

Proposed Amendments to Rule 69

Rule 69 is amended as follows:

Rule 69. Execution

(a) In General. ~~Process to enforce a~~

(1) Money Judgment; Applicable Procedure. A money judgment for the payment of money shall be ~~is enforced by~~ a writ of execution, unless the court directs otherwise. The procedure on execution, ~~– and in~~ proceedings supplementary to and in aid of a judgment, ~~and in proceedings on and in aid of~~ or execution shall be in accordance ~~– must accord~~ with the practice and procedure of the state in which ~~where~~ execution is sought, ~~except that any~~ **but a federal** statute of the United States governs to the extent that it is applicable. ~~applies.~~

(2) Obtaining Discovery. In aid of the judgment or execution, the judgment creditor or a successor in interest ~~when that~~ **whose** interest appears of record, may obtain discovery from any person, ~~– including the judgment debtor,~~ in the manner ~~– as~~ provided in these rules or in the manner provided by the practice ~~procedure~~ of the state in which ~~where~~ execution is sought.

(b) Against Certain Public Officers. When a judgment has been entered against a collector or other **revenue** officer of revenue ~~under~~ **in** the circumstances stated in Title 28 U.S.C. § 2006, and when the court has given the certificate of probable cause for the officer's act as provided in that statute, execution shall not issue against the officer or the officer's property but the final judgment shall **must** be satisfied as provided in such ~~that~~ statute **provides.**

(As amended July 28, 1988, eff. Nov. 1, 1988; Dec. 18, 2001, eff. Apr. 1, 2002; Sept. 28, 2004, eff. January 1, 2005; _____, 2009, eff. _____, 2010.)

Advisory Committee Note

The principal differences between Fed. R. Civ. P. 69 and CIT Rule 69 are: (a) CIT Rule 69's use of the language "the practice and procedure of the state in which execution is sought" instead of the federal rule's reference to "the practice and procedure of the state in which the district court is held" and (b) the absence of a reference to execution "against an officer of Congress in an action mentioned in the Act of March 3, 1875, ch. 130, § 8 (18 Stat. 401), U.S.C., Title 2, § 118" in CIT Rule 69. CIT Rule 69 continues to maintain these distinctions from the Federal Rules of Civil Procedure because of the unique jurisdiction of the court.

Otherwise, CIT Rule 69 is identical to the previous version of Fed. R. Civ. P. 69. In addition to making stylistic changes to improve clarity and consistency, the language of Rule 69 also was revised to incorporate directly the provisions of 2 U.S.C. § 118 and 28 U.S.C. § 2006, thereby deleting the incomplete statement of the former Rule 69(b) of the circumstances in which execution does not issue against an officer. These changes have been made to CIT Rule 69 for consistency with the style of the new federal rules.