

Rule 2004-1 Examination

(a) Inapplicability to Adversary Proceedings and Contested Matters. The provisions for examination under this LBR are inapplicable to pending adversary proceedings and contested matters. The discovery provisions made applicable by Part VII of Federal Rules of Bankruptcy Procedure, and Fed. R. Bankr. P. 9014 govern discovery in connection with pending adversary proceedings and contested matters.

(b) Consultation Required. Counsel for the party moving for an examination under Fed. R. Bankr. P. 2004 must confer with counsel for the proposed examinee(s), or with the proposed examinee(s), if unrepresented, to arrange a mutually agreeable date, place, and time for the examination before filing a motion for examination. All motions for an examination must include either:

- (1) a statement that the conference has been held as required, and that all parties have agreed to the date, time, and place of the examination; or
- (2) a statement explaining why it was not possible for the conference to be held; or
- (3) a verified statement that the movant has good reason to believe that the proposed examinee would absent himself or herself from the jurisdiction if notified of the request for examination; or
- (4) a statement that the conference was held, but that no agreement could be reached by the parties, and that the motion is presented to the court for determination.

(c) Objections/Protective Orders. Any objection to a motion for a Rule 2004 examination must be made in the form of an objection and/or motion for protective order in accordance with Fed. R. Civ. P. 26(c), as adopted in Fed. R. Bankr. P. 7026. The motion/objection must state precisely the basis for the objection or protective order, as well as the nature and scope of the relief requested.

(d) Notice and Response Time.

- (1) The party proposing the examination must give the entity to be examined and its counsel (if known), as well as all other affected parties, no less than thirteen (13) days written notice of a proposed examination, in accordance with LBR 9013-1(h)(1). The notice must apprise the party to be examined of the proposed scope of the examination and must list any documents requested to be presented at the examination.
- (2) The notice must also contain the following language regarding the time to object or otherwise respond to the proposed examination:

Any party who objects to the examination shall serve and file an objection and/or motion for protective order with the U.S. Bankruptcy Court for the District of Puerto Rico within ten (10) days of service of this Motion for a Rule 2004 Examination, or within three (3) additional days if you were served by mail, pursuant to Fed. R. Bankr. P. 9006(f). If no objections or motions for protective order are timely filed, the court may grant the motion for examination without further notice or a hearing.

(e) Stay of Examination. The timely filing of an objection and/or motion for protective order, as provided for in subdivisions (b) and (c) of this LBR, automatically stays the examination, and the entry of any order determining the motion for examination, until the court considers the objection or motion for protective order.

(f) Unopposed Motion for Rule 2004 Examination. If no response or objection is timely filed, the court may grant the motion for an examination under this LBR.