

D.N.J. LBR 2004-1 DEPOSITIONS & EXAMINATION

- (a) If a party from whom an examination or document production is sought under Fed. R. Bankr. P. 2004 agrees to appear for examination or to produce documents voluntarily, no subpoena or Court order is required.
- (b) Any party in interest seeking to compel an examination or production of documents shall serve a subpoena pursuant to Fed. R. Bankr. P. 2004(c) without filing a motion or obtaining an order authorizing such examination or document production.
- (c) A subpoena pursuant to subdivision (b) shall not set the examination or document production for less than 14 days after service of the subpoena except by agreement of the deponent.
- (d) Upon motion of the deponent or any party in interest, the Court may quash or modify a subpoena pursuant to subdivision (b) for cause shown. The filing of such a motion prior to the date set for examination or document production shall stay the subpoena until the Court rules on the motion.
- (e) If a deponent fails or refuses to comply with a subpoena served pursuant to subdivision (b) and has not filed a motion pursuant to subdivision (d), the party who obtained the subpoena may file a motion for an order directing such examination or document production under Fed. R. Bankr. P. 2004(a).

1997 Comment: Formerly Local Rule 16.

2002 Comment: Subsection (e) of this rule was amended. The amendment eliminated language that held that upon motion, a deponent could be held in contempt pursuant to Fed. R. Bankr.P. 9016 and Fed.R.Civ.P. 45(c) in the event of noncompliance with a subpoena. The issuing party remains free to file a motion to enforce the subpoena in the event of noncompliance. The party to be deposed remains free to file a motion to quash.

Reference: Fed.R.Bankr.P. 2005 Apprehension and Removal of Debtor to Compel Attendance for Examination; Fed.R.Bankr.P. 4002 Duties of Debtor; Fed.R.Bankr.P. 9001(5) General Definitions.