

Rule 41 F.R.Civ.P. refers to Rule 19 F.R.Civ.P. Pursuant to Rule 7002 that reference is to Rule 19 F.R.Civ.P. as incorporated and modified by Rule 7019.

NOTES OF ADVISORY COMMITTEE ON RULES—1991
AMENDMENT

The United States trustee has standing to object to the debtor's discharge pursuant to §727(c) and may have refrained from commencing an adversary proceeding objecting to discharge within the time limits provided in Rule 4004 only because another party commenced such a proceeding. The United States trustee may oppose dismissal of the original proceeding.

The rule is also amended to clarify that the court may direct that other persons receive notice of a plaintiff's motion to dismiss a complaint objecting to discharge.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7042. Consolidation of Adversary Proceedings; Separate Trials

Rule 42 F.R.Civ.P. applies in adversary proceedings.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7052. Findings by the Court

Rule 52 F.R.Civ.P. applies in adversary proceedings, except that any motion under subdivision (b) of that rule for amended or additional findings shall be filed no later than 14 days after entry of judgment. In these proceedings, the reference in Rule 52 F.R.Civ.P. to the entry of judgment under Rule 58 F.R.Civ.P. shall be read as a reference to the entry of a judgment or order under Rule 5003(a).

(As amended Mar. 26, 2009, eff. Dec. 1, 2009.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Rule 52(a) F.R.Civ.P. refers to Rule 12 F.R.Civ.P. Pursuant to Rule 7002 this reference is to Rule 12 F.R.Civ.P. as incorporated and modified by Rule 7012.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended by limiting the time for filing post judgment motions for amended or additional findings. In 2009, Rule 52 F. R. Civ. P. was amended to extend the deadline for filing those post judgment motions to no later than 28 days after entry of the judgment. That deadline corresponds to the 30-day deadline for filing a notice of appeal in a civil case under Rule 4(a)(1)(A) F. R. App. P. In a bankruptcy case, the deadline for filing a notice of appeal is 14 days. Therefore, the 28-day deadline for filing a motion for amended or additional findings would effectively override the notice of appeal deadline under Rule 8002(a) but for this amendment.

The rule is amended to clarify that the reference in Rule 52 F. R. Civ. P. to Rule 58 F. R. Civ. P. and its provisions is construed as a reference to the entry of a judgment or order under Rule 5003(a).

Changes Made After Publication. No changes since publication.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7054. Judgments; Costs

(a) JUDGMENTS. Rule 54(a)–(c) F.R.Civ.P. applies in adversary proceedings.

(b) COSTS. The court may allow costs to the prevailing party except when a statute of the United States or these rules otherwise provides. Costs against the United States, its officers and agencies shall be imposed only to the extent permitted by law. Costs may be taxed by the clerk on 14 days' notice; on motion served within seven days thereafter, the action of the clerk may be reviewed by the court.

(As amended Apr. 23, 2012, eff. Dec. 1, 2012.)

COMMITTEE NOTES ON RULES—2012 AMENDMENT

Subdivision (b). Subdivision (b) is amended to provide more time for a party to respond to the prevailing party's bill of costs. The former rule's provision of one day's notice was unrealistically short. The change to 14 days conforms to the change made to Civil Rule 54(d). Extension from five to seven days of the time for serving a motion for court review of the clerk's action implements changes in connection with the December 1, 2009, amendment to Rule 9006(a) and the manner by which time is computed under the rules. Throughout the rules, deadlines have been amended in the following manner:

- 5-day periods became 7-day periods.
- 10-day periods became 14-day periods.
- 15-day periods became 14-day periods.
- 20-day periods became 21-day periods.
- 25-day periods became 28-day periods.

Changes Made After Publication. No changes were made after publication.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subd. (a), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7055. Default

Rule 55 F.R.Civ.P. applies in adversary proceedings.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7056. Summary Judgment

Rule 56 F.R.Civ.P. applies in adversary proceedings, except that any motion for summary judgment must be made at least 30 days before the initial date set for an evidentiary hearing on any issue for which summary judgment is sought, unless a different time is set by local rule or the court orders otherwise.

(As amended Apr. 23, 2012, eff. Dec. 1 2012.)

COMMITTEE NOTES ON RULES—2012 AMENDMENT

The only exception to complete adoption of Rule 56 F.R.Civ.P. involves the default deadline for filing a summary judgment motion. Rule 56(c)(1)(A) makes the default deadline 30 days after the close of all discovery. Because in bankruptcy cases hearings can occur shortly after the close of discovery, a default deadline based on the scheduled hearing date, rather than the close of discovery, is adopted. As with Rule 56(c)(1), the deadline can be altered either by local rule or court order.

Changes Made After Publication. No changes were made after publication.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7058. Entering Judgment in Adversary Proceeding

Rule 58 F.R.Civ.P. applies in adversary proceedings. In these proceedings, the reference in Rule 58 F.R.Civ.P. to the civil docket shall be read as a reference to the docket maintained by the clerk under Rule 5003(a).

(Added Mar. 26, 2009, eff. Dec. 1, 2009.)

COMMITTEE NOTES ON RULES—2009

This rule makes Rule 58 F.R.Civ.P. applicable in adversary proceedings and is added in connection with the amendments to Rule 9021.

Changes Made After Publication. No changes since publication.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7062. Stay of Proceedings to Enforce a Judgment

Rule 62 F.R.Civ.P. applies in adversary proceedings.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 26, 1999, eff. Dec. 1, 1999.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

The additional exceptions set forth in this rule make applicable to those matters the consequences contained in Rule 62(c) and (d) with respect to orders in actions for injunctions.

NOTES OF ADVISORY COMMITTEE ON RULES—1991
AMENDMENT

This rule is amended to include as additional exceptions to Rule 62(a) an order granting relief from the automatic stay of actions against codebtors provided by §1201 of the Code, the sale or lease of property of the estate under §363, and the assumption or assignment of an executory contract under §365.

COMMITTEE NOTES ON RULES—1999 AMENDMENT

The additional exceptions to Rule 62(a) consist of orders that are issued in contested matters. These exceptions are deleted from this rule because of the amendment to Rule 9014 that renders this rule inapplicable in contested matters unless the court orders otherwise. *See also* the amendments to Rules 3020, 3021, 4001, 6004, and 6006 that delay the implementation of certain types of orders for a period of ten days unless the court otherwise directs.

GAP Report on Rule 7062. No changes since publication.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7064. Seizure of Person or Property

Rule 62 F.R.Civ.P. applies in adversary proceedings.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7065. Injunctions

Rule 65 F.R.Civ.P. applies in adversary proceedings, except that a temporary restraining

order or preliminary injunction may be issued on application of a debtor, trustee, or debtor in possession without compliance with Rule 65(c).

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7067. Deposit in Court

Rule 67 F.R.Civ.P. applies in adversary proceedings.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7068. Offer of Judgment

Rule 68 F.R.Civ.P. applies in adversary proceedings.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7069. Execution

Rule 69 F.R.Civ.P. applies in adversary proceedings.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7070. Judgment for Specific Acts; Vesting Title

Rule 70 F.R.Civ.P. applies in adversary proceedings and the court may enter a judgment divesting the title of any party and vesting title in others whenever the real or personal property involved is within the jurisdiction of the court.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987.)

NOTES OF ADVISORY COMMITTEE ON RULES—1987
AMENDMENT

The reference to court is used in the amendment because the district court may preside over an adversary proceeding.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7071. Process in Behalf of and Against Persons Not Parties

Rule 71 F.R.Civ.P. applies in adversary proceedings.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7087. Transfer of Adversary Proceeding

On motion and after a hearing, the court may transfer an adversary proceeding or any part thereof to another district pursuant to 28 U.S.C. §1412, except as provided in Rule 7019(2).