

Chapter 13 Service Tips

These tips have been revised per the amendments to the Federal Rules of Bankruptcy Procedure effective **December 1, 2017**.

These tips address common service issues in contested matters in Chapter 13 cases. They are not intended to alter or amend the Federal Rules of Bankruptcy Procedure or the Bankruptcy Local Rules. Note that adversary proceedings are generally governed by Fed. R. Bankr. P. 7000 - 7087. Contested matters are generally governed by Fed. R. Bankr. P. 9014 and motions in contested matters must be served pursuant to Fed. R. Bankr. P. 7004.

1. **Corporate entities must be served to the attention of an individual in a contested matter:**

| Good | Bad |
|---|---|
| Generic Business, N.A. Attn: Officer, Managing or General Agent 123 Main St San Jose, CA 95113 | Generic Business, N.A. 123 Main St San Jose, CA 95113 |

2. **Address served unverifiable:** Service on business entities pursuant to Fed. R. Bankr. P. 7004 should be independently verifiable, i.e. through:

- a. The California Secretary of State website at kepler.sos.ca.gov if applicable;
- b. The FDIC BankFind website at <https://research.fdic.gov/bankfind> for insured depository institutions;
- c. The National Credit Union Administration website at <https://mapping.ncuca.gov/researchcreditunion.aspx> for credit unions;
- d. A recent filing by the creditor on the docket.

Alternatively, the certificate of service should indicate how the affected party's current address was ascertained.

3. **Address served incomplete:** Often, parties will be served at an incomplete address

| Good | Bad |
|---|---|
| A B C Corporate System Attn: Officer, Managing or General Agent 123 Main St Ste 456 San Jose, CA 95113 | A B C Corporate System Attn: Officer, Managing or General Agent 123 Main St San Jose, CA 95113 |

4. **Service to a P.O. Box:** Service of notice of contested matters to a P.O. Box is inappropriate, unless the address can be verified as described in Paragraph 2 above. In order to assure that the party being served is apprised of the pendency of an action, valid service requires more than to address the document to a post office box. *Beneficial California Inc. v. Villar (In re Villar)*, 317 B.R. 88, 93 (B.A.P. 9th Cir. 2004).

5. **Service on debtors:** For contested matters, debtors should be served “at the address shown in the petition or to such other address as the debtor may designate in a filed writing.” Fed. R. Bankr. P. 7004(b)(9). In addition, “[i]f the debtor is represented by an attorney, whenever service is made upon the debtor under this Rule, service shall also be made upon the debtor's attorney” Fed. R. Bankr. P. 7004(g).

6. **Service on insured depository institutions:** For contested matters, insured depository institutions should be served by certified mail addressed to an officer of the institution, unless the institution has appeared by its attorney, in which case the attorney shall be served by first class mail (among other exceptions set forth in R. 7004(h)). Fed. R. Bankr. P. 7004(h). Note that attorneys will often file requests for notice or motions for relief from stay on behalf of a client that expressly provide that such request does not waive the right to service on the depository institution by certified mail.

7. **Service on state agencies:** For contested matters, state agencies should be served to the attention of a clerk, secretary, president, presiding officer, or other head of the agency. Fed. R. Bankr. P. 7004(b)(6). Agencies should be served at the address listed on the Roster of Public Agencies for Bankruptcy Noticing when applicable. See <http://www.canb.uscourts.gov/content/roster-public-agencies-bankruptcy-noticing>.

8. **Service on federal agencies:** Federal agencies should be served pursuant to Fed. R. Bankr. P. 7004(b)(4) and (5) in contested matters:
 - a. To the civil process clerk at the office of the United States Attorney for the district in this district;
 - b. To the Attorney General of the United States at Washington, District of Columbia; and
 - c. To the agency.

Agencies should be served at the address listed on the Roster of Public Agencies for Bankruptcy Noticing when applicable. <http://www.canb.uscourts.gov/content/roster-public-agencies-bankruptcy-noticing>.

| Example: Service on the U.S. Internal Revenue Service (Current as of 11/15/2017) |
|---|
| Internal Revenue Service P.O. Box 7346 Philadelphia, PA 19101-7346 |
| United States Attorney Civil Process Clerk 450 Golden Gate Ave. San Francisco, CA 94102-3400 |

United States Department of Justice
Civil Trial Section Western Region
Box 683 Ben Franklin Station
Washington, DC 20044

9. **Service of objections to claims:** Service of an objection to a proof of claim is governed by FRBP 3007. Objections to claims must be served with 30 days notice. The person most recently designated on the proof of claim as the person to receive notices must be served by first class mail. In addition, if the claimant is the United States, its officers or agencies, or an insured depository institution, service must also be made in accordance with FRBP 7004.