

# **BANKRUPTCY <sup>UP</sup>DATE**

## **November 26, 2019**

If someone else would like to receive these <sup>UP</sup>dates, please send an e-mail to [Mary\\_Frederickson@sdb.uscourts.gov](mailto:Mary_Frederickson@sdb.uscourts.gov).

### **Chambers Closed November 28 and 29**

In celebration of Thanksgiving, Chambers and the Clerk's office will be closed this Thursday, November 28, and Chambers will also be closed this Friday, November 29. If you need to contact Chambers this Friday, please send an e-mail to Law Clerk Kay Cee Hodson at [Kay\\_Cee\\_Hodson@sdb.uscourts.gov](mailto:Kay_Cee_Hodson@sdb.uscourts.gov) or call the Clerk's office at (605) 357-2400 (Sioux Falls) or (605) 945-4460 (Pierre).

### **Handful of Federal Bankruptcy Rules Amendments Effective December 1**

A handful of Federal Rules of Bankruptcy Procedure will be amended effective this Sunday, December 1. Here is a [link to the amendments](#).

The impetus behind the first amendment is unclear. It provides a motion to obtain credit under Fed.R.Bankr.P. 4001(c) does not apply in a chapter 13 case. The Committee Note does not help. It says:

Subdivision (c) of the rule is amended to exclude chapter 13 cases from that subdivision. This

amendment does not speak to the underlying substantive issue of whether the Bankruptcy Code requires or permits a chapter 13 debtor not engaged in business to request approval of postpetition credit.

Until Judge Nail holds otherwise, a chapter 13 debtor may safely assume he or she should continue to seek court approval for post-petition car loans, home mortgage refinancings, etc., unless the matter was already addressed in the debtor's confirmed plan.

Rule 6007 is amended to clarify the procedure for a motion to compel abandonment. The amendment does not appear to alter anything we have already been doing in this district, except if a motion to compel abandonment is granted, a separate notice of the abandonment is no longer required.

Rule 9036 is amended to clarify provisions regarding electronic service on registered users. In particular, it says if a filer or a sender receives a notice of nondelivery regarding a particular party, the service or notice is not effective as to that party. The amendment appears to be one puzzle piece as the Advisory Committee on Bankruptcy Rules continues to work with the Bankruptcy Noticing Center to improve and broaden electronic service.

Finally, a new subdivision (h) in Rule 9037 will set forth a procedure for a motion to redact a previously filed document. This amendment, too, closely tracks what we have already been doing in South Dakota.

## Link

[Previous Bankruptcy <sup>UP</sup> dates](#)

As always, should you have questions regarding this <sup>UP</sup>date or anything else concerning your dealings with the Court or the Clerk's office, please let us know.

**HAPPY THANKSGIVING**

from Chambers and the Clerk's office