

**Rule 1010. Service of Involuntary Petition and Summons; ~~Petition Commencing Ancillary Case~~ For Recognition of a Foreign Nonmain Proceeding**

\_\_\_\_\_ On the filing of an involuntary petition or a petition ~~commencing a case ancillary to~~ for recognition of a foreign nonmain proceeding the clerk shall forthwith issue a summons for service. When an involuntary petition is filed, service shall be made on the debtor. When a petition ~~commencing an ancillary case~~ for recognition of a foreign nonmain proceeding is filed, service shall be made on the ~~parties against whom relief is sought pursuant to § 304(b)~~ debtor, any entity against whom provisional relief is sought under § 1519 of the Code, and on any other parties as the court may direct. The summons shall be served with a copy of the petition in the manner provided for service of a summons and complaint by Rule 7004(a) or (b). If service cannot be so made, the court may order that the summons and petition be served by mailing copies to the party's last known address, and by at least one publication in a manner and form directed by the court. The summons and petition may be served on the party anywhere. Rule 7004 (e) and Rule 4 (l) F.R.Civ.P. apply when service is made or attempted under this rule.

**Rule 1010 COMMITTEE NOTE**

This rule is amended to implement the 2005 amendments to the Bankruptcy Code, which repealed § 304 of the Code and replaced it with chapter 15 governing ancillary and other cross-border cases. Under chapter 15, a foreign representative commences a case by filing a petition for recognition of a pending foreign nonmain proceeding. The amendment requires service of the summons and petition on the debtor and any entity against whom the representative is seeking provisional relief. Until the court enters a recognition order under § 1517, no stay is in effect unless the court enters some form of provisional relief under § 1519. Thus, there is no need to serve all creditors of the debtor upon filing the petition for recognition. Only those entities against whom specific provisional relief is sought need to be served. The court may direct that service be made on additional entities as appropriate.

This rule does not apply to a petition for recognition of a foreign main proceeding.