



UNITED STATES BANKRUPTCY COURT WESTERN DISTRICT OF NEW YORK

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NOTICE OF AMENDED OFFICIAL BANKRUPTCY FORMS AND AMENDMENTS TO BANKRUPTCY RULES EFFECTIVE DECEMBER 1, 2002

No. 02-07

November 29, 2002

Synopsis of Amendments to the Federal Rules of Bankruptcy Procedure:

Rule 1004 is amended so that, fewer than all of the general partners in a partnership may commence an involuntary case against the partnership. The rule is retitled to reflect that it applies only to involuntary petitions filed against partnerships.

Rule 1004.1 is amended to provide that a petition for an Infant or Incompetent Person who has a representative may be filed by the representative on behalf of the infant or incompetent person. It does not address the commencement of a case filed on behalf of a missing person.

Rule 2004 is amended to clarify that an examination ordered under Rule 2004(a) may be held outside the district in which the case is pending if the subpoena is issued by the court for the district in which the examination is to be held.

Rule 2014 has been rewritten to make stylistic changes and to make it conform more closely to the applicable provisions of the Code. Professionals seeking court approval of their employment must disclose any interest in, relationship with, or connection to the debtor. The professional also must disclose any interests, relationships, or connections that would cause the court or any party in interest reasonably to question whether the person is disinterested.

Rule 2015 is amended to provide that the duty to file quarterly disbursement reports continues only so long as there is an obligation to make quarterly payments to the United States Trustee.

Rule 4004 is amended to provide that the filing of a motion to dismiss under § 707 of the Bankruptcy Code postpones the entry of the discharge.

Rule 9014 is amended to extend the list of Part VII rules that are applicable in a contested matter to include Rule 7009 on pleading special matters, and Rule 7017 on real parties interest, infants and incompetent persons and capacity. The discovery rules made applicable in adversary proceedings apply in contested matters unless the court directs otherwise. Subdivision (b) is amended to permit parties to serve papers, other than the original motion, in the manner provided in Rule 5(b) F.R.Civ.P. Subdivision (d) is added to clarify that if the motion cannot be decided without resolving a

disputed material issue of fact, an evidentiary hearing must be held at which testimony of witnesses is taken in the same manner as testimony is taken in an adversary proceeding or at a trial in a district court civil case. Subdivision (e) is to require that the court provide a mechanism that will enable attorneys to know at a reasonable time before a scheduled hearing whether it will be necessary for witnesses to appear in court on that particular date.

Rule 9027 is amended to clarify that if a claim or cause of action is initiated after the commencement of a bankruptcy case, the time limits for filing a notice of removal of the claim or cause of action apply whether the case is still pending or has been suspended, dismissed, or closed.

Summary of Amendments to Official Bankruptcy Forms:

Official Form 1 is the form of a voluntary petition, and it is amended to add a checkbox for designating a clearing bank case filed under subchapter V of Chapter 7 of the Bankruptcy Code.

Official Form 5 is the form of an involuntary petition, and it is amended to give notice to child support creditors and their representatives that no filing fee is required and the petitioner files the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, Pub. L. No. 103-394, 108 Stat. 4106 (Oct. 22, 1994).

Official Form 17 is the form of a Notice of Appeal, and it is amended to give notice to child support creditors and their representatives that no filing fee is required if the appellant files the statement specified by § 304(g) of the Bankruptcy Reform Act of 1994, Pub. L. No. 103-394, 108 Stat. 4106 (Oct. 22, 1994).

Please direct questions regarding these amendments to the Clerk's Office at the telephone numbers listed above.

PAUL R. WARREN
Clerk of Court