



Bankruptcy Noticing Center BNC

March 26, 2025

Notice This!

How the Bankruptcy Noticing Center Works and How to Effect Proper Service upon the United States.



Bankruptcy Noticing Center BNC

- Court Noticing and the Bankruptcy Noticing Center (BNC)
- National Creditor Registration Service (NCRS)
- Mandatory Electronic Bankruptcy Noticing (MEBN)
- Matching
- Certificate of Notice
- Undeliverable (Bypass) Recipients
- Returned Mail
- Service on US Government Entities

Questions



Court Noticing




Notice of Electronic Filing (NEF): an email notification sent by the Court through CM/ECF that a docket entry was made in a case or someone (court or other party) filed a document in the case.

NEFs are sent by CM/ECF to those who:

Have filing rights in the Kansas Bankruptcy Court's CM/ECF system (usually these are attorneys but they can also include limited filers), AND

Entered an appearance in the case before the docket/document was filed.

Anyone can see who was sent an NEF by clicking on the "silver bullet" in the docket sheet.

Filing Date	#	
01/09/2024	 1 (64 pgs)	Chapter 7 Voluntary Petition for Individual. Filed by [redacted]
01/09/2024	 2 (10 pgs)	Application To Have Chapter 7 Filing Fee Waived. Fi
01/09/2024	 3 (1 pg)	DeBN Request Form: Initial Declination Request for



Court Noticing: Confirming who received an NEF

NOTE TO PUBLIC ACCESS USERS Judicial Conference of the United States policy permits attorneys of record and parties to receive notices electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, transcript, the free copy and 30-page limit do not apply.

U.S. Bankruptcy Court

District of Kansas

Notice of Bankruptcy Case Filing

The following transaction was received from entered on 1/9/2024 at 1:35 PM CST and filed on 1/9/2024

Case Name:

Case Number: 24-

Document Number: 1

Docket Text:

Chapter 7 Voluntary Petition for Individual. Filed by

Debtor Declaration Re: Electronic Filing due by 01/16/2024.

The following document(s) are associated with this transaction:

Document description: Main Document

Original filename: Petition.PDF

Electronic document Stamp:

[STAMP bkecfStamp_ID=1032355009 [Date=1/9/2024] [FileNumber=31170625-0]
] [3336bfaf79ea5eeb0435492919a87f767afdf1d589aa06875314b13197654396c98
 9952d52b326be5ef16a268ed4a97c1efb329c10da525506c0241295bd29e2]]

24-10011 Notice will be electronically mailed to:

U.S. Trustee

ustpreion20.wi.ecf@usdoj.gov

24-10011 Notice will not be electronically mailed to:



Court Noticing: When NEFs Are Sent

NEFs are sent for every docket entry with few exceptions, including:
NEFs are not sent for sealed docket entries.

NEFs are sufficient notice to Registered Users (i.e., people or entities with filing privileges in bankruptcy court) of:

- Court orders and notices

 - Fed. R. Bankr. P. 9036(b)(1)

- Filings by non-court entities (debtors, trustees, creditors, etc.)

 - Fed. R. Bankr. P. 9036(c).



Court Noticing: NEFs Do Not Reach Everyone

NEFs are NOT sent to:

- Entities who have not entered an appearance in the case (court doesn't know they are involved in the case)

- Entities who are not Registered Users (court doesn't know their email address).

NEFs are NOT sufficient for service of process under Fed. R. Bankr. P. 7004 (e.g., a complaint that initiates an adversary action).

If you file something, it is your responsibility to send notice to anyone who does not receive it by NEF.

Notice is not effective if the filer or sender learns that something they sent electronically did not reach the person to be notified. Fed. R. Bankr. P. 9036(d).



Court Noticing: NEFs vis-à-vis the BNC

The BNC does NOT send NEFs.

The BNC does NOT send a duplicate of documents sent by NEF.

The "Reduced Paper Module" screens out notices that were sent by NEF.

BNC only sends notices that are issued by the court, such as:

- Orders

- Court notices

- Chapter 13 Plan if filed with the petition (LBR 3015(b).1(a)).

Filings by non-court entities are not sent through the BNC.

Important: The discussion about how the BNC works only relates to notices issued by the court.



Bankruptcy Noticing Center (BNC) Noticing

The Bankruptcy Noticing Center (BNC) is an Administrative Office of US Courts (AOUSC) Contractor program responsible for ensuring bankruptcy notices are sent to recipients. Our purpose is to provide reliable noticing service on time every time and achieve cost savings through centralized resources.

- The BNC retrieves a list of notices and recipients from the courts' servers. The notices and address lists are processed, and the zip codes are updated using USPS software.
- The recipient addresses are compared with Electronic Bankruptcy Noticing (EBN) and National Creditor Registration Services (NCRS) Preferred Address names and addresses in user accounts.
 - Electronic Data Interchange (EDI) data is sent for 341 notices, discharges, dismissals and notice of assets.
 - Notices are sent by email to debtors if the court has created their accounts as part of the DeBN (Debtor Electronic Bankruptcy Noticing) program.
 - 341 notices are sent by email to debtor's attorneys.
 - Notices are sent by email to recipients when both their name and address match the name and address in their EBN account, and
 - Notices are placed on a website server for user retrieval as part of the MEBN process.
- The print sites print and mail notices that didn't go out electronically. Notices get mailed to a preferred address if a recipient registered for NCRS.
- The Certificate of Notice is placed on the court server, and this certificate is docketed to the case.



341 Notices, Bypass Notices, and Return Mail Notices to Debtor's Attorney

- The BNC emails the following types of notices to the debtor's attorney:
 - 341 first meeting notices.
The court CM/ECF system includes the debtor's attorney email in the recipient list when notices are sent to the BNC.
 - Notice of undeliverable mail (bypass) notices.
This email lets the debtor's attorney know that we couldn't send a notice to some recipients in the case list because of issues related to their addresses.
 - Notice of returned mail.



National Creditor Registration Service (NCRS)

- Recipients go to the website <https://bankruptcynotices.uscourts.gov> to create a U.S Bankruptcy court agreement.
- They can sign up to receive these notices by email. They can also provide a preferred address. This agreement applies to all US Bankruptcy courts.
- Once an account is created, recipients can go to this website to view or update their account and create a US Bankruptcy Court Change form.
- When these recipients sign up to receive their notices by email or at a preferred address, they will include the name variations and addresses where they receive bankruptcy notices.



National Creditor Registration Service (NCRS)

The screenshot shows the homepage of the Bankruptcy Noticing Center (BNC) website. The browser address bar displays <https://bankruptcynotices.uscourts.gov>. The website header features the BNC logo and the text "Bankruptcy Noticing Center" and "Electronic Bankruptcy Noticing and Preferred Mailing Address Registration". A "Log In" link is visible on the right. The navigation menu includes "Home", "More Info", "Registration", "Resources", "For Debtors", and "Contact Us". The main content area welcomes users to the BNC and explains the NCRS service, which allows users to sign up to receive bankruptcy notices electronically or consolidate all U.S. Postal Service notices at one address. It lists two delivery options: electronically (faster, more reliable, and convenient) and to a designated mail address (redirects U.S. Mail delivery to a preferred address). Two buttons are provided: "Sign up for service today" and "Modify existing services or update account".

Welcome to the Bankruptcy Noticing Center

This website allows you to sign up to receive all of your bankruptcy notices electronically through the National Creditor Registration Service (NCRS) or consolidate all U.S. Postal Service notices at one address. This is a free service provided by the U.S. Bankruptcy Courts to give recipients more convenient delivery options for their bankruptcy notices. You can have notices delivered either:

1. Electronically - Faster, more reliable and convenient
2. To a designated mail address - Redirects U.S. Mail delivery to a preferred address

[Sign up for service today](#) [Modify existing services or update account](#)



National Creditor Registration Service (NCRS)

- When a user goes to PACER and selects the creditor mailing matrix, the system accesses the BNC database and returns the substituted Preferred Addresses on the mailing list.

Label matrix for local noticing 9999-9 Case 99-9999 District of Kansas Office Date	(p) Company Name Street Address City State Zip	Company Name Street Address City State Zip



Mandatory Electronic Noticing (MEBN)

- The BNC reviews the previous months' mailed notices and selects a list of recipients who were mailed more than 25 notices.
- Notice 1 is sent to these recipients letting them know that they should sign up to receive these notices electronically. They are provided instructions to create an agreement.
- Notice 2 is sent to them 45 days after Notice 1 was sent if they still haven't signed up.
- The AOUSC is provided a list of recipients that still haven't signed up and this information is sent to the courts.
- 105 days after Notice 1 is sent, a website account is created for recipients that still haven't signed up.



Mandatory Electronic Noticing (MEBN): How Kansas Handles Referrals

- The court schedules a status conference order requiring the high-volume paper-notice recipient to appear.
 - Currently defined as an entity that was mailed 25 or more paper notices in a calendar month by the BNC. Includes notices from all bankruptcy courts nationwide.
- If the recipient confirms to the court that it registered for EBN before the status conference, it is cancelled.
- If the recipient fails to register for EBN, the court generally issues an order stating
 - The BNC will no longer send paper notices.
 - The BNC will set up an electronic account for the recipient.
 - BNC notices will be sent to the electronic account.
 - The BNC will send a letter with instructions how the recipient can access the electronic account.



BNC Matching

- BNC “finds a match” between a notice recipient and a preferred mailing address. Matches are made only if the recipient’s name (or list of alternate names identified through the NCRS) and mailing address listed in the debtor’s matrix match the recipient’s name and address in the NCRS.
- Accurate noticing all starts with the debtor including an accurate mailing address for the recipient. Without an accurate address in the matrix, the BNC may not be able to find an accurate preferred address and the USPS may not be able to deliver the notice.
- This same matching also applies to the matching process used to send notices by email.
- The BNC will periodically send change forms to recipients to add additional name variations or address variations to their accounts.
- We also tell recipients if they signed up for emails and are still getting mailed notices to include the first line name variations or address variations in their account.



Certificate of Notice

- The BNC Certificate of Notice includes the notice and the details related to mailed recipients, electronic recipients, bypassed recipients, and recipients that received a Notice of Electronic Filing (NEF) from CM/ECF.

Certificate of Notice



Certificate of Notice Legend

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.
++	Addresses marked '++' were redirected to the recipient's preferred mailing address pursuant to 11 U.S.C. § 342(f)/Fed. R. Bank. P. 2002(g)(4).
+++	Addresses marked '+++ were redirected to the recipient's preferred mailing address pursuant to 11 U.S.C. § 342(e).
++++	Addresses marked '++++' were modified by the USPS Locatable Address Conversion System. This system converts rural route numbers to street addresses.
#	Addresses marked '#' were identified by the USPS National Change of Address system as requiring an update. While the notice was still deliverable, the notice recipient was advised to update its address with the court immediately.
##	Addresses marked '##' were identified by the USPS National Change of Address system as undeliverable. Notices will no longer be delivered by the USPS to these addresses; therefore, they have been bypassed. The debtor's attorney or pro se debtor was advised that the specified notice was undeliverable.
@	Addresses marked '@' were delivered late due to Contractor error.
@@	Addresses marked '@@' indicate a failed electronic transmission. The notice was re-sent in the manner indicated on the Certificate of Notice.
*	Bypass section - Address Duplicate
*P	Bypass section - Preferred Address Duplicate
^	Addresses marked '^' were sent via mandatory electronic bankruptcy noticing pursuant to Fed. R. Bank. P. 9036.

Certificate of Notice Mailed Notice Section



CERTIFICATE OF NOTICE

District/off: 9999-9
Date Rcvd:

User: xxxxxxxx
Form ID: xxxx

Page 1 of 1
Total Noticed: 9

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.
++	Addresses marked '++' were redirected to the recipient's preferred mailing address pursuant to 11 U.S.C. 342(f)/Fed.R.Bank.P. 2002(g)(4).
+++	Addresses marked '+++ were redirected to the recipient's preferred mailing address pursuant to 11 U.S.C. 342(e)/Fed.R.Bank.P. 2002(g)(4).
++++	Addresses marked '++++' were modified by the USPS Locatable Address Conversion System. This system converts rural route numbers to street addresses.
#	Addresses marked '#' were identified by the USPS National Change of Address system as requiring an update. While the notice was still deliverable, the notice recipient was advised to update its address with the court immediately.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on month dd, yyyy:

Recip ID		Recipient Name and Address
db	+	Debtor Name, Debtor Address, City State Zip
99999999	#+	Company Name, Company Address, City State Zip
99999999	++	Company Name, PO BOX xxx, City State Zip (address filed with the court: Company Name, Company Address, City State Zip)
99999999	+++	Company Name, Company Address, City State Zip
99999999	++++	Company Name, Company Address, City State Zip (address filed with court: Company Name, Company Address, City State Zip)

TOTAL: 5



Certificate of Notice Electronic Notices

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID	Notice Type: Email Address	Date/Time	Recipient Name and Address
aty	Email/Text: xxxx@xxxxx	mmm dd yyyy hh:mm:ss	Debtor Attorney, Company Name, Address, City State Zip
cr	+ Email/Text: xxxx@xxxxx	mmm dd yyyy hh:mm:ss	Company Name, Address, City State Zip
9999	+ EDI: xxxx	mmm dd yyyy hh:mm:ss	Company Name, Address, City State Zip
9999	Email/PDF: xxxx@xxxx	mmm dd yyyy hh:mm:ss	Company Name, Address, City State Zip
999999	^ MEBN	mmm dd yyyy hh:mm:ss	Company Name, Address, City State Zip



Certificate of Notice Bypassed Notices

BYPASSED RECIPIENTS

The following addresses were not sent with this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

Recip ID	Bypass Reason	Name and Address
99999	##+	Company Name, Company Address, City State Zip
99999	*P	Company Name, Company Address, City State Zip
99999		Company Name

TOTAL: 1 Undeliverable, 1 Duplicate, 1 Out of date forwarding address



Certificate of Notice CM/ECF NEF

NOTICE CERTIFICATION

I, xxxxx, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date:

Signature:

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on month dd, yyyy at the address(es) listed below:

Name

Email Address

name

xxx@xxxx

name

xxx@xxxx

TOTAL: 2

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INSPIRED WORK



Bypassed Recipients and Email Sent to Debtor's Attorney

The bypass section of the Certificate of Notice includes recipients that were bypassed.

Examples of addresses that will get bypassed include:

- 2-line address
Company
PO Box xxx city state zip
- Address missing city state or zip
- International address without country.
- Country name should be the last line of the address and in all CAPS.
- International address on the USPS International suppression list.
- The USPS isn't able to send mail to some countries. This list is updated periodically.
- Only name of creditor and no address included.
- If there is a USPS National Change of Address (NCOA) forwarding order for a recipient and the order is > 12 months, the BNC will bypass mailing this notice to this recipient. The USPS will stop forwarding mail after 12 months.



Bypassed Recipients and email sent to Debtor's Attorney

An example of the bypass recipient information sent to the debtor's attorney.

From: USBankruptcyCourts@noticingcenter.com <USBankruptcyCourts@noticingcenter.com>

Sent:

To: debtor's attorney email

Subject: U.S. Bankruptcy Court, Court District – Undeliverable Notice, In re: XXX , Case Number: 99-99999, , Ref: [p-XXXXXXX]

Notice of Undeliverable Mail to Debtor/Debtor's Attorney

From: United States Bankruptcy Court, Court District

Re: U.S. Courts, Bankruptcy Noticing Center – Undeliverable Notice

In re: XXXXXXXXXXXX, Case Number 99-99999,

TO THE DEBTOR/DEBTOR'S ATTORNEY:

The attachment could not be mailed to the notice recipient(s) listed below because the United States Postal Service (USPS) has determined that those addresses in the case mailing list are undeliverable. Please be advised that dischargeability of a debt may be affected if a creditor fails to receive certain notices. You should determine whether the address should be updated.

Note: No further notices will be mailed to the notice recipient(s) listed below, if the USPS continues to designate the address as undeliverable, until the address is updated in accordance with local court policy, which may allow for use of this form, a separate notice of change of address, and/or amended schedule. THIS FORM CANNOT BE USED TO ADD A NEW CREDITOR NOT PREVIOUSLY LISTED ON YOUR SCHEDULES.

If this form is used by your court in place of filing a separate notice of change of address and/or amended schedule: 1) determine the updated address and send the attachment to each recipient below; 2) type or print legibly each updated address below; 3) sign and date the form; and 4) file this form electronically via CM/ECF (for all registered users) or mail the form to:

**U.S. Bankruptcy Court
Street Address
City State Zip**

Undeliverable Address:
Company name

THE UPDATED ADDRESS IS:

Role type/cr id: 999999999

Reason undeliverable: INCOMPLETE ADDRESS

Signature of Debtor or Debtor's Attorney

Date

The Bankruptcy Noticing Center does not respond to messages regarding bypass notification. Please contact the U.S. Bankruptcy Court where the case is pending with questions or comments.



Returned Mail and Notice of Returned Mail

- We receive bins of returned mail every day at our Holiday Drive Sterling, VA facility.
- These mail pieces are sorted and scanned.
- Our system automatically sends a notice of returned mail to the debtor's attorney email address related to these returned mail notices. The debtor's attorney email address is usually provided to us as part of the case recipient list.
- If we don't have the debtor attorney's email, we mail a notice of returned mail to the debtor's attorney and include the notice.
- Our system also sends the returned mail notices by email to the court for adversary proceedings and for returned mail for pro se debtors.

From: USBankruptcyCourts@noticingcenter.com <USBankruptcyCourts@noticingcenter.com>

Sent:

To: debtor's attorney email

Subject: U.S. Bankruptcy Court, Court District - Returned Mail Notice, In re: XXXX, Case Number: 99-99999, , Ref: [p-XXXXXXX]

Notice of Returned Mail to Debtor/Debtor's Attorney

From: United States Bankruptcy Court, court district

Re: U.S. Courts, Bankruptcy Noticing Center - Returned Mail Notice

In re: XXXXXX, Case Number 99-99999,

TO THE DEBTOR/DEBTOR'S ATTORNEY:

The bankruptcy court, through its Bankruptcy Noticing Center (BNC), attempted to mail the attached document to the recipient(s) listed below. However, the document was returned to the BNC as undeliverable. Please be advised that dischargeability of a debt may be affected if a creditor fails to receive certain notices. You should determine whether the address should be updated.

IMPORTANT: THIS FORM MAY BE USED TO CHANGE A CREDITOR'S ADDRESS **ONLY IF** YOU LISTED THE CREDITOR IN YOUR SCHEDULES PREVIOUSLY. YOU CANNOT USE THIS FORM TO ADD A NEW CREDITOR.

Please confirm with the bankruptcy court whether this form may be used in place of filing a separate notice of change of address and/or an amended schedule. If so, please: 1) determine the updated address and send the attached document to the notice recipient; 2) type or print legibly the updated address below; 3) sign and date the form; and 4) file this form electronically via CM/ECF (for all registered users) or mail the form to:

**U.S. Bankruptcy Court
Street Address
City State Zip**

Notice Recipient's Address on Envelope
Returned to the Bankruptcy Noticing Center:

THE UPDATED ADDRESS IS:

Company name
street address
city state zip

Signature of Debtor or Debtor's Attorney

Date

The Bankruptcy Noticing Center does not respond to messages regarding returned mail notification.
Please contact the U.S. Bankruptcy Court where the case is pending with questions or comments.

Proper Service on the United States, Agencies, and Officers



Requirements for Proper Service on the United States

Fed. R. Bankr. P. 7004 which incorporates many (but not all) of the provisions of Fed. R. Civ. P. 4.



Steps

Party requests a Summons.

Clerk's Office issues summons with the Clerk's signature, seal, and date.

Fed. R. Civ. P. 4(a)(1)(F)-(G).

Serve the Summons and Complaint.



Proper Form of the Summons

The summons must contain:

Clerk's signature: Fed. R. Civ. P. 4(a)(1)(F).

Court seal: Fed. R. Civ. P. 4(a)(1)(G).

Date issued: necessary to calculate answer deadline.



Pitfall: Serving a copy of the request for summons is insufficient because it is not signed, sealed or dated.

Baker v. US Dept. of Education, D. Kan. Bankr. No. 23-40252, Adv. No. 24-7001, Doc. 41 (Nov. 15, 2024).

Method of Service

Any method of service under Fed. R. Civ. P. 4 is sufficient.

Additionally, in bankruptcy, Fed. R. Bankr. P. 7004(b) allows service by mail.

Accomplishing service by mail is different from mailing a *request for waiver of service* under Fed. R. Civ. P. 4(d).

Practice Note: Assistant US Attorneys are not authorized to waive proper service.



Whom Do You Serve?

When serving the **United States**, serve:

Local US Attorney civil process clerk, and
US Attorney General in Washington, DC.

Fed. R. Bankr. P. 7004(b)(4) and Fed. R. Civ. P. 4(i)(1)(A).



Whom Do You Serve?

When serving the **United States**, serve:

If “attacking the validity of an order of an officer or an agency of the US not made a party”:

Local US Attorney civil process clerk,
US Attorney General in Washington, DC, and
Officer or agency who issued the order.

FRBP 7004(b)(4) and Fed. R. Civ. P. 4(i)(1)(A).



Whom Do You Serve?

When serving an **Officer or Agency of the United States who is made a party**, serve:

Local US Attorney civil process clerk,
US Attorney General in Washington, DC, and
Officer or agency who issued the order.

Fed. R. Bankr. P. 7004(b)(4) and Fed. R. Civ. P. 4(i)(1)(A).



Whom Do You Serve?

When serving a **Corporation of the United States**,
serve:

An officer of the corporation, a managing or general agent, or
an agent authorized by appointment or by law to receive
service,

Local US Attorney civil process clerk,

US Attorney General in Washington, DC, and

Officer or agency who issued the order.

Fed. R. Bankr. P. 7004(b)(4) and Fed. R. Civ. P. 4(i)(1)(A).



Whom Do You Serve?

When the **US Trustee** is a Defendant?

If the US Trustee is acting solely as the case trustee (i.e., not in the capacity as an officer of the United States):

It is sufficient to mail service to an office of the US Trustee or other place designated by the US Trustee in the district where the case is pending.

Fed. R. Bankr. P. 7004(b)(10).



Whom Do You Serve?

When the **US Trustee** is a Defendant?

If the **US Trustee** is sued as an officer of the United States:

Service is required by following the procedures outlined in Fed. R. Bankr. P. 7004(b)(4) and (5) or Fed. R. Civ. P. 4(i).



Deadline to Complete Service **after the Summons was issued:**

In bankruptcy, the summons must be served or mailed “within 7 days after the summons is issued.” “If a summons is not timely delivered or mailed, a new summons must be issued.” Fed. R. Bankr. P. 7004(e)(1).

There is good reason for this requirement:

The time for the United States to answer to a complaint in Bankruptcy Court is due “35 days after the summons was issued.” Fed. R. Bankr. P. 7012(a)(5).

Delay in serving the summons impairs the defendant’s time to file an answer.



Deadlines to Complete Service **after the Complaint was filed:**

Service must be made within 90 days after the complaint is filed.

The court “must” dismiss the action without prejudice against an unserved defendant, except:

If plaintiff shows good cause for the failure, the court must extend the time for “an appropriate period.”



Abbreviations and Glossary

AO: Administrative Office of the United States Courts.

BNC: Bankruptcy Noticing Center.

DEBN: Debtor Electronic Bankruptcy Noticing, the BNC system that allows debtors to register to receive court notices by email.

EBN: Electronic Bankruptcy Noticing, the BNC system that sends electronic notices to people who register.

EDI: Electronic Data Interchange is a bare bones form of electronic noticing for registered EDI recipients. Data, in lieu of copies of documents, is sent for 341 notices, discharges, dismissals, and notice of assets.

MEBN: Mandatory Electronic Bankruptcy Noticing, the requirement (based on Fed. R. Bankr. P. 9036) that high-volume paper notice recipients (those who receive 25+ paper notices in a calendar month) must register for EBN or else the BNC will set up an electronic location for their notices to be sent and the BNC will tell the recipient how to access notices in that location.

NCRS: National Creditor Registration System, the BNC system that lets creditors register a preferred address so notices that are sent to any number of other addresses will be addressed to the preferred address.

NEF: Notice of Electronic Filing, the email sent to people with a CM/ECF filing account who entered an appearance in the case.



Gigi Winters has been the Project Manager for the Bankruptcy Noticing Center (BNC) since 2022. She was the BNC Deputy Project Manager since 2002. Prior to the BNC program, Ms. Winters was the Program Manager for several BAE Systems contracts with the United States Postal Service. Ms. Winters enjoys working with the U.S. Bankruptcy courts, the Administrative Office of the U.S. courts, the attorneys, trustees, and the creditor community.

Tejash Suthar has been the Deputy Project Manager for the Bankruptcy Noticing Center (BNC) since January 2022. Before joining the BNC program, Tejash was a Senior Project Manager at Peraton/ Perspecta/ HP-Enterprise supporting application development and implementation division at the United States Postal Service. Prior to that he held positions at General Dynamics IT and DC Government. Tejash loves being part of a dedicated and experienced team while supporting a mission-critical function of the bankruptcy process of the U.S. Bankruptcy courts.



David D. Zimmerman has been the Clerk of Court for the US Bankruptcy Court for the District of Kansas since 2013. He has been a member and Chair of the Administrative Office of the US Courts' Bankruptcy Noticing Working Group (2015-2020), which advises the federal judiciary about policies, procedures, and federal rules governing bankruptcy noticing issues and the Bankruptcy Noticing Center (BNC). He was also a member of the Mandatory Electronic Noticing (MEBN) Subcommittee (2015) and he served as a Technical Expert Panel member for the Bankruptcy Noticing Center contract "recompete" (2019). From 1999 to 2013, he was a trial attorney in the US Department of Justice Commercial Litigation Branch in Washington, D.C., and an Assistant US Attorney in Kansas. Between 1996 and 1999, he was a law clerk in the US Court of Federal Claims, the US Court of Appeals for Veterans Claims, and the US District Court for the District of Nevada. He earned his J.D., cum laude, from Brigham Young University.



SO ORDERED.

SIGNED this 15th day of November, 2024.



Dale L. Somers

Dale L. Somers
United States Chief Bankruptcy Judge

**Designated for online publication only
IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS**

In Re:

**Patrick Lee Baker and
Megan Elizabeth Baker,

Debtors.**

**Case No. 23-40252
Chapter 7**

**Patrick Lee Baker and
Megan Elizabeth Baker,

Plaintiffs.**

v.

Adv. No. 24-07001

**United States Department of
Education and Nelnet, Inc.,

Defendants.**

**Memorandum Opinion and Order Granting
United States Department of Education's Motion to Dismiss**

In this adversary proceeding, Debtors Patrick Lee Baker and Megan Elizabeth Baker (Debtors)¹ seek discharge of their educational loans under 11 U.S.C. § 523(a)(8). The U.S. Department of Education moves to dismiss Debtors' complaint for lack of personal jurisdiction under Federal Rule of Civil Procedure 12(b)(3) and (4)² based upon insufficient process and failure to properly serve the Department within the extended time period allowed by order of the Court. The docket entries show insufficient process because Debtors served a copy of their application for summons on the Office of the United States Attorney for the District of Kansas,³ rather than the summons issued in response to that application. In addition, the docket demonstrates insufficient service of process because proper service has not been made within the extension of time ordered by the Court. Finding no merit in Debtors' arguments the case should not be dismissed notwithstanding such

¹ Debtors appear by Adam Mack.

² All future references to the Federal Rules of Civil Procedure in the text shall be to the Rule number only.

³ The Department appears by Kate Brubacher, United States Attorney, and Michelle Jacobs, Assistant United States Attorney.

deficiencies, the Court grants the Department's motion and dismisses the claims against the Department without prejudice.⁴

I. Background Facts

The background facts are undisputed. Debtors filed their Chapter 7 proceeding on May 10, 2023, and were granted a discharge on August 14, 2023. This adversary proceeding seeking discharge of student loans was filed against the U.S. Department of Education (the Department) and Nelnet Inc. on January 8, 2024.

A summons was issued on the Department on January 23, 2024.⁵ Approximately six months later on July 11, 2024, an order was issued directing Debtors to show cause on or before July 26, 2024 why the Court should not dismiss the action for failure to serve the Department within 90 days of filing of the complaint as required by Rule 4(m), made applicable to

⁴ This Court has jurisdiction over the parties and the subject matter pursuant to 28 U.S.C. §§ 157(a) and 1334(a) and (b), and the Amended Standing Order of Reference of the United States District Court for the District of Kansas that exercised authority conferred by § 157(a) to refer to the District's bankruptcy judges all matters under the Bankruptcy Code and all proceedings arising under the Code or arising in or related to a case under the Code, effective June 24, 2013. D. Kan. Standing Order No. 13-1. Furthermore, this Court may hear and finally adjudicate this matter because it is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I).

⁵ Doc. 10.

this proceeding by **Federal Rule of Bankruptcy Procedure 7004(a)**.⁶ In response, Debtors' counsel filed a notice of service executed dated July 15, 2024, stating service of the summons and a copy of the complaint were served on March 11, 2024, by certified mail to the Department in Washington, DC.⁷

On July 24, 2024, after rejecting Debtors' position they had complied with the service requirements on March 11, 2024, the Court issued another order directing proper service.⁸ The Court stated in part as follows:

Under **Federal Rule of Bankruptcy Procedure 7004(b)(4)** and **(b)(5)**, to serve an agency of the United States, the summons and complaint must be mailed to “the civil process clerk at the office of the United States attorney for the district in which the action is brought,” the “Attorney General of the United States at Washington, District of Columbia,” and to the agency itself – here, the Department of Education.⁹

The defects noted were that the certificate of service dated July 15, 2024 filed by Debtors did not evidence that proper service had been made on the Department in accord with the foregoing and, in addition, the attempted service was not timely, because under Bankruptcy Rule 7004(e) a summons

⁶ **Doc. 11**. All future references to the Federal Rules of Bankruptcy Procedure in the text shall be to Bankruptcy Rule.

⁷ **Doc. 13**.

⁸ **Doc. 15**.

⁹ *Id.* at 4.

must be served within seven days of issuance. The Court ordered compliance with its order within two weeks of July 24, 2024.

Rather than complying with the order to make proper service, Debtors filed a motion requesting the Court to find the prior attempts at service constituted "substantial compliance" or, in the alternative, for an extension of time to complete service.¹⁰ The Court denied the request to find service complete based upon substantial compliance but granted an extension of time by directing that new summons be requested by August 16, 2024 and be served within seven days of issuance.¹¹

The details of the summons and service which are the basis for the motion to dismiss are as follows. At Debtors' request made on August 7, 2024, the Court issued alias summons on the Department dated August 13, 2024.¹² On August 16, 2024, Debtors' counsel hand-delivered a copy of the Complaint with an attached summons to the United States Attorney's Office in Topeka.¹³ The Department attached a copy of the summons and Complaint served on

¹⁰ Doc. 17.

¹¹ Doc. 18 at 5.

¹² Docs. 25, 26, and 27.

¹³ Doc. 31.

August 16, 2024 to the motion to dismiss.¹⁴ It shows the summons is a copy of docket entry 23, which is Debtors' request for summons filed on August 7, 2024.¹⁵ In other words, it is a request for summons, rather than an issued summons, since it is not signed by the Clerk of the Bankruptcy Court, does not bear the Court's seal, and is not dated.

Despite the evidence in the docket filings, Debtors as their "primary position" maintain "the summons delivered to the U. S. Attorney's Office on August 16, 2024, was properly executed, containing all necessary elements including the clerk's signature, date, and seal."¹⁶ The only support for this position is counsel's recollection and his statement that such service would be the firm's standard practice.¹⁷

Debtors' counsel and the Assistant United States Attorney exchanged emails about the service issue. On August 20, 2024, four days after the

¹⁴ Doc. 36-1.

¹⁵ *Id.* Also on August 16, 2024, Debtors' counsel filed a notice of summons executed on August 13, 2024 on an authorized agent in the office of the general counsel in the Department of Education in Washington, D.C. Doc. 32. On August 27, 2024, Debtors' counsel filed a notice of summons executed by certified mail on August 26, 2024 on the office of the Attorney General of the United States in Washington, D.C. Doc. 33. Both of these filings include summons which lack a date of issuance, the signature of the Clerk, and the Court's seal.

¹⁶ Doc. 37 at 2.

¹⁷ *Id.*

attempted service on the Kansas Office, a paralegal from Debtors' counsel's office inquired about details of discovery in the case.¹⁸ The Department's counsel responded on the same day stating, "We have not been properly served and the United States does not waive service. I am not in a position to discuss discovery until we are served."¹⁹ In response to an inquiry about the nature of the insufficiency, Debtors' counsel was informed about the lack of date and signature on the summons served.²⁰ Debtors' counsel then requested the Department to enter its appearance, with an agreement by Debtors not to object to an answer filed out of time. On September 5, 2024, the Assistant United States Attorney informed Debtors' counsel the Department of Justice policy throughout the country is not to waive service.²¹ Another email string of messages exchanged by Debtors' counsel and the Assistant United States Attorney is similar.²²

¹⁸ Doc. 36-2 at 6.

¹⁹ *Id.* at 4.

²⁰ *Id.* at 2.

²¹ *Id.* at 1. On September 10, 2024, Debtors filed a motion to deem service on the United States complete. Doc. 34. The Department has not responded.

²² Doc. 36-3.

The Department filed its motion to dismiss this adversary proceeding on September 18, 2024.²³ An objection and a reply to the objection were filed.²⁴

II. Analysis

A. Controlling law

“Proper service of process is fundamental to invoking the bankruptcy court’s personal jurisdiction over a defendant in an adversary proceeding.”²⁵

“Effectuation of service is a precondition to suit.”²⁶ The plaintiff has the burden of establishing the validity of service.²⁷ Where the plaintiff does not meet this burden, a court may dismiss for failure to properly serve.²⁸

Bankruptcy Rule 7004 addresses the service of a summons and complaint in adversary proceedings. It provides that Rules 4(a), (a)(i), and (m) are applicable. Rule 4(a)(1) describes the content of a summons. The required

²³ Doc. 36.

²⁴ Docs. 37 and 38. In addition, Debtors on October 31, 2024 filed an opposition to the Department’s reply brief. Doc. 39. The Local Rules regarding motion practice do not provide for such a pleading.

²⁵ *Lusk v. Check ‘N Go of Kan. Inc. (In re Lusk)*, No. 10-13771, Adv. No. 14-5004, 2016 WL 918928, at *1 (Bankr. D. Kan. Mar. 8, 2016).

²⁶ *Jenkins v. City of Topeka*, 136 F.3d 1274, 1275 (10th Cir. 1998).

²⁷ *See Fed. Deposit Ins. Corp. v. Oaklawn Apartments*, 959 F.2d 170, 174 (10th Cir. 1992).

²⁸ *Constien v. United States*, 628 F.3d 1207, 1217 (10th Cir. 2010); *Lasky v. Lansford*, 76 Fed App’x 240, 240–41 (10th Cir. 2003).

content includes: a statement of the time within which the defendant must appear and defend; the signature of the Clerk; and the Court's seal. "A summons which is not signed and sealed by the Clerk of the Court fails to confer personal jurisdiction over the defendants" and is "incurably defective."²⁹

Rule 4(i) addresses service on the United States and its agencies. It provides, "[t]o serve a United States agency . . . , a party must serve the United States and also send a copy of the summons and complaint by registered or certified mail to the agency." As to service on the United States, Rule 4(i) requires: (1) delivery of a copy of the summons and complaint to the United States Attorney for the district where the action is brought; and (2) sending a copy of each to by registered or certified mail to the Attorney General of the United States at Washington, D.C. In other words, to effectuate service on the Department when seeking discharge of a student loan, the summons and a copy of the complaint must be served on the local United States Attorney and copies of the summons and the complaint must be served on the Department and the Attorney General of the United States.

²⁹ *Smith v. Allbaugh*, No. CIV-16-654-G, 2018 WL 5114146, at *2 (W.D. Okla. Oct. 19, 2018).

Rule 4(m) addresses the time limit for service, requiring service within 90 days after the complaint is filed, subject to extension by court order.

The presentation of defenses regarding service of process in adversary proceedings is governed by Bankruptcy Rule 7012. That rule incorporates Rule 12(b), which enumerates the means for asserting lack of jurisdiction of a party. Subsection 12(b)(4) provides for asserting lack of jurisdiction over a party because of insufficient process, and subsection 12(b)(5) provides for the defense of insufficient service of process. “The defendant is free to interpose any objection he or she may have to the adequacy of the summoning process by way of a motion under these two subdivisions of Rule 12(b).”³⁰ However, the two subsections address different matters. “An objection under Rule 12(b)(4) concerns the form of the process rather than the manner or method of its service. . . . A Rule 12(b)(5) motion is the proper vehicle for challenging the mode of delivery, the lack of delivery, or the timeliness of delivery of the summons and complaint.”³¹

B. The Motion to Dismiss

1. The Department has shown insufficient process within the meaning of Rule 12(b)(4).

³⁰ 5B C. Wright & A. Miller, *Fed. Prac. & Proc.* § 1353 (4th ed.).

³¹ *Id.*

The Department has shown that the summons served on August 13, 2024 was deficient. It was not signed by the Clerk of the Bankruptcy Court, did not bear the seal of the Bankruptcy Court, and was not dated. The Department has demonstrated the defense of lack of jurisdiction over the person presented by its Rule 12(b)(4) motion.

2. The Department has shown insufficient service of process within the meaning of Rule 12(b)(5).

Failure to timely complete service is an insufficiency of service within the meaning of Rule 12(b)(5).³² Rule 4(m) provides as follows regarding timeliness of service:

If a defendant is not serviced within 90 days after the complaint is filed, the court — on motion or on its own after notice to the plaintiff -- must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

The complaint in this adversary proceeding was filed on January 8, 2024. The ninety-day period expired on April 7, 2024. Notice of service on the Department had not been filed by that date. Recognizing this deficiency, on April 11, 2024 the Court issued a show cause order directing Debtors to show cause by written response on or before July 26, 2024 why the action should

³² *Id.*

not be dismissed for failure to effectuate timely service.³³ Apparently in response to the order, on July 19, 2024, Debtors filed a notice of executed service stating, the “United States Department of Education” was served by certified mail on March 11, 2024 at an address in Washington, D.C.³⁴ On July 24, 2024,³⁵ the Court responded with another order requiring proper service, noting the July 19, 2024 certificate did not evidence proper service because the summons was stale (having been issued more than seven days before service) and the service did not comply with Bankruptcy Rule 4004(b) regarding service when a department of the United States is a defendant. The order required Debtors to request new summons, make proper service, and file certificates of service within two weeks.³⁶ On July 30, 2024, Debtors then filed a written response to the Court’s July 24, 2024 show cause order arguing they should be found in substantial compliance with the service requirements or, alternatively, that they be granted another extension.³⁷ On August 2, 2024 the Court granted another extension directing that a request

³³ Doc. 11.

³⁴ Doc. 13.

³⁵ Doc. 15.

³⁶ *Id.*

³⁷ Doc. 17.

for new summons be filed by August 16, 2024 and that service be made within seven days thereafter.³⁸

The attempted service on the Kansas U.S. Attorney's Office which is the basis for this motion to dismiss was apparently in response the Court's August 2, 2024 order. If the summons served on August 16, 2024 had not been insufficient, service would have been timely. But the service attempted on August 16, 2024 was deficient, and Debtors have not made proper service within the time allowed by the Court. Timely service has not been made.³⁹ Counsel's firm's standard practice and Counsel's recollection are insufficient to contradict the case record.

C. Debtors' arguments in opposition to the motion to dismiss are rejected.

1. The argument the summons was properly executed and delivered is rejected for lack of supporting evidence.

Debtors' primary position is that the summons delivered to the Kansas U.S. Attorney's Office on August 16, 2024 was properly executed and

³⁸ **Doc. 18.**

³⁹ Although Rule 4(m) provides for extension of time to effectuate service at the request of the plaintiff upon a showing of good cause for the failure of timely service, Debtors, although advised of the deficiencies, did not attempt to show good cause before the Department moved to dismiss. Further, in response to the motion to dismiss for failure to make timely service, Debtors have not sought additional time to effectuate service under the procedure of Rule 4(m).

contained the Clerk's signature, date, and seal.⁴⁰ The only support offered is counsel's firm's standard practice and counsel's recollection of the event. As set forth above, the case record in this case conclusively evidences the summons was not complete.

2. The Court rejects the argument that the Department has waived its defenses related to service of process.

Debtors argue the Department has submitted to the Court's jurisdiction by its conduct, particularly by communicating with Debtors' counsel regarding the case and then filing an extensive motion to dismiss. The only case Debtors cite in support is *Roell v. Withrow*.⁴¹ That case found defendants consented to the civil jurisdiction of a magistrate judge under 28 U.S.C. § 636(c)(1) by making general appearances during litigation before the magistrate after being advised of the right to trial by a district judge. Debtors do not cite any cases regarding waiver of service defenses.

Waiver of the defenses of insufficient process and insufficient service of process is addressed by Rule 12(h)(1)(B),⁴² made applicable to adversary

⁴⁰ Doc. 37 at 2.

⁴¹ 538 U.S. 580 (2003).

⁴² Rule 12(h) provides:

(h) Waiving and Preserving Certain Defenses.

(1) *When Some Are Waived*. A party waives any defense listed in Rule 12(b)(2)-(5) by:

(A) omitting it from a motion in the circumstances

proceedings by Bankruptcy Rule 7012(b). Rule 12(h)(1)(B) provides waiver occurs when the party fails to either assert the defenses by motion under Rule 12 or fails to include the defenses in a responsive pleading. However, because timeliness is an aspect of sufficient service, inclusion of an argument that the Rule 4(m) time limit for service has expired in a motion to dismiss is not a waiver of the Rule 12(b)(4) and (5) defenses.⁴³

Without citing Rule 12(h), Debtors argue the defenses asserted in the motion were waived because “while asserting it has not been properly served, the Department . . . extensively reviewed case documents, engaged in case-related discussions, and offered to enter into stipulations about discovery timeliness.”⁴⁴ Although the Rule 12(b)(4) and (5) defenses may be waived by

described in Rule 12(g)(2); or
(B) failing to either:

- (i) make it by motion under this rule; or
- (ii) include it in a responsive pleading or in an amendment allowed by Rule 15(a)1 as a matter of course.

⁴³ Rule 12(h) permits the inclusion of other matters in a motion to dismiss premised on insufficient process and insufficient service of process. The Rule 12(h) timeliness defense, in particular, should be included in a motion to dismiss under Rule 12(b)(4) and (b)(5) as it has been held the Rule 12(h)(1)(B) defense is waived if not included in the initial pleading. *In re Roberts*, 331 B.R. 876, 882 (BAP 9th Cir. 2005).

⁴⁴ Doc. 37 at 4.

delaying assertion of the defenses until after participation in litigation,⁴⁵ the Department did not engage in the discharge litigation before the motion was filed. The motion to dismiss was the first pleading filed by the Department. Further, it was Debtors' counsel, not the Assistant United States Attorney, that initiated email inquiries about discovery. The Assistant United States Attorney responded she was not in a position to discuss discovery since the Department had not been properly served. Debtors' argument the Department has waived its insufficient process and insufficient service of process defenses is denied.

3. The Court rejects Debtors' argument the Department's actual notice supercedes defects in the service of process.

Debtors cite two cases, *Espinosa*⁴⁶ and *Kitchens*,⁴⁷ in support of the proposition actual notice of the adversary proceeding is sufficient to overcome defects in service, but this Court finds neither case on point. In *Espinosa*, the Supreme Court allowed the partial discharge of a student loan debt provided in a confirmed plan, even though an adversary proceeding was not initiated and there was no finding of undue hardship. It ruled the confirmation

⁴⁵ *E.g., Estate of Beauford v. Mesa County, Colo.*, **35 F.4th 1248, 1277** (10th Cir. 2022) ("By the time the County raised the personal jurisdiction as a defense, it had been actively defending against the Estate's lawsuit for years.").

⁴⁶ *United Student Aid Funds, Inc. v. Espinosa*, **559 U.S. 260** (2010).

⁴⁷ *Kitchens v. Bryan Cty. Nat'l Bank*, **825 F.2d 248** (10th Cir. 1987).

judgment was not void for lack of due process because the creditor had not objected to confirmation even though it had actual notice of the filing and the content of the plan. The Court's fleeting reference to Rule 4 service was with respect to an adversary proceeding that had never been filed; there was no issue before the Court concerning defects in attempted service.

Likewise, *Kitchens* provides no support for Debtor's position that actual notice obviates the need for proper service. The service defect in *Kitchens* was serving only the summons and complaint and omitting a required "notice and acknowledgment" form and return envelope.⁴⁸ The Tenth Circuit cited Wright and Miller for the proposition that the "federal courts generally take a permissive attitude toward modest deviations from the requirements of the mechanics employed for service of process when the defendant actually receives notice."⁴⁹ In this case the service defects are not in the "mechanics employed." The defect is failure to serve a complete summons that included the date, the Clerk's signature, and the Court's seal. These defects are not minor and are not mere mechanics. Absent a date in the summons, the served party cannot calculate the answer date. Absent the Clerk's signature and the

⁴⁸ *Id.* at 255.

⁴⁹ *Id.* at 256 (citing 48 A. Wright & C. Miller, *Fed. Pract. & Pro.* § 1074 (4th ed.)).

Court's seal, the served party cannot be certain the captioned case has been filed in the court as represented.

4. The Court rejects Debtors' contention the motion to dismiss should be denied because there was substantial compliance with the service requirements.

Debtors cite *Hensley*⁵⁰ and *Tarkowski*⁵¹ in support of their argument that service of process in substantial compliance with the Rule 4 requirements constitutes valid service. But neither of these cases adopt substantial compliance as the standard for review of alleged defects in service under Rule 4. *Hensley* addressed the Department of Education's assertion that an order disallowing its claim should be set aside under Rule 60(b)(4), relief from a void judgment, because notice of the claim objection did not comply with the applicable rules. *Tarkowski* concerned alleged defects in service of a summons under Kansas law. The substantial compliance standard of review relied on by Debtors was established by **K.S.A. § 60-204**. It provides in part that "substantial compliance with any method of serving process effects valid service of process if the court finds, notwithstanding some irregularity or omission . . . , the party served was made aware that an

⁵⁰ *In re Hensley*, **356 B.R. 68** (Bankr. D. Kan. 2006).

⁵¹ *United States v. Tarkowski*, No. 23-1210-EFM-TJJ, **2024 WL 1299388** (D. Kan. Mar. 27, 2024).

action or proceeding was pending” against the party. The Kansas statute has no bearing on this case.

Moreover, the service in issue did not substantially comply with Rule 4. The missing date of the summons, the Clerk’s signature, and the Court’s seal are essential information.

5. The Court declines to use its equitable powers to overlook defects in the service of process on the Department.

Even if the Court finds the Department has demonstrated it is entitled to dismissal because of insufficient process and insufficient service of process, Debtors request the Court to use its equitable powers to create a practical solution short of dismissal. The Court declines to do so.

This adversary proceeding was initiated on January 8, 2024. The ninety day time limit for service under Rule 4(m) has long expired. The Court has patiently attempted to facilitate proper service on the Department. The Court by its Order filed July 24, 2024⁵² provided Debtors with instructions on making proper service on the Department. Counsel for the Department, through email correspondence before the motion to dismiss was filed, described the service requirements and procedures. Before the motion to dismiss was filed, the Court granted Debtors extensions of time to make

⁵² Doc. 15.

proper service.⁵³ Although authorized by Rule 4 to do so, the Court declined to dismiss the claims against the Department, even though Debtors' attempts to comply with Rule 4 had been deficient.

The time has come for Debtors' failures to have consequences.

III. Conclusion

For the foregoing reasons, the Court grants the motion to dismiss under Rule 12(b)(4) and (5). Such dismissal is without prejudice to Debtors filing another complaint seeking discharge of their student loans.

IT IS SO ORDERED.

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⁵³ *Id.* and **Doc. 18**.