

Rule 3018-1

**CERTIFICATION OF ACCEPTANCE OR REJECTION OF PLANS IN CHAPTER 9
AND CHAPTER 11 CASES -- Amended [December 1, 2009]**

(a) *Certification of Vote.* At least seven days prior to the hearing on confirmation of a chapter 9 or chapter 11 plan, the proponent of a plan or the party authorized to receive the acceptances and rejections of the plan shall certify to the Court in writing the amount and number of allowed claims or allowed interests of each class accepting or rejecting the plan. A copy of the certification shall be served upon the debtor, the trustee, each committee, and the United States Trustee. The Court may find that the plan has been accepted or rejected on the basis of the certification.

(b) *Notice of Ineffective Election.* If a plan in a chapter 9 or chapter 11 case permits the holder of a claim or interest to make an election with respect to the treatment of the claim or interest, and for any reason the holder's election is deemed ineffective or otherwise is not counted by the person authorized to tabulate ballots, that person shall give notice of that fact to the holder at least seven days prior to the hearing on confirmation.

Comment

Subdivision (a) of this rule is derived from Former Local Bankruptcy Rule 54 and is intended to permit the Court to rely on a certification in determining whether a plan has been accepted or rejected under § 1126 of the Bankruptcy Code. If an issue has been raised with respect to the acceptance or rejection of a plan, the Court may hold an evidentiary hearing. Where acceptances or rejections of a plan of reorganization have been solicited prior to the commencement of the case, the certification may be filed together with the petition.

Subdivision (b) of this rule, added in 1996, is intended to enable a creditor or interest holder who has the right to elect the treatment of its claim or interest on a ballot to be notified if its ballot was not counted or was rejected, and therefore that its election may not be effective.

Subdivisions (a) and (b) of this rule were amended in 2009 to change the time periods from five to seven days. The purpose of the amendment was to conform the time periods in this rule to the 2009 time-related amendments to the Federal Rules of Bankruptcy Procedure. Throughout the Bankruptcy Rules, as well as the Local Bankruptcy Rules, most time periods that are shorter than 30 days were changed so that the number of days is in multiples of seven, thereby reducing the likelihood that time periods will end on a Saturday or Sunday.