

# PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND BANKRUPTCY FORMS, EFFECTIVE DECEMBER 1, 2024

Absent contrary action by Congress, amendments to the Federal Rules of Bankruptcy Procedure and certain forms will become effective December 1, 2024.

## **Bankruptcy Rules**

The following rules are amended on account of the abrogation of Official Form 423 (Certification About a Financial Management Course) and noting that a certificate of (debtor education) course completion is required rather than the statement currently made using Form 423:

**Rule 1007** (Lists, Schedules, Statements, and Other Documents; Time to File)

**Rule 4004** (Granting or Denying a Discharge)

**Rule 5009(b)** (Closing a Chapter 7, 12, 13, or 15 Case; Declaring Liens Satisfied)

**Rule 9006** (Computing and Extending Time; Motions)

Additional rule amendments:

**Rule 7001** – Prompted by Justice Sotomayor’s suggestion in the concurring opinion in *City of Chicago v. Fulton*, (141 S. Ct. 585, 595 (2021)), the proposed amendment adds an exception to Rule 7001(a)’s general requirement that the recovery of money or property be sought by adversary proceeding. It allows a debtor to proceed by motion to require the turnover of tangible personal property under § 542(a), thereby permitting a swifter resolution of the matter.

**New Rule 8023.1 (Substitution of Parties)** – This new provision concerns substitution of parties in bankruptcy appeals due to death or any other reason.

**Restyled Bankruptcy Rules** – Over several years, proposed stylistic revisions to the entire set of bankruptcy rules have been published and will finally go into effect on December 1, 2024. The amendments are stylistic only and are intended to reduce inconsistent, ambiguous, redundant, repetitive, or archaic words. There also are formatting changes; although rule numbers remain the same, there may be changes in subdivision letters and numbers, and increased use of bullets for clarity. Practitioners are advised to be careful when identifying the updated rule provisions.

Two examples of the restyled rules are shown on the next page. The amendment to Rule 7001 and new Rule 8023.1 are also included on the following pages. The entire set of restyled rules may be found at [www.uscourts.gov/rules-policies/pending-rules-and-form-amendments](http://www.uscourts.gov/rules-policies/pending-rules-and-form-amendments).

## **Bankruptcy Forms**

**Official Form 410 (Proof of Claim)** - The last line of Part 1, Box 3, is amended to permit use of the uniform claim identifier for all payments in cases filed under all chapters of the Code, not merely electronic payments in chapter 13 cases.

**Official Form 423 (Certification About a Financial Management Course)** - Abrogated. Debtors must file the actual certificate of course completion.

## Examples of Restyled Bankruptcy Rules

ORIGINAL	REVISION
<p><b>Rule 3004. Filing of Claims by Debtor or Trustee</b></p> <p>If a creditor does not timely file a proof of claim under Rule 3002(c) or 3003(c), the debtor or trustee may file a proof of the claim within 30 days after the expiration of the time for filing claims prescribed by Rule 3002(c) or 3003(c), whichever is applicable. The clerk shall forthwith give notice of the filing to the creditor, the debtor and the trustee.</p>	<p><b>Rule 3004. Proof of Claim Filed by the Debtor or Trustee for a Creditor</b></p> <p>(a) <b>Filing by the Debtor or Trustee.</b> If a creditor does not file a proof of claim within the time prescribed by Rule 3002(c) or Rule 3003(c), the debtor or trustee may do so within 30 days after the creditor's time to file expires.</p> <p>(b) <b>Notice by the Clerk.</b> The clerk must promptly give notice of the filing to:</p> <ul style="list-style-type: none"> <li>• the creditor;</li> <li>• the debtor; and</li> <li>• the trustee.</li> </ul>

ORIGINAL	REVISION
<p><b>Rule 9023. New Trials; Amendment of Judgments</b></p> <p>Except as provided in this rule and Rule 3008, Rule 59 F.R.Civ.P. applies in cases under the Code. A motion for a new trial or to alter or amend a judgment shall be filed, and a court may on its own order a new trial, no later than 14 days after entry of judgment. In some circumstances, Rule 8008 governs post-judgment motion practice after an appeal has been docketed and is pending.</p>	<p><b>Rule 9023. New Trial; Altering or Amending a Judgment</b></p> <p>(a) <b>Application of Civil Rule 59.</b> Except as this rule and Rule 3008 provide otherwise, Fed. R. Civ. P. 59 applies in a bankruptcy case.</p> <p>(b) <b>By Motion.</b> A motion for a new trial or to alter or amend a judgment must be filed within 14 days after the judgment is entered. In some instances, Rule 8008 governs postjudgment motion practice after an appeal has been docketed and is pending.</p> <p>(c) <b>By the Court.</b> Within 14 days after judgment is entered, the court may, on its own, order a new trial.</p>

## Rule 7001. Types of Adversary Proceedings

An adversary proceeding is governed by the rules in this Part VII. The following are adversary proceedings:

- (a) a proceeding to recover money or property—except a proceeding to compel the debtor to deliver property to the trustee, a proceeding by an individual debtor to recover tangible personal property under § 542(a), or a proceeding under § 554(b), § 725, Rule 2017, or Rule 6002;

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## Rule 8023.1. Substitution of Parties

### (a) Death of a Party.

(1) **After a Notice of Appeal is Filed.** If a party dies after a notice of appeal has been filed or while a proceeding is pending on appeal in the district court or BAP, the decedent's personal representative may be substituted as a party on motion filed with that court's clerk by the representative or by any party. A party's motion must be served on the representative in accordance with Rule 8011. If the decedent has no representative, any party may suggest the death on the record, and the appellate court may then direct appropriate proceedings.

(2) **Before a Notice of Appeal is Filed – Potential Appellant.** If a party entitled to appeal dies before filing a notice of appeal, the decedent's personal representative—or, if there is no personal representative, the decedent's attorney of record—may file a notice of appeal within the time prescribed by these rules. After the notice of appeal is filed, substitution must be in accordance with (1).

(3) **Before a Notice of Appeal is Filed – Potential Appellee.** If a party against whom an appeal may be taken dies after entry of a judgment or order in the bankruptcy court, but before a notice of appeal is filed, an appellant may proceed as if the death had not occurred. After the notice of appeal is filed, substitution must be in accordance with (1).

- (b) **Substitution for a Reason Other Than Death.** If a party needs to be substituted for any reason other than death, the procedure in (a) applies.

### (c) Public Officer: Identification; Substitution.

(1) **Identification of a Party.** A public officer who is a party to an appeal or other proceeding in an official capacity may be described as a party by the public officer's official title rather than by name. But the appellate court may require the public officer's name to be added.

(2) **Automatic Substitution of an Officeholder.** When a public officer who is a party to an appeal or other proceeding in an official capacity dies, resigns, or otherwise ceases to hold office, the action does not abate. Subject to Rule 2012, the public officer's successor is automatically substituted as a party. Proceedings after the substitution are to be in the name of the substituted party, but any misnomer that does not affect the parties' substantial rights may be disregarded. An order of substitution may be entered at any time, but failure to enter an order does not affect the substitution.