

SERVICE OF PROCESS CHECKLIST

*This outline is offered as an aid to bankruptcy practitioners in the Southern District of Alabama and does not reflect any official policy or rulings of that court.

Objections to claims

- Governed by Rules 3007(a)(2) and 7004

(1) For everyone EXCEPT federal government (including agencies and officers) and insured depository institutions, the objection “shall be served on a claimant by first-class mail to the person most recently designated on the claimant’s original or amended proof of claim as the person to receive notices, at the address so indicated”

(2) For federal government (including agencies such as the IRS and Dept. of Education, as well as officers) – serve both address on claim form AND under Rule 7004(b), which requires service by first class mail on

- The civil process clerk at the U.S. attorney’s office for this district,
- The Attorney General in Washington, D.C., and
- The agency or officer, as applicable (most common is IRS)

(3) For insured depository institutions – serve both address on claim form AND under Rule 7004(h), which requires service by **certified mail** addressed to **an officer of the institution**¹

- Exception – if the institution’s attorney has filed a notice of appearance,² you can serve the attorney by first-class mail to satisfy the second prong
- Check FDIC.gov (under “Deposit Insurance” and then “BankFind”) to determine whether a bank is an insured depository institution

¹ There is a split of authority as to whether you can simply serve the bank addressed to “President, ABC Bank” or if you need to identify the name of an actual officer. The better course of action is to identify a named officer.

² Filing a creditor request for notices or filing a pleading on behalf of a bank is not the same as filing an actual notice of appearance. Only use this rule if the bank’s attorney has filed an actual notice of appearance in the bankruptcy.

Service in APs, contested matters (including lien avoidance),
and plan cramdowns of secured claims

- Governed by Rule 7004 (APs), 9014 (contested matters, but the rule says to serve in accordance with Rule 7004 so service is the same for both APs and contested matters), and 3012(b) (plan cramdowns, but the rule says to serve in accordance with Rule 7004)
- Service by first class mail is permissible EXCEPT on a federally-insured depository institution, which must be by certified mail
- PITFALL (particularly re: lien avoidance) – service on the attorney listed on the judgment is NOT sufficient; service must also be made on the creditor itself.

Corporation, partnership, or unincorporated association

- First class mail addressed to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process – Rule 7004(b)³
- Certified mail addressed to an officer, a partner (other than a limited partner), a managing or general agent, or any agent authorized by appointment or by law to receive service of process – FRCP 4(h)(1)(A) and Ala. R. Civ. P. 4(c)(6)
- Delivering a copy to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process – FRCP 4(h)(1)(B)

Insured depository institution

- By **certified mail** addressed to **an officer of the institution** – Rule 7004(h)
 - Exception – if the institution’s attorney has noticed an appearance,⁴ then serve the attorney by first-class mail (there are other rare exceptions)
 - Check FDIC.gov (under “Deposit Insurance” and then “BankFind”) to determine whether a bank is an insured depository institution

³ As with banks, there is a split of authority whether you can simply serve the entity addressed to “President, XYZ Corporation” or if you need to identify the name of an actual officer. Again, the better course of action is to identify a named officer or agent.

⁴ See footnote 2 above.

Federal government (including agencies and officers)

- First class mail on the civil process clerk at the U.S. attorney's office for this district, the Attorney General in Washington, D.C., AND on the agency or officer as applicable (most common is IRS) – Rule 7004(b)
- Alternatively, for the United States, by delivering a copy to the U.S. attorney's office for this district or sending by registered or certified mail thereto AND by sending a copy to the Attorney General in Washington, D.C. by registered or certified mail – FRCP 4(i)(1)
- Alternatively, for an agency or officer sued in official capacity, by serving the U.S. as discussed immediately above AND by sending a copy by registered or certified mail to the agency or officer – FRCP 4(i)(2). There are separate rules if officer is sued in individual capacity.

State or municipal corporation or other governmental organization

- By first class mail to the person or office upon whom process is prescribed to be served by Alabama state law or, in the absence of the designation of any such person or office, then the chief executive officer thereof – Rule 7004(b)
 - For the state or any of its departments, agencies, officers, or institutions – by serving the officer responsible for the administration of the department, agency, office, or institution, and by serving the attorney general of the state. Most common is Department of Revenue. Note that service is required on both the Revenue Commissioner and the AG – Ala. R. Civ. P. 4(c)(7)
 - For a county, municipal corporation, or any other governmental entity not previously mentioned – by serving the chief executive officer or the clerk, or other person designated by appointment or by statute to receive service of process (can also serve attorney general if such persons are unknown or cannot be located, but case law requires quite a lot before an affidavit saying this is accepted). – Ala. R. Civ. P. 4(c)(8).
- By delivering a copy to the state or local government's chief executive officer – FRCP 4(j)

Competent adult individual within U.S.

- First class mail addressed to individual's residence – Rule 7004(b)
- First class mail addressed to individual's business address (not PO Box) – Rule 7004(b)
- Following Alabama state law for serving a summons – FRCP 4(e)(1)
- Personal service on the individual – FRCP 4(e)(2)(A)

- Leaving a copy at the individual's residence with someone of suitable age and discretion who resides there – FRCP 4(e)(2)(B)
- Delivering a copy to an agent authorized by appointment or by law to receive service of process – FRCP 4(e)(2)(C)