

Q & A

1.Question: May a corporate Chapter 11 debtor commence a case without filing Schedules I and J?

Answer: Yes. The case administrator should not issue a deficiency notice in this case. If a deficiency notice is docketed, please call the case administrator.

2.Question: How does a party who has filed a notice of appearance advise the Court and other parties in interest that they no longer wish to receive notices?

Answer: The party must file a letter indicating he/she no longer requests notice. The Court will internally change the party's status on the case to prevent court-generated notices from being sent to the party by the Bankruptcy Noticing Center. The Court cannot, however, ensure that non-court generated notices will not be sent.

3.Question: Does the full Social Security Number appear on the 341 meeting notice?

Answer: The initial Notice of Commencement of Case and 341 Meeting of Creditors ("Notice") are mailed with the debtor's full Social Security Number. The Notice docketed in the case will be redacted to omit all but the last four digits of the debtor's Social Security Number. Any amended Notice will be redacted.

4.Question: What happens if a personal identifier, such as a Social Security Number or the full account number appears on a filed document other than the Notice of Commencement of Case and 341 Meeting of Creditors?

Answer: If a personal identifier appears on a filed document such as a

proof of claim, the filer must file a motion requesting the Clerk to replace the filed document with a properly redacted document. The properly redacted document should be attached both to the motion and the proposed order as Exhibit A. The motion may be brought ex parte.

Note: The Court does not monitor filings for compliance with Fed. R. Bank.P 9037 (Privacy Protection for Filings made with the Court).

5.Question: Must a certificate of service be filed with an amended schedule?

Answer: Yes, if the amendment is to Schedules D, E or F.

6.Question: Are there special service requirements for a motion to avoid a judicial lien pursuant to 11 U.S.C. § 522(f)?

Answer: Yes. In addition to compliance with the service requirements of Fed. R. Bankr. P. 7004, Judges in all three Divisions require that the motion also be served upon counsel who represented the judicial lien creditor in the state court action.

7.Question: When is the trustee appointed when a case is converted? Is it when the order of conversion is entered? Is it when the Notice of Commencement of Case and 341 Meeting of Creditors appears on the docket?

Answer: Upon entry of the order of conversion, the Clerk's Office is told who the new trustee is. At that point, the Clerk's Office docket the "Convert Case" entry that indicates the appointment of the new trustee. This entry is usually made on the same day that the order of conversion is entered, but may in some cases be delayed until the following day.

8.Question: When a notice of amendment to the schedules is filed must we serve a new Form B21 and the Notice of Commencement of Case

and 341 Meeting of Creditors?

Answer: You may serve the newly added creditors with a copy of the original Form B21 and Notice of Commencement of Case and 341 Meeting of Creditors.

9.Question: If I receive a notice of deficiency and it instructs me to e-mail the document, should I just re-docket the corrected document as amended?

Answer: No. It is important to follow the instructions noted on the deficiency notice. Docketing an additional document causes confusion and you may be required to withdraw the original document, which causes unnecessary work for both you and the Clerk's Office.

10. Question: What is the proper caption for an amended order?

Answer : In the Syracuse Division, the preference of the Court is that the caption of an amended order include a reference to the docket number of the order being amended. Example: Amended Order Avoiding Judicial Lien Pursuant to 11 U.S.C. section 522(f) (Amends Order Entered at Docket No. 22)

11.Question: What is the procedure to follow when a firm moves to a new location?

Answer: Notify the Court by sending a letter to the attention of the Director of IT pursuant to Local Rule 4002-1(b) of the Proposed Local Bankruptcy Rules. Upon receipt of notification of firm's new address, the Automation Department will update the firm's address in CM/ECF, which will update the address on the docket of all cases.

12.Question: We had always been advised not to list the bankruptcy attorney on the cover sheet as counsel for the debtor in the adversary proceeding. We were told this because different counsel may be

representing them. A few months ago, the Clerk's Office advised our firm that we should note the debtor attorney as attorney for debtor/defendant too. Is this correct?

Answer: Yes. The court automatically adds the debtor's attorney as attorney for defendant. Pursuant to this Court's Local Bankruptcy Rules, the attorneys is responsible for representing the debtor in any adversary proceeding.

13. What is the procedure for scheduling a motion for summary judgment in the Syracuse division?

Answer: A motion for summary judgment, motion to dismiss an adversary proceeding, Chapter 12 confirmation hearing, and any special hearing are set by the Court in Syracuse. Please file your motion, and when prompted during the filing process, contact Carolyn Behm at 315-295-1682 for a hearing date and time.

14.Question: What is required when I provide Chambers' copies of motions?

Answer: The motion, notice of hearing, and the certificate of service.

15.Question: How do I obtain a proof of claim?

Answer: You may go to the Court's Web site, www.nynb.uscourts.gov, and there is a link to the official proof of claim form. Proofs of claim will no longer be provided with the 341 meeting notice.

16.Question: In the caption of a petition for an individual, may I include the name of a corporation?

Answer: No. See below:

Individual Petition. The title of a case for an individual debtor shall include all names used by the debtor during the preceding eight years. This includes trade names, aliases, maiden names, and former married names. An individual debtor may not include the name of a corporation, partnership, limited liability company, limited liability partnership or any other separate and distinct legal entity as a d/b/a or otherwise in the caption.

Corporate, Partnership, LLC or LLP Petition. A corporate, partnership, limited liability corporation or limited liability partnership petition may not be combined with the petition of an individual or other entity. The caption of the petition must state the full and correct title of the entity and the entity's federal identification number.

17.Question: Can a party be removed from the mailing matrix once added by filing a notice of appearance?

Answer: If a party is on the matrix a letter may be filed with the Court requesting that they no longer receive notice. The Court cannot remove the party. However, the Court can note internally that it is a bad address. The Court will no longer send notices via a mailing service. We cannot stop a party from mailing something in paper format.

18.Question: What happens if a Social Security Number appears on a proof of claim? Are full Social Security Numbers on the 341 meeting notice?

Answer: If a Social Security Number appears on a proof of claim, a party must make a motion for redaction and request a corrected document be filed. The Court does not monitor Fed. R. Bank.P 9037 (Privacy Protection For Filings made with the Court). All 341 meeting notices go out with the full Social Security Number pursuant to statute, however, the 341 notice entered on the docket has redacted information.

19.Question: Does a certificate of service need to be filed with an amended schedule.

Answer: Yes. Local Rule 1007-3(b) requires a certificate of compliance with the entire rule when the matrix is amended due to amended schedules.

20.Question: How should service be provided to the affected party when filing a motion pursuant to 11 U.S.C. § 522(f)?

Answer: The Judges in all Divisions will require that the motion be served pursuant to Fed. R. Bank. P 7004. In addition, once the Proposed Local Rules go into effect, service on the attorney that took the judgment will also be required.

21.Question: When is the trustee appointed when a case is converted? Is it when the order is entered? Is it when the 341 notice appears on the docket?

Answer: The Court is in the process of creating an event so that the “Convert Case” entry will include the trustee appointment information.

22. Question: When a notice of amendment is filed must we serve a new Form B21 and the notice for meeting of creditors?

Answer: You may serve them with a copy of your original Form B21 and the 341 notice for meeting of creditors. It is not an issue that a creditor gets the Social Security Number in two formats. They are entitled to it.

23.Question: If a property in bankruptcy is in foreclosure, but not sold yet, what party is responsible for taxes due after the foreclosure?

In or out of bankruptcy, how long can a creditor keep a foreclosure action pending?

Answer: Since the writer of the above question may become before this Court, we are unable to officially answer it. In addition, it is in the nature of legal advice.

24.Question: When is a service by certified mail required pursuant to 7004? Also, if sent to address registered to DOS, do we still need to mail by certified mail.

Answer: With a few exceptions, service may be made in accordance with Fed. R. Bankr. P. 7004 and 9014 by first class United States mail. Service must be made, however, on an FDIC insured depository institution, such as an FDIC insured bank, by certified mail addressed to an officer of the institution. There is, of course, an exception to the exception. If the institution has already appeared in the case by its attorney, the attorney may be served by first class United States mail. A list of federally insured depository institutions may be found at the Federal Depository Insurance Corporation's Web site, which is accessible at <http://www2.fdic.gov/idasp/main.asp>

25.Question: Which motions require service by certified mail?

Answer: All motions regarding contested matters, even if they are permitted by default motion practice under Local Bankruptcy Rule 9013-4 or Proposed Local Bankruptcy Rule 9013-3, must be served in compliance with Fed. R. Bankr. P. 7004. Generally speaking, whenever there is an actual dispute in a bankruptcy case that is not required to be resolved via an adversary proceeding, the litigation to resolve that dispute is a contested matter. Contested matters include, but are not limited to, matters involving relief from stay, avoidance of a lien under 11 U.S.C. § 522(f), claim objections, and valuation of security.

26.Question: What is the time frame for serving motions:

Answer: The notice period varies depending upon the particular relief sought or type of motion filed. For example, a motion under 11 U.S.C. § 522(f) must be served 21 days prior to the hearing

pursuant to Local Bankruptcy Rule 9013-1(e), as amended by Administrative Order 09-09. In each instance, the movant should consult the applicable Bankruptcy Code Section, Federal Bankruptcy Rule, and Local Bankruptcy Rule.