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JUDGE'S CHAMBERS  
**United States Bankruptcy Court**  
EASTERN DISTRICT OF VIRGINIA  
Walter E. Hoffman U.S. Courthouse  
600 Granby Street  
Norfolk, Virginia 23510

**98-BK-**

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**DAVID H. ADAMS**  
JUDGE

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October 8, 1998

Mr. Peter G. McCabe  
Secretary of the Committee  
On Rules of Practice and Procedure  
Administrative Office of the U. S. Courts  
Washington, D.C. 20544

Re: Advisory Committee on Federal Bankruptcy Rules

Dear Mr. McCabe:

I am writing about a due process concern I have due to the present state of the Federal Rules of Bankruptcy Procedure. The concern simply relates to the service of various motions and pleadings on corporations, partnerships and unincorporated associations.

As you know, pursuant to B. R. 7004, service is permitted by First Class Mail anywhere within the United States. Under B. R. 7004(b)(3) such service must be made "[u]pon a domestic or foreign corporation or upon a partnership or other unincorporated association, by mailing a copy of the summons and complaint 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." Many courts have ruled, as have I, that this Rule requires the naming of a specific individual, rather than merely sending the adversary complaint and summons to "Vice President, ABC Corporation", such as "Mr. John Doe, Vice President, ABC Corporation."

The problem I am encountering is that there is no such particularized service requirement relating to the service of motions, such as motions filed pursuant to §522(f)(2) relating to liens that impair exemptions and nonpossessory, nonpurchase

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money liens on household goods, or objections to claims. Bankruptcy Rule 4001(d)(1) contains no such limiting requirement for the service of motions for relief from the automatic stay, motions to prohibit or condition the use, sale or lease of property of the estate, or motions requesting approval of adequate protection agreements or to use cash collateral. Bankruptcy Rule 9013 is silent as to the recipient of service; however, Bankruptcy Rule 9014 does prescribe that service of contested matters must comply with Rule 7004. I also think that Bankruptcy Rule 2002(g) is inadequate to provide for required due process because it relates to service on entities as delineated by the debtor on the schedules, if the entity does not otherwise direct.

I often enter default orders stripping liens of corporate creditors wondering if anyone at that business has any idea what is happening to their security interest in a case in Norfolk, Virginia, maybe hundreds or thousands of miles from their corporate offices. I do not think it would be too onerous to require movants to properly serve a corporation, for instance, by a named officer or by the registered agent or by the Secretary of the Commonwealth of Virginia. I believe that due process requires such service to give the corporation or partnership actual notice.

It seems to me to be appropriate to state in one location in the Bankruptcy Rules that service on any of these entities must be accomplished as it is set out in Rule 7004(b)(3). I have reviewed the proposed changes to Bankruptcy Rule 9014, but I am not sure that the change relating to service goes far enough to give the referenced entities due process notice of all proceedings that occur under the present Code.

I would appreciate your taking up this shortcoming of the Rules with your Committee, if you deem it appropriate to do so.

Sincerely yours,



David H. Adams

Judge