

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

PUBLIC NOTICE

**AMENDED LOCAL BANKRUPTCY RULE 7004-2(B), RENUMBERED LOCAL BANKRUPTCY
RULE 8007-1, RENUMBERED LOCAL BANKRUPTCY RULE 8009-1;
AMENDMENTS TO FEDERAL RULES OF BANKRUPTCY PROCEDURE; AND
OFFICIAL FORMS REVISIONS
EFFECTIVE DECEMBER 1, 2014**

On April 25, 2014, the Supreme Court of the United States approved amendments to the Federal Rules of Bankruptcy Procedure, which will take effect on December 1, 2014, absent Congress enacting legislation to reject, modify or defer the rules. The amended Bankruptcy Rules are: 1014, 7004, 7008, 7054, 8001-8028, 9023, and 9024. These amended rules are located on the [uscourts.gov](http://www.uscourts.gov) Internet web site at <http://www.uscourts.gov/uscourts/RulesAndPolicies/rules/congressional-package-for-congress.pdf>.

- A.** Pursuant to Standing Order No. 14-6, effective December 1, 2014, the Court has promulgated amended Local Bankruptcy Rule 7004-2(B), renumbered Local Bankruptcy Rule 8005-1, Appeal Bond, to Local Bankruptcy Rule 8007-1, Appeal Bond, and renumbered Local Bankruptcy Rule 8006-1, Record on Appeal, to Local Bankruptcy Rule 8009-1, Record on Appeal. These Local Bankruptcy Rule modifications, which are technical in nature, result from impending changes to the Federal Rules of Bankruptcy Procedure.
- B.** The following is a summary of the 2014 changes to the Federal Rules of Bankruptcy Procedure that take effect December 1, 2014:
- **Rule 1014**
Rule 1014(b) addresses the procedure when petitions involving the same or related debtors are filed in different courts. The amendment to Rule 1014(b) provides that proceedings in subsequently filed cases are stayed only upon order of the court in which the first-filed petition is pending, and would expand the list of persons entitled to receive notice of a motion in the first court for a determination of where the related cases should proceed.
 - **Rule 7004(e)**
The amendment to Rule 7004(e) alters the period of time during which service of the summons and complaint must be made, reducing the period from 14 days to 7 days after issuance of the summons. Because Rule 7012 provides that the defendant's time to answer the complaint is calculated from the date the summons is issued, a lengthy delay between issuance and service of the summons may unduly shorten the defendant's time to respond. Therefore, this amendment seeks to ensure prompt service.
 - **Rules 7008(b) and 7054**
The proposed amendments to these rules would change the procedure for seeking attorney's fees

in bankruptcy proceedings, bringing the Bankruptcy Rules in closer alignment with the Civil Rules.

- **Rule 7008(b)**, which currently addresses attorney's fees, will be deleted.
- **Rule 7054** will include the procedures for seeking an award of attorney's fees, unless the governing substantive law requires the fees to be provided at trial as an element of damages.
- **Rules Governing Appeals – Rules 8001-8028**
 - The amendments to Part VIII of the Bankruptcy Rules govern Appeals to District Court or Bankruptcy Appellate Panel.
 - The purpose of the amendments is to: (1) bring the bankruptcy appellate rules into closer alignment with the Federal Rules of Appellate Procedure; (2) incorporate a presumption favoring electronic transmission, filing and service of court documents; and (3) adopt a clearer and simpler style.
 - Some highlights of the revised rules relating to appeals, include:
 - **Rule 8003** requires the clerk to serve the notice of appeal instead of providing notice of the filing of the notice of appeal. The Notice of Electronic Filing (NEF) will suffice as notice except when pro se parties are involved.
 - **Rule 8003(d)(1)** requires the clerk to transmit the notice of appeal promptly to the district court or BAP. The Committee Note makes clear that this transmission should no longer be delayed until the record is complete.
 - **Rule 8005(a)** eliminates the requirement that a separate document be filed when a party to an appeal opts out of the BAP. (Also see discussion of Official Form 17, below. This provision is not applicable to the Eastern District of Virginia since there is no BAP court in the Fourth Circuit.
 - **Rule 8009**
 - addresses transcripts, when a transcript is or is not ordered, and allows an appellant to file a statement of in lieu of transcript, when a transcript is available.
 - permits the parties to file an agreed statement as to the record on appeal (in lieu of the record on appeal).

- if a sealed document is designated as part of the record on appeal, the party making the designation must file a motion requesting that the appellate court accept the sealed document. The Committee Note states that the bankruptcy court may not transmit the designated sealed document without an order from the appellate court.
- **Rule 8010**
 - requires that if a party moves in the district or court of appeals for any of the following: leave to appeal; dismissal; a stay pending appeal; approval of a supersedeas bond, or additional security on a bond or undertaking on appeal; or any other intermediate order, the bankruptcy clerk must transmit to the clerk of the court where the relief is sought any parts of the record designated by a party to the appeal or a notice that those parts are available electronically.

Note: All of the revisions made to the appellate rules, in addition to those highlighted above, should be reviewed.

- **Rules Governing New Trials, Amendment of Judgments and Relief from Judgment or Order**

- **Rule 9023** (governing new trials and amendment of judgments) and **Rule 9024** (governing relief from a judgment or order) will add reference to the procedure in amended **Rule 8008** addressing indicative rulings.
- **Rule 8008** provides a procedure for the issuance of an indicative ruling when a bankruptcy court determines that, because of a pending appeal, the court lacks jurisdiction to grant a request for relief that the court concludes is meritorious or raises a substantial issue.

C. Also, effective December 1, 2014, several official forms will be updated to address the amended rules. A complete list of the revised forms and instructions is accessible at:
<http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms/BankruptcyFormsPendingChanges.aspx>.

- **Form 3A**, Application for Individuals to Pay the Filing Fee in Installments: This form has been adapted for use as Local Form 3A, which has been modified for use in lieu of the national form.
- **Form 3B**, Application to Have the Chapter 7 Filing Fee Waived: From the Committee Note- “The amount of the chapter 7 filing fee is no longer preprinted on the blank order attached to the form. If the request for a fee waiver is denied, and if the court instead orders payment by installments, the court or clerk will prepare the order with the correct fee amount.”

- **Form 6 Summary:** From the Committee Note- “Summary of Schedules (Official Forms 6 Summary), is updated on page 2 to give line number references to the amended means-test forms (Official Forms 22A-1, 22B, and 22C-1) for Current Monthly Income.

- **Forms 17 A, 17B, and 17C**

Official Form 17 will be replaced by three separate forms: 17A, 17B, and 17C. Official Form 17A is the Notice of Appeal and Statement of Election, Part 4 of Official Form 17A is not applicable to the Eastern District of Virginia since there is no BAP court in the Fourth Circuit. Form 17B is the (optional) Appellee Statement of Election to have the appeal heard in district court instead of the BAP. Form 17C pertains to the length of briefs. The Committee Notes to these official forms provide additional information of interest.

- **Forms 22A-1, 22A-1 Supp, 22A-2, 22C-1, and 22C-2**

Official Forms 22A-1 (Chapter 7 Statement of Your Current Monthly Income), 22A-1 Supp (Statement of Exemption from Presumption of Abuse Under §707(b)(2)), 22A-2 (Chapter 7 Means Test Calculation), 22B (Chapter 11 Statement of Your Current Monthly Income), 22C-1 (Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period) and 22C-2 (Chapter 13 Calculation of Your Disposable Income), formerly Official Forms 22A and 22C, are the revised means test forms. These forms are revised to accommodate changes in the law as a result of Supreme Court precedent and as part of the Bankruptcy Rules Advisory Committee’s ongoing Forms Modernization Project.

The above referenced forms will be accessible on the Court’s Internet Home Page’s Forms page, at https://www.vaeb.uscourts.gov/wordpress/?page_id=690, on December 1, 2014.

William C. Redden
Clerk of Court

Date: November 19, 2014

Attachments

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

In re:

Adoption of Amended Local Bankruptcy Rule 7004-2(B), Renumbered Local Bankruptcy Rule 8007-1 and Renumbered Local Bankruptcy Rule 8009-1)
) Standing Order No. 14-6
)
)
)

ORDER ADOPTING AMENDED LOCAL BANKRUPTCY RULE 7004-2(B)
AND RENUMBERED LOCAL BANKRUPTCY RULES 8007-1 AND 8009-1

The Court has promulgated amended Local Bankruptcy Rule 7004-2(B), renumbered Local Bankruptcy Rule 8005-1, Appeal Bond, to Local Bankruptcy Rule 8007-1, Appeal Bond, and renumbered Local Bankruptcy Rule 8006-1, Record on Appeal, to Local Bankruptcy Rule 8009-1, Record on Appeal. These Local Bankruptcy Rule modifications, which are technical in nature, result from impending changes to the Federal Rules of Bankruptcy Procedure.

NOW, IT IS THEREFORE ORDERED that:

Amended Paragraph (B) to Local Bankruptcy Rule 7004-2, renumbered Local Bankruptcy Rule 8007-1, and renumbered Local Bankruptcy Rule 8009-1 shall take effect December 1, 2014, and shall govern procedures in all cases pending on that date or filed thereafter.

Dated: November 19, 2014

FOR THE COURT:

/s/ Stephen C. St. John
STEPHEN C. ST. JOHN
Chief Judge, United States Bankruptcy Court

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

**AMENDED LOCAL BANKRUPTCY RULE 7004-2(B) and
RENUMBERED LOCAL BANKRUPTCY RULES 8007-1 and
8009-1**



**Effective December 1, 2014
(Version 11/18/14)**

RULE 7004-2 SUMMONS

(A) *Issuance.*

(B) *Time Limit for Service:* If a summons is not timely delivered or mailed within ~~14~~ 7 days following issuance of the summons, the party responsible for the original service shall bear the responsibility for the issuance of further process.

Comments

7004-2 A time computation adjustment, from 14 to 7 days, has been made at paragraph (B) to conform to a revision made to Federal Rule of Bankruptcy Procedure 7004(e) that takes effect December 1, 2014. [Change effective 12/01/14.]

RULE ~~8005-1~~ 8007-1 APPEAL BOND

(C) *Exemption From Appeal Bond:* The Commonwealth of Virginia, or any political subdivision or any office or agent thereof, shall not be required, unless otherwise ordered by the Court, to post a supersedeas bond or other undertaking which includes security for the payment of costs on appeal.

(D) *Failure to Post Appeal Bond:* In any case in which a monetary judgment is entered, and in such other cases as the Court may order, any party desiring to appeal from the adverse effect of such judgment shall be required, unless otherwise ordered by the Court, to post a supersedeas bond with sufficient security to respond to the judgment of the Court in the event of affirmance on appeal. In the event of failure to give such bond with security, the prevailing party may enforce such judgment as provided by law without regard to the pendency of said appeal.

(E) *Stipulation of Parties:* In lieu of any supersedeas bond, the parties may stipulate with respect to any agreement or undertaking. In lieu of any cost bond, the parties may stipulate with respect to any agreement or undertaking conditioned that the moneys and properties of the Court are fully protected or prepaid.

Comments

8007-1 Rule 8005-1, Appeal Bond, is re-designated Rule 8007-1, Appeal Bond, which conforms to Federal Rule of Bankruptcy Procedure 8007. That rule, which takes effect December 1, 2014, is derived from former Federal Rule of Bankruptcy Procedure 8005 and Federal Rule of Appellate Procedure 8. [Change effective 12/01/14.]

RULE ~~8006-1~~ 8009-1 RECORD ON APPEAL

(A) ***Record on Appeal- Exclusions***: Unless otherwise directed by the Court, the record on appeal in any matter shall not include counsel's opening statements or arguments of counsel, including arguments of counsel on motions.

(B) ***Designating Record on Appeal***: Unless the parties file a timely written designation of record with the Clerk pursuant to FRBP ~~8006~~ 8009 designating the papers which shall constitute the record on appeal, the Clerk shall forward to the proper appellate court a certification that no designation of record was filed.

Comments

8009-1 Rule 8006-1, Record on Appeal, is re-designated Rule 8009-1 Record on Appeal, which conforms to Federal Rule of Bankruptcy Procedure 8009. That rule, which takes effect December 1, 2014, is derived from former Federal Rule of Bankruptcy Procedure 8006 and Federal Rules of Appellate Procedure 10 and 11(a). [Change effective 12/01/14.]