

PROPOSAL TO AMEND RULE 7004(a)(1)

1. The reference in Rule 7004(a) to Rule 4(d)(1) Needs to Be Changed to a Reference to Rule 4(d)(5). Rule 7004(a) makes Fed. R. Civ. P. 4(d)(1) applicable to adversary proceedings. When Rule 7004(a)'s incorporation of Rule 4(d)(1) was originally adopted in 1996, Rule 4(d)(1) read:

(1) A defendant who waives service of a summons does not thereby waive any objection to the venue or to the jurisdiction of the court over the person of the defendant.

In 2007, that language was revised and moved to Rule 4(d)(5), which provides:

(5) Jurisdiction and Venue Not Waived. Waiving service of a summons does not waive any objection to personal jurisdiction or to venue.

So the reference in Rule 7004(a)(1) to Rule 4(d)(1) needs to be changed to a reference to Rule 4(d)(5).

2. Proposed New Rule 7004(a) to Effectuate This Change. To effectuate the foregoing suggestion, Rule 7004(a)(1) should be revised to read:

(a) SUMMONS; SERVICE; PROOF OF SERVICE.

(1) Except as provided in Rule 7004(a)(2), Rule 4(a), (b), (c)(1), (d)~~(1)~~(5), (e)-(j), (l), and (m) F.R.Civ.P. applies in adversary proceedings. Personal service under Rule 4(e)-(j) F.R.Civ.P. may be made by any person at least 18 years of age who is not a party, and the summons may be delivered by the clerk to any such person.

[Deleted language indicted by strike-out, added language highlighted.]

S. Martin Teel, Jr.
United States Bankruptcy Judge
August 22, 2014