

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.
- 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 is accurate. There is no need to specifically name the party attention is directed to. Instead, the title will suffice. *See* 7004(i).
 - Under Tenn. Code Ann. § 56-2-504, service can be made to an insurance company through Commissioner of the Tennessee Department of Commerce and Insurance. If you would like to serve the insurance company through the Department, follow this [link](#).
 - You can find an entity’s mailing address by searching for the entity on the Tennessee Secretary of State’s Business Entity Search [here](#).

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

- An “insured depository institution” includes “any bank or savings association the deposits of which are insured by the [Federal Deposit Insurance Corporation] pursuant to this Act.” 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.
- To determine whether an entity is an insured depository, you may search the company by name on the FDIC’s website [here](#).

h. Rule 7004(i): Service of Process by title

When serving a corporation, partnership, or other unincorporated association under Rule 7004(b)(3), or an officer of an insured depository institution under Rule 7004(h), the service need only list the correct address and direct attention to the officer or agent’s title. There is no need to direct attention to the officer or agent by name.

i. 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.