

D.N.J. LBR 2004-1. Examination

(a) Examination on parties' agreement. A motion under Bankruptcy Rule 2004(a) is not required if the party from whom an examination or document production is sought agrees to voluntarily appear or produce documents or electronically stored information.

(b) Examination on subpoena. An attorney for a party in interest seeking to compel an examination or production of documents or electronically stored information under Bankruptcy Rule 2004 may serve national Director's Form 2540 *Subpoena for Rule 2004 Examination*; a motion is not required. A self-represented party seeking to compel an examination or production of documents or electronically stored information must file an application for an order compelling discovery.

(c) Date and place of examination. A subpoena issued under subdivision (b) must set the examination or document or electronically stored information production not earlier than 14 days after service of the subpoena. The examination or document or electronically stored information production must take place at the location set by the party issuing the subpoena, provided that the location complies with Federal Rule 45(c). The parties may agree to modify these requirements.

(d) Quashing or modifying subpoena. On motion of the examinee or a party in interest, the court may quash or modify a subpoena issued under subdivision (b). The filing of the motion prior to the date set for examination or document production stays the subpoena until the court rules on the motion.

(e) Compelling attendance and production of documents. If the examinee fails to comply with a subpoena issued under subdivision (b) and fails to file a motion under subdivision (d), the party issuing the subpoena may file a motion for an order directing an examination or document production under Bankruptcy Rule 2004.

2021 Comment

Subdivisions (a), (b), and (c) of this Rule are amended to include electronically stored information, in accordance with changes to Bankruptcy Rule 2004 (effective December 1, 2020).

2016 Comment

Subdivision (b) of this Rule is amended to reference the change in numbering of the national Director's Form to B2540 *Subpoena for a 2004 Examination*.

2015 Comment

An attorney may serve a Bankruptcy Rule 2004 subpoena without a court order.

Subdivision (c) provides that the location set by the issuer of the subpoena will not be subject to challenge if the location is within the geographical limits specified in Federal Rule 45(c).

Local Bankruptcy Rule [9016-1](#) addresses other types of subpoenas.