

B-4008-2
Rescission of Reaffirmation Agreements

- (a) Court approval of the rescission of a reaffirmation agreement is not required.
- (b) Should a debtor choose to rescind a reaffirmation agreement with any creditor, notice of rescission shall be given to the creditor at the address set forth in the reaffirmation agreement and, if known, to creditor's counsel within the time required and a copy thereof filed with the court.
- (c) The failure to comply with paragraph (b) will not affect the validity of a rescission which otherwise complies with 11 U.S.C. § 524(c)(4).

Commentary (1994)

This rule is designed to eliminate motions, timely or otherwise, for the rescission of reaffirmation agreements by restating what §524(c)(4) already says. Court approval of the rescission is not necessary. All that is needed is "notice of rescission to the holder" of the claim within the time required. 11 U.S.C. §524(c)(4). Thus, notice of the rescission is either good or not, depending upon when it is given, regardless of whether the bankruptcy court acts upon it. Arguably, the notice need not even be filed with the court, although doing so might help the parties independently establish when it was given, should there be a dispute concerning its timeliness.

The need to serve counsel and file with the court are, arguably, requirements beyond those specified in §524 (as is the stated address). Accordingly, paragraph (c) has been added to ensure that an otherwise proper rescission is not invalidated due to a failure to comply with the requirements of this rule.