



Clerk's Notes



November 2009

I. Changes to Federal Bankruptcy Rules, Forms, and Local Rules to become effective on December 1, 2009

A. Overview

The time computation provisions of the Appellate, Bankruptcy, Civil & Criminal Rules of Civil Procedure are being changed effective December 1, 2009. The purpose is to simplify the provisions and to eliminate the inconsistent methods of calculating time among the different rules.

Bankruptcy Rule 9006 has been changed significantly. Under the current bankruptcy rules, intermediate weekends and holidays are excluded when calculating time periods of less than eight days. The new rule counts intermediate weekends and holidays for all time periods. It is recommended that practitioners take some time to study the new time calculation rules.

B. Bankruptcy Rule changes

The Bankruptcy Rules are changed throughout to accommodate the new time calculating rules. Time periods shorter than 30 days are changed to multiples of seven days, so that the expiration of the deadline will ordinarily occur on a weekday. Under the new rules:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

The time deadlines in the following Bankruptcy Rules are changed effective December 1, 2009:

Bankruptcy Rules 1007, 1011, 1019, 1020, 2002, 2003, 2006, 2007, 2007.2, 2008, 2015, 2015.1, 2015.2, 2015.3, 2016, 3001, 3015, 3017, 3019, 3020, 4001, 4002, 4004, 6003, 6004, 6006, 6007, 7004, 7012, 8001, 8002, 8003, 8006, 8009, 8015, 8017, 9006, 9027, and 9033.

C. Time deadlines shortened for twelve Bankruptcy Rules

Changes to twelve Bankruptcy Rules will result in a reduction by one day of the time to take action – from 15 days to 14 days. The affected rules are Bankruptcy Rules 1007, 1019, 1020, 2015, 2015.1, 2016, 3015, 4001, 4002, 6004, 6007, and 8009.

Please take note of these changes and particularly of the new 14-day deadline for filing schedules, statements, and other documents under Rule 1007(c); for filing a chapter 13 plan under Rule 3015(b); and for filing appellate briefs under Rule 8009(a).

D. Other Amended Bankruptcy Rules

Four Bankruptcy Rules are changing effective December 1, 2009 that are not related to the time-computation amendments. These are:

Rule 4008 - amended to require the filing of a reaffirmation agreement cover sheet with the reaffirmation agreement.

Rule 7052 - amended to clarify that the entry of a judgment in an adversary proceeding means the entry of a judgment or order under the Bankruptcy Rules rather than under the Federal Rules of Civil Procedure.

Rule 7058 - *new* rule that makes Rule 58 of the Federal Rules of Civil Procedure applicable in adversary proceedings.

Rule 9021 - amended in connection with the addition of Rule 7058.

E. New and Amended Official Forms - Effective December 1, 2009

Form B1, Exhibit D – Credit Counseling – In Statement 2, the certificate must be filed no later than 14 days after the case is filed. In Statement 3, the deadline for the certificate of exigent circumstances exception is changed from 5 days to 7 days.

Form B27 – Reaffirmation Agreement – *new* cover sheet is required

A complete list of the new and amended Director's Procedural Forms that take effect on December 1, 2009 can be found on the U.S. Courts website under "Pending Changes in the Bankruptcy Forms". To get to this page, go to the Clerk's website at www.laeb.uscourts.gov. Click on "Forms and Publications", "Official Bankruptcy/Procedural Forms and Instructions", and "Pending Changes".

F. Local Rule changes

To be consistent with the new time-computation rules, the following Local Rules are amended effective December 1, 2009:

Rules 1006-1(B), 1015-1, 2007.1-1, 2083-1, 3015-1, 3015-2, 7007-1, 7026-1(C), 7041-1(A), 7067-1(D), 9013-1(B), and 9013-2(B).

II. PACER (Public Access to Court Electronic Records)

A. Written Opinions

In compliance with the E-Government Act of 2002, electronic access to the Court's written opinions filed after April 16, 2005 is available **at no charge** in the CM/ECF program. A written opinion is defined by the Judicial Conference of the United States as "any document issued by a judge or judges of the court, sitting in that capacity, that sets forth a reasoned explanation for a court's decision."

A PACER account is necessary to view documents and reports via CM/ECF over the Internet. To register for a PACER account, go to www.pacer.psc.uscourts.gov.

To find the court's written opinions, go to PACER. Click on "Reports"; "Written Opinions".

B. PACER Survey

A national effort is ongoing to assess the PACER program with the goal of improving public access to federal court documents and information. Practitioners are encouraged to participate in a short survey regarding their satisfaction with the current PACER services and make any suggestions for potential enhancements. The survey is on our website, www.laeb.uscourts.gov, and will remain available to users for approximately 30 days.

III. Certificate of Credit Counseling

Please file the certificates of credit counseling as separate documents. This will assist us in monitoring the case deadlines more accurately.

With an individual debtor use the "Certificate of Credit Counseling Db" event code. For joint debtors, use "Certificate of Credit Counseling Db" for one debtor and "Certificate of Credit Counseling Jt Db" for the other debtor. The event codes are located under "Bankruptcy", "Other".

IV. Amended Creditor Matrix

When filing an amended creditor matrix, please clearly identify the additions, deletions, and changes to the matrix. This will assist the Clerk's Office in making the necessary changes to the CM/ECF database.

The prompt for the amended creditor matrix is made when filing amended schedules.

V. BNC Notices

For some time, the Bankruptcy Notice Center has been combining notices from different cases in the same court into a single mailing (so long as the notices

are mailed to the same name and address). This has greatly reduced postage costs to the judiciary.

More recently, the BNC has begun combining notices from multiple courts into a single mailing. If you receive this type of notice by regular mail, be aware that it was done to reduce costs to the judiciary.

VII. Courtroom Technology Equipment

The renovations to the courtrooms to add the document presentation systems are complete. Thank you for your patience and understanding.

We are in the process of preparing training materials, and will provide training on the new equipment. More details to follow

V. Finally . . .

Check our website for updates on a regular basis – <http://www.laeb.uscourts.gov>. If you have suggestions on issues that you would like to see addressed in future newsletters, please call Marla Hamilton, Clerk of Court, 589-7820.