

clerk, after the order becomes final or the waiver is filed, shall promptly give notice thereof to all creditors in the manner provided in Rule 2002.

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

NOTES OF ADVISORY COMMITTEE ON RULES—1983

The suspension by §108(c) of the Code of the statute of limitations affecting any debt of a debtor terminates within 30 days after the debtor is denied a discharge or otherwise loses his right to a discharge. If, however, a debtor's failure to receive a discharge does not come to the attention of his creditors until after the statutes of limitations have run, the debtor obtains substantially the same benefits from his bankruptcy as a debtor who is discharged.

This rule requires the clerk to notify creditors if a debtor fails to obtain a discharge because a waiver of discharge was filed under §727(a)(10) or as a result of an order denying or revoking the discharge under §727(a) or (d).

Rule 4007. Determination of Dischargeability of a Debt

(a) Persons Entitled To File Complaint

A debtor or any creditor may file a complaint to obtain a determination of the dischargeability of any debt.

(b) Time for Commencing Proceeding Other Than Under §523(c) of the Code

A complaint other than under §523(c) may be filed at any time. A case may be reopened without payment of an additional filing fee for the purpose of filing a complaint to obtain a determination under this rule.

(c) Time for Filing Complaint Under §523(c) in Chapter 7 Liquidation, Chapter 11 Reorganization, and Chapter 12 Family Farmer's Debt Adjustment Cases; Notice of Time Fixed

A complaint to determine the dischargeability of any debt pursuant to §523(c) of the Code shall be filed not later than 60 days following the first date set for the meeting of creditors held pursuant to §341(a). The court shall give all creditors not less than 30 days notice of the time so fixed in the manner provided in Rule 2002. On motion of any party in interest, after hearing on notice, the court may for cause extend the time fixed under this subdivision. The motion shall be made before the time has expired.

(d) Time for Filing Complaint Under §523(c) in Chapter 13 Individual's Debt Adjustment Cases; Notice of Time Fixed

On motion by a debtor for a discharge under §1328(b), the court shall enter an order fixing a time for the filing of a complaint to determine the dischargeability of any debt pursuant to §523(c) and shall give not less than 30 days notice of the time fixed to all creditors in the manner provided in Rule 2002. On motion of any party in interest after hearing on notice the court may for cause extend the time fixed under this subdivision. The motion shall be made before the time has expired.

(e) Applicability of Rules in Part VII

A proceeding commenced by a complaint filed under this rule is governed by Part VII of these rules.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule prescribes the procedure to be followed when a party requests the court to determine dischargeability of a debt pursuant to §523 of the Code.

Although a complaint that comes within §523(c) must ordinarily be filed before determining whether the debtor will be discharged, the court need not determine the issues presented by the complaint filed under this rule until the question of discharge has been determined under Rule 4004. A complaint filed under this rule initiates an adversary proceeding as provided in Rule 7003.

Subdivision (b) does not contain a time limit for filing a complaint to determine the dischargeability of a type of debt listed as nondischargeable under §523(a)(1), (3), (5), (7), (8), or (9). Jurisdiction over this issue on these debts is held concurrently by the bankruptcy court and any appropriate nonbankruptcy forum.

Subdivision (c) differs from subdivision (b) by imposing a deadline for filing complaints to determine the issue of dischargeability of debts set out in §523(a)(2), (4) or (6) of the Code. The bankruptcy court has exclusive jurisdiction to determine dischargeability of these debts. If a complaint is not timely filed, the debt is discharged. See §523(c).

Subdivision (e). The complaint required by this subdivision should be filed in the court in which the case is pending pursuant to Rule 5005.

NOTES OF ADVISORY COMMITTEE ON RULES—1991
AMENDMENT

Subdivision (a) is amended to delete the words "with the court" as unnecessary. See Rules 5005(a) and 9001(3).

Subdivision (c) is amended to apply in chapter 12 cases the same time period that applies in chapter 7 and 11 cases for filing a complaint under §523(c) of the Code to determine dischargeability of certain debts. Under §1228(a) of the Code, a chapter 12 discharge does not discharge the debts specified in §523(a) of the Code.

Rule 4008. Discharge and Reaffirmation Hearing

Not more than 30 days following the entry of an order granting or denying a discharge, or confirming a plan in a chapter 11 reorganization case concerning an individual debtor and on not less than 10 days notice to the debtor and the trustee, the court may hold a hearing as provided in §524(d) of the Code. A motion by the debtor for approval of a reaffirmation agreement shall be filed before or at the hearing.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Section 524(d) of the Code requires the court to hold a hearing to inform an individual debtor concerning the granting or denial of discharge and the law applicable to reaffirmation agreements.

The notice of the §524(d) hearing may be combined with the notice of the meeting of creditors or entered as a separate order.

The expression "not more than" contained in the first sentence of the rule is for the explicit purpose of requiring the hearing to occur within that time period and cannot be extended.

NOTES OF ADVISORY COMMITTEE ON RULES—1991
AMENDMENT

This rule is changed to conform to §524(d) of the Code as amended in 1986. A hearing under §524(d) is not mandatory unless the debtor desires to enter into a reaffirmation agreement.

PART V—COURTS AND CLERKS

Rule 5001. Courts and Clerks' Offices

(a) Courts Always Open

The courts shall be deemed always open for the purpose of filing any pleading or other prop-