

SERVICE OF MOTIONS IN CONTESTED MATTERS

INCLUDES: MOTIONS TO VALUE AND MOTIONS TO AVOID LIENS FILED SEPARATELY OR INCLUDED IN CHAPTER 13 PLANS; ANY MOTION COVERED BY BANKRUPTCY RULE 9014 RE: CONTESTED MATTERS

Federal Rule of Bankruptcy Procedure 9014 states that in contested matters, **motions shall be served in the same manner provided for service of a summons and complaint by Rule 7004** and within the time determined under Rule 9006(d). Please review Rule 7004 for the proper service required depending upon the respondent you need to notice, i.e., is it an individual, a corporation, the US government or agency, a depository institution, etc. *Most respondents can be served simply by mailing by first class mail postage prepaid to the proper name and address as specified in the applicable paragraph in Rule 7004.* However, see **7004(h)** if you are serving an **insured depository institution**.

NOTE: You should always consult Rule 7004 and Fed. R. Civ. P. 4, as well as applicable Local Rules and other applicable statutes and bankruptcy rules. This is not meant to be an exhaustive list of service requirements.

Here is some basic information regarding service required per Fed. R. Bankr. P. 7004:

Service on an individual: See Bankruptcy Rule 7004(b)(1), 7004(b)(7), and 7004(g). Mail copy of the motion and notice to the individual's dwelling house or where individual regularly conducts a business.

Service on a domestic or foreign corporation or upon a partnership or other unincorporated association: See Bankruptcy Rule 7004(b)(3), (b)(7), and 7004(i). Service is made by mailing a copy of motion and notice **to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process** and, if the agent is one authorized by statute to receive service, and the statute so requires, by also mailing a copy to the defendant. Listing of the corporate entity, followed by an address, is not proper service. An individual's name need not be listed but service should be directed to the attention of an officer, managing or general agent, or registered agent of the corporation, where they were served and why they are the right person to serve.

NOTE: If you are serving the registered service agent, it is very helpful to attach to the certificate of mailing the printed version of the Oklahoma Secretary of State Entity Summary Information which identifies the corporation, its registered agent and address. This helps the court to quickly verify proper service.

Service on the United States: See Bankruptcy Rule 7004(b)(4).

Mail should be addressed to the civil process clerk at the office of the United States attorney for the district in which the action is brought and by mailing a copy of the motion/notice to the

Attorney General of the United States at Washington DC. ***The U.S. Attorney for the Eastern District of Oklahoma must be served in addition to the Attorney General of the United States, Washington DC.***

Service upon any officer or agency of the United States: See Bankruptcy Rule 7004(b)(5). Mail should be addressed to the United States as prescribed in 7004(b)(4) and also to the officer or agency. If the agency is a corporation, the mailing shall be made as set forth in 7004(b)(3).

State or municipal corporation or other governmental organization: See Bankruptcy Rule 7004(b)(6). Mail should be addressed to the person or office upon whom process is prescribed or chief executive officer thereof.

Service on an insured depository institution: See Bankruptcy Rule 7004(h) and (i). Service shall be made by **certified mail** addressed to an officer of the institution unless one of the three conditions have been met: (1) the institution has appeared by its attorney in this bankruptcy case, in which case the attorney shall be served by first-class mail; (2) the court orders otherwise after service upon the institution by certified mail of notice of an application to permit service on the institution by first-class mail sent to an officer of the institution designated by the institution; (3) the institution has waived in writing its entitlement to service by certified mail by designating an officer to receive service. The certificate of service should indicate **what type of service was made upon each party**. When service is made on an attorney the attorney should be identified as “*Attorney for [Name of Insured Depository Institution].*” The attorney **must** have appeared for the institution in the **bankruptcy proceeding**. Otherwise, service should be on an officer of the institution **by certified mail** as required by 7004(h) unless one of the other conditions of Rule 7004(h) are met.