

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA**

PUBLIC NOTICE

**AMENDMENTS TO FEDERAL RULES OF PRACTICE AND PROCEDURE—
FEDERAL RULES OF APPELLATE AND BANKRUPTCY PROCEDURE**

Congress has taken no action on the proposed amendments to the Federal Rules of Appellate and Bankruptcy Procedure adopted by the Supreme Court and transmitted to Congress on April 14, 2021. Under the Rules Enabling Act, 28 U.S.C. §§ 2071-75, the following took effect on December 1, 2021:

Federal Rules of Appellate Procedure

Rule 3 Appeal as of Right—How Taken
Rule 6 Appeal in a Bankruptcy Case
Form 1A Notice of Appeal to a Court of Appeals From a Judgment of a District Court
Form 1B Notice of Appeal to a Court of Appeals From an Appealable Order of a District Court.
Form 2 Notice of Appeal to a Court of Appeals From a Decision of the
United States Tax Court

Federal Rules of Bankruptcy Procedure

Rule 2005 Apprehension and Removal of Debtor to Compel Attendance for Examination
Rule 3007 Objections to Claims
Rule 7007.1 Corporate Ownership Statement
Rule 9036 Notice and Service by Electronic Transmission

(The attachment to this Public Notice provides additional guidance regarding the amendment to Rule 9036.)

Under 28 U.S.C. §§ 2074(a) and 2075, and the Supreme Court orders dated April 14, 2021, the amendments govern all proceedings commenced on or after December 1, 2021, and all proceedings then pending “insofar as just and practicable.”

The text of the amended rules, and the accompanying committee notes—along with extensive supporting documentation related to their adoption—are posted on the “Current Rules” page of the Judiciary’s website at: <https://www.uscourts.gov/rules-policies/current-rules-practice-procedure>.

In addition, one amended official bankruptcy form became effective on December 1, 2021—Official Form 122B (Chapter 11 Statement of Your Current Monthly Income). As approved by the Judicial Conference of the United States, amendments to official bankruptcy forms govern all proceedings in bankruptcy cases thereafter commenced and, insofar as just and practicable, all proceedings then pending. The form is posted on the website at: <https://www.uscourts.gov/forms/bankruptcy-forms>.

William C. Redden
Clerk of Court

Date: December 2, 2021

Attachment

1) Effective December 1, 2021, the Director of the Administrative Office of the United States Courts (“AO”) 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.

2) The Bankruptcy Noticing Center (BNC) will monitor name and address combinations other than preferred name and address combinations given to the bankruptcy courts pursuant to 11 U.S.C. § 342(e) and (f). Once the threshold paper notice amount is reached, the BNC will notify the notice recipient that it must register for Electronic Bankruptcy Noticing (EBN) or that, if the recipient does not timely register for EBN, the BNC will establish an electronic address where the Director designates the recipient to receive its notices pursuant to the Rule. The BNC will maintain the electronic addresses for any recipients that hit the threshold and fail to timely establish EBN accounts on their own. The following procedure for high-volume paper notice recipient determination and notification will apply:

- a) To determine whether name/address combinations should be considered the same name/address for purposes of the Rule, the BNC will use a similar name/address matching process to the one that the BNC uses for determining whether name/address combinations received from the courts for notices should be placed in a single mail piece.
- b) Once a notice recipient has received the threshold number of notices at the same name/address, the BNC will check to see if that notice recipient has had any returned mail to the BNC for that name/address in the same calendar month as the month that it met the threshold for mandatory EBN or in the previous calendar month. If it has, the BNC will take no action regarding that notice recipient related to that name/address. That notice recipient’s number of mailed notices will resume being tracked the next calendar month to determine if it meets the threshold as it normally would and start the process over.

If a notice recipient that has met the threshold does not have any returned mail for that name/address in the same calendar month as the month it met the threshold for mandatory EBN or the previous calendar month, the BNC will mail a notice to that recipient informing it that:

- i) The recipient has met the threshold for mandatory EBN pursuant to Rule 9036(b)(2)(B);
- ii) The recipient must register for EBN for its mailed notices to the name/address that met the threshold within 45 days of the date of the notice, with an actual date included in the notice;
- iii) The recipient must be ready to accept EBN noticing for its paper notices to the name/address that met the threshold within 135 days of the date of the notice, with an actual date included in the notice, and that there will

be a 30-day redundant period where the recipient will receive both paper and electronic notices, after which EBN will be the recipient's sole means of receiving notices from the BNC;

iv) If the recipient does not timely enroll in EBN for its mailed notices, the BNC will establish an electronic address, designated by the Director of the AO pursuant to the Rule, and that the recipient's notices for the name/address that met the threshold will be sent to that electronic address as the recipient's sole means of receiving notices from the BNC; and

v) Further information will follow on how to access the notices at the electronic address if the recipient does not timely enroll in EBN.

c) If the recipient does not register for EBN for the name/address that met the threshold within the 45-day time period set forth in paragraph 2(b)(ii), the BNC will generate a second notice to that recipient informing it that:

i) Beginning 60 days from the date of the second notice, paper noticing for the name/address that met the threshold will be replaced by an electronic address, designated by the Director pursuant to the Rule, where the recipient can retrieve its notices;

ii) The recipient may access the notices at the electronic address according to the instructions in the notice;

iii) The recipient must check the electronic address every day for new notices; and

iv) The recipient may still register for EBN at any time. The BNC will include instructions for doing so in the notice.

d) The BNC will establish and maintain any electronic addresses for notice recipients that meet the Rule's threshold but do not timely enroll in EBN.

e) Notices sent to an electronic address maintained by the BNC pursuant to Section 2(d) will be noted on the Certificates of Notice that the BNC returns to the courts at the end of each BNC notice production cycle.

3) These procedures are subject to change by the AO.