

**ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS**

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MEMORANDUM TO ALL: JUDGES, UNITED STATES BANKRUPTCY COURTS
CLERKS, UNITED STATES BANKRUPTCY COURTS

SUBJECT: New Subpoena Forms

On December 1, 1991, amendments to Rule 45 of the Federal Rules of Civil Procedure will become effective that will require parties in cases under the bankruptcy Code to use new forms of subpoenas. Rule 9016 of the Federal Rules of Bankruptcy Procedure makes Rule 45 applicable in cases under the Bankruptcy Code.

The new forms are: Subpoena for Rule 2004 Examination (B 254), Subpoena in an Adversary Proceeding (B 255), and Subpoena in a Case under the Bankruptcy Code (B 256). They should be used beginning December 1, 1991, in all matters requiring a subpoena.

Copies of the new forms are attached for local copying and distribution to the bar. Please note that each of the three forms is a two-sided document, printed head-to-foot. **These copies will remain the only source of bankruptcy subpoenas until printing is complete and the warehouse has been stocked.** You will be notified when the forms can be ordered in the normal manner.

The most important changes to the subpoenas, required by the amendments are:

- The text of new subdivisions (c) and (d) of Rule 45, setting forth the rights and responsibilities of the person served, must be included on the subpoena;
- A single subpoena may contain both a command to appear at trial or other hearing or a deposition **and** a command to produce evidence or permit inspection of premises;
- The requirement of a court seal has been eliminated.

The most important change in the procedure for issuing subpoenas, also pursuant to the amendments, is that most subpoenas will be issued by attorneys as "officers of the court." The clerk will issue a subpoena only when it is requested by a party directly, as when a litigant is proceeding pro se. The signature lines on the forms have been altered to reflect the new procedure.

Questions concerning these provisional subpoena forms can be addressed to Patricia S. Channon of the Bankruptcy Division, FTS 633-6214

/signed/ L. Ralph Mecham

Attachments