



Comments on Bankruptcy Forms and Rules

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To the Rules Committee –

I am a consumer bankruptcy lawyer practicing in VA, MD and DC, DC State Chair for the National Association of Consumer Bankruptcy Attorneys, and the Education Director of the ABI Consumer Committee. These comments are my own, not on behalf of any organization. I have the following comments on the proposed Rules and Forms.

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Amendment to Rule 7004(e): Prior to the adoption of the recent amendments, a summons had to be served within 10 days of issuance, and the responsive pleading was, and still is, due 30 days from issuance, which gave the defendant at least 20 days after service to respond. That 10 days was increased to 14 days in conformity with the 7-day multiples to which most rules were changed, shortening the response time to a minimum of 16 days after service. The rule attempts to address that by shortening the 14 days to 7 days, such that the response time will be at least 23 days. That would be fine in most cases where service is to be made by mail, by represented plaintiffs who receive the summons electronically. Counsel should be able to mail the summons and complaint within 7 days. However, if an unrepresented plaintiff (or one whose lawyer is not on ECF) receives the summons by mail from the Clerk, some, or even all, of the 7 day period may expire prior to receipt, making it impossible to timely serve. But more importantly, not all domestic summonses can be served by mail (the rule already excludes service abroad). Where only a PO Box is known, or where the person has no "dwelling house or usual place of abode" or business address, service must be made by process server. 7 days is simply impossible in such situations. Unless the rule is also amended to allow for service on PO Boxes, there should be a different time period where service is not to be made under Rule 7004(b) by mail. There is also no provision for service on a foreign government or its political subdivisions, agencies or instrumentalities in Rule 7004(b), as such service MUST be made in accordance with Rule 7004(a) incorporating FRCP 4(j)(1) and 28 USC 1608. It is highly unlikely that such

service could be completed in 14 days, but 7 days would be virtually impossible. While Rule 7004(e) as it exists and is proposed does not list Rule 4(j)(1) as being included in the 7 day limit, it is also not expressly excluded in the last sentence. An express exception should be made for such service.

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Forms: I join in the comments of Walter Oney on the bankruptcy forms. Further, it appears that the Committee's goal is to make *pro se* filing easier. *Pro se* filings should not be facilitated. They should be discouraged, as such parties often do harm to themselves and their interests, and disrupt the courts. The existing forms have served well. While Schedules I and J should perhaps be updated to reflect some of the expenses that people incur now that did not exist when they were adopted (typically telecommunications), there is no need for a wholesale revision. And Form 22 certainly needs no such overhaul. It is not broken, so don't fix it.

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