

Amendments to the Federal Rules of Bankruptcy Procedure

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PRACTICE AREAS

- Consumer Bankruptcy

An McV Consumer Bankruptcy Alert

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New amendments to the Federal Rules of Bankruptcy Procedure became effective on December 1, 2018. The following is a summary of the amendments:

- Rule 3002.1 – The current rule applies specifically to creditors whose claims are secured by security interest in debtor’s principal residence under a chapter 13 case. Thus, such holder of a claim must file a notice of any change in the payment amount no later than 21 days before the payment in the new amount is due. The 2018 amendment now recognizes the right of the trustee, debtor or party in interest to object to a change in the home mortgage payment, allowing a party to file a motion to determine the validity of said payment change.
- Rule 5005 – Electronic filing is now mandatory in all districts for entities represented by an attorney unless good cause is shown. Also, the courts now have discretion to decide whether a *pro se* individual may be required or not to file electronically.
- Rule 7004 – Addresses the effect of a defendant’s waiver of service in adversary proceedings.
- Rule 7062- Maintains the current 14-day duration of the automatic stay of judgment in adversary proceedings.
- New Rule 8018.1 – A District court can now treat a bankruptcy court’s judgment as proposed findings of fact and conclusions of law if the court determines that the bankruptcy court lacked constitutional authority to enter a final judgment. It was added to prevent a district court from having to remand an appeal.

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