order for relief, a list containing the name and address of each entity included or to be included on Schedules D, E, F, G, and H as prescribed by the Official Forms.

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(c) TIME LIMITS. In a voluntary case, the schedules, statements, and other documents required by subdivision 13 (b)(1), (4), (5), and (6) shall be filed with the petition or within 14 days thereafter, except as otherwise provided in subdivisions (d), (e), (f), and (h) of this rule. In an involuntary case, the list in subdivision (a)(2), and the schedules, statements, and other documents required by subdivision (b)(1) shall be filed by the debtor within 14 days of the entry of the order for relief. In a voluntary case, the documents required by paragraphs (A), (C), and (D) of subdivision (b)(3) shall be filed with the petition. Unless the court orders otherwise, a debtor who has filed a statement under subdivision (b)(3)(B), shall file the documents required by subdivision (b)(3)(A) within 14 days of the order for relief. In a chapter 7 case, the debtor shall file the statement required by subdivision (b)(7) within 60 days after the first date set for the meeting of creditors under § 341 of the Code, and in a chapter 11 or 13 case no later than the date when the last payment was made by the debtor as required by the plan or 30 days after the filing of a motion for a discharge under § 1141(d)(5)(B) or § 1328(b) of the Code. The court may, at any time and in its discretion, enlarge the time to file the statement required by subdivision (b)(7). The debtor shall file the statement required by subdivision (b)(8) no earlier than the date of the last payment made under the plan or the date of the filing of a motion for a discharge under § 1141(d)(5)(B), § 1228(b), or § 1328(b) of the Code. Lists, schedules, statements, and other documents filed prior to the conversion of a case to another chapter shall be deemed filed in the converted case unless the court directs otherwise. Except as provided in § 1116(3), any extension of time to file schedules, statements, and other documents required under this rule may be granted only on motion for cause shown and on notice to the United States trustee, any committee elected under § 705 or appointed under § 1102 of the Code, trustee, examiner, or other party as the court may direct. Notice of an extension shall be given to the United States trustee and to any committee, trustee, or other party as the court may direct.

COMMITTEE NOTE

Subdivision (a)(2). Subdivision (a)(2) is amended to shorten the time for a debtor to file a list of the creditors included on the various schedules filed or to be filed in the case. This list provides the information necessary for the clerk to provide notice of the § 341 meeting of creditors in a timely manner.

Subdivision (c). Subdivision (c) is amended to provide additional time for individual debtors in chapter 7 to file the statement of completion of a course in personal financial management. This change is made in conjunction with an amendment to Rule 5009 requiring the clerk to provide notice to debtors of the consequences of not filing the statement in a timely manner.

Rule 1019 is amended by redesignating subdivision (2) as subdivision (2)(A) and adding a new subdivision (2)(B). Subdivision (2)(B) provides that a new time period to object to a claim of exemption arises when a case is converted to chapter 7 from chapter 11, 12, or 13. The new time period does not arise, however, if the conversion occurs more than one year after the first order confirming a plan, or if the case was previously pending under chapter 7 and the objection period had expired in the original chapter 7 case.

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

When a chapter 11, chapter 12, or chapter 13 case has been converted or reconverted to a chapter 7 case:

(2) New Filing Periods.

(A) A new time period for filing a motion under § 707(b) or (c), a claim, a complaint objecting to discharge, or a complaint to obtain a determination of dischargeability of any debt shall commence under Rules 1017, 3002, 4004, or 4007, but a new time period shall not commence if a chapter 7 case had been converted to a chapter 11, 12, or 13 case and thereafter reconverted to a chapter 7 case and the time for filing a motion under § 707(b) or (c), a claim, a complaint objecting to discharge, or a complaint to obtain a determination of the dischargeability of any debt, or any extension thereof, expired in the original chapter 7 case.

(B) A new time period for filing an objection to a claim of exemptions shall commence under Rule 4003(b) after conversion of a case to chapter 7 unless:

- (i) the case was converted to chapter 7 more than one year after the entry of the first order confirming a plan under chapter 11, 12, or 13; or
- (ii) the case was previously pending in chapter 7 and the time to object to a claimed exemption had expired in the original chapter 7 case.

COMMITTEE NOTE

Subdivision (2). Subdivision (2) is redesignated as subdivision (2)(A), and a new subdivision (2)(B) is added to the rule.

Subdivision (2)(B) provides that a new time period to object to a claim of exemption arises when a case is converted to chapter 7 from chapter 11, 12, or 13. The new time period does not arise, however, if the conversion occurs more than one year after the first order confirming a plan, even if the plan was subsequently modified. A new objection period also does not arise if the case was previously pending under chapter 7 and the objection period had expired in the prior chapter 7 case.

Rule 4001 is amended to change two time periods that were inadvertently omitted from the time computation amendments package. Subdivision (d)(2) is amended to change the time period for filing objections to certain motions from 15 to 14 days of the mailing of notice. Subdivision (d)(3) is amended to change the length of notice required for certain hearings from five to seven days.

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

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(2) *Objection.* Notice of the motion and the time within which objections may be filed and served on the debtor in possession or trustee shall be mailed to the parties on whom service is required by paragraph (1) of this subdivision and to such other entities as the court may direct. Unless the court fixes a different time, objections may be filed within 14 days of the mailing of the notice.

(3) *Disposition; Hearing.* If no objection is filed, the court may enter an order approving or disapproving the agreement without conducting a hearing. If an objection is filed or if the court determines a hearing is appropriate, the court shall hold a hearing on no less than seven days' notice to the objector, the movant, the parties on whom service is required by paragraph (1) of this subdivision and such other entities as the court may direct.

COMMITTEE NOTE

Subdivision (d). Subdivision (d) is amended to implement changes in connection with the 2009 amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in subdivision (d)(2) and (d)(3) are amended to substitute deadlines that are multiples of seven days. Throughout the rules, deadlines have been 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

Rule 4004 is amended to include a deadline in subdivision (a) for the filing of motions (rather than complaints) objecting to discharge under §§ 727(a)(8), (a)(9), and § 1328(f) of the Bankruptcy Code. Subdivision (c)(1) is amended to take account of the authority under subdivision (d) to raise objections to discharge under § 727(a)(8) and (a)(9) by motion. Subdivision (c)(4) is added to the rule. It directs the court in chapter 11 and 13 cases to withhold the entry of the discharge if the debtor has not filed with the court a statement of completion of a course concerning personal financial management as required by Rule 1 007(b)(7). Finally, subdivision (d) is amended to provide that objections to discharge under §§ 727(a)(8), (a)(9), and 1328(o) are commenced by motion and are treated as contested matters rather than adversary proceedings.

Rule 4004. Grant or Denial of Discharge

(a) TIME FOR OBJECTING TO DISCHARGE; NOTICE OF TIME FIXED. In a chapter 7 case, a complaint, or a motion under 727(a)(8) or (a)(9) of the Code, objecting to the debtor's discharge shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341 (a). In a chapter 11 reorganization case, the complaint shall be filed no later than the first date set for the hearing on confirmation. In a chapter 13 case, a motion objecting to the debtor's discharge under 1328(f) shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341 (a). At least 28 days' notice of the time so fixed shall be given to the United States trustee and all creditors as provided in Rule 2002(f) and (k) and to the trustee and the trustee's attorney.

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(c) GRANT OF DISCHARGE.

(1) In a chapter 7 case, on expiration of the times fixed for objecting to discharge and the time fixed for filing a motion to dismiss the case under Rule 1017(e), the court shall forthwith grant the discharge unless:

(A) the debtor is not an individual;

(B) a complaint, or a motion under 727(a)(8) or (a)(9), objecting to the discharge has been filed and not decided in the debtor's favor;

* * * *

(4) In a chapter 11 case in which the debtor is an individual, or a chapter 13 case, the court shall not grant a discharge if the debtor has not filed any statement required by Rule 1007(b)(7).

(d) APPLICABILITY OF RULES IN PART VII AND RULE 9014. An objection to discharge is governed by Part VII of these rules, except that an objection to discharge under 727(a)(8), (a)(9), or 1328(f) is commenced by motion and governed by Rule 9014.

COMMITTEE NOTE

Subdivision (a). Subdivision (a) is amended to include a deadline for filing a motion objecting to a debtor's discharge under §§ 727(a)(8), (a)(9), or 1328(f) of the Code. These sections establish time limits on the issuance of discharges in successive bankruptcy cases by the same debtor.

Subdivision(c). Subdivision (c)(1) is amended because a corresponding amendment to subdivision (d) directs certain objections to discharge to be brought by motion rather than by complaint. Subparagraph (c)(1)(B) directs the court not to grant a discharge if a motion or complaint objecting to discharge has been filed unless the objection has been decided in the debtor's favor. Subdivision (c)(4) is new. It directs the court in chapter 11 and 13 cases to withhold the entry of the discharge if an individual debtor has not filed a statement of completion of a course concerning personal financial management as required by Rule 1007(b)(7).

Subdivision (d). Subdivision (d) is amended to direct that objections to discharge under §§ 727(a)(8), (a)(9), and 1328(f) be commenced by motion rather than by complaint. Objections under the specified provisions are contested matters governed by Rule 9014.

The title of the subdivision is also amended to reflect this change.

Rule 5009 is amended to redesignate the former rule as new subdivision (a) and to add new subdivisions (b) and (c) to the rule. Subdivision (b) requires the clerk to provide notice to individual debtors in chapter 7 and chapter 13 cases that their case may be closed without the entry of a discharge if they fail to file a timely statement that they have completed a personal financial management course. Subdivision (c) requires a foreign representative in a chapter case to file and give notice of the filing of a final report in the case.

Rule 5009. Closing Chapter 7 Liquidation, Chapter 12 Family Farmer's Debt Adjustment, and Chapter 13 Individual's Debt Adjustment, and Chapter 15 Ancillary and Cross-Border Cases

(b) NOTICE OF FAILURE TO FILE RULE 1007(b)(7) STATEMENT. If an individual debtor in a chapter 7 or 13 case has not filed the statement required by Rule 1007(b)(7) within 45 days after the first date set for the meeting of creditors under § 341(a) of the Code, the clerk shall promptly notify the debtor that the case will be closed without entry of a discharge unless the statement is filed within the applicable time limit under Rule 1007.

(c) CASES UNDER CHAPTER 15. [*Omitted*]

Rule 7001 is amended in paragraph (4) to except from the listing of adversary proceedings objections to discharge under §§ 727(a)(8), (a)(9), and 1328(t).

Rule 7001. Scope of Rules of Part VII

An adversary proceeding is governed by the rules of this Part VII. The following are adversary proceedings:

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(4) a proceeding to object to or revoke a discharge, other than an objection to discharge under §§ 727(a)(8), (a)(9), or 1328(f);

COMMITTEE NOTE

Paragraph (4) of the rule is amended to create an exception for objections to discharge under §§ 727(a)(8), (a)(9), and 1328(f) of the Code. Because objections to discharge on these grounds typically present issues more easily resolved than other objections to discharge, the more formal procedures applicable to adversary proceedings, such as commencement by a complaint, are not required. Instead, objections on these three grounds are governed by Rule 4004(d). In an appropriate case, however, Rule 9014(c) allows the court to order that additional provisions of Part VII of the rules apply to these matters.

Official Form 23 is amended to conform to the amendment to Rule 1007(c), which is discussed above and for which final approval is also sought. The rule amendment changes the deadline for a chapter 7 debtor to file a statement of completion of a personal financial management course from 45 to 60 days after the first date set for the meeting of creditors. The form's statement of that deadline is amended to reflect the change. The Committee recommends that the effective date of the amendment of Form 23 be the same as the effective date of the amendment to Rule 1007(c) - December 1, 2010.

LOCAL BANKRUPTCY RULES

Rule 3002-1 – Subdivision (f) amended to eliminate the requirement that a paper copy of a proof of claim be served on debtor’s counsel and the trustee. Service of a paper copy only need be made on an unrepresented debtor.

Rule 3002-1 Claims

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(f) **Service of Proofs of Claim on Debtors.** In all cases in which the debtor is appearing without counsel, a creditor filing a proof of claim must serve a legible, complete paper copy of the claim, including a copy of all supporting documentation, by first class mail on the debtor.

Rule 5005-4 – Clause (b)(1)[A](i) and subparagraph (b)(1)[C] amended to make ECF registration and filing applicable to all attorneys appearing in the case.

Rule 5005-4 Electronic Case Filing

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(b) **Registration.**

(1) *Password.*

[A] (i) Each attorney admitted to practice under AK LBR 2090-1(a) or appearing under AK LBR 2090-1(b), who files pleadings, documents, or papers in the court, must obtain a CM/ECF System password to permit the attorney to participate in the electronic retrieval and filing of pleadings and other papers in accordance with the CM/ECF System electronic filing procedures.

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[C] Any individual who is a creditor or interested party, or the duly authorized officer or agent of a creditor or interested party that is not an individual, may be entitled to one CM/ECF System password to permit the individual to participate in the electronic retrieval and filing of pleadings and other papers in accordance with the CM/ECF System electronic filing procedures.

Rule 6007-1 – Minor, stylistic changes to eliminate ambiguities and conform rule to applicable federal rule (Fed. R. Bankr. P. 6007).

Rule 6007-1 Abandonment of Property of the Estate

(a) **Notice Period.** A motion to abandon specific property brought by a party in interest, or a notice of proposed abandonment brought by a trustee or debtor in possession, must provide a fourteen- (14-) day notice period and be served on all parties on the master mailing list, unless the court orders otherwise.

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