

To be abrogated and certain provisions incorporated into Local Rule 7026-1 Discovery – General.

Rule 9014-2

GENERAL PROVISIONS REGARDING DISCOVERY -- CONTESTED MATTERS

In applying the provisions of Fed. R. Bankr. P. 7026 to contested matters, the Court directs that:

(a) Initial and subsequent disclosure requirements described in Fed. R. Civ. P. 26(a)(1) through (3) are not mandatory, except as stipulated by the parties or otherwise ordered by the Court.

(b) The conference and reporting requirements of Fed. R. Civ. P. 26(f) are not mandatory, except as stipulated by the parties or otherwise ordered by the Court.

(c) Unless the Court orders the application of the conference requirement of Fed. R. Civ. P. 26(f), the parties may initiate any method of discovery immediately after service is accomplished under Fed. R. Bankr. P. 7004.

Notes of Advisory Committee

2004 Amendment

This amendment corrects the Bankruptcy Rules citation to that of the currently used citation.

2000 Amendment

Pursuant to Fed. R. Bankr. P. 9014, Fed. R. Bankr. P. 7026 applies in contested matters "unless the court otherwise directs." This new local rule reflects the judgment of the Committee that the mandatory disclosure requirements of Fed. R. Civ. P. 26(a)(1) through (3) are burdensome, unwieldy, and of no benefit in routine contested matters. In an exercise of the Court's discretion under Fed. R. Bankr. P. 9014, therefore, the Court directs in paragraph (a) that these provisions are not mandatory in contested matters. The Court retains the ability to order these disclosures in individual contested matters, and the

parties retain the ability to agree to apply the disclosure provisions in individual contested matters.

The provisions of paragraphs (b) and (c) logically flow from the elimination of the mandatory disclosure requirements as provided in paragraph (a). Without the mandatory disclosure requirements, the conference and reporting requirements of Fed. R. Civ. P. 26(f) are unnecessary. Similarly, there is no need for a discovery moratorium before that conference.

The new local rule contained here is made necessary by the December 1, 2000, amendments to the Fed. R. Civ. P. 26 and Local Rule 7026-1. See the Notes of Advisory Committee as to the December 1, 2000, amendments to Local Rule 7026-1. Although mandatory disclosures, Rule 26(f) conferences and reports, and discovery moratoriums now apply in adversary proceedings, they do not apply in contested matters as a consequence of this new local rule.

Pursuant to Local Rule 9014-1, those portions of Fed. R. Bankr. P. 7005 applying Fed. R. Civ. P. 5(a)-(d) apply in contested matters. As part of the December 1, 2000, amendments to the Federal Rules of Civil Procedure, Fed. R. Civ. P. 5 was amended as to the filing of disclosure and discovery materials. Under Rule 5(d), as amended, disclosures under Rule 26(a)(1) and (2) and discovery requests and responses under Rules 30, 31, 33, 34, and 36 must not be filed until they are used in the action. Disclosures under Rule 26(a)(3), however, are to be filed with the Court. Because Fed. R. Civ. P. 5(d) applies in contested matters by virtue of Local Rule 9014-1 and applies in adversary proceedings by virtue of Fed. R. Bankr. P. 7005, disclosure and discovery papers in contested matters are filed -- or not filed -- in the same circumstances as disclosure and discovery papers in adversary proceedings. Local Rule 7005-2 formerly addressed this issue, but the Court abrogated that rule effective on December 1, 2000. See Notes of Advisory Committee as to the December 1, 2000, amendments to Local Rule 7005-2.

This amendment was effective on December 1, 2000.