

Rule 2004-1 Rule 2004 Examinations.

- (a) Conference Required. Prior to filing a motion for examination or for production of documents under Fed. R. Bankr. P. 2004, counsel for the party seeking to examine any entity shall attempt to confer (in person or telephonically) with the proposed examinee or the examinee's counsel (if represented by counsel) to arrange for a mutually agreeable date, time, place and scope of an examination or production.

- (b) Certification of Conference Required. All motions for examination or production under this Local Rule shall include a certification of counsel by Delaware Counsel that either (i) a conference was held as required and no agreement was reached or (ii) a conference was not held and an explanation as to why no conference was held.

- (c) Examination on Parties' Agreement.
 - (i) A motion under Fed. R. Bankr. P. 2004 is not required if the proposed examinee agrees to voluntarily appear or produce documents. A notice setting forth the identity of the examinee, and the date, time, place and scope of the examination or production shall be filed and served in accordance with this Local Rule (such notice, an "Examination Notice").

 - (ii) The party seeking or providing discovery under an Examination Notice may move in this Court under the Examination Notice for relief as provided under Fed. R. Civ. P. 37(a)(1), (3), (4) and (5), as made applicable by Fed. R. Bankr. P. 7037, or for a protective order. For the avoidance of doubt, an attorney, as an officer of the court, may issue a subpoena to the party providing discovery under the Examination Notice as appropriate to obtain documents or examination subject of the Examination Notice.

 - (iii) A party in interest may file an objection to the Examination Notice within seven (7) days after the filing and service of the Examination Notice in accordance with this Local Rule. Unless otherwise ordered by the Court, Local Rule 7026-1 shall apply to any such objection, any response thereto, and any hearing on such objection.

- (d) Service Requirements. In lieu of any other rules of service that generally apply, all motions for or notices of examination or production of documents shall be served upon the following parties, through their counsel, if represented: (i) the debtor; (ii) the trustee; (iii) the United States Trustee; (iv) all official committees; and (v) the proposed examinee or party producing documents. All such motions shall be accompanied by a notice of motion setting forth (A) an objection, response or answer deadline not less than seven (7) days from service of the motion or notice and (B) if a motion is filed, the date, time and place of the hearing that is no less than ten (10) days from service of the motion. Such objection, response or answer deadline shall be no less than seventy-two (72) hours prior to such hearing.
- (e) For the avoidance of doubt, consensual discovery can be conducted by agreement and not under the provisions of Fed. R. Bankr. P. 2004 or this Local Rule, as applicable.