

UNITED STATES BANKRUPTCY COURT
DISTRICT OF COLORADO
U.S. CUSTOM HOUSE
721 NINETEENTH STREET, FIFTH FLOOR
DENVER, COLORADO 80202-2508

09-BK-N

MICHAEL E. ROMERO
BANKRUPTCY JUDGE

December 22, 2009

Mr. Peter G. McCabe
Assistant Director, Office of Judges Programs
Secretary of the Committee on Rules of Practice and Procedure
Administrative Office of the U.S. Courts
Thurgood Marshall Federal
Judiciary Building
One Columbus Circle, N.E.
Washington, DC 20544

Re: Advisory Committee on Bankruptcy Rules Request

Dear Mr. McCabe and Members of the Committee:

The Bankruptcy Judges Advisory Group has received an inquiry on what constitutes proper service of an objection to a proof of claim. After discussion and consideration at our last meeting, the BJAG seeks the guidance of the Advisory Committee on Bankruptcy Rules on this issue.

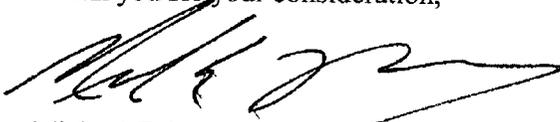
Generally, the Advisory Committee Note to FED. R. BANKR. P. 3007 indicates a filed objection to a claim initiates a contested matter governed by FED. R. BANKR. P. 9014. Some confusion has arisen relating to service of such an objection pursuant to that Rule. Some courts have required service of the objection pursuant to FED. R. BANKR. P. 9014 (which requires service consistent with FED. R. BANKR. P. 7004), *in addition* to the notice requirements described in FED. R. BANKR. P. 3007. Other courts have noted the service requirements of FED. R. BANKR. P. 9014 only apply to motions filed in connection with “. . . a contested matter *not otherwise* governed by these rules.” Since an objection to claim *is* “otherwise governed” by that rule, it could be argued service under FED. R. BANKR. P. 7004 is not required and satisfying the notice requirement set forth in FED. R. BANKR. P. 3007 is sufficient.

To add to the confusion, FED. R. BANKR. P. 3007(b) notes a situation wherein an objection to a claim could be included within an adversary proceeding. In that situation, satisfaction of the service requirements of FED. R. BANKR. P. 7004 is required. Thus, even though the relief sought in a claims challenge may be identical, depending on the pleading filed, the service requirements may be vastly different.

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The BJAG is not convinced such a distinction is necessary and wishes to inquire whether the Rules should be clarified so one uniform method of service can be used for all objection to claims purposes.

Thank you for your consideration,



Michael E. Romero (CO), Chair
Bankruptcy Judges Advisory Group

cc: Hon. Laura Taylor Swain
James H. Wannamaker III
Scott Myers
James Ishida