

SERVICE OF PROCESS

Bankruptcy Rule References: 3007, 7004, 9006(d), 9014(b)

- a. **Certificate of Service.** Documents filed commencing a contested matter should contain a “Certificate of Service” showing who was served, date of service, and method of service.
- b. **Common types of “contested matters” include, but are not limited to:**
- Certain proceedings to dismiss, convert, or suspend a case;
 - An objection to confirmation or modification of a chapter 12 or chapter 13 plan;
 - A motion for relief from the automatic stay or to prohibit or condition the use, sale, or lease of property;
 - A motion for authority to obtain credit;
 - A proceeding to avoid a lien or other transfer of exempt property;
 - An objection to the proposed use, sale, or lease of property;
 - A proceeding to assume, reject, or assign an executory contract or unexpired lease, other than as part of the plan; and
 - A proceeding to compel assumption or rejection of an executory contract or unexpired lease.

Are You Paying Attention When Serving Contested Matters Under Bankruptcy Rule 7004(b)(3), ABI (Mar. 2005), <https://www.abi.org/abi-journal/are-you-paying-attention-when-serving-contested-matters-under-bankruptcy-rule-7004b3>.

c. **Rule 9014(b)(1) – (10): Contested Matters (*Service*)**

Rule 9014(b) states “the motion shall be served in the manner provided for service of a summons and complaint by Rule 7004 and within the time determined under Rule 9006(d).”

d. **Rule 7004.** Subparagraphs 1 through 10 of Rule 7004 outline how to serve various individuals, business, and entities.

e. **Rule 7004(b)(3): Corporations, partnerships, or other unincorporated associations**

- Requires “the attention of an officer, managing or general agent, or to any other agent authorized by appointment or by law.”
 - ABC Widget Services, Inc.
Attn: Name of officer/managing or general agent/authorized agent
1234 Merry Berry Blvd., Suite 123
City, ST, Zip Code
- The address designated by a creditor on its proof of claim evidences ‘appointment’ and satisfies the requirement under 7004, effectuating service of process.” *In re Chess*, 268 B.R. 150, 157-58 (Bankr. W.D. T.N. 2001).
- When there is no proof of claim, make sure the name of the business and the name of the officer/managing or general agent/authorized agent is accurate.

f. Rule 7004(b)(4): The United States.

- Requires a mailed copy of the document addressed to the civil process clerk at the office of the United States Attorney for the district in which the action is brought, AND
- Attorney General of the United States at Washington, District of Columbia, AND
- If any action attacking the validity of an order of an officer or an agency of the United States, by also mailing a copy of the document to that officer or agency.

In cases involving the *Internal Revenue Service*, the following additional address should be used:

Department of Treasury
Internal Revenue Service
Centralized Insolvency Operation
P.O. Box 7346
Philadelphia, PA 19101-7346

g. Rule 7004(h): Financial Institutions

- Includes “any bank or savings association the deposits of which are insured by the Corporation pursuant to this chapter.” 12 U.S.C. § 1813(c)(2).
- This includes most national banks and most mortgagees in bankruptcy cases.
- Requires service by “certified mail addressed to an officer of the institution” with three exceptions:
 - a. An attorney has made a notice of appearance on behalf of the institution, in which case the attorney shall be served by first class mail.
 - b. The court orders otherwise after service upon the institution by certified mail of notice of an application to permit service on the institution by first-class mail sent to an officer of the institution designated by the institution; or
 - c. The institution has waived in writing its entitlement to service by certified mail by designating an officer to receive service.

h. Rule 3007(a)(2): Objections to Claims

- Requires “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.”
- If the objection involves the United States, **Rule 7004(b)(4) or (5)** should be followed.
- If the objection involves an insured depository institution, **Rule 7004(h)** should be followed.