

7000 Series Proposed Amendments – REDLINE VERSION

Rule 7004-~~1~~². Issuance of Summons

Upon the filing of a complaint commencing an adversary proceeding, the clerk ~~shall~~will issue ~~the~~a summons.

[Effective April 15, 1997. Amended and renumbered as 7004-1 effective XX, 2024.]

2024 Advisory Committee Notes

Local Rule 7004-2 was renumbered to Local Rule 7004-1. The changes are stylistic only; no substantive changes were intended.

Rule 7005-2. ~~Filing of Discovery Materials~~[ABROGATED]

~~Unless ordered otherwise, no discovery documents shall be filed, except that limited excerpts may be attached as exhibits to motions and responses.~~

[Effective April 15, 1997. Amended effective January 9, 2006. Abrogated effective XX, 2024.]

2024 Advisory Committee Notes

Local Rule 7005-2 was abrogated as duplicative of Fed. R. Bankr. P. 7005. Rule 7005 incorporates Fed. R. Civ. P. 5(d)(1)(A) which states, “[D]iscovery requests and responses must not be filed until they are used in the proceeding or the court orders filing: depositions, interrogatories, requests for documents or tangible things or to permit entry onto land, and requests for admission.”

Rule 7007-1. Motions Practice and Responses ~~(in Adversary Proceedings)~~

~~(a)~~ Local Rules 9006-1, 9013-1, 9013-2, ~~9006-1~~, and 9017-1 govern motions and responses in adversary proceedings.

~~(b) A motion in an adversary proceeding may not include a request for relief which is properly made by motion in the bankruptcy case.~~

[Effective April 15, 1997. Amended effective XX, 2024.]

2024 Advisory Committee Notes

Local Rule 7007-1 was amended to remove unnecessary language about proper requests for relief. The other changes are stylistic only; no substantive changes were intended.

7000 Series Proposed Amendments – REDLINE VERSION

Rule 7018-1. ~~Joinder of Claims/Remedies~~ [ABROGATED]

~~Except as provided in Local Rule 3007-1 a complaint shall not include a request for relief which is properly made by motion in a bankruptcy case, including a request for relief from the stay or for dismissal or conversion of a case.~~

[Effective April 15, 1997. Abrogated effective XX, 2024.]

2024 Advisory Committee Notes

Local Rule 7018-1 was abrogated as unnecessary. Parties are responsible for knowing whether a request for relief can be made by filing a motion in the bankruptcy case or by filing an adversary proceeding. See, e.g., Fed. R. Bankr. P. 3007(b) (“A party in interest shall not include a demand for relief of a kind specified in Rule 7001 in an objection to the allowance of a claim, but may include the objection in an adversary proceeding.”); Fed. R. Bankr. P. 7001 (listing requests for relief that require filing an adversary proceeding).

Rule 7037-1. Discovery Motions

~~No motion relating to contested discovery shall be heard unless it affirmatively appears that the parties have conferred and attempted to resolve their differences. The discovering party shall arrange such a conference which shall be held within seven days from the date of a written request for a discovery conference. In addition to the certification under Federal Rule of Civil Procedure 37(a)(1) that must be filed with a discovery motion, the parties to the discovery motion must file a joint stipulation ~~in~~ Not later than 24 hours before the hearing on such motion, ~~the parties shall file a joint statement~~ setting forth the matters that remain unresolved ~~upon which they have been unable to agree, together with memoranda in support of or in opposition to their respective contentions. Unless ordered otherwise, the hearing on the motion shall be deemed the hearing on award of expenses including attorney's fees under Federal Rule of Bankruptcy Procedure 7037.~~~~

[Effective April 15, 1997. Amended effective January 1, 2002; January 9, 2006; December 1, 2009; XX, 2024.]

2024 Advisory Committee Notes

Local Rule 7037-1 was amended to remove language that was duplicative of Fed. R. Civ. P. 37(a), as incorporated by Fed. R. Bankr. P. 7037. For example, Fed. R. Civ. P. 37(a)(1) requires a certification that “the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.” The requirement that a discovery conference be held within seven days of a written request for such a conference was also removed. Parties should contact the courtroom deputy for the judge assigned to the adversary proceeding to schedule a discovery conference. The timing of the discovery conference is at the discretion of the judge. If a discovery motion is filed, it will be heard at the appropriate time. See Local Rule 7007-1. The requirement that the parties include memoranda in support of or in opposition to their respective contentions was also removed, as such memoranda should be included with the motion and any response thereto. Finally, the provision about attorney’s fees was removed as duplicative of Fed. R. Civ. P. 37(a)(5).

Rule 7041-1. ~~Dismissal of Adversary Proceedings~~[\[ABROGATED\]](#)

~~A complaint objecting to discharge or seeking revocation of discharge, other than one brought by a trustee or the United States Trustee, shall not be dismissed at the plaintiff's instance except by order of the court after hearing on motion made in the adversary proceeding. The plaintiff shall give notice of the motion to all creditors and other parties in interest. The plaintiff also shall include with the motion an affidavit stating what, if anything, has been received by or promised to the plaintiff in consideration of the request for dismissal.~~

[\[Effective April 15, 1997. Amended effective January 9, 2006; March 1, 2017; October 1, 2019. Abrogated effective XX, 2024.\]](#)

[2024 Advisory Committee Notes](#)

[Local Rule 7041-1 was abrogated to remove unnecessary language and to ensure consistency with Fed. R. Bankr. P. 7041. See also Fed. R. Civ. P. 41. The 2023 Advisory Committee Notes to Local Rule 9019-1 indicated that language from former Local Rule 9019-1\(c\) would be addressed in Local Rule 7041-1. That language is no longer necessary. Rule 9019\(a\) begins with, “On motion by the trustee and after notice and a hearing . . .” \(emphasis added\). See also Fed. R. Bankr. P. 9001\(11\) \(“Trustee’ includes a debtor in possession in a chapter 11 case.”\); Fed. R. Bankr. P. 9001\(5\) \(defining “Debtor”\). Thus, Fed. R. Bankr. P. 9019\(a\) applies to settlements by the “trustee.” Any such motion must be filed in the main bankruptcy case.](#)

Rule 7054-1. ~~Costs—Taxation/Payment~~[\[ABROGATED\]](#)

~~Fifteen days after the prevailing party has served and filed a verified bill of costs under 28 U.S.C. §§1920 and 1924, the clerk shall tax costs under Federal Rule of Bankruptcy Procedure 7054(b), Federal Rule of Bankruptcy Procedure 8021, or Fed. R. App. P. 39 only if the court allows costs to the prevailing party. On motion of any party served and filed within seven days after the clerk enters judgment taxing costs, the action of the clerk may be reviewed by the court.~~

[\[Effective April 15, 1997. Amended effective January 1, 2002; December 1, 2009; April 1, 2013; December 1, 2017. Abrogated effective XX, 2024.\]](#)

[2024 Advisory Committee Notes](#)

[Local Rule 7054-1 was abrogated as duplicative of Fed. R. Bankr. P. 7054. Refer to Director’s Bankruptcy Form 2630 for a bill of costs.](#)

Rule 7055-1. ~~Default;~~ Default Judgment

~~A party seeking default judgment shall:~~

7000 Series Proposed Amendments – REDLINE VERSION

~~(a) First, file a request by affidavit or letter for the clerk to enter default against any party who has failed to plead or otherwise defend; and~~

~~(b) Second,~~ (a) REQUIRED DOCUMENTS. After the clerk has entered ~~the a~~ party's default under Federal Rule of Civil Procedure 55(a), the party seeking a default judgment must file and serve the following documents on the defaulting party:~~serve on any party in default and file:~~

- ~~(1)~~ a request for a default judgment;
- ~~(2)~~ an affidavit of default stating that no defense or other response of any kind has been received or, if one has been received, detailing the defense or other response received;
- ~~(3)~~ an affidavit of identification of the defaulting party including the defaulting party's address and military, ~~or~~ infancy, or competency~~e~~ status;
- ~~(4)~~ an affidavit on the merits and the amount due including costs and disbursements by a person with personal knowledge; and
- ~~(5)~~ proposed findings of fact, conclusions of law, and an order for judgment.

(b) RETURNED MAIL. If either the summons and complaint or the request for default judgment were served by mail and ~~then~~ returned by the postal ~~service~~ office, the party seeking a default judgment ~~shall~~ must disclose that to the court by filing an affidavit. ~~If the request for default judgment was served by mail and then returned by the postal service, the party seeking judgment shall disclose that to the court.~~

(c) HEARING. The court may, in its discretion, hold a hearing before ~~entry of~~ entering a default judgment.

[Effective April 15, 1997. Amended effective January 1, 2002; October 1, 2019; XX, 2024.]

2024 Advisory Committee Notes

Local Rule 7055-1 was amended to remove language that was duplicative of Fed. R. Civ. P. 55(a), as incorporated by Fed. R. Bankr. P. 7055. The other amendments are stylistic only; no substantive changes were intended.

Rule 7056-1. ~~Time Periods for Service and Filing of~~ Summary Judgment Motions

(a) MOVING DOCUMENTS. ~~Notwithstanding Local Rule 9006-1(a), and unless the court orders otherwise provided in any applicable case management order or scheduling order,~~ moving documents for summary judgment in an adversary proceeding or contested matter ~~must~~ shall be filed, ~~and~~ served, and noticed, as applicable, not later than ~~twenty-eight~~ 28 days before

7000 Series Proposed Amendments – REDLINE VERSION

the hearing date. ~~Moving documents shall be filed within five days after the date and time for a hearing was obtained from the judge's calendar clerk.~~

(b) RESPONSIVE DOCUMENTS. -Any responsive documents ~~shall~~ must be filed and served not later than ~~fourteen~~ 14 days before the hearing date.

(c) REPLY DOCUMENTS. -~~Any reply, if any, by the moving party or other interested persons to any responsive documents shall~~ must be filed and served not later than seven days before the hearing date. ~~Such reply shall be limited to new legal or factual matters raised by any responsive documents.~~

[Effective May 1, 2018. Amended effective October 1, 2019; XX, 2024.]

2024 Advisory Committee Notes

Local Rule 7056-1 was amended to incorporate some of the changes made to amended Local Rules 9006-1(a) and 9013-2 and to remove any language that was duplicative of those rules. Those rules apply to adversary proceedings through Local Rule 7007-1. The other amendments are stylistic only; no substantive changes were intended.

Rule 7067-1. Depositing in and Withdrawing Money from the Court Registry ~~of Funds in Controversy~~

~~Parties contemplating deposit under Federal Rule of Bankruptcy Procedure 7067 are subject to Local Rule 5095-1(a) and shall to the extent practicable arrange instead for a banking or other depository to hold funds in escrow at interest upon appropriate terms and conditions but at their own risk.~~

(a) DEPOSITS. To deposit money in the court registry, a party must file a motion to deposit funds in compliance with Local Rules 9013-1 and 9013-2. The moving party must also file concurrently with the motion a completed registry deposit form provided by the clerk. If the motion to deposit funds is granted, the clerk's office will provide instructions for depositing the funds.

(b) WITHDRAWALS. To withdraw money from the court registry, a party must file a motion to withdraw funds in compliance with Local Rules 9013-1 and 9013-2. The moving party must also file concurrently with the motion to withdraw funds a completed registry withdrawal form provided by the clerk. If the motion to withdraw funds is granted, the clerk must not disburse money from the court registry until 14 days after the entry of the order, unless the court orders otherwise.

(c) ADMINISTRATION OF REGISTRY MONEY. The clerk will administer money deposited in the court registry in accordance with 28 U.S.C. §§ 2041–2042 and 2045.

7000 Series Proposed Amendments – REDLINE VERSION

(1) The clerk will deposit all registry money in the Court Registry Investment System (CRIS) of the Administrative Office of the U.S. Courts. The clerk will deposit interpleader money in the CRIS Disputed Ownership Fund.

(2) The Director of the Office of the Administrative Office of the United States Courts is the custodian of CRIS funds and may assess fees based on the Bankruptcy Court Miscellaneous Fee Schedule; withhold and pay federal taxes on Disputed Ownership Funds; and distribute income from fund investments after assessing fees.

(3) The clerk must assess and deduct all applicable registry fees from the interest income earned and credited to the money on deposit in the fund before any disbursement of funds.

(d) UNCLAIMED FUNDS. Subsections (a)–(b) of this rule do not apply to the deposit and withdrawal of unclaimed funds paid into the court registry under 11 U.S.C. § 347(a). Trustees may deposit unclaimed funds in the court registry in accordance with the clerk’s instructions. Any party who seeks payment of unclaimed funds must file an application on the form provided by the clerk. A court order is required to approve any application for payment of unclaimed funds.

[Effective April 15, 1997. Amended effective January 1, 2002; XX, 2024.]

2024 Advisory Committee Notes

Local Rule 7067-1 was amended to provide a process for parties to deposit in and withdraw money from the court registry. Except for unclaimed funds, as described in amended subsection (d), a motion must be filed to request that money be deposited in or withdrawn from the court registry. To deposit money, a moving party must also concurrently file with a motion to deposit funds a completed registry deposit form. This form is maintained by the clerk on the court’s website at www.mnb.uscourts.gov. Please refer to the filing instructions on the court’s website for how to properly file the registry deposit form. The information collected on the form is provided to determine the appropriate tax liability for the deposited funds. Interpleader funds deposited under 28 U.S.C. § 1335 meet the IRS definition of a “disputed ownership fund,” a taxable entity that requires tax administration. *See also* 26 C.F.R. § 1.468B-9. Interpleader funds are deposited with the court by a non-owner, third-party for court determination of ownership.

To withdraw money from the court registry, a moving party must also concurrently file with a motion to withdraw money a completed registry withdrawal form. This form is maintained by the clerk on the court’s website at www.mnb.uscourts.gov. Please refer to the filing instructions on the court’s website for how to properly file the registry withdrawal form. To complete the registry withdrawal form, the filing party must submit a completed W-9 or AO213 (Vendor Information/TIN Certification) form. Because a completed registry withdrawal form must contain complete financial account information and other details, the form must be filed using the proper event so that the form is restricted from public access.

Funds on deposit with the court registry in the Court Registry Investment System (CRIS) are pooled with all funds on deposit with the Treasurer of the United States to purchase Government Account Series securities through the Bureau of Public Debt. An account is established in the CRIS Liquidity Fund titled in the name of the case giving rise to the deposit invested in the fund. Income generated from CRIS investments will be distributed to each case based

7000 Series Proposed Amendments – REDLINE VERSION

on the ratio of each account's principal and earnings to the aggregate principal and earnings in the fund after CRIS fees have been applied. The CRIS fees are set forth in the Bankruptcy Court Miscellaneous Fee Schedule, which may be found at the website of the United States Courts at www.uscourts.gov. For each interpleader case, an account will be established in the CRIS Disputed Ownership Fund (DOF), titled in the name of the case giving rise to the deposit invested with the fund. Income generated from fund investments will be distributed to each case after the DOF fee has been applied and taxes are deducted.

Parties may obtain reports showing the interest earned, principal amounts contributed, and fees applied for all registry funds on deposit with the court by contacting the clerk's office at 612-664-5200.

For unclaimed funds, the clerk's instructions and the appropriate form can be found on the court's website at www.mnb.uscourts.gov.

Rule 7069-1. ~~Postjudgment; Execution~~ [ABROGATED]

~~(a) GENERALLY. If the adversary proceeding has been statistically concluded or terminated, and unless ordered otherwise, further docket entries may be made and relief granted without reopening the proceeding. If a satisfaction of a money judgment is filed, the satisfaction shall be noted in the docket and interested parties may file a certified copy with the clerk of the district court. Minnesota statutes and civil rules apply to the assignment, expiration or enforcement of judgments and related matters to the extent applicable under Federal Rule of Bankruptcy Procedure 7069 incorporating Fed. R. Civil P. 69(a).~~

~~(b) EXECUTION. A request for a writ of execution shall be made by application and shall identify the judgment, the amount due on the judgment, the title of the case or proceeding, the file number, and the reason for requesting the execution. Every writ of execution issued by the clerk shall be noted in the docket, delivered by the clerk to the United States Marshal and returned to the clerk within 30 days after the date issued. The attorney for the judgment creditor shall request particular action from the marshal by a separate writing to the marshal.~~

~~(c) ALTERNATIVE ENFORCEMENT. Upon request, the clerk shall furnish a certified copy of a judgment to permit filing with the clerk of the district court under Federal Rule of Bankruptcy Procedure 5003(c) or a certification of judgment to permit registration of the judgment with the clerk of district court for another district under 28 U.S.C. §1963 or to enable the judgment creditor to obtain a judgment and enforce the judgment in the courts of Minnesota under the Uniform Enforcement Of Foreign Judgments Act (Minn. Stat. §§548.26-548.33).~~

~~Fed. R. Bankr. Reference 5003(c).~~

[Effective April 15, 1997. Amended effective January 1, 2002; January 9, 2006; December 2012. Abrogated effective XX, 2024.]

2024 Advisory Committee Notes

7000 Series Proposed Amendments – REDLINE VERSION

[Local Rule 7069-1 was abrogated to ensure consistency with Fed. R. Civ. P. 69, as incorporated by Fed. R. Bankr. P. 7069. Refer to 28 U.S.C. § 1963 for information about enforcing judgments in other districts. Refer to Fed. R. Bankr. P. 5003\(c\) and the court's website at \[www.mnb.uscourts.gov\]\(http://www.mnb.uscourts.gov\) for information about requesting a certified copy of a judgment.](#)